



BYRON SHIRE COUNCIL



# **Byron Shire Development Control Plan 2014**

Byron Shire  
Development Control Plan  
2014  
Part A  
Preliminary



## Part A – Preliminary

### Contents

A1	Introduction.....	6
A2	Name of this DCP .....	6
A3	Purpose and Objectives of this DCP .....	6
A4	Structure of this DCP .....	8
A5	Where this DCP Applies .....	9
A6	Relationship to other Plans and Legislation .....	9
<b>A6.1</b>	<b>Consistency with North Coast Urban Design Guidelines 2009 .....</b>	<b>10</b>
A7	Operation and Amendment of this DCP .....	10
A8	Repeal of Various DCPs and Savings Provisions .....	12
A9	Definitions of Words and Phrases used in this DCP.....	12
A10	When a Development Application is not Required .....	12
A11	When a Development Application is Required .....	13
A12	The Development Application Process and DCP Controls .....	13
A13	Information Required to Submit a Development Application .....	15
<b>A13.1</b>	<b>Context and Site Analysis.....</b>	<b>15</b>
	A13.1.1 Context and Site Analysis.....	15
<b>A13.2</b>	<b>Perspectives and Models .....</b>	<b>16</b>
	A13.2.1 Three Dimensional (3D) Representation.....	16
<b>A13.3</b>	<b>Online Development Application Templates .....</b>	<b>17</b>
<b>A13.4</b>	<b>Community Consultation Prior to Development Application Lodgement .....</b>	<b>17</b>
	A13.4.1 Minimum Requirements for pre-lodgement community consultation .....	17
	A13.4.2 Minimum Documentation Required upon Lodging the Development Application .....	18
	A13.4.3 Timing of Pre-lodgement community consultation.....	19
<b>A14</b>	<b>Public Notification and Exhibition of Development Applications .....</b>	<b>20</b>
A14.1	Different Forms of Public Exhibition and Notification .....	20
A14.2	Levels of Public Exhibition and Notification .....	22
A14.3	Public Exhibition and Notification of Applications to Modify Development Consents and Review Determinations .....	27
A14.4	Notification to the Bundjalung of Byron Bay (Arakwal) and Land Councils .....	27
A14.5	Increases in the level of public notification or exhibition .....	28
A14.6	Waiving of Public Notification or Exhibition .....	28

### Tables

Table A1 – Schedule of Amendments .....	10
Table A2 – No Public Exhibition or Notification.....	23
Table A3 – Level 1 Notification .....	24
Table A4 – Level 2 Notification .....	25

### Appendices

Appendix A1	Dictionary .....	300
Appendix A2	Development Application Process.....	477



## Document History

Doc No.	Date Amended	Details (e.g. Resolution No.)
#E2014/3783	20 March 2014	Res 14-118 - Public exhibition version
#E2014/31047		Draft to 26 June 2014 Extraordinary Meeting - for adoption
#E2014/42346	26 June 2014	Adopted Version Res 14-315
#E2015/66483	8 October 2015	Updated Table A1 - Amendments to Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones Res 15-525. (Amd 1)
#E2017/66983	22 June 2017	Adopted 22 June 2017 Effective 20 July 2017 - Res 17-273 following adoption of Chapter E8 – West Byron Urban Release Area (Amd 2)
E2018/17817	22 February 2018	Adopted 22 February 2018 Effective 15 March 2018 – Res 18-081 Amends Chapter E5 - Certain Locations in Byron Bay and Ewingsdale (Amd 3)
E2018/26152	22 March 2018	Adopted 22 March 2018 Effective 12 April 2018 – Res 18-130 'Housekeeping' amendment (Amd 4 various chapters).
E2018/79935	1 October 2018	Res 18-358. Updated public exhibition controls and introduced pre-lodgement community consultation requirements (pdf version to 13/12 meeting E2018/91234).
E2018/79935	17 January 2019	Changes made to levels of public exhibition and notification table - Public Exhibition version (Res 18-838)
E2019/28771	24 April 2019	Version based on public exhibition and staff comments – submitted to 20 June 2019 for adoption
E2019/28771	20 June 2019	Adopted 20 June 2019 Effective 10 July 2019 (Res 19-260) – amending levels of public exhibition and notification table; community significant development (Amd 5)
E2019/50709	August 2019	Amendments as a result of Public Art review submissions 24.2018.48.1 (Revision 5)
E2019/50709	15 August 2019	Adopted 15 August 2019 Effective 11 September 2019 (Res 19-358) Amended following Public Art review – Amendment 6 and Amendment 7 (Minor Housekeeping)
E2020/16778	March 2020	Adopted 14 February 2020 Effective 11 March 2020 (Res 19-692) – Amendment 8 - 24.2019.53.1 – Habitat
E2020/63386	August 2020	Adopted 21 May 2020 Effective 7 August (Res 20-205) – New Chapter D9 Rural Function Centres (Amd 9)
E2020/42379	June 2020	Res 20-218 – Public exhibition version re residential character narrative
E2020/66607	August 2020	Post exhibition version (no changes to exhibition) reported to 17 September Council meeting
E2020/66607	September 2020	Adopted 17 September 2020 Effective 28 September 2020 Res 20-471 Habitat (Amendment 10) and re character narratives Res 20-473 (no change to previous version) Amendment 11
E2020/92865	December 2020	Adopted 10 December 2020 Effective 15 December to include B1 Biodiversity definitions Res 20-692 (Amd 12)
E2021/45223	March 2021	Adopted 11 March 2021 Effective 22 March 2021 – Res 21-065 Adoption of Chapter B2 (Amd 13)





Doc No.	Date Amended	Details (e.g. Resolution No.)
E2021/75967	August 2021	Adopted 13 May 2021 Effective 25 August 2021 – Res 21-187 New Chapter E10 Byron Bay Town Centre with LEP 2014 Amendment 27 (DCP Amd 14)
E2021/142326	November 2021	Adopted 4 November 2021 Effective 25 November 2021 – Res 21-479 amendment to Chapter E2 Bangalow and C1 Non Indigenous Heritage and new definitions Part A Dictionary (DCP Amd 15)
E2022/2449	January 2022	Adopted 5 August 2021 (Res 21-300) Effective 12 January 2022 – administrative update to Table A1 – amendment to Chapter E5 Certain Locations in Byron Bay and Ewingsdale, following LEP 2014 Amd No 31 The Farm (DCP Amd 16)

## A1 Introduction

This Plan is a Development Control Plan (DCP) prepared in accordance with the provisions of Section 3.43 of the *Environmental Planning and Assessment Act, 1979* (the Act). Under section 4.15 of the Act, the consent authority is required to take into consideration, among other things, the relevant provisions of this DCP in determining any Development Application.

This Plan supplements the statutory provisions of Byron Local Environmental Plan 2014 (LEP 2014) by providing more details, guidelines and controls applying to the various forms of development permitted under the provisions of LEP 2014. This Plan aims to promote flexibility and innovation in design by allowing alternative means of demonstrating compliance with its requirements.

### Dual Path Assessment

The DCP chapters are structured to provide a dual path to demonstrating your development's compliance with the various provisions of this DCP. Every development application must demonstrate compliance with the relevant Objectives. This will usually be achieved by meeting the Prescriptive Measures. The Prescriptive Measures are requirements that Council considers are likely to meet the Objectives and Performance Criteria of the particular Section. Alternatively Council may be prepared to approve development proposals that are demonstrated to meet both the Objectives and the Performance Criteria. This provision:

1. fosters flexibility in design
2. enables the development of innovative schemes that meet the particular characteristics of an individual site
3. provides for positive outcomes in terms of ecologically sustainable development.

Where applicants are departing from the prescriptive measures, it is the applicant's responsibility to highlight these departures and provide a written justification as to why compliance is unreasonable or unnecessary having regards to the circumstances of the case, the Objectives and Performance Criteria.

## A2 Name of this DCP

This Plan is Byron Shire Development Control Plan 2014 (DCP 2014).

## A3 Purpose and Objectives of this DCP

The primary purpose of this DCP is to specify Council's requirements for quality development and sustainable environmental outcomes on land to which Byron LEP 2014 applies and land identified under Part 4 – West Byron Bay Site of the Byron Local Environmental Plan 1988. This Plan nominates planning strategies and controls for various types of development that are permissible in accordance with LEP 2014, pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.



The objectives of this plan are to:

1. Provide development controls and guidelines that will assist in achieving the Aims and Guiding Principles of Byron LEP 2014.
2. Ensure that development is consistent with the Council's established Vision and its adopted planning policies and strategies.
3. Ensure that development incorporates the Principles of Sustainable Development and delivers balanced social, economic and environmental outcomes.
4. Encourage quality, innovative and sustainable design.
5. Manage change in a way that ensures an ecologically, socially and economically sustainable urban and rural environment in which the needs and aspirations of the community are recognised.
6. Provide for public participation in the development application and determination process.
7. Provide a framework of considerations against which development proposals can be consistently measured.

The specific objectives for each Section in this Plan are nominated within each Section contained in the Chapters.



## **A4**      **Structure of this DCP**

### **Part A**      **Preliminary**

### **Part B**      **Controls Applying Generally to Development Applications**

Chapter B1	Biodiversity
Chapter B2	Tree and Vegetation Management
Chapter B3	Services
Chapter B4	Traffic Planning, Vehicle Parking, Circulation and Access
Chapter B5	Providing for Cycling
Chapter B6	Buffers and Minimising Land Use Conflict
Chapter B7	Mosquitoes and Biting Midges
Chapter B8	Waste Minimisation and Management
Chapter B9	Landscaping
Chapter B10	Signage
Chapter B11	Planning for Crime Prevention
Chapter B12	Social Impact Assessment
Chapter B13	Access and Mobility
Chapter B14	Excavation and Fill

### **Part C**      **Further Controls Applying to Land with Specific Constraints and Environmental Characteristics**

Chapter C1	Non-Indigenous Heritage
Chapter C2	Areas Affected by Flood
Chapter C3	Visually Prominent Sites, Visually Prominent Development and View Sharing
Chapter C4	Development in a Drinking Water Catchment

### **Part D**      **Further Controls Applying to Specific Land Uses**

Chapter D1	Residential Development in Urban and Special Purpose Zones
Chapter D2	Residential Accommodation and Ancillary Development in Rural Zones
Chapter D3	Tourist Accommodation
Chapter D4	Commercial and Retail Development
Chapter D5	Industrial Development
Chapter D6	Subdivision
Chapter D7	Sex Services Premises
Chapter D8	Public Art
Chapter D9	Rural Function Centres

### **Part E**      **Further Controls Applying to Specific Localities**

Chapter E1	Suffolk Park
Chapter E2	Bangalow
Chapter E3	Mullumbimby
Chapter E4	Brunswick Heads
Chapter E5	Certain Locations in Byron Bay and Ewingsdale
Chapter E6	Federal Village
Chapter E7	Main Arm
Chapter E8	West Byron Urban Release Area
Chapter E9	Ocean Shores, New Brighton and South Golden Beach
Chapter E10	Byron Bay Town Centre





## A5 Where this DCP Applies

This Plan applies to the land to which Byron LEP 2014 applies and land identified under Part 4 – West Byron Bay Site of the Byron Local Environmental Plan 1988. This Plan applies to all categories of ‘development’ as defined within the *Environmental Planning and Assessment Act, 1979* and as addressed within the various Chapters of this Plan.

## A6 Relationship to other Plans and Legislation

The provisions contained in this DCP supplement the provisions of Byron LEP 2014 and the provisions under Part 4 – West Byron Bay Site of the Byron Local Environmental Plan 1988. This Plan must be read in conjunction with Byron LEP 2014 and with the provisions under Part 4 – West Byron Bay Site of the Byron Local Environmental Plan 1988. If there is any inconsistency between this Plan and the Byron LEP 2014 or the provisions under Part 4 – West Byron Bay Site of the Byron Local Environmental Plan 1988, the applicable LEP will prevail.

This plan must also be read in conjunction with any Environmental Planning Instrument that applies to the land, including State Environmental Planning Policies (SEPPs) and deemed SEPPs.

The provisions contained in this DCP are in addition to the provisions and requirements of the Far North Coast Regional Strategy, the NSW Department of Planning’s *Settlement Planning Guidelines: Mid and North Coast Regional Strategies*, the NSW Department of Planning’s *Coastal Design Guidelines for NSW*, the NSW Department of Planning’s *North Coast Urban Design Guidelines 2009*, the Building Code of Australia, the North Coast Engineering Standards Manual and the Council’s Contributions Plans. Other commonwealth, state, regional or local policies and strategies may be added to this list from time to time.

Approval may also be required for certain types of development and activities under other legislation including:

- *NSW Fisheries Management Act 1994*
- *NSW Heritage Act 1977*
- *NSW Local Government Act 1993*
- *NSW National Parks and Wildlife Act 1974*
- *NSW Protection of the Environment Operations Act 1997*
- *NSW Roads Act 1993*
- *NSW Rural Fires Act 1997*
- *NSW Threatened Species Conservation Act 1995*
- *NSW Water Management Act 2000*
- *Environment Protection & Biodiversity Conservation Act 1999 (Cth)*

Applicants should make themselves aware of the relevant provisions contained within this legislation in terms of the development proposed as this will assist with the timely assessment of the development application. For further information applicants can contact Council’s duty planner in the first instance.



## A6.1 Consistency with North Coast Urban Design Guidelines 2009

### Objectives

1. *To ensure that development is consistent with the North Coast Regional Urban Design Guidelines and with adopted State and Regional Visions and Objectives in terms of character and style of development and Settlements.*

### Performance Criteria

Developments must be located and designed so that they are consistent with the relevant Guidelines and Principles contained in the 'North Coast Urban Design Guidelines' published by the NSW Department of Planning, ISBN 0-7347-5131-1. In particular, developments must have regard to the relevant Guidelines and Principles contained in Chapter 10 Section A 'Settlement Growth Guidelines', Section B 'Streetscape Guidelines' and Section C 'Built Form – Urban Design Guidelines' of that document.

### Prescriptive Measures

There are no Prescriptive Measures.

## A7 Operation and Amendment of this DCP

This Plan was adopted by Council on 26 June 2014 and came into effect on 21 July 2014.

From time to time this DCP will be amended. Table A1 defines the amendments that have taken place and their status at the time of printing.

It is the responsibility of persons submitting a development application to ensure that the proposal is consistent with the current version of this DCP.

**Table A1 – Schedule of Amendments**

Amendment No.	Date	Provisions Amended
1	8/10/2015	Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones (Res 15-525).
2	22/6/2017	<ul style="list-style-type: none"> <li>• Adoption of Chapter E8 – West Byron Urban Release Area (Res 17-273)</li> <li>• Part A4, A5 and Appendix A1 Dictionary (Res 17-273)</li> <li>• Chapter D1 (Res 17-273)</li> </ul>
3	22/2/2018	Chapter E5 - Certain Locations in Byron Bay and Ewingsdale: Section E5.5 – Habitat (Res 18-081)
4	22/3/2018	'Housekeeping' amendment various chapters (Res 18-130): <ul style="list-style-type: none"> <li>• Chapter B3 Services</li> <li>• Chapter B4 Traffic Planning, Vehicle Parking Circulation and Access</li> <li>• Chapter B5 Providing for Cycling</li> <li>• Chapter B6 Buffers and Minimising Land Use Conflict</li> <li>• Chapter B11 Planning for Crime Prevention</li> </ul>

<b>Amendment No.</b>	<b>Date</b>	<b>Provisions Amended</b>
		<ul style="list-style-type: none"> <li>• Chapter B13 Access and Mobility</li> <li>• Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones</li> <li>• Chapter D2 – Residential Accommodation and Ancillary Development in Rural Zones</li> <li>• Chapter D6 Subdivision</li> <li>• Chapter D8 Public Art</li> </ul>
5	20/6/2019	<ul style="list-style-type: none"> <li>• Part A to include site notifications and pre-lodgement community consultation requirements into the development application process; new definition Community Significant Development (Res 19-260)</li> <li>• Part A Housekeeping amendments (see I2018/1891 for list)</li> </ul>
6	15/8/2019	Public Art Chapter D8 and definitions in Part A (Res 19-358)
7	15/8/2019	<p>‘Housekeeping’ Minor Amendments various chapters (Res 19-374)</p> <ul style="list-style-type: none"> <li>• Chapter B3 Services</li> <li>• Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access</li> <li>• Chapter B9 Landscaping</li> <li>• Chapter B14 Excavation and Fill</li> <li>• Chapter D1 Residential Accommodation in Urban, Village &amp; Special Purpose Zones</li> <li>• Chapter D2: Residential Accommodation and Ancillary Development in Rural Zones</li> <li>• Chapter D3 Tourist Accommodation</li> <li>• Chapter D6 Subdivision</li> <li>• Chapter E5 Certain Locations in Byron Bay and Ewingsdale</li> <li>• Chapter E8 West Byron Urban Release Area</li> </ul>
8	11/3/2020	Chapter E5 Certain Locations in Byron Bay and Ewingsdale (Res 19-692)
9	7/8/2020	New Chapter D9 Rural Function Centres following LEP 2014 Amendment 20 (Res 20-205)
10	17/09/2020	Chapter E5 Certain Locations in Byron Bay and Ewingsdale – Habitat (Res 20-471)
11	17/09/2020	<p>Residential Character Narratives (Res 20-473)</p> <ul style="list-style-type: none"> <li>• Part A – new definition</li> <li>• Suffolk Park: Chapter E1</li> <li>• Bangalow: Chapter E2</li> <li>• Mullumbimby: Chapter E3</li> <li>• Brunswick Heads: Chapter E4</li> <li>• Certain Locations in Byron Bay and Ewingsdale: Chapter E5</li> <li>• Ocean Shores, New Brighton and South Golden Beach: Chapter E9</li> <li>• Chapter D1: Residential Accommodation in Urban, Village and</li> </ul>

Amendment No.	Date	Provisions Amended
		Special Purpose Zones
12	10/12/2020	New Chapter B1 Biodiversity
13	11/03/2021	Chapter B2 Tree and Vegetation Management
14	25/08/2021	New Chapter E10 Byron Bay Town Centre following LEP 2014 Amendment 27 (Res 21-187)
15	25/11/2021	Amendment to Chapter E2 Bangalow and C1 Non-Indigenous Heritage and new definitions Part A. (Res 21-479)
16	12/01/2022	Amends Chapter E5 Certain Locations in Byron Bay and Ewingsdale following publication of LEP 2014 Amendment 31 The Farm 26.2016.6.1

## A8 Repeal of Various DCPs and Savings Provisions

Upon the commencement of the Byron Shire Development Control Plan 2014, the following development control plans are repealed:

- Byron Shire Development Control Plan 2010 as it applies to land to which Byron LEP 2014 applies

Where land is still covered by Byron Local Environmental Plan 1988, then the Byron Shire DCP 2010 and the Tree Preservation Order will prevail.

Pursuant to clause 1.8A of Byron LEP 2014, any development application made in relation to land to which Byron LEP 2014 applies, prior to the commencement of Byron LEP 2014 that has not been finally determined before the commencement of Byron LEP 2014, will still be assessed under Byron LEP 1988. For these applications Byron Shire DCP 2010 and the Tree Preservation Order will apply.

## A9 Definitions of Words and Phrases used in this DCP

Words and phrases used in this DCP that have the same meaning as defined in LEP 2014 are coloured in **orange**.

Where words and phrases are not defined in LEP 2014, they have the meaning defined in the Dictionary contained in Appendix A1 of this Chapter and are coloured in **blue**.

## A10 When a Development Application is not Required

The Land Use Table in Byron LEP 2014 specifies certain types of development within the various zones that may be carried out without development consent. A development application is not required for development listed in that particular category within the relevant zone.





Byron LEP 2014 also nominates certain types and categories of development as 'Exempt Development' and 'Complying Development', in many cases subject to certain criteria. A development application is not required for Exempt or Complying development that meets the requirements and relevant criteria nominated in Byron LEP 2014. 'Complying Development' may be carried out only in accordance with a Complying Development Certificate issued in accordance with the requirements of the Act.

In addition, State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 nominates certain types and categories of development as 'Exempt Development' and 'Complying Development', in many cases subject to certain criteria. A development application is not required for Exempt or Complying development that meets the requirements and any criteria nominated in that State Environmental Planning Policy. 'Complying Development', however, may be carried out only in accordance with a Complying Development Certificate issued in accordance with the requirements of the Act.

Similarly, State Environmental Planning Policy (Infrastructure) 2007 nominates certain types of infrastructure development as 'exempt development', 'complying development' and 'development permitted without consent'.

The statutory provisions of any applicable SEPP will prevail over this DCP in the event of any inconsistency.

It is recommended that before preparing to undertake or to seek approval for development you should contact the NSW Department of Planning and Infrastructure to confirm whether or not the provisions of other Planning Instruments or statutes supplement, amend or override the controls in Byron LEP 2014 and this DCP. Council's Duty Planner is also available to assist with this.

## **A11 When a Development Application is Required**

The Land Use Table in Byron LEP 2014 specifies development that may be carried out without consent and development that may be carried out only with consent within the various zones. A development application is required for all such permissible development, other than that referred to above in *Section A10 - When a Development Application Is Not Required*. The development may only proceed in accordance with the terms and conditions of a development consent issued under the provisions of the Act.

Additionally, various SEPPs such as State Environmental Planning Policy (Infrastructure) 2007 nominate certain types of development as permitted with consent. Therefore, as well as Byron LEP 2014, the provisions of relevant State Environmental Planning Policies (SEPPs) should be reviewed to determine whether a development application is required.

You may consult Council's planning staff to assist in determining whether or not a Development Application is required for particular developments. You may need also to seek your own legal advice.

## **A12 The Development Application Process and DCP Controls**

The development application process is governed by the *Environment Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000*. Section 4.15 of the *Environment Planning and Assessment Act, 1979* requires the Council to take into account the provisions of this DCP when considering any development application.



This DCP is structured to specify:

1. Controls that apply generally to most development applications (Part B);
2. Further controls that apply to land with specific constraints and environmental characteristics (Part C);
3. Further controls that apply to specific land uses (Part D); and
4. Further controls that apply to specific localities (Part E).

This 'layered' approach means that some parts of the DCP are relevant to all development, some to specific land or precincts and some to specific types of development.

The following steps will assist you to determine which parts of this DCP apply to your particular development application.

- |        |  |
|--------|--|
| Step 1 | Establish the zoning, permissibility and planning controls that apply to your site and the proposed use under all relevant environmental planning instruments including Byron LEP 2014.  |
| Step 2 | If a development application is required, determine whether each of the issues and controls discussed in <i>Part B Controls Applying Generally to Development Applications</i> apply to your site and your proposed development. The Part B controls apply to most development applications.                           |
| Step 3 | Determine whether any of the specific constraints and environmental characteristics outlined in <i>Part C Further Controls Applying to Land with Specific Constraints and Environmental Characteristics</i> apply to your site. If they do, the relevant controls in the applicable Part C Chapters must be addressed. |
| Step 4 | Determine whether your development application involves any of the particular land uses discussed in <i>Part D Further Controls Applying to Specific Land Uses</i> . If so, the relevant controls in the applicable Part D Chapters must be addressed.   |
| Step 5 | Determine whether your site is located in any of the specific localities discussed in <i>Part E Further Controls Applying to Specific Localities</i> . If so, the relevant controls in the applicable Part E Chapters must be addressed.   |
| Step 6 | Determine whether your proposed development is considered by Council as <b>community significant development</b> – see A13.4. If so, consultation with the community must be taken prior to lodgement of your application in accordance with A13.4.1.  |

Once you have determined the Chapters of this DCP that apply to your development application you will need to identify the particular Sections within each of those Chapters that apply to your proposal. The various Sections stipulate the matters that must be addressed individually by your development application. Your development application must demonstrate compliance with each of the relevant Sections.

The Sections comprise Objectives, Performance Criteria and Prescriptive Measures. In some cases both Performance Criteria and Prescriptive Measures are specified, but in other cases only one of those categories is specified.

## Dual Path Assessment



The Sections are structured to provide a dual path to demonstrating your development's compliance with the various provisions of this DCP. Every development application must demonstrate compliance with the relevant Objectives. This will usually be achieved by meeting the Prescriptive Measures. The Prescriptive Measures are requirements that Council considers are likely to meet the Objectives and Performance Criteria of the particular Section. Alternatively Council may be prepared to approve development proposals that are demonstrated to meet both the Objectives and the Performance Criteria. This provision:

1. fosters flexibility in design
2. enables the development of innovative schemes that meet the particular characteristics of an individual site
3. provides for positive outcomes in terms of ecologically sustainable development.

Where applicants are departing from the prescriptive measures, it is the applicant's responsibility to highlight these departures and provide a written justification as to why compliance is unreasonable or unnecessary having regards to the circumstances of the case, the Objectives and Performance Criteria.

## **A13 Information Required to Submit a Development Application**

The information and documents that must accompany a development application are specified in Clause 50 and Schedule 1 of the Environmental Planning and Assessment Regulation, 2000. The Council's Development Application Help Guide nominates the way that information and those documents must be submitted for a development application in Byron Shire. The Development Application Help Guide is available on request from the Council, or may be downloaded from Council's website.

Before lodging a development application you are encouraged to discuss your proposal with Council's Duty Planner. You may also wish to arrange a Pre-lodgement meeting with the Council's Development Advisory Panel. The Development Advisory Panel is made up of Council specialists who can advise you on the specific needs of your proposal. Information about arranging a meeting with the duty planner and/or seeking a pre-lodgement meeting with the Development Advisory Panel is available on request from Council, or direct from Council's website.

### **A13.1 Context and Site Analysis**

A thorough analysis and understanding of the context and environmental characteristics of the site and its surrounds is an essential cornerstone of good design. A proper understanding of the site and its surrounds is also an essential component of the development application evaluation process. Development that is designed in context enhances the sense of place, reinforces the role and character of the individual towns and localities and improves the quality of the environment for the community.

Consequently, development applications must be accompanied by a comprehensive site and context analysis, other than applications for minor proposals such as **dwelling houses**, ancillary structures, boundary adjustment subdivision (boundary adjustments) in accordance with Byron LEP 2014, strata subdivision of a lawfully erected building (where not exempt) and most changes of use.

#### **A13.1.1 Context and Site Analysis**



## Objectives

1. *To ensure that the environmental characteristics and planning context of the site and its surrounds are considered from the outset in the design process.*
2. *To ensure that development applications demonstrate that the formulation process for the proposed development incorporates all relevant site context and environmental considerations.*
3. *To ensure that the resultant proposal delivers a design that is sensitive to its natural and built environment and is compatible with the current and planned character of its locality.*

## Performance Criteria

There are no Performance Criteria.

## Prescriptive Measures

Development applications for all proposals, other than for **dwelling houses**, ancillary structures, boundary adjustment subdivision in accordance with Byron LEP 2014, strata subdivision of lawfully erected buildings and changes of land use that do not involve works or environmental impacts outside a building, must be accompanied by a Site and Context Analysis Plan. The information contained within the Site and Context Analysis Plan(s) must be diagrammatically represented where possible and must be drawn to a scale appropriate to the development proposal. The Site and Context Analysis Plan must define and address:

- a) the zoning; environmental constraints; spot levels and contours; vegetation type, species, canopy and height; drainage paths and drainage management systems; easements; known hazards; heritage values and physical characteristics of the site and adjoining properties. In cases where the nature of the proposal or its planning context so warrant, Council may require that the Site and Context Analysis Plan shall extend beyond the boundaries of the immediately adjoining properties.
- b) existing development on the site and surrounds, including existing buildings on the site and adjoining land; location of adjoining windows, doors and open space; the location, height and materials of fences and walls; elevations of adjoining buildings if more than single **storey**; overshadowing of and by adjoining buildings; **advertising structures** and **signage**.
- c) adjoining street or public land characteristics such as subdivision pattern, streetscape features and trees, pedestrian networks, kerb and gutter, drainage systems, service poles, bus stops and underground services.
- d) potential sources of nuisance such as noise, odour, light spill and the like.
- e) views, vistas and view corridors to and from the site.
- f) where relevant to the development proposal, the direction and distance to local shops, public transport, schools, parks and community facilities.
- g) a synopsis of opportunities and constraints for the proposed development, having regard to the results of the Site and Context Analysis process.

## A13.2 Perspectives and Models

Certain large-scale or potentially high impact developments require the submission of additional drawings, perspectives and models to assist the community and council to understand the implications and potential impact of the project.

### A13.2.1 Three Dimensional (3D) Representation





## Objectives

1. *To ensure that sufficient information is provided to enable the community and the Council to fully understand and evaluate the potential implications and environmental impacts of certain development proposals.*

## Performance Criteria

There are no Performance Criteria.

## Prescriptive Measures

1. Applications for residential development with a height in excess of 9 metres (i.e. applications submitted in accordance with the 'height of buildings' clause in Byron LEP 2014), or in the case of a **dwelling-house** with a **gross floor area** in excess of 400m<sup>2</sup>, must be accompanied by a three dimensional (3D) representation using computer software.
2. Applications for commercial development or **tourist and visitor accommodation** (other than **bed and breakfast accommodation** and **farm stay accommodation**) must be accompanied by a three dimensional (3D) representation using computer software if:
  - a) the development/building costs are in excess of \$3,000,000 or
  - b) the development is likely to have a significant impact on the streetscape.

## A13.3 Online Development Application Templates

To assist and simplify the development application as much as possible, Council has developed online Development Application Templates for certain types of development that are expected to be relatively simple and to have minimal impact on surrounding properties or the environment. The Templates are designed to allow the development application form and a pro-forma Statement of Environmental Effects to be completed online, with electronic lodgement of drawings and supporting information.

The development application templates are available on Council's website.

## A13.4 Community Consultation Prior to Development Application Lodgement

For all developments considered to be **community significant development**, consultation with the community is required prior to the lodgement of the development application. Development applications for **community significant development** must meet the minimum requirements for pre-lodgement community consultation.

### A13.4.1 Minimum Requirements for pre-lodgement community consultation

Pre-consultation with communities likely to be affected by **community significant development** will assist with identifying issues of concern and enable the development design to respond at an early stage. Pre-consultation can reduce costs, time and quantities of submissions.

Well considered community consultation has the ability to address issues and inform the community with background information to assist in understanding the proposed development. It also allows the community more involvement in the design of development in the Shire.



The following Pre-lodgement community consultation must always be carried out as a minimum:

1. A facilitated community meeting or workshop.

The following advertisements must always be undertaken as a minimum prior to the consultation period, giving at least 10 days notice of the above meeting or workshop:

1. Advertisement in a weekly Shire wide newspaper,
2. Site notice
3. Letter to any known community groups and/or landowners within 500m of the proposed development,
4. Use of social media platform

The following must always be included in the above advertisements as a minimum:

1. An explanation of the proposed application, noting that it has not yet been lodged with Council
2. Details of where further information can be found
3. Information, including the date and time, on the arranged community meeting or workshop
4. Alternative avenues for feedback to be shared – email, telephone etc.
5. Final date feedback will be received and considered.

Council will consider facilitating/assisting pre-lodgement consultation processes within reasonable means which may include:

- Putting applicants in contact with local community groups
- Publishing details of the proposed application and consultation on Council's website and Council's foyer screens.

It is the responsibility of the applicant to collect and collate the submissions and/or feedback received.

If an applicant would like to alter the required consultation as set out, an engagement plan, stipulating the consultation that would take place instead, must be submitted to Council in writing for approval, giving at least 14 days notice prior to the commencement of any consultation.

### **A13.4.2 Minimum Documentation Required upon Lodging the Development Application**

In addition to requirements of a development application as per A13 of the Byron DCP 2014, the following documents are required where a development requires pre-lodgement consultation with the community. A development application for **community significant development** that is lodged without the following information will be deemed as incomplete and therefore unlikely to be accepted.

The developer must submit a report to Council as part of the development application at the time of lodgement.

At a minimum, submitted information must include:

- a statutory declaration that consultation was undertaken in accordance with this DCP
- accurate details of the nature and extent of the consultation
- copies of what the community was shown during the consultation process
- copies of all submissions and/or written feedback received



- a summary of how the community responded to the proposal and the main comments received
- an outline on how the submitted application has responded to the community's concerns with meaningful changes highlighted. If the application being submitted is substantially different to what the community was shown during the consultation period detailed reasons are to be given for how and why the proposal is different. Where there are significant changes that do not respond to community feedback, further pre-consultation may be required.

This report will be made publicly available through the statutory notification period for the development application.

### **A13.4.3      Timing of Pre-lodgement community consultation**

It is recommended that community consultation is designed, prepared for and executed as early as possible. This is to allow the community enough time to genuinely engage and provide feedback and to ensure that the development application can have time to respond and potentially adapt prior to lodgement.

The developer must ensure that the community has adequate time to consider and comment on a proposal depending on its complexity and the issues involved.

The period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition as per schedule 1 of the Environmental Planning and Assessment Act 1979 (The Act).

Development applications advertised during periods of public holiday will have their exhibition period extended by a minimum of the holiday period.

## A14 Public Notification and Exhibition of Development Applications

This Section is prepared pursuant to Section 3.43(1)(c) of the *Environmental Planning and Assessment Act, 1979* and specifies the way the Council will publicly exhibit and notify development applications pursuant to Schedule 1 of the *Environmental Planning and Assessment Act, 1979*.

This section does not apply to public exhibition and notification of development applications for the following:

1. Designated development.
2. Advertised development.
3. Nominated integrated development.
4. Development applications accompanied by a Species Impact Statement.
5. Aquaculture development as defined by State Environmental Planning Policy No 62 — Sustainable Aquaculture.

### A14.1 Different Forms of Public Exhibition and Notification

Public exhibition and notification of development applications must consist of one or more of the following components:

#### 1. Display within Council's Front Counter or Website

The application and the documents accompanying that application will be made available for inspection within Council's website, for the duration of the exhibition period. Council may specify additional locations for inspection of the application at its discretion.

#### 2. Newspaper Notice

A public notice must be placed within a newspaper that is circulated within the Byron Shire on or before the day the public exhibition period commences. That notice must be repeated one week later. The notice must contain the following:

- a) a description of the land (including the address) on which the development is proposed to be carried out,
- b) the name of the applicant and the name of the consent authority,
- c) a description of the proposed development,
- d) a statement that the application and the documents accompanying that application may be inspected at Council's Front Counter, Station Street Mullumbimby during ordinary office hours (Council may specify additional locations for inspection of the application) or within Council's website during the exhibition period,
- e) the dates of the exhibition period,
- f) a statement that any person during the exhibition period may make a written submission to the General Manager in relation to the application,
- g) a statement that, where the submission is by way of objection, the submission must set out the grounds of the objection.





- h) a statement as to Council's policy for supplying copies of written submissions to other people
- i) in the case of an application to modify consent, a statement summarising the modification sought.

### 3. Letter to **adjoining landowners** and/or **surrounding landowners**

A letter to an **adjoining landowner** and/or **surrounding landowner** (as prescribed in A14.2 of this DCP) is to be posted no later than three business days before the exhibition period commences and must contain the following information;

- a) a description of the land (including the address) on which the development is proposed to be carried out,
- b) the name of the applicant and the name of the consent authority,
- c) a description of the proposed development,
- d) a statement that the application and the documents accompanying that application may be inspected at Council's Front Counter, Station Street Mullumbimby during ordinary office hours (Council may specify additional locations for inspection of the application),
- e) the dates of the exhibition period,
- f) a statement that the person may during the exhibition period may make a written submission to the General Manager in relation to the development application,
- g) a statement that where the submission is by way of objection the submission must set out the grounds of the objection.
- h) a statement as to Council's policy for supplying copies of written submissions to other people.
- i) in the case of an application to modify consent, an outline of the modification sought.
- j) notification that an email address must be supplied to Council by all those wishing to be notified of the determination. Email addresses should be supplied to [council@byron.nsw.gov.au](mailto:council@byron.nsw.gov.au) stating the development application number.

When notifying **adjoining landowners** and/or **surrounding landowners**;

- a) if the land is a lot within the meaning of the *Strata Schemes (Freehold Development) Act 1973*, a written notice to the owners corporation is taken to be a written notice to the owner or occupier of each lot within the strata scheme, and
- b) if the land is a lot within the meaning of the *Strata Schemes (Leasehold Development) Act 1986*, a written notice to the lessor under the leasehold strata scheme concerned and to the owners corporation is taken to be a written notice to the owner or occupier of each lot within the strata scheme, and
- c) if the land is owned or occupied by more than one person, a written notice to one owner or one occupier is taken to be a written notice to all the owners and occupiers of that land.

### 4. Site Notices

A sign on the land is to be erected by Council no later than the day before the exhibition period and;

- a) must be headed in capital letters and bold type 'DEVELOPMENT PROPOSAL',
- b) must display a copy of the notice to be placed in the local newspaper and, if practical, a plan showing the boundaries of the development,

- c) must contain the applicant, a brief description of the development proposal and the location where further details can be found,
- d) must be erected on the land to which the development application relates,
- e) must, if practical be capable of being read from a public road, public place or public reserve (Council may erect a second sign near the land where the sign can not be read from a public road, public place or public reserve),
- f) must be displayed on a board with minimum dimensions of A3 standard paper,

## 5. Exhibition Period

The exhibition period is the period in days during which a copy of the Development Application and supporting information is available to be viewed by any member of the public at Council's Front Counter, Station Street Mullumbimby or via Council's website.

The exhibition period is determined by the type and scale of the development as per clause 14.2 of this DCP. The period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition as per schedule 1 of the Environmental Planning and Assessment Act 1979 (The Act).

Development applications advertised during periods of public holiday will have their exhibition period extended by a minimum of the holiday period.

If a particular matter has different exhibition or notification periods that apply, the longer period applies.

## **A14.2 Levels of Public Exhibition and Notification**

The types of development listed below are to be subject to the nominated levels of notification prior to determination. Should there be any conflict between the following provisions or the development is described in more than one level the higher level must apply. A reference to a type of development must also be read as a reference to alterations or additions to that type of development (i.e. Hotel includes additions to a hotel).

**Table A2 – No Public Exhibition or Notification**

No Public Exhibition or Notification (Level 0)
Development applications involving the following types of development will not be exhibited or notified:
<p><i>Development Types</i></p> <ul style="list-style-type: none"> <li>• <b>Agriculture</b> other than <b>intensive livestock agriculture</b></li> <li>• Alterations and additions to a building type that is not specifically listed in Level 1 or Level 2</li> <li>• Boundary adjustment subdivisions that do not provide an additional <b>dwelling</b> entitlement</li> <li>• Buildings and works ancillary to a <b>dwelling-house</b> (garages, pools, sheds, fences etc.)</li> <li>• Buildings and works ancillary to <b>agriculture</b> 5 metres or greater from a property boundary</li> <li>• Change of use to a <b>business</b> or <b>office premises</b> within a Business Zone</li> <li>• Change of use to a <b>light industry</b> within an Industrial Zone</li> <li>• Change of use to a <b>shop</b> within a Business Zone</li> <li>• Business or <b>Office premises</b> within a Business Zone that are single <b>storey</b>.</li> <li>• <b>Demolition</b> of a structure that is not a <b>heritage item</b> or within a <b>heritage conservation area</b></li> <li>• Development required to be carried out in an emergency (e.g. relocation of a <b>dwelling</b> to prevent damage from coastal erosion)</li> <li>• <b>Dwelling-houses</b> that are single <b>storey</b></li> <li>• <b>Dwelling-houses</b> that are double <b>storey</b> and comply with the prescriptive measures of this DCP for <b>setbacks</b> and <b>building height plane</b></li> <li>• <b>Environmental facilities</b></li> <li>• <b>Forestry</b> involving establishment of native plantations</li> <li>• Fences.</li> <li>• Industrial buildings within an Industrial Zone</li> <li>• Internal alterations to a building</li> <li>• <b>Signage</b></li> <li>• Shops within a Business Zone that are single <b>storey</b></li> <li>• Strata subdivision of existing buildings</li> <li>• <b>Vegetation removal</b></li> <li>• Utility installations.</li> </ul>

**Table A3 – Level 1 Notification**

Level 1
<p>Development applications, with less than \$3 million dollar estimated development cost, involving the following types of development will be notified via:</p> <ul style="list-style-type: none"> <li>• a letter to <b>adjoining landowners</b>.</li> <li>• a fourteen (14) day exhibition period.</li> <li>• Only those adjoining landowners who may detrimentally affected by the proposed development will be notified (e.g. a garage with a reduced <b>setback</b> will only be notified to the immediately adjoining landowner). Exhibition of the proposal will take place within Council's website.</li> </ul>
<p><i>Development Types</i></p> <ul style="list-style-type: none"> <li>• Alterations and additions to building or use that is included within this Level</li> <li>• Buildings and works ancillary to a <b>dwelling-house</b> (garages, pools, sheds, fences etc.) that do not comply with the prescriptive measures of this DCP for <b>setbacks</b> and <b>building height plane</b></li> <li>• Buildings ancillary to <b>agriculture</b> within 5 metres of a property boundary</li> <li>• Change of use to a <b>light industry</b> not within an Industrial Zone</li> <li>• <b>Dual occupancy</b> developments</li> <li>• <b>Dwelling-houses</b> that are double storey and do not comply with the prescriptive measures of this DCP for <b>setbacks</b> and <b>building height plane</b></li> <li>• <b>Farm stay accommodation</b></li> <li>• Professional consulting rooms</li> <li>• <b>Rural industry</b></li> <li>• <b>Rural workers dwellings</b></li> <li>• <b>Secondary dwellings</b></li> <li>• Subdivisions that will result in the creation of two or up to and including five lots</li> <li>• Any other development type not listed in any other level</li> <li>• Alterations and additions to any development type listed in Table A4 – Level 2 Notification.</li> </ul>

**Table A4 – Level 2 Notification**

Level 2
<p>Development applications, with less than \$20 million dollar estimated development cost, involving the following types of development will be notified and exhibited via:</p> <ul style="list-style-type: none"> <li>• a letter to <b>adjoining landowners</b>.</li> <li>• Site notification.</li> <li>• a newspaper notice.</li> <li>• notification to the Bundjalung of Byron Bay (Arakwal) where located within a property that is mapped as an area of Aboriginal significance or Development on a public reserve or community land.</li> <li>• a fourteen (14) day exhibition period.</li> <li>• exhibition of the proposal will take place at Council's Administration Building (Station Street, Mullumbimby) and / or within Council's website.</li> </ul>
<p><i>Development Types</i></p> <ul style="list-style-type: none"> <li>• Any development type listed under with an estimated development cost of more than \$3 million dollars and less than \$20 million dollars</li> <li>• <b>Amusement centres</b></li> <li>• Change of use to a <b>restaurant or café</b> within a Business Zone</li> <li>• Change of use to a <b>take away food and drink premises</b> within a Business Zone</li> <li>• <b>Demolition</b> of a building or work that is a <b>heritage item</b> or a use of a building or land that is a <b>heritage item</b> for a purpose that would otherwise be prohibited</li> <li>• Development on a public reserve or community land</li> <li>• <b>Educational establishments</b></li> <li>• <b>Entertainment facilities</b></li> <li>• Erection of a <b>neighbourhood shop</b> within a Residential Zone.</li> <li>• <b>Forestry</b> involving harvesting of native forests or establishing non-native plantations.</li> <li>• <b>Function centres</b></li> <li>• <b>Group Homes</b></li> <li>• <b>Hazardous industries</b></li> <li>• <b>Hotel or motel accommodation</b></li> <li>• <b>Hostels</b></li> <li>• <b>Intensive livestock agriculture</b></li> <li>• <b>Liquid fuel depots</b></li> <li>• Non-designated <b>extractive industries</b></li> <li>• <b>Offensive industries</b></li> <li>• <b>Places of public worship</b></li> <li>• <b>Pubs</b></li> <li>• <b>Recreation facility (major), recreation facility (indoor), recreation facility (outdoor)</b></li> </ul>

- Regional development
- Retrospective approvals
- **Residential flat buildings, multi dwelling housing**, multiple occupancies or the like
- **Restaurants or cafes** and **commercial premises** other than within a Business Zone
- **Sawmill or log processing works**
- **Seniors housing**
- **Sex services premises**
- **Small bars**
- Subdivisions that create subdivisions of more than 6-49 lots inclusive
- **Tourist and visitor accommodation** (other than **bed and breakfast accommodation** and **Farm stay accommodation, camping grounds, caravan parks and eco tourist facilities**)
- Any development that exceeds a development standard of the Byron Local Environmental Plan 2014.

**Table A5 – Level 3 Notification**

<b>Level 3</b>
<p>Development applications involving the following types of development will be notified and exhibited via:</p> <ul style="list-style-type: none"> <li>• a letter to <b>adjoining landowners</b> and <b>surrounding landowners</b></li> <li>• Site notification</li> <li>• a newspaper notice</li> <li>• notification to the Bundjalung of Byron Bay (Arakwal) where located within a property that is mapped as an area of Aboriginal significance or Development on a public reserve or community land.</li> <li>• a twenty one (21) day exhibition period.</li> <li>• exhibition of the proposal will take place within Council's website.</li> <li>• Notification to all community members involved in the pre-consultation process</li> </ul>
<p><i>Development Types</i></p> <ul style="list-style-type: none"> <li>• Any development type with an estimated development cost of \$20 million dollars or more</li> <li>• Any development application that will be referred to the Joint Regional Planning Panel for determination</li> <li>• Subdivision that create 50 or more lots</li> <li>• Telecommunication towers</li> </ul>



## A14.3 Public Exhibition and Notification of Applications to Modify Development Consents and Review Determinations

Applications to modify a development consent pursuant to Section 4.55(1A), 4.55(2) and 4.56 and applications to review a determination pursuant to Division 8.2 and Section 8.9 of the *Environmental Planning and Assessment Act 1979*, must be placed on public exhibition and notified in the same manner as described above, as for the original development application.

Where the original development application was advertised/placed on public exhibition/ notified prior to this Development Control Plan coming into force, the level of public exhibition or notification of the application to modify the consent must be determined in accordance with the levels set out in A14.2 above.

### Exceptions

Applications to modify development consent (Section 4.55) and applications to review a determination (Division 8.2) will not be placed on public exhibition or notified where the modification or amendments to the development involves either:

1. modification to conditions of consent where those conditions do not involve the design or location of a building (or key component) or hours of operation, (i.e. developer contributions); or
2. modification considered by Council to be a minor change to the proposed development and of low environmental impact (i.e. altered car parking layout, changes to the entry of a shop); or
3. internal alterations to a building; or
4. modification to a **dwelling-house** which does not involve a reduction in **setback** of the **dwelling-house** from the boundaries of the property; or modification to the first or higher floor level of the **dwelling-house**; or
5. In the case of Division 8.2 or Section 8.9, where no amendments are made to the development described in the original application.

## A14.4 Notification to the Bundjalung of Byron Bay (Arakwal) and Land Councils

Written notification shall be provided to the Bundjalung of Byron Bay (Arakwal) and relevant Land Council for any of the following:

- a) development on a public reserve or community land,
- b) applications listed within the category of Level 2 and Level 3, where such developments are located within a property that is mapped by Byron Shire Council, in association with Bundjalung of Byron Bay (Arakwal), as having Aboriginal significance,
- c) Artwork subject to Chapter D8 that:
  - (i) is produced in an Indigenous style; or
  - (ii) is identified as an Aboriginal artwork; or
  - (iii) is in any way related to Indigenous heritage or culture

## **A14.5      Increases in the level of public notification or exhibition**

Council may, at its discretion:

1.    notify or publicly exhibit (Levels 1 to 3) a development application that would not have been otherwise notified or publicly exhibited; or
2.    publicly exhibit (Level 2 to 3) a development application that would not have been otherwise publicly exhibited (i.e. Level 1); or
3.    increase the period of notification by 7 days or more.

Council's discretion on this matter will have regard to whether:

- a)    previous developments on the land have received a significant level of objection; or
- b)    the location of the development is unique in terms of unusual landform or vegetation; or
- c)    the size or extent of the development is beyond that which would normally be expected for the category of development.

Council may increase the level of public exhibition at the time of first giving public notice or at any time prior to the conclusion of the exhibition period.

Where a particular use has not been nominated as requiring public exhibition or notification, Council will make a decision on a case by case basis as to whether it should be notified or exhibited.

## **A14.6      Waiving of Public Notification or Exhibition**

Council has the discretion to waive the public notification or exhibition of any application.

## **A15          How Council will consider your Development Application**

Depending on the nature and site of the proposed development, your development application may need to be referred to government agencies and/or advertised and notified for public comment before it can be determined by Council. Council may also need to seek further information from you in relation to certain aspects of your application.

Information explaining how your application will be processed, considered and determined after it is lodged is available on Council's website, [www.byron.nsw.gov.au](http://www.byron.nsw.gov.au), or in Appendix A2. Council's policy in relation to Appropriate Dispute Resolution of Development is also available on Council's website.

## **A16            Determination of a Development Application - Statement of Reasons**

Once a development application has been determined, Council will email notification to all submitters and interested parties who supplied a valid email address – as per 14.1 of this DCP.

The determination will also be published online to Council's website. The notice of determination of the development application includes Council's reasons for the decision and how community views were taken in to account in making the decision, in accordance with schedule 1 of The Act.

This will include:

- a) the decision, and
- b) the date of the decision, and
- c) the reasons for the decision, and
- d) how community views were taken into account in making the decision

## Appendix A1 Dictionary

### **Accommodation unit**

means, in relation to Chapter E5 Certain Locations in Byron Bay and Ewingsdale (E5.7 The North Byron Beach Resort Site) room or suite of rooms used, or intended to be used, for the provision of holiday accommodation only. The building is to have a maximum floor area of 80m<sup>2</sup> excluding balconies, and a maximum of three bedrooms. An **accommodation unit** may be freestanding, or may be attached to one or more other **accommodation units**.

### **Active street frontage**

Refers to street frontages where there is an active visual engagement and direct connection between those in the street and those on the ground and upper floors of buildings. This is often facilitated through use of transparent materials and clear entranceways. Ground floors may accommodate cafes, shops or restaurants or other uses that spill over into the adjoining street.

### **Adaptable housing**

means housing that is designed in such a way that it can be modified easily in the future to become accessible to both occupants and visitors with **disabilities** or progressive frailties.

### **Adjoining landowner**

means the land which abuts an application site or is separated from it only by a road, lane, pathway, right of way, river or stream or similar thoroughfare.

### **Access**

means the provision of an environment that is free of barriers to the mobility of people with **disabilities** that are not present to people without **disabilities**. This includes entry to and mobility within a building or place by means of the provision of a continuous accessible path of travel. It also means the provision of information in such a manner that it can be interpreted by people with sensory **disabilities**.

### **AEP**

means Annual Exceedence Probability, and has the same meaning as in the [Floodplain Development Manual 2005](#).

### **Allotment (or Site)**

means the area to which title is held, excluding any land zoned or reserved for any other purpose.

### **Animated sign**

means **signage** with movement, that flashes or changes colour, wording, numbers or pictures due to the use of electrical or manufactured sources of power.

### **Annual exceedance probability (AEP)**

means the chance of a flood of a given or larger size occurring in any one year, usually expressed as a percentage. For example, if a peak flood discharge of 100 m<sup>3</sup>/s has an AEP of 1%, it means that there is a 1% chance of a peak flood discharge of 100m<sup>3</sup>/s or larger occurring in any one year.

### **Average recurrence interval (ARI)**

has the same meaning as in the [Floodplain Development Manual 2005](#).

### **Aquifer**

means a layer of relatively porous substrate that contains and transmits groundwater.

### **Balcony**

means:

1. a raised platform, commonly referred to as a deck or verandah, having a floor level more than 1 m above an adjacent lower level; or



2. any deck or verandah covered by a roof.

**Bangalow Urban Area**

means the land shown on the **Bangalow Urban Area DCP Map**.

**Bangalow Urban Area DCP Map**

means the Map described as Map E2.1 - Bangalow Urban Area DCP Map in Chapter E2 Bangalow of this DCP.

**Bangalow Urban Release Area**

means the land shown as 'Urban Release Areas' on the Map E2.1 – **Bangalow Urban Area DCP Map** in Chapter E2 Bangalow of this DCP.

**Best management practice**

means the actions and practices outlined in 'Current Recommended Practices and Performance Standards' published by the Sydney Catchment Authority that is available on its web site. It also means the actions and practices outlined in 'Living and Working in Rural Areas - A handbook for managing land use conflict issues on the NSW North Coast' published by the Department of Primary Industries and the Northern Rivers Catchment Management Authority that is available on its web site.

**Bicycle storage space**

means a space with associated support and security equipment that is dedicated to the secure parking or storage of a bicycle or bicycles.

**Billboard sign**

means a board with an advertising **display area** of in excess of 6 square metres.

**Biodiversity Conservation Management Plan (BCMP)**

means a plan which describes how the biodiversity values occurring on a property will be managed to ensure their protection and enhancement, during and following development of land.

**Biodiversity offset**

means measures taken to compensate for any residual significant, adverse impacts that cannot be avoided or minimised, and/or rehabilitated or restored, in order to achieve 'no net loss' or a net gain to biodiversity.

**Biodiversity values**

means as it is defined in s1.5 of the Biodiversity Conservation Act 2016:

- (a) vegetation integrity – being the degree to which the composition, structure and function of vegetation at a particular site and surrounding landscape has been altered from a near natural state,
- (b) habitat suitability – being the degree to which the habitat needs of threatened species are present at a particular site,
- (c) biodiversity values, or biodiversity-related values, prescribed by the regulations.

**Blackwater**

means domestic **wastewater** which includes **wastewater** from the toilet, i.e. containing faecal material.

**Brunswick Heads Urban Area**

means the land shown on the **Brunswick Heads Urban Area DCP Map**.

### **Brunswick Heads Urban Area DCP Map**

means the Map described as Map E4.1 - **Brunswick Heads Urban Area DCP Map** in Chapter E4 Brunswick Heads of this DCP.

### **BSC**

means Byron Shire Council.

### **Building height plane**

means the plane projected at an angle of 45° over the land to be built upon, measured from a vertical distance of 1.8 metres above **ground level (existing)** at the site boundary.

### **Building elevation**

means an elevation of a building as commonly shown on building plans.

### **Bunting**

means **signage** consisting of a continuous string of lightweight coloured material secured so as to allow movement.

### **Bushfire Attack Level (BAL) rating**

represents the scale used to determine a building's risk of catching fire. The use of a high BAL rating can minimise impacts to biodiversity through reducing the area required for Asset Protection Zones.

### **Byron Bay Coastal Hazards Map**

means the Map described as Map E5.1 - Byron Bay Coastal Hazards Map in Chapter E5 Certain Locations in Byron Bay and Ewingsdale of this DCP.

### **Byron Shire Bike Strategy and Action Plan**

means the Bike Plan adopted by Council (and as amended from time to time) that sets out the strategic framework regarding the bike network and its future expansion and management. The Plan is available on Council's web site.

### **Coastal hazard**

means the following:

- (a) beach erosion,
- (b) shoreline recession,
- (c) coastal lake or watercourse entrance instability,
- (d) coastal inundation,
- (e) coastal cliff or slope instability,
- (f) tidal inundation,
- (g) erosion caused by tidal waters, including the interaction of those waters with catchment floodwaters.

### **Coastal zone**

means the same as it does in the *Coastal Protection Act, 1979* i.e.

- (a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

**Note.** The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.



### **Collection area**

means the location on the development site where garbage, compostable material or recyclable materials are transferred from a building's storage containers to a collection vehicle for removal from the site.

### **Collection point**

means the usual (or agreed) point on the footpath/roadway, or on site where applicable, where garbage and recyclables are loaded onto vehicles.

### **Common landscaped area**

means that part of the site not occupied by any building, that is predominantly landscaped by way of planting, trees, gardens, lawns or shrubs and is available for common use and enjoyment by the occupants of the building erected on the site. It excludes drying yards, garbage collection and handling spaces and any spaces used for the movement or parking of vehicles but can include swimming pools at or below **ground level (existing)**. Where Council deems it appropriate in terms of accessibility, treatment and appearance, the common landscaped area may include rooftop spaces, terraces, steps, walkways, pergolas or other built elements.

### **Community significant development**

means:

- a building with a **gross floor area** of 5,000m<sup>2</sup> or more in an industrial, rural or commercial zone; or
- any development that will be referred under the Act to the Joint Regional Planning Panel; or
- any subdivision resulting in 50 lots or more; or
- **residential accommodation** resulting in 10 or more dwellings; or
- any development that proposes demolition of a heritage listed item; or
- **pubs**; or
- small bars (nightclubs) within the meaning of the *Liquor Act 2007*; or
- **function centres**; or
- **restaurants** in rural areas; or
- **offensive industries**; or
- **telecommunications facility**.

### **Compost**

means vegetative material capable of being converted to humus by a biological microbial process in the presence of oxygen.

### **Conflict risk assessment (CRA)**

means a written document that outlines the circumstances of the intended activities or uses that may create conflict in the context of the surrounding environment. It also outlines locations, separation distances and use of all adjoining and other lands likely to create or influence potential for conflict between the proposed development and existing or proposed land use. Additionally, it details the proposed management measures, buffers and other planning or operational strategies to be incorporated in the proposed development to manage potential land use conflicts, together with an evaluation of the nature, extent and quantum of mitigation expected to be achieved.

### **Continuous accessible path of travel**

means an uninterrupted route to or within premises or buildings and providing access to all services and facilities. It should not contain any step, stairway, turnstile, revolving door, escalator, hazard or other impediment that would prevent being safely negotiated by people with **disabilities**.

### **Core koala habitat**

means an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is females with young) and recent sightings of and historical records of a population.

### **Creative industry**

means, in relation to Chapter E5 Certain Locations in Byron Bay and Ewingsdale (E5.5 Bayshore Village) **industries** that generate copyrights, patents, designs or trademarks and include businesses and **industries** involved in:

- advertising, graphic design and marketing;
- architecture, visual arts and design;
- music composition and production;
- computing and intellectual technologies;
- performing arts;
- writing, publishing and print media; and
- film, television and entertainment.

### **Critical facilities**

means uses where any inundation or loss of function in an extreme flood would represent an unacceptable level of risk. It includes **emergency services organisations** (SES HQ, Police Stations, Fire Stations (including rural bushfire), Ambulance Stations, **hospitals**), Public Halls (where used for flood evacuation centre), Intensive Aged Care, Nursing Homes, Telephone Exchanges, Telecommunication Repeaters, Flood Evacuation Centres and Flood Refuges, and Critical Service Facility Components (e.g. essential components of **sewage treatment plants**, essential water supply reservoirs).

### **Deep soil area**

means a specified area of the development site, not covered by an impervious surface, that allows water on the site to infiltrate naturally to the **groundwater** and allows for the future provision of mature vegetation.

### **Design Verification Statement (DVS)**

means a statement created by a qualified person <sup>1</sup> describing how a development is appropriately designed, having regard to the local character narratives in Part E of this DCP and the Design Guide for Low Rise Housing Diversity.

- <sup>1</sup>. A qualified designer or a building designer that is accredited by the Building Designers Association of Australia is required to certify that the design of the development is consistent with the Design Criteria in the Design Verification Statement.

### **Development envelope / footprint**

means an area of land inclusive of all existing or proposed buildings and other associated infrastructure including but not limited to roads, driveways, waste water systems, landscaping, bushfire protection zones, ecological setbacks, other development setbacks and easements for telephone, electricity and other services. It does not include lands retained for extensive agriculture or nature conservation.

### **Development setback**

means an area of land required to separate elements of the development envelope (such as habitable buildings) from an incompatible land use or environmental hazard. Examples include setbacks to manage bushfire risk, noxious industries, odour and noise (see Chapter B6 Buffers and Minimising Land Use Conflict).

### **Diameter at breast height (DBH)**

means the diameter of the trunk of a tree at 1.4 metres above the ground level taken at the base of the trunk.

### **Disability**

for the purpose of this DCP can be physical, intellectual, psychiatric, sensory, neurological, learning, physical disfigurement or presence in the body of disease causing organism. **Disability** applies to people who have a **disability** now, have had a **disability** in the past, may have a **disability** in the future or are believed to have a **disability**.

### **Display area**

means the area of a device or structure used for **signage**, and includes any borders of, or surrounds to the **signage**, but does not include safety devices, platforms or lighting devices associated with **signage**. Display area is further defined as:

1. in the case of a sign with clearly defined edges, its height multiplied by its length;
2. in the case of a sign without clearly defined edges (e.g. a skeleton letter type sign), the area of the minimum rectangle within which the letters or graphics fit;
3. the display area of a structure that contains **signage** on two or more sides is to be calculated separately for each side and is not the sum of the display areas on all sides (e.g. A-Frame signs).

### **Drinking water catchment**

means land so defined on the **Drinking Water Catchment Map** contained in Byron LEP 2014.

### **Dual key**

Means an internal door linking two attached dwellings together. The door needs to be suitably designed and constructed fire door as per the Building Code of Australia. Dual key arrangements maybe considered suitable for dual occupancy, secondary dwelling and attached dwelling housing arrangements where the housing is on one lot.

### **Dual key arrangement**

Dual-key arrangements refer to a single titled apartment that has been divided into two separate self-contained living quarters.

### **Ecological setback:**

means an area of land required to separate the development envelope from an ecological asset or red-flagged area that is to be retained. NB in most instances the ecological setback will be less than the required setback to manage bushfire risk (See B1.2).

### **Effluent**

means the liquid discharged from a treatment unit. It may be qualified according to type of treatment (e.g. septic tank **effluent**, secondary **effluent** or disinfected secondary **effluent**).

### **Environmental management buffer**

means a management area within the *ecological setback* that requires specific management to minimise on-going impacts of the development. The management requirements of the buffer will vary depending on the type of ecological asset (*red-flagged area*) it is protecting. Such management actions will be defined in either a vegetation or biodiversity conservation management plan.

### **Erosion escarpment**

means the vertical or steep drop in the beach profile caused by tidal or storm erosion.

### **Essential worker**

means a person or persons whose work is considered strategically important to the economic development and sustainability of the NSW Northern Rivers region.

### **Expanded house**

means a **dwelling house** comprising a main building and a maximum of three habitable outbuildings.

### **Fabric**

means, in relation to heritage items or buildings within heritage conservation areas, the physical material of the place.

### **Federal Village Map**

means the Map described as Map E6.1 – Federal Village Map in Chapter E6 Federal Village of this DCP.

### **Federal Village**

means the land shown as ‘Federal Village’ on the Map E6.1 – **Federal Village Map** in Chapter E6 Federal Village of this DCP.

### **Fine grain**

Grain refers to the urban pattern resulting from the arrangement and size of the buildings on their lots and the subdivision pattern.

Fine grain built-form is generally characterised by smaller buildings and lots, that are individually articulated. These spaces can include small retail tenancies as well as offices, studio spaces or other activities.

Fine grain spaces often front or are accessed from smaller streets or lanes.

### **Flood compatible material**

means materials used in building construction that can withstand inundation without suffering any form of damage and which can be readily cleaned when floodwaters subside.

### **Flood liable land**

has the same meaning as in the [‘Floodplain Development Manual 2005’](#).

### **Flood planning level (FPL)**

has the same meaning as in Byron LEP 2014.

### **Flood planning matrix**

means Table C2.1 – Flood Planning Matrix in Chapter C2 Areas affected by Flood.

### **Floodplain Development Manual 2005**

means the NSW Government publication titled ‘Floodplain Development Manual, the management of flood liable land, April 2005’ or its successor.

### **Flood prone land**

has the same meaning as in the [‘Floodplain Development Manual 2005’](#).

### **Freeboard**

means a factor of safety to provide reasonable certainty that the risk exposure selected in deciding on a particular flood chosen as the basis for the particular **flood planning level (FPL)** is actually provided, and is incorporated into the **FPL**. The freeboard is the difference between the particular **FPL** and the flood used to derive it and may vary with different land uses, parts of the floodplain or types of mitigation works.



### **Garage**

means a fully enclosed building or part of a building that is designed for the purpose of accommodating one or more motor vehicles, whether or not it is used for storage of other goods or materials.

### **Garbage**

means refuse or **waste** material other than trade or special **waste**, liquid **waste**, compostable material, green **waste** or recyclable material.

### **Garbage chute**

means a duct in which deposited **garbage** descends from one level to another within the building, due to gravity.

### **Garbage and recycling room/area**

means a room or area where **garbage** and recycling receptacles are stored awaiting re-use or removal from the premises.

### **Garden waste**

means surplus vegetation material.

### **GDD**

means Greywater Diversion Device.

### **Greywater**

means domestic **wastewater** that does not contain wastewater from the toilet, i.e. containing shower and sink water only.

### **Ground water and groundwater**

means water located beneath the ground surface in soil pore spaces and in the fractures of lithologic formations and includes an aquifer.

### **Gross leasable floor area**

means the sum of the area of each floor of a building where the area of each floor is taken to be the area within the internal faces of the walls, excluding stairs, amenities, lifts, corridors and other public areas but including stock storage areas.

### **GTD**

means Greywater Treatment Device.

### **Guidelines**

means (in relation to Chapter B10 Signage) the provisions of the publication titled 'Transport Corridor Outdoor Advertising and Signage Guidelines' published by the NSW State Government.

### **Habitable room**

- in a residential situation: means (in relation to Chapter C2 Areas affected by Flood) a living or working area, such as a lounge room, dining room, rumpus room, kitchen, bedroom, workroom or the like. Laundries, bathrooms and garages are non-habitable rooms.
- in an industrial or commercial situation: means (in relation to Chapter C2 Areas affected by Flood) an area used for offices or to store valuable possessions susceptible to flood damage in the event of a flood.

### **High environmental value vegetation and habitats or HEV**

means land identified as being high environmental value according to the ecological criteria specified in the relative ecological Value Matrix in Part 3 of the 'Byron Biodiversity Strategy 2004' as amended.

### **Indirect impact**

means impacts caused by an action later in time, or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include secondary impacts caused by direct impacts. Indirect impacts may relate to induced changes in the vegetation condition and composition (such as increased weed invasion or an increase in edge effects) and significant reduction in foraging resource for fauna or impacts on other natural processes.

### **Integrated Housing**

Means the subdivision of land into three or more lots and the erection of a dwelling (attached or semi attached) or dwelling house on each lot as per Clause 83 of Byron LEP 1988.

**In the vicinity of** (In relation to a **heritage item** or **Heritage Conservation Area**) means close enough to influence the visual and aesthetic characteristics and appeal of the **heritage item** or **Heritage Conservation Area**. Consequently the determination of what is **in the vicinity of** a **heritage item** or **Heritage Conservation Area** will vary with the particular circumstances, including:

1. The nature and availability of views and vistas to and from the **heritage item** or **Heritage Conservation Area**.
2. The distance to the Heritage item or **Heritage Conservation Area**.
3. Local topography, vegetation and building forms and any resultant obstruction of views and vistas.

### **Koala habitat**

means areas of native vegetation mapped and identified under State Environmental Planning Policy Koala Habitat Protection; or

1. Areas identified within the Byron Coast Comprehensive Koala Plan of Management; or
2. Areas of native vegetation, including plantings, that comprise koala use tree species found in Schedule 2 of the Koala Habitat Protection SEPP (2019) specific to the North Coast Koala Management Area (Appendix 1), and
3. Sightings and or records of koalas (within a 2.5km range of koala habitat) persistent over 3 koala generations that may be evidenced by breeding females and or historical records and or survey.

### **Koala use trees**

means the same as outlined in State Environmental Planning Policy Koala Habitat Protection 2019, Schedule 2: Koala Use Trees for the North Coast Koala Management Area

### **Landscaped area**

means an area of ground available for planting and/ or management of vegetation.

### **Lawful point of discharge**

means the point of discharge for stormwater from a development or a particular location if the location is under the lawful control of the Council or other statutory authority from whom permission to discharge has been received, and that in discharging in that location, the discharge will not cause an actionable nuisance.

### **Lawful structure**

means any structure which has been subject to development consent and has been erected in accordance with that consent; or any structure where development consent was not required and was lawfully erected.

### **Locally indigenous**

means a plant species that occurs naturally in Byron Shire and existed in the Shire prior to European settlement.





### **Low scale**

means (in relation to Chapter D3 Tourist Accommodation of this DCP) rural tourist developments that are small enough to be generally managed and operated by the principal owner(s) living on the property. Such development must create minimal visual and environmental impacts on the surrounding natural features of an area by incorporating the appropriate measures (i.e. structure height, **gross floor area**, density, colour, energy-efficient building design, management of sewage and greywater, and composting) outlined in the Best Practice Guidelines and performance standards contained in Chapters 7 and 8 of the 'Byron Rural Settlement Strategy 1998'.

### **Liquid trade waste**

means liquid waste generated from a commercial or industrial development that requires treatment prior to disposal to the reticulated sewage system.

### **Main Arm Village Map**

means the Map described as Map E7.1 – Main Arm Village Map in Chapter E7 Main Arm of this DCP.

### **Main Arm Village**

means the land shown as 'Main Arm Village' on the Map E7.1 – **Main Arm Village Map** in Chapter E7 Main Arm of this DCP.

### **Manufactured home**

means a self-contained **dwelling** (that is, a **dwelling** that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a **dwelling**:

- a) that comprises one or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and
- b) that is not capable of being registered under the *Traffic Act 1909*

and includes any associated structures that form part of the **dwelling**.

### **Manufactured home estate**

means land on which **manufactured homes** are, or are to be, erected.

### **Medium density housing**

means two or more **dwellings** on the same property.

### **Minimum useable undeveloped land area**

means the area left available for OSMS installation (including requirements for the land application area) post-construction of the main **dwelling**, associated buildings (e.g. studios, garages, driveways, car parking and service access etc), and including OSMS buffer requirements.

### **Mixed use development**

means, in relation to Chapter E5 Certain Locations in Byron Bay and Ewingsdale (E5.5 Bayshore Village) the following range of uses: **commercial premises**, community building, place of assembly, recreational facilities, **restaurant or café** and **shops**. It may also include residential uses.

### **Mixed waste**

means waste such as concrete, bricks, timber, masonry, scrap metal, gyprock, soil etc presented at the Council's landfill in a mixed load, not separated.

### **Mullumbimby Urban Area**

means the land shown as 'Mullumbimby Urban Area' on Map E3.1 - **Mullumbimby Urban Area Map** in Chapter E3 Mullumbimby of this DCP.



### ***Mullumbimby Urban Area Map***

means the Map described as Map E3.1 – Mullumbimby Urban Area Map (read in combination with the Mullumbimby Precinct Maps – E3.2, E3.3, E3.4 and E3.5) in Chapter E3 Mullumbimby of this DCP.

### ***Mural***

means a piece of visual art created on an appropriate, publicly visible wall or surface with the permission of the property owner.

### ***Native Species Planting Guide to Byron Shire***

means the document of that name produced in 2012 and updated periodically. The Guide contains more than 1,580 plant species locally indigenous to Byron Shire that are cross indexed with a range of physical and ecological attributes. It is available on Council's web site.

### ***Neon sign***

means illuminated **signage** constructed of neon tubing.

### ***New release areas***

refer to largely undeveloped sites that have been rezoned or subdivided for urban development (ie. residential, industrial, commercial) purposes in accordance with Council's Climate Change Strategic Planning Policy.

### ***Ongoing management***

means (in relation to Chapter B8 Waste Minimisation and Management) post occupancy management of **waste** on-site.

### ***On-site sewage management system or OSMS***

includes all types of human **waste** storage and treatment facilities, e.g. septic tanks, cesspits, compost toilets, urinals. Also includes the wastewater application (dispersal) area, e.g. absorption trenches, irrigation fields.

### ***Pathogen reduction***

means removal or reduction of pathogens in the **wastewater**, usually by chemical disinfection but can also include ultraviolet radiation, and micro filtration (membrane). Stabilisation or maturation ponds are simple methods of pathogen reduction.

### ***Permeability***

Permeability describes the extent to which urban forms permit (or restrict) movement of people or vehicles in different directions

### ***PMF***

means Probable Maximum Flood, and has the same meaning as in the [Floodplain Development Manual 2005](#).

### ***Primary treatment***

means a physical treatment process to remove suspended solids by settling, with or without chemical assistance.

### ***Projected 2050 Flood Planning Level***

means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard plus projected climate changes allowances for the year 2050.

### ***Projected 2100 Flood Planning Level***

means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard plus projected climate changes allowances for the year 2100.



### **Public art**

is defined in the broadest sense as artistic works or activities accessible to the public. The work is of a permanent nature, located in or part of a public space or facility provided by both the public and private sector. Public art also includes the conceptual contribution of an artist to the design of public spaces and facilities.

### **Recyclable**

means capable of being reprocessed into useable material and includes any item collected by Council's Recycling Service.

### **Refugia**

means an area that species can retreat to, persist in and potentially expand from under changing climatic conditions and or disturbance.

### **Remnant vegetation**

means the natural vegetation that still exists or, if the natural vegetation has been altered, is still representative of the structure and/or floristic composition of the natural vegetation.

### **Riparian corridor**

means the transition zone between the land, also known as the terrestrial environment, and the river or **watercourse** or aquatic environment. **Riparian corridors** perform a range of important environmental functions such as:

- providing bed and bank stability and reducing bank and channel erosion
- protecting water quality by trapping sediment, nutrients and other contaminants
- providing diversity of habitat for terrestrial, riparian and aquatic plants (flora) and animals (fauna)
- providing connectivity between wildlife habitats
- conveying flood flows and controlling the direction of flood flows
- providing an interface or buffer between developments and waterways
- providing passive recreational uses.

The protection, restoration or rehabilitation of vegetated **riparian corridors** is important for maintaining or improving the shape, stability (or geomorphic form) and ecological functions of a **watercourse**.

### **Riparian vegetation**

means vegetation occurring within the **riparian corridor**.

### **Riparian land**

means land within 40 metres of the high bank of a **watercourse**. It is that part of the landscape adjoining rivers and streams that has a direct influence on the water and aquatic ecosystems.

### **Roof advertisement**

means **signage** that is displayed on, or erected on or above, the parapet or eaves of a building.

### **Rural tourist accommodation**

means (in relation to Section D3.3.4 and D3.3.5 of this DCP) a structure containing a room or suite of rooms used, or intended to be used, for the provision of holiday accommodation only. Such accommodation is to have a maximum of two bedrooms and must be freestanding.

### **Secondary treatment**

means a process or processes that remove dissolved and suspended organic material by biological treatment and sedimentation. Some biodegradable organics, volatile organics, nitrogen

and phosphorus are removed [e.g. activated sludge/ aerated treatment devices, sand filters, constructed wetlands].

### **Setback**

has the same meaning as **building line or setback** in Byron LEP 2014.

### **Sewage**

means any effluent of the kind referred to in paragraph (a) of the definition of waste in the dictionary to the *Local Government Act 1993*.

### **Sewered land**

means land within the urban reticulated sewerage catchment.

### **Shared accommodation**

(in relation to Chapter B13 Access and Mobility of this DCP) includes **backpackers accommodation, bed and breakfast accommodation, boarding houses, farm stay accommodation, group homes, hostels, hotel or motel accommodation, residential accommodation** in **pubs, residential care facilities, tourist and visitor accommodation**.

### **Shared zones**

means, in relation to Chapter E5 Certain Locations in Byron Bay and Ewingsdale (E5.5 Bayshore Village) a reference to roads with low traffic volumes, which are shared by vehicles and pedestrians.

### **Shelterbelt**

means a barrier of trees and shrubs that protects against, or buffers, the wind.

### **Shopping centre**

means any combination of **retail, office and business premises** including department stores, discount stores, **food and drink premises**, supermarkets, specialty shops, secondary shops, service providers, (e.g. medical, hairdressing, travel, banking) and other offices. Generally the gross leasable floor area for a **shopping centre** would exceed 1000m<sup>2</sup>).

### **Site (or allotment)**

means the area to which title is held, excluding any land zoned or reserved for any other purpose.

### **Site waste bins**

means the receptacle provided for surplus and unwanted materials on-site.

### **Site waste minimisation and management plan (SWMMP)**

means a written document, usually including graphics, that outlines measures to minimise and manage **waste** generated during various stages of a development, including demolition, construction and ongoing use of the development. In doing so the SWMMP specifies the method of recycling or disposal and the **waste** management service provider. It nominates for each stage:

1. Volume and type of **waste** and recyclables to be generated;
2. Storage and treatment of **waste** and recyclables on site;
3. Disposal of residual **waste** and recyclables; and
4. Operational procedures for ongoing **waste** management once the development is complete.
5. Other matters specified by Chapter B8 Waste Minimisation and Management of this DCP.

### Small Lots

Means vacant residential lots less than 350m<sup>2</sup> in area.

### Social impact assessment scope

means the pro-forma completed at the pre-lodgement meeting by the applicant and Council staff to identify issues of concern, delineate study boundaries and define community consultation requirements.

### Social impact management plan

means a plan identifying the likely social impacts of a proposed development and ongoing requirements for mitigation and management of those impacts.

### Sorted waste

means **waste** such as concrete, bricks, timber, masonry, scrap metal, gyprock, soil etc presented at the landfill in sorted loads, for example, are presented in individually separated skips or are kept separate in a domestic size trailer.

### Special purpose facilities

means infrastructure, community service and other developments where use of the General FPL is considered to represent an unacceptable level of risk for the type of development. Included in this category are developments such as: generating works; sub stations; **liquid fuel depots**; units for aged persons (other than self-care); retirement villages (other than self-care); **schools**; and **hazardous industries**.

### Special waste

means medical and household hazardous **waste**, chemicals and other associated products past their expiry dates or contaminated or toxic materials or products.

### Spot assessment technique

means the koala survey methodology outlined by *Phillips and Callaghan 2011*.

### Stockpile

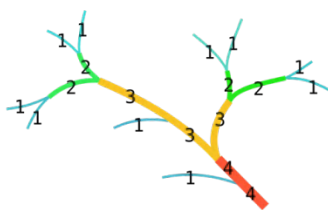
means an accumulation of materials for future reuse, recycling or disposal.

### Stratum lot

means a lot that is limited in height or depth (or both) by reference to Australian Height Datum or another datum approved by the Surveyor-General, but does not include a lot within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

### Stream order

means the topmost sections of a dendritic waterway network mapped at 1:25000 scale as defined by the Strahler stream classification (see diagram below). Where two flow paths of a first order stream join, the section downstream of their junction becomes a second order stream. Where two second order streams join, the waterway downstream of the junction becomes a third order stream and so on. Ecological setbacks associated with specific stream orders are measured from the top of the highest bank.



Strahler stream order

### **Studio**

means a building that is detached from but ancillary to a **dwelling**, used or intended to be used for a purpose that is permissible in the **dwelling**, where because of its nature or space requirements the proposed use is not practical within the confines of the **dwelling**.

### **Suffolk Park Urban Area Map**

means the Map described as Map E1.1 – Suffolk Park Urban Area Map in Chapter E1 Suffolk Park of this DCP.

### **Suffolk Park Urban Area**

means the land shown as ‘Suffolk Park Urban Area’ on Map E1.1 **Suffolk Park Urban Area Map** in Chapter E1 Suffolk Park of this DCP.

### **Surrounding Landowner**

means a landowner up to 500m from the application site.

### **Tallow Creek Floodplain Risk Management Study and Plan**

means the report prepared for Council in 2009 that models and maps the land affected by flooding and assists Council in managing the risk in the Tallow Creek floodplain. It is available on Council’s web site.

### **Tertiary treatment**

means a process or processes that provide effluent polishing and may include higher levels of nutrient removal (nitrogen and phosphorus), removal of dissolved solids and removal of heavy metals. Technology used may include filtration, membrane filtration, and detention in polishing lagoons or wetlands; usually combined with coagulation, sedimentation (or flotation), filtration and disinfection.

### **Threatened ecological communities**

means an ecological community facing a high risk of extinction in the near future, listed as critically endangered, endangered or vulnerable under NSW State or Commonwealth legislation. For example, the Critically Endangered Ecological Community ([Commonwealth](#)): Lowland Rainforest of Subtropical Australia.

### **Threatened population**

means a species population facing a high risk of extinction in the near future, listed as critically endangered, endangered or vulnerable under NSW State or Commonwealth legislation. For example, the Endangered Population ([NSW State](#)): Koala *Phascolarctos cinereus* (Goldfuss, 1817) between the Tweed and Brunswick Rivers east of the Pacific Highway (Previously listed under the *Threatened Species Conservation Act 1995*).

### **Threatened species**

means any individual species facing a high risk of extinction in the near future, listed as critically endangered, endangered or vulnerable under NSW State or Commonwealth legislation. For example, the Critically endangered ([Commonwealth](#)): Mitchell’s Rainforest Snail (*Thersites mitchellae*) and Critically endangered ([NSW State](#)): Scrub Turpentine (*Rhodamnia rubescens*).

### **Tourist accommodation**

has the same meaning as **tourist and visitor accommodation**, **camping ground**, **caravan park** and **eco-tourist facility** in Byron LEP 2014.

### **Trade waste**

means refuse or **waste** material arising from any trade or industry, but excludes liquid **waste**, demolition **waste**, contaminated **waste**, green **waste** or recyclable material.

### **Transport corridor land**

means the following land:





- a) land comprising a railway corridor,
- b) land comprising a road corridor,
- c) land zoned industrial under an environmental planning instrument and owned, occupied or managed by the RMS or RailCorp.

### ***Tweed Street Masterplan***

means the plan adopted by Council on 26 August 2010 (Resolution 10-629) that sets out the preferred strategic direction and vision for the future development of Tweed Street, Brunswick Heads

### ***Unsewered land***

means land outside the urban reticulated sewerage catchment.

### ***Vegetation management plan or VMP***

means a plan which describes how the vegetation occurring on a property will be managed to ensure it is protect and enhanced, during and following the development of land.

### ***Vegetation removal***

means any activity or work that affects vegetation and includes the undertaking of any of the following actions with regard to vegetation: burning, clearing, cutting down, destroying, felling, injuring, killing, logging, lopping, poisoning, pruning, removing, ringbarking, slashing, thinning, topping, digging up or uprooting.

### ***Visually prominent development***

means any development located on a **visually prominent site** or development in a location that has the potential to impact the visual or scenic character of a **visually prominent site**.

### ***Visually prominent site***

means land that is wholly or partly within the **coastal zone**; and land in Zone RU1 Primary Production, RU2 Rural Landscape with a height of 60m AHD or greater.

### ***Volume reduction equipment***

means machinery capable of compacting garbage to make efficient use of space. Such techniques should not be used on recyclable material unless specified.

### ***Water sensitive urban design or WSUD***

means an holistic approach to the planning and design of urban development that aims to minimise negative impacts on the natural water cycle and protect the health of aquatic ecosystems through the integration of stormwater, water supply and sewage management at the development scale.

### ***Waste***

has the same meaning as in the *Protection of the Environment Operations Act 1997*, and includes:

1. any substances (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment, or
2. any discarded, rejected, unwanted, surplus or abandoned substance, or
3. any otherwise discarded, rejected, unwanted, surplus or abandoned substances intended for sale or for recycling, reprocessing, recovery or purification by a separate operation from that which produced the substance, or
4. any substance prescribed by the Protection of the Environment Operations Regulations to be waste for the purposes of the Protection of the Environment Operations Act 1997.

A substance is not precluded from being waste for the purposes of the *Protection of the Environment Operations Act 1997* merely because it can be reprocessed, re-used or recycled.

**Waste/ recycling cupboard**

means a storage area within each **dwelling** (usually in the kitchen) of a size sufficient to enable source separation of a single day's waste into garbage, recyclables and compostable material.

**Wastewater**

means the water carrying wastes from **dwelling**s and other premises.

**Wildlife corridor**

refers to linear areas that link wildlife habitat and provide a crucial role in maintaining connectivity between plant and animal populations that would otherwise be at greater risk of extinction. Such corridors are critical for the maintenance of ecological processes, enabling migration, colonisation and interbreeding of plants and animals.

**Workspace**

means, in relation to Chapter E5 Certain Locations in Byron Bay and Ewingsdale (E5.5 Bayshore Village) the component of a **dwelling** that is used as a commercial premises, or for the purposes of **home industry**, **creative industry** or **light industry**.

## Appendix A2 Development Application Process

The various stages and key steps involved in the Development Application process are summarised below:

### 1. Pre-lodgment

1. Review Planning Controls for your property
2. Discuss your proposal with the Development Support Officer (DSO) or arrange a meeting with the Pre-lodgment meeting if appropriate
3. Obtain the services of a Planning Consultant if required
4. Prepare plans and drawings
5. Prepare and undertake pre-lodgment consultation with the community if applicable

### 2. Preparation and lodgment of application and initial administration

- 1) Complete the application form and including:
  - a) Any necessary specialist reports
  - b) DA form
  - c) All matters required for a DA as listed in the EP&A Regulation (Schedule 1, Part 1)
  - d) Required fees
- 2) Lodge with Council's DSO during office hours, or by mail
- 3) Council will review the information provided,
  - a) if adequate the DA is registered and will advise you of the planner responsible for assessing your applications
  - b) If inadequate, further information may be required before it is accepted for lodgment.

### 3. Referrals and Public Notification

- 1) Where required, adjoining owners notified, sign erected on land, newspaper notice
- 2) External referrals, e.g. RMS, OEH
- 3) Internal referrals, e.g. engineering, environmental health
- 4) Submissions from public and internal/ external referrals received and considered

### 4. Assessment

- 1) Site inspection, planning assessment (Section 4.15 EP&A Act)
- 2) Liaison with applicant if required
- 3) Report prepared recommending either approval (with conditions) or refusal (with reasons)

### 5. Determination

- 1) Decision by Council officer under delegation, or by Councillors at a formal meeting, in which case you may address the meeting if you wish.
- 2) Formal 'Notice of Determination' to the applicant.
- 3) Determination advertised within the Council Notices section of the local newspaper.

### 6. Development commencement

- 1) Construction Certificate before work commences, issued either by Council or a Private Certifier
- 2) 2 days notice to Council before commencement
- 3) Inspections during construction either by Council or Private Certifier
- 4) Final inspection, all conditions satisfied
- 5) Occupation certificate issued





# Byron Shire Development Control Plan 2014

## Chapter B1 Biodiversity



TRADITIONAL HOME OF  
THE BUNDJALUNG PEOPLE

ALL COMMUNICATIONS TO BE  
ADDRESSED TO THE GENERAL MANAGER  
PO Box 219 Mullumbimby NSW 2482 (70-90 Station Street)  
E: [council@byron.nsw.gov.au](mailto:council@byron.nsw.gov.au)  
P: 02 6626 7000 F: 02 6684 3018  
[www.byron.nsw.gov.au](http://www.byron.nsw.gov.au) ABN: 14 472 131 473

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## Chapter B1 – Biodiversity

### Contents

<b>B1.1 Introduction.....</b>	<b>5</b>
B1.1.1 Aims of this Chapter .....	5
B1.1.2 Application of this Chapter .....	6
B1.1.3 Relationship to LEP, NSW Government Statutes and other policy .....	6
B1.1.4 Biodiversity Assessment Pathways.....	10
B1.1.5 Biodiversity Planning Principles .....	14
Habitat Retention .....	15
Impact Assessment and Mitigation.....	16
<b>B1.2 Defining the development envelope.....</b>	<b>19</b>
B1.2.1 Development Envelope Controls.....	19
B1.2.2 Development infrastructure and other controls.....	29
B1.2.3 Koala Habitat .....	33
B1.2.4 Ecological Assessment.....	37
B1.2.5 Vegetation Management Plans & Biodiversity Conservation Management Plans.....	38
<b>B1.3 Development Application.....</b>	<b>40</b>
B1.3.1 Statutory Considerations.....	40
B1.3.2 Approvals required by other Agencies .....	40
B1.3.3 Pre-lodgement consultation .....	41
B1.3.4 Variations to Development Controls.....	41
B1.3.5 Development Application Lodgement Requirements.....	41
<b>Appendices.....</b>	<b>43</b>
Appendix 1 – Schedule 2: Koala Use Tree Species for the North Coast Koala Management Area. ....	43
Appendix 2: Guidelines for an Ecological Assessment .....	46
Appendix 3: Definitions & Acronyms.....	48



## Document History

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## B1.1 Introduction

Biodiversity is the variety of all life forms on earth; the different plants, animals and micro-organisms and the ecosystems of which they are a part. Our ecosystems are dynamic, interactive and complex and maintaining their functions in a healthy state protects biodiversity. Byron Shire comprises 43% High Environmental Value vegetation (including National Parks and Reserves), hosting 145 threatened plants, 160 threatened animals and 1750ha of fragmented coastal **koala habitat**. However, two federal reports (2019; 2020) state that Australia is ranked second in the world for extinction and on-going biodiversity loss, and further, that our federal legislation the *Environmental Protection and Biodiversity Conservation Act 1999* (currently under review) has failed and is ineffective.

Recent changes to NSW legislation such as the *Biodiversity Conservation Act 2016* and the *Local Land Services Act 2013*, have likewise failed to halt the decline of **threatened species**, their habitat and ecological communities, where koalas are now predicted to be extinct before 2050. In addition, the Black Summer fire season (2019-2020) saw 5.4 million hectares in NSW burnt over 160 days of continuous fires comprising; 59% of National Parks, 58% of State forests, 35% of NE NSW Rainforest and 54% of Gondwana World Heritage Rainforest.

Under rapidly changing and unprecedented climatic conditions, increasing the **resilience** of Byron Shire's natural areas and unique biodiversity has become crucial. This DCP chapter supports climate change adaptation through the principle of avoidance in the first instance, and subsequently minimisation, wherever avoidance is proven to be untenable.



**Note:** For the purpose of this DCP Chapter, **avoid** means “to keep away from”. Evidence of avoidance may be illustrated through the use of ecological buffers, the design of a development footprint, or by regulating the timing or location of activities. If it is not possible to avoid impacts, then opportunities should be sought to minimise the impacts. **Minimise** means “reduce to the smallest possible amount or degree”

This DCP chapter further supports the NSW Biodiversity Conservation Investment Strategy 2018, North Coast Regional Plan 2036 directions and Byron Shire's; Local Strategic Planning Statement, LEP 2014, Rural Land Use Strategy 2017 and Biodiversity Conservation Strategy 2020-2030.

### B1.1.1 Aims of this Chapter

The aim of this chapter is to ensure that, subject to any relevant overarching state or commonwealth legislation, the planning and design of new development maintains or improves ecological values within Byron Shire thereby increasing the **resilience** of our natural areas and supporting both biodiversity and climate adaptation.

### Objectives of this Chapter

1. Identify, retain and restore native vegetation and habitats for native species in patches of a size and configuration that will enable existing plant and animal communities to survive in the long term and support climate adaptation.



2. Identify and retain high carbon storage ecosystems (e.g. blue carbon systems such as salt marsh, mangroves and sea grasses), **wildlife corridors** and **refugia**.
3. Provide development controls that prevent the degradation or loss of ecological values and or biodiversity.
4. Provide guidance on the information required to enable informed decision-making.
5. Ensure that construction and operational impacts of development are avoided and or mitigated using current best practice standards.
6. Provide guidance on acceptable measures to avoid or minimise the impact of proposed development on biodiversity including proposals affected by Part 7 of the *Biodiversity Conservation Act* 2016 and the Koala Habitat Protection SEPP 2019.
7. Compensate for unavoidable habitat losses in accordance with applicable legislation, or in the absence of such legislation, contemporary best practice.

### B1.1.2 Application of this Chapter

This chapter applies to development on, or adjacent to, any land with natural features such as; High Environmental Value (HEV) vegetation, red flagged areas (areas of land with high biodiversity conservation value which should be excluded from the **development envelope**), **koala use trees**, watercourses, wetlands, **threatened species** and their habitat, **threatened ecological communities**, **threatened populations**, **wildlife corridors**, areas identified under the Coastal Management SEPP 2018, Koala Habitat Protection SEPP 2019 and the Byron Coast Comprehensive Koala Plan of Management.

It further applies to vegetation clearing requiring development consent where:

- The vegetation clearing is ancillary to development, or
- It is a heritage item or located in a heritage conservation area, or
- It is an Aboriginal object or in an Aboriginal place of significance or conservation area.



**Note:** Where development consent is not required, vegetation removal is managed by DCP Chapter B2 Tree and Vegetation Management.

### B1.1.3 Relationship to LEP, NSW Government Statutes and other policy

#### Relationship to the Local Environmental Plan (LEP)

This chapter supports the aims of other provisions of the relevant Local Environmental Plan in relation to the conservation and management of the natural environment.

# Relationship to Overarching Legislation

## Environmental Planning and Assessment Act 1979 (EP&A Act)

This chapter of the DCP addresses the objects of the [Environmental Planning and Assessment Act 1979](#) (EP&A Act) relating to the protection and conservation of the natural environment, in particular the following objects of the EP&A Act (previously s5):

- 1.3(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- 1.3(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- 1.3(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.

This chapter of the DCP also sets out matters that the consent authority will take into account in considering the following “matters for consideration” under the EP&A Act (previously s79C):

- 4.15(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- 4.15(1)(c) the suitability of the site for the development,
- 4.15(1)(e) the public interest.

## Biodiversity Conservation Act 2016 (BC Act)

This chapter of the DCP also addresses the purpose of the [Biodiversity Conservation Act 2016](#) (BC Act) relating to the impacts of proposed development and land use change on biodiversity. In addition to adopting the principles of ecologically sustainable development, the following particular purposes of the BC Act are relevant:

- 1.3(a) to conserve biodiversity at bioregional and State scales, and
- 1.3(b) to maintain the diversity and quality of ecosystems and enhance their capacity to adapt to change and provide for the needs of future generations, and
- 1.3(c) to improve, share and use knowledge, including local and traditional Aboriginal ecological knowledge about biodiversity conservation, and
- 1.3(d) to support biodiversity conservation in the context of a changing climate, and
- 1.3(h) to support conservation and threat abatement action to slow the rate of biodiversity loss and conserve **threatened species** and ecological communities in nature, and
- 1.3(k) to establish a framework to avoid, minimise and offset the impacts of proposed development and land use change on biodiversity, and



- 1.3(l) to establish a scientific method for assessing the likely impacts on **biodiversity values** of proposed development and land use change, for calculating measures to offset those impacts and for assessing improvements in **biodiversity values**.

Part 7 of the BC Act, together with the Biodiversity Conservation Regulation 2017 (BC Regs) and some aspects of the *Local Land Services Act 2013* (LLS Act), outline the framework for assessment and approval of biodiversity impacts associated with certain proposals that require development consent. Subject to the provisions of the BC Act, such developments are ultimately determined under the [Environmental Planning and Assessment Act 1979](#).

Part 6 of the BC Act introduces a Biodiversity Offsets Scheme (BOS). A development to which the Biodiversity Offsets Scheme applies, requires the preparation of a Biodiversity Development Assessment Report (BDAR) to accompany the development application. Where a BDAR is required, it must be prepared by an accredited assessor in accordance with the Biodiversity Assessment Method (BAM) established under the BC Act.

Both the BAM and BC Act are based on a mitigation hierarchy which requires the proponent to formally consider measures that avoid and minimise biodiversity impacts before proposing **biodiversity offsets**. If the avoid and minimise measures proposed are considered acceptable by the consent authority, any resulting **biodiversity offsets** must be delivered in accordance with the BOS and the proponent cannot commence development until the offset obligation is met.

Council's main role as the consent authority under Part 7 of the BC Act (amongst other things) is to determine:

1. if measures proposed to avoid and minimise biodiversity impacts are acceptable (BC Act s7.13); and
2. if the development will result in a serious or irreversible impact on **biodiversity values** (BC Act, s7.16); and
3. that any residual impacts are offset (or otherwise addressed) in accordance with the BC Act (s7.13).

Section 7.13(6) of the BC Act enables Council to determine their own set of standards to avoid and minimise biodiversity impacts as follows:

“7.13(6) this section does not operate to limit the matters that a consent authority may take into consideration:

(a) in relation to the impact of proposed development on **biodiversity values**, the measures that a consent authority may require to avoid or minimise those impacts or the power of a consent authority to refuse to grant consent because of those impacts, or

(b) in deciding whether to reduce or increase the number of biodiversity credits to be retired”.

Accordingly, this chapter of the DCP sets out the requirements to avoid or minimise the environmental impacts of development.



## Local Land Services Act 2013 (LLS Act)

This Chapter of the DCP also addresses the objects of the [Local Land Services Act 2013](#) (LLS Act) relating to the management of natural resources regarding ecologically sustainable development, in particular:

- (e) to ensure the proper management of natural resources in the social, economic and environmental interests of the State, consistently with the principles of ecologically sustainable development (described in [section 6 \(2\) of the Protection of the Environment Administration Act 1991](#)), and
- (f) to apply sound scientific knowledge to achieve a fully functioning and productive landscape.

In circumstances where a previously approved development exists and a further proposed development requires the clearing of native vegetation, ancillary or otherwise, Section 60Q (2) applies where:

- Schedule 5A does not permit clearing or any other activity:
  - (a) without an approval or other authority required by or under another Act or another Part of this Act (or in anticipation of the grant of any such approval or other authority), or
  - (b) in contravention of any provision of or made under (or in contravention of any agreement made under) another Act or another Part of this Act.

as well as Section 60S (4) where:

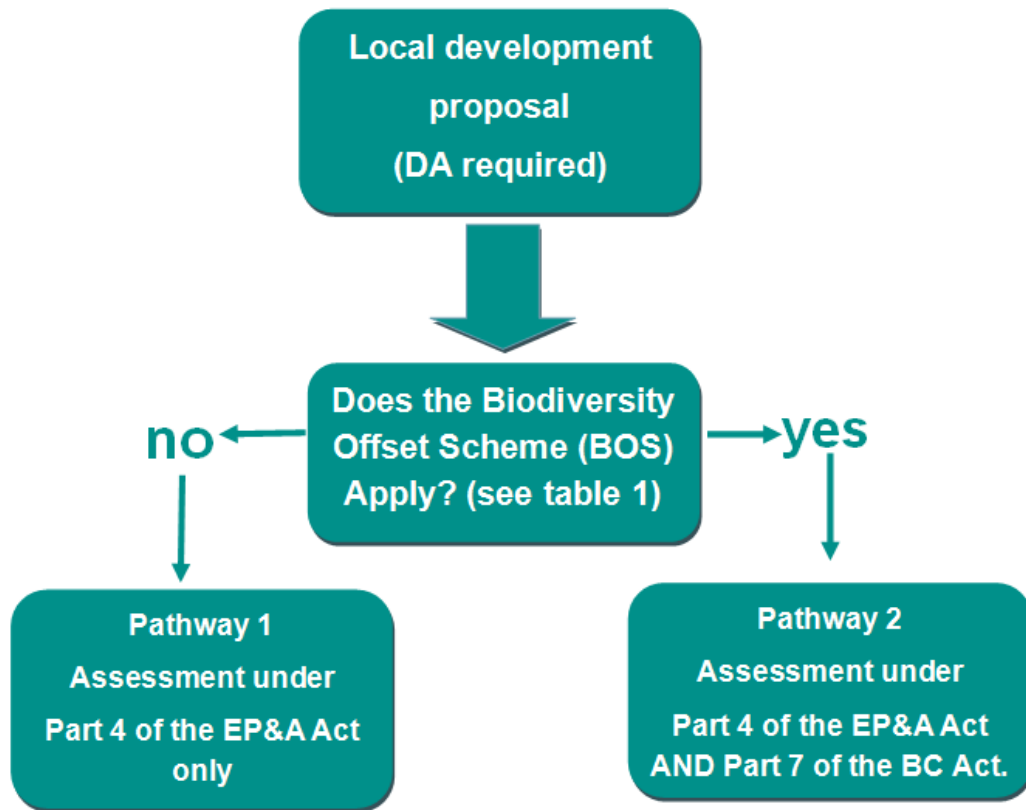
- A land management (native vegetation) code does not permit clearing or any other activity-
  - (a) without an approval or other authority required by or under another Act or another Part of this Act, or
  - (b) in contravention of any provision of or made under another Act or another part of this Act.

as administered by Section 4.17 (previously s80A) of the [Environmental Planning and Assessment Act 1979](#).



## B1.1.4 Biodiversity Assessment Pathways

Given the potential operation of both the EP&A Act and the BC Act, there are two major assessment pathways (Figure 1) which affect the level of biodiversity assessment and the information required to support a development application.



**Figure 1: Assessment Pathways**

The appropriate pathway depends on whether the proposed development triggers the Biodiversity Offset Scheme (BOS) under the BC Act (Table 1) or not (Table 2).

**Table 1: Does the Biodiversity Offset Scheme (BOS) apply? (includes any development “likely to affect [threatened species](#)” under s7.2 of the BC Act)**

BOS applies to any of the following:	Reference:
<ul style="list-style-type: none"> <li>Any proposed clearing of native vegetation (see Table 2) or other action prescribed by the Regulations that is on land identified on the <a href="#">Biodiversity Values Map</a></li> </ul>	BC Act: s7.2(1)(b); s7.4(1) BC Regs: s7.1(1)(b), s6.1, s7.3
<ul style="list-style-type: none"> <li>The development is likely to affect <a href="#">threatened species</a> or ecological communities according to the <a href="#">test of significance</a></li> </ul>	BC Act: s7.2(1)(a), s7.3
<ul style="list-style-type: none"> <li>Any proposed clearing of native vegetation (Table 2) exceeds the <a href="#">BOS area threshold</a></li> </ul>	BC Act: s7.2(1)(b); s7.4(1) BC Regs: s7.1(1)(a), s7.2
<ul style="list-style-type: none"> <li>The development is carried out in a declared <a href="#">area of outstanding biodiversity value</a></li> </ul>	BC Act: s7.2(1)(c)
BOS does not apply if the development:	
<ul style="list-style-type: none"> <li>Involves clearing of native vegetation on <a href="#">category 1 – exempt land</a></li> </ul>	BC Act: s7.4
<ul style="list-style-type: none"> <li>Is on <a href="#">biodiversity certified land</a></li> </ul>	BC Act: s7.6

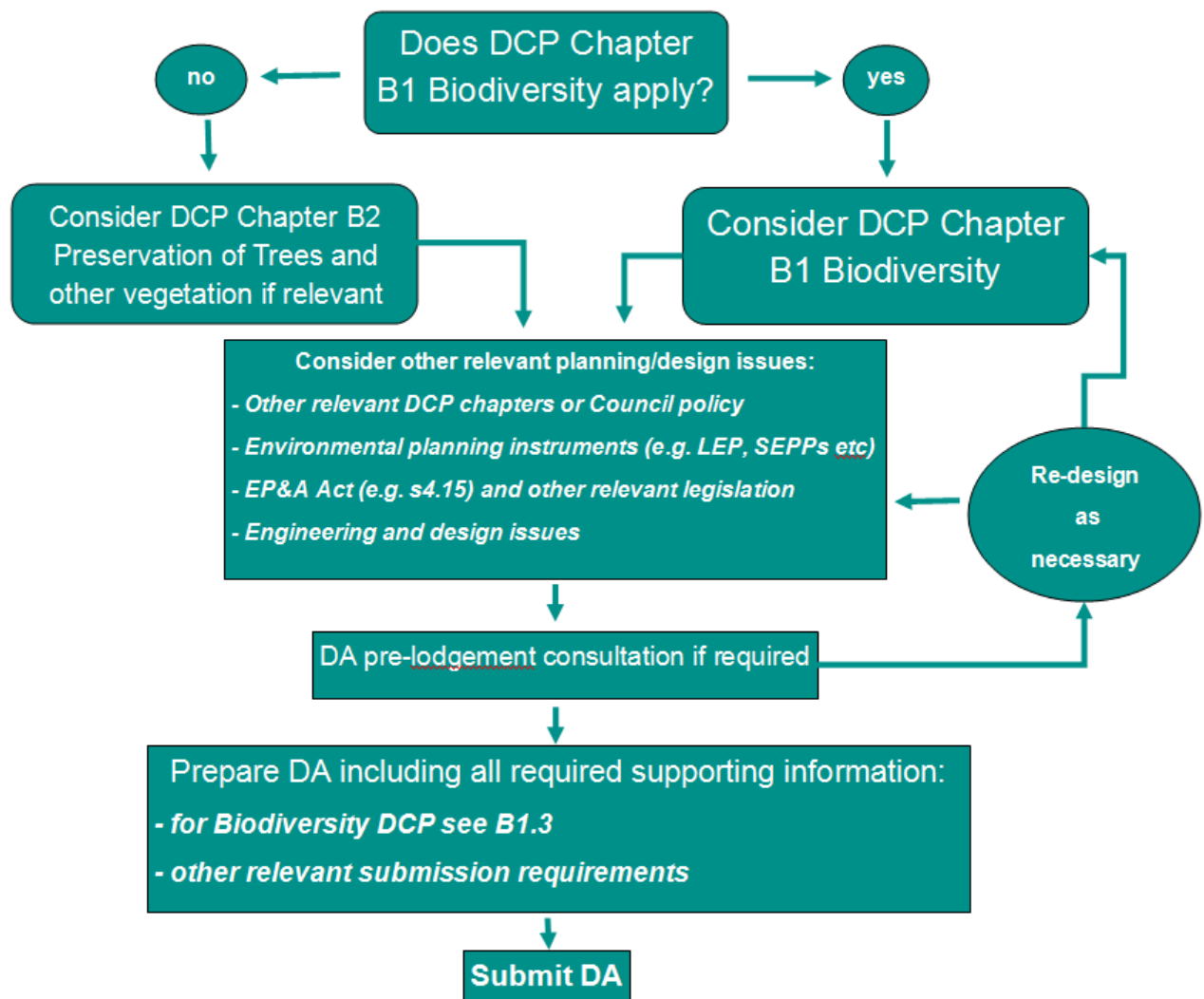
**Table 2: What is clearing of native vegetation? (for development applications under Part 4 of the EP&A Act only)**

“Native vegetation” includes any of the following:	Reference:
<ul style="list-style-type: none"> <li>Trees (including any sapling), shrubs, understory plants, groundcover and wetland plants established in NSW prior to European settlement.</li> </ul>	LLS Act: s60B(1), s60B(2)
<ul style="list-style-type: none"> <li>Dead or non-native vegetation mapped within <a href="#">Category 2-vulnerable regulated land</a></li> </ul>	LLS Act: s60B(3)
“Native vegetation” does not include:	



<ul style="list-style-type: none"> <li>Marine vegetation including mangroves and saltmarsh</li> </ul>	LLS Act: s60B(4)
<b>“Clearing” of native vegetation:</b>	
<ul style="list-style-type: none"> <li>Is defined as (a) cutting down, felling, uprooting, thinning or otherwise removing native vegetation, (b) killing, destroying, poisoning, ringbarking or burning native vegetation.</li> </ul>	LLS Act: s60C
<ul style="list-style-type: none"> <li>Includes all clearing of native vegetation arising from the proposed development (e.g. roads and other infrastructure, fire protection zones etc.)</li> </ul>	LLS Act: s60C
<ul style="list-style-type: none"> <li>Includes any clearing of native vegetation likely to arise from subdivision.</li> </ul>	BC Regs: s7.1(3)

If the proposed development **does not trigger** the Biodiversity Offset Scheme (BOS) then Pathway 1 applies (Figure 2).



**Figure 2: Pathway 1 Assessment under Part 4 of the EP&A Act**

Where the proposed development **does trigger** the BOS (Table 1) then Pathway 2 applies (Figure 3).

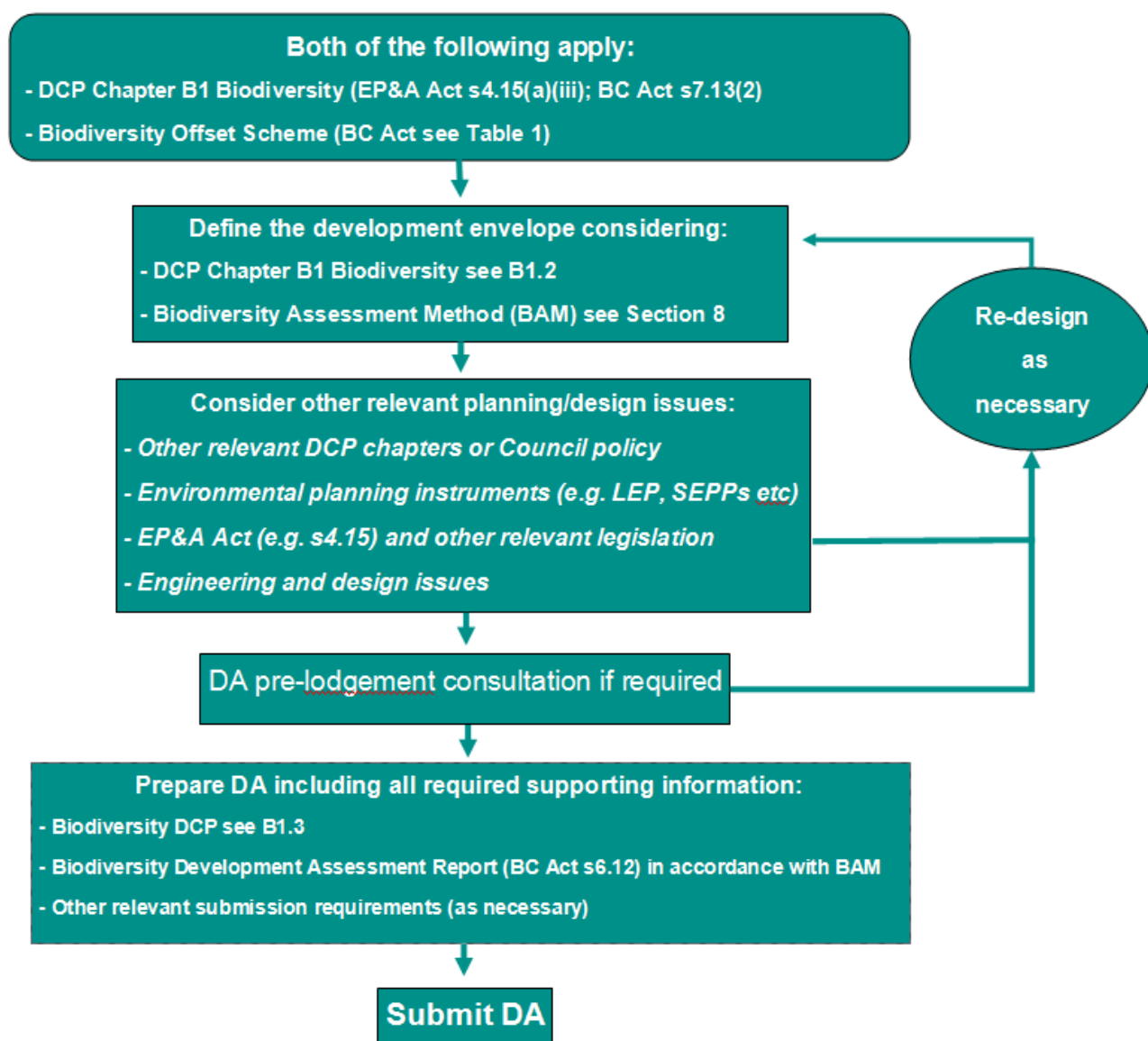


Figure 3: Pathway 2 Assessment under Part 4 of the EP&A Act and Part 7 of the BC Act.

## B1.1.5 Biodiversity Planning Principles

The following principles underpin the provisions within this chapter. All development should wherever possible demonstrate consistency with these principles, which may also be used to guide more complex or novel development proposals.

### P1. Ecologically Sustainable Development

The principles of Ecologically Sustainable Development will be followed in the exercise of Council responsibilities:

**a. The precautionary principle**

If there are *threats* of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by: (a) careful evaluation to avoid, wherever practicable, serious or irreversible damage, and (b) an rigorous and science-based assessment of the risk – weighted consequences of various options;

**b. Inter-generational equity** requires the present generation to ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations;

**c. Conservation of biological diversity and ecological integrity**

The conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making, including in the formulation, adoption and implementation of any economic and other development plan, program or project. Biological diversity means the diversity of life and comprises:

- i. Genetic diversity (the variety of genes in a population)
- ii. Species diversity (the variety of species)
- iii. Ecosystem diversity (the variety of communities and ecosystems).

**d. Improved valuation, pricing and incentive mechanisms**

Environmental factors should be included in the valuation of assets and services such as; (a) the polluter pays principle, where those who generate pollution and waste should bear the costs of containment, avoidance or abatement, (b) the user of goods and services should pay prices based on the full life cycle of the costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, (c) environmental goals, having been established, should be pursued in the most cost effective way.

### P2. Consistency with overarching biodiversity strategies

Council's decision making should be consistent with, and contribute to, targets set out in any relevant adopted local, regional, NSW State or National strategy that addresses the conservation and/or management of biodiversity (e.g. NSW Biodiversity Conservation Investment Strategy 2018).



### P3. No net loss

The carrying out of development should maintain or improve biodiversity outcomes wherever possible within Byron Shire.

### P4. Climate change

Development should not compromise or impact the ability of any native flora and fauna species to respond to the impacts of climatic change.

## Habitat Retention

### P5. In situ conservation

Biodiversity is best conserved in situ (on site). The prevention of habitat loss and degradation is the first priority. This is significantly more cost-effective and has less risk than providing for ongoing mitigation or the reconstruction of habitat in another area (i.e. offsetting biodiversity). This further supports climate change adaptation through increasing the **resilience** of natural areas.

### P6. Habitat fragmentation and connectivity

Council decision-making should not contribute to habitat fragmentation and wherever possible, increase landscape connectivity.

Natural areas are strongly influenced by the landscape in which they are embedded. The larger, less disturbed and better connected natural areas are, the more likely they are to retain a higher level of biodiversity and **resilience** to impacts.

### P7. Small remnants

Small patches of habitat should be retained where possible and measures taken to mitigate edge effects and other relevant threats.

Small isolated patches of habitat are often vulnerable to edge effects and other threats from the adjacent landscape. However such areas often support a wide range of native species (including **threatened species**), represent communities of 'over-cleared' vegetation while providing **refugia** and /or stepping stones across the landscape for flora and fauna. Such **refugia** found in small remnants may be crucially important to the survival of certain species into the future under changing climate conditions.

### P8. Disturbed habitats

Where possible, measures should be taken to retain and restore disturbed habitats.

There are few natural areas that remain free of disturbance or threatening processes. Disturbed habitats represent opportunities for natural regeneration, restoration and



enhancement, increasing ecological **resilience**, while playing an important role in protecting native flora and fauna and in many instances, **threatened species**.

## P9. Patch diversity

Measures should be taken to conserve biodiversity at patch scale.

Patches of bushland or other natural areas (e.g. wetlands) containing multiple vegetation communities commonly support high species diversity in conjunction with ecosystem diversity.

## P10. Fauna habitat

Key fauna habitat resources should be retained and where possible enhanced.

Many native fauna including **threatened species** have specific resource requirements (e.g. feeding, nesting, and roosting) for their continued survival. Also, most native animals are not confined to a single ecological community and make use of resources across a range of different habitats. As ranges change, resource use has, and will continue to evolve across urban and other developed land.

## P11. Watercourses

Natural watercourses and the riparian land adjoining them should be retained and rehabilitated where possible. These areas provide critical resources and refuge during extreme weather events particularly during drought and or fire.

## P12. Under reserved and over-cleared vegetation communities

Ecological communities that have been over-cleared or under-reserved in the formal reserve system (e.g. National Parks and Nature Reserves) should be retained and where possible enhanced.

Many vegetation communities have been disproportionately cleared since European settlement or are poorly reserved in the formal reserve system. Their long term future will depend on their conservation on private land e.g. Saline Wetlands. (see Far North Coast Regional Conservation Plan pg. 26)

# Impact Assessment and Mitigation

## P13. Avoid and minimise

Priority should be given to avoid any impacts at their source. In this context ‘avoid’ means “to keep away from”. Evidence of avoidance may be illustrated through the use of ecological buffers, the design of a development footprint, or by regulating the timing or location of activities. If it is not possible to avoid impacts, then opportunities should be sought to minimise the impacts. Minimise means “reduce to the smallest possible amount or degree”.



## P14. Biodiversity offsets and compensation

Subject to P13 above, where avoidance and minimisation have been clearly considered and illustrated, unavoidable residual impacts arising from development may be allowable. In such instances, an acceptable arrangement to compensate for, or offset the loss of **biodiversity values** should only occur on or near the impact site.

## P15. Habitat heterogeneity

Ecological mapping and assessments should recognise that there can be considerable local variation within and between habitats belonging to individual ecological communities described at regional scales.

Ecological communities are commonly described regionally in general terms but are characterised at specific sites by local variations. Individual site specific responses to environmental and climatic conditions, disturbance regimes and cumulative impacts and location may all contribute to these distinctions.

## P16. Indirect and cumulative impacts

Ongoing pressures on biodiversity arising from indirect and/or cumulative impacts of development must be understood, minimised and effectively mitigated.

## P17. Habitat restoration and management

As much of Byron Shire contains fragmented landscapes, it is not sufficient to simply prevent direct habitat loss. Retained habitats associated with development should be actively managed (through a management plan or other mechanism) to prevent the ongoing degradation of **biodiversity values** and will contribute to climate adaptation.

## P18. Ecological setback

Developments adjoining natural areas are to provide for an effective **ecological setback** to avoid and minimise adverse impacts on **biodiversity values**.

## P19. Bushfire

Measures to mitigate bushfire risk should take into account the natural fire regimes essential for supporting the relevant ecological community(s) and avoid negative impacts on biodiversity.

## P20. Weeds and cultivated plantings

Development adjacent to natural areas should avoid the use of non-indigenous plants or have measures in place (such as slashed bushfire asset protection zones) to limit their dispersal into natural areas.



## P21. Introduced animals

Development should not cause or exacerbate adverse impacts on biodiversity from the introduction of animals.

## P22. Fauna protection

Where appropriate, developments should integrate measures to protect and facilitate native fauna occupancy and movement (such as the suitable design of swimming pools, fences, landscaping, road crossings, nature strips and nest structures etc.).

## P23. Construction impacts

Where appropriate, measures to ensure any impacts on biodiversity and other natural resources are effectively mitigated throughout the construction phase of the development.

## P24. Ecological assessment

The assessment of **biodiversity values** should address site, landscape and regional values in accordance with contemporary best practice.

## P25. Costs of ongoing management

In accordance with the principles of Ecologically Sustainable Development (see P1) the proponent or development should bear the costs of managing ongoing pressures placed on **biodiversity values** as a result of development.



## B1.2 Defining the development envelope

The [NSW Biodiversity Conservation Investment Strategy 2018](#) outlines four criteria to guide the identification of priority areas that meet the requirements of the *Biodiversity Conservation Act 2016*:

**Criterion 1:** Areas of high environmental value should be prioritised.

**Criterion 2:** Areas that improve ecological connectivity and **resilience** to climate change should be prioritised.

**Criterion 3:** Areas that contribute most towards achieving a comprehensive, adequate and representative protected area system should be prioritised.

**Criterion 4:** Areas where high environmental value assets are under the greatest pressure should be prioritised.

Council's High Environmental Value (HEV) vegetation was identified and mapped in 2017 using the methodology required by the Office of Environment and Heritage (OEH) data model. HEV vegetation comprises 43% of the Byron Shire (including National Park estates) and as such, is under increasing pressure from development and tourist visitation.

With approximately 83% of the Shire zoned as rural, this part (B1.2) of this DCP will mainly apply to those lands, except where HEV vegetation exists within non-rural areas.



**Note:** Where development is not proposed, vegetation is managed by the provisions of DCP Chapter B2 Tree and Vegetation Management.

### B1.2.1 Development Envelope Controls

#### Objectives

1. To identify ecologically significant areas (red flags) with the potential to influence the shape and form of a proposed **development envelope**.
2. To ensure areas that areas to be retained are adequately protected and or managed to guarantee their long-term ecological viability.
3. To ensure 'no net loss of biodiversity' through the principles of avoiding and minimising development impacts.

#### Performance criteria

Development consistent with the provisions of this Section.

#### Prescriptive measures

1. When defining the **development envelope** the following red flags and **ecological setbacks** (Table 3) must be retained on site (including any native vegetation therein):



**Table 3: Ecological setbacks required for red-flagged areas.**

Red flag <sup>a</sup>	Ecological setback <sup>b</sup> (m)
<b>HEV Vegetation<sup>c</sup></b>	
<b>Threatened Ecological Communities</b> (includes Critically Endangered, Endangered or Vulnerable listed under <a href="#">State</a> or <a href="#">Commonwealth</a> legislation)	30
Over-cleared vegetation types  (A vegetation type of which more than 70% has been cleared in the Catchment Management Area).	20
Over-cleared landscapes  (A Mitchell landscape in which more than 70% native vegetation cover has been cleared. NSW is divided into 580 relatively homogeneous landscape units in terms of geomorphology, soils and broad vegetation types mapped at a scale of 1: 250000 (Mitchell 2002, 2003), which are colloquially termed “Mitchell Landscapes” after their author).	20
Old growth  ( <a href="#">old-growth forests</a> are ecologically mature forests, often diverse in structure and species with relatively large old trees, some of which may contain tree hollows).	30
Important wetlands  (Wetlands protected under NSW State or Commonwealth legislation or policy. Includes wetlands mapped under the NSW State Environmental Planning Policy (SEPP) Coastal Management 2018, previously SEPP 14 Wetlands).	50
Other wetlands  (Any other wetland other than an Important wetland. Wetland has the same meaning as defined within <a href="#">NSW Wetland Policy</a> :  <ul style="list-style-type: none"> <li>Wetlands are areas of land that are wet by surface water or groundwater, or both, for long enough periods that the plants and animals in them are adapted to, and depend</li> </ul>	20

Red flag <sup>a</sup>	Ecological setback <sup>b</sup> (m)
<p>upon moist conditions for at least part of their lifecycle. They include areas that are inundated cyclically, intermittently or permanently with fresh, brackish, or saline water, which is generally still or slow moving except in distributary channels such as tidal creeks which may have higher peak flows.</p> <ul style="list-style-type: none"> <li>Examples of wetlands include; mangroves, backwaters, sedgeland, wet heathlands, lakes, lagoons, estuaries, rivers, floodplains, swamps, bogs, billabongs, marshes, coral reefs and seagrass beds).</li> </ul>	
Other bushland on a slope >18 degrees	20
<p>Pre-existing protected habitat</p> <p>(Areas of existing habitat (or other land) provided with formal long-term protection designed to limit further development.</p> <p>Protected habitat can be established by various mechanisms including but not limited to; restrictive covenants, rezoning, voluntary planning agreements, formal conservation agreements, biodiversity stewardship agreements, or in some cases dedication to Council or other public authority. The mechanism(s) to establish protected habitat must be conditioned or otherwise approved by Council).</p>	20m or as above, whichever is larger
<b>Wildlife Corridors</b>	
<p>Land within a defined <b>wildlife corridor</b></p> <p>(Refers to linear areas that link wildlife habitat and provide a crucial role in maintaining connectivity between plant and animal populations that would otherwise be at greater risk of extinction. Such corridors are critical for the maintenance of ecological processes, enabling migration, colonisation and interbreeding of plants and animals).</p>	20
<b>Threatened and significant species</b>	
<p>Areas with a species polygon for threatened fauna or other significant fauna that are known or predicted to occur at the site.</p> <p>(Threatened fauna or flora is any species listed as critically endangered, endangered or vulnerable under NSW State or</p>	20



Red flag <sup>a</sup>	Ecological setback <sup>b</sup> (m)
Commonwealth legislation).	
<p>Areas with a species polygon for threatened flora or other significant flora that are known or predicted to occur at the site.</p> <p>(A species polygon is an area of land enclosing the known or predicted habitat of targeted flora or fauna. In most cases known records will be used for flora and predicted habitat will be used for fauna).</p>	10
<b>Koala habitat</b>	
<b>Koala habitat</b> outside of areas defined within a Comprehensive Koala Plan of Management.	20
Isolated or scattered <b>koala use trees</b> with evidence of koala activity	20
Any other areas where koalas are present and/or <b>koala habitat</b> is planted with public monies.	20
<b>Waterways and Riparian areas (from the top of the bank)</b>	
<b>Stream order</b>	
First order stream	10
Second order stream	20
Third order stream	30
Fourth order stream	40
<p>Estuarine area</p> <p>(Any part of a river, lake, lagoon or coastal creek whose level is periodically or intermittently affected by coastal tides, up to the</p>	50

Red flag <sup>a</sup>	Ecological setback <sup>b</sup> (m)
highest astronomical tide).	
<b>Flying fox camps</b>	
Year round or intermittent	100
<b>Other habitat features</b>	
Very large native trees  (Local native trees that have a trunk diameter of greater than or equal to 0.8 metres at 1.4 metres above the natural ground level. Local native trees are trees that existed in the Byron Shire before European settlement).	10
Stags and hollow-bearing trees	10 <sup>d</sup>
Raptor nests	50
<p><sup>a</sup> an area of land with high biodiversity conservation value which should be excluded from any <b>development envelope</b>.</p> <p><sup>b</sup> Where more than one red flag applies or an <b>ecological setback</b> is specified under another adopted plan or policy (e.g. locality plan), the larger <b>ecological setback</b> applies.</p> <p><sup>c</sup> Mapping available on <a href="#">councils website</a></p> <p><sup>d</sup> A larger <b>development setback</b> may need to be considered to prevent damage to built structures in the event of a tree or stag fall.</p>	

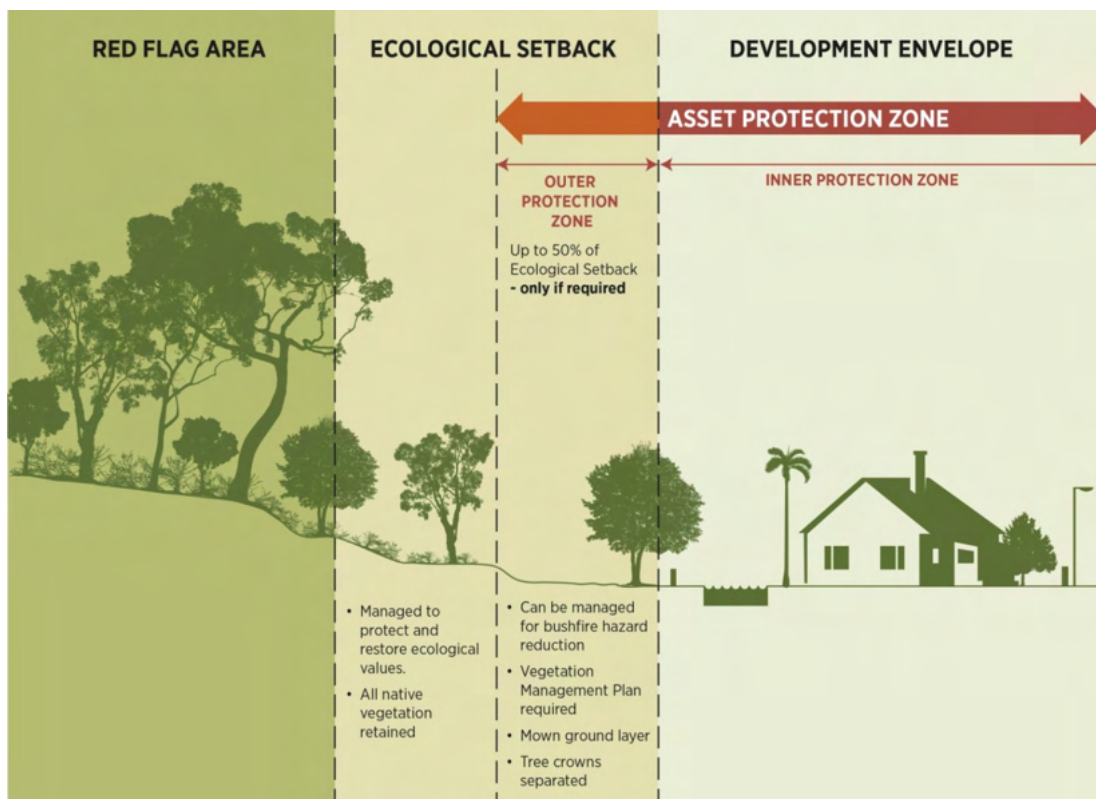
2. Unless adequate pre-existing **biodiversity offset** arrangements have been made under a Council-endorsed strategic planning process (e.g. a master plan) or a State or Federal government approval, clearing of native vegetation or other habitat not *red flagged* in Table 3 will generally not be supported unless all of the following apply:
  - a. the area to be cleared is less than 5000m<sup>2</sup>;
  - b. the clearing does not result in a significant decrease in habitat connectivity;
  - c. there are no other suitable locations on the site;
  - d. an **ecological setback** of 20m is maintained; and



- e. adequate provision is made to compensate for any clearing ensuring no net loss to biodiversity.
3. Where pre-existing offset arrangements or other biodiversity management measures secured under a Council-endorsed strategic planning process (e.g. a master plan) or a State or Federal government approval exists, such arrangements shall be:
  - a. implemented to the extent to which they are relevant to the development application under consideration; and
  - b. only varied because of specific impacts of the development, changed circumstances, or new information not previously considered.
4. In the case of HEV vegetation on the coastal floodplain (as per Council's current flooding information) consideration shall be given to increasing the **ecological setbacks** required under Table 3 to allow for future landward migration of native vegetation affected by climate change induced increases in tidal inundation and rises in the water table.
5. Despite DCP 2014 Chapter D6 Subdivision, development involving the subdivision of land where HEV vegetation exists, or is adjacent to that land, must:
  - a. formally define **development envelopes** on each proposed lot to ensure future development of the subdivided lots avoid any relevant red flagged areas associated with **ecological setbacks**.
  - b. with the exception of individual very large trees, stags or hollow-bearing trees, any proposed lot(s) with an area less than 1 hectare shall not include red flagged areas.
6. Minor variations to the red flagged areas identified in Table 3 may be considered to achieve practical outcomes. Some examples include:
  - a. minor incursions into the **ecological setbacks**;
  - b. **ecological setbacks** that necessarily overlap with access roads or other linear infrastructure (e.g. a narrow access road that does not require clearing with native vegetation on each side);
  - c. isolated patches of native vegetation with an area of less than 1000m<sup>2</sup>;
  - d. **ecological setbacks** arising from adjoining land not in the same ownership
  - e. threatened or other significant fauna that are considered vagrant, highly nomadic, or are not closely associated with the habitat on site;
  - f. areas subject to a controlled activity approval under the *Water Management Act 2000*.
  - g. threatened or other significant flora that occur as seedlings or saplings outside of their natural habitat.
7. Any minor variation referred to above must not:
  - a. trigger a subsequent red flag in another area defined within Table 3, or
  - b. conflict with any statutory consideration that requires the retention of that area.
8. A development application seeking a minor variation must:



- a. clearly demonstrate the variation sought;
  - b. demonstrate that alternative layouts have been considered and that the impacts cannot be reasonably be avoided;
  - c. show how the variation impact is consistent with the relevant planning principles and objectives of this DCP Chapter.
9. Where a proposed development adjoins waterways or riparian areas Council may, where considered appropriate require bank stabilisation works, adequate arrangements for public access, measures to minimise pollution and sedimentation and or measures to reduce impacts of biting insects.
10. **Development setbacks** required to manage potential bushfire risk shall not overlap with red flagged areas referred to in Table 3 or other retained native vegetation.
11. A **development setback** required to manage potential bushfire risk may overlap with an **ecological setback** (Figure 4) and be managed as an **environmental management buffer** (Figure 4) where:
  - a. The highest feasible **Bushfire Attack Level (BAL) rating** has been applied, and
  - b. no more than 50% of the **ecological setback** is used for that purpose; and
  - c. the overlap is managed within a vegetation management plan to maximise ecological values within the scope of the bushfire management requirements (i.e. maintaining a minimum of 30% native tree canopy cover and a fuel reduced understory).



**Figure 4: Example of the relationship between the development envelope, ecological setbacks, red flagged areas and bushfire protection.**



12. Any clearing entitlement under the NSW Rural Fire Service 10/50 Vegetation Clearing Code of Practice for NSW (or similar subsequent provision) shall be regarded as a **development setback**.
13. Other acceptable solutions may be appropriate, however the application must demonstrate that:
  - a. there is **no net loss** to biodiversity; and
  - b. a clearly equivalent or superior long-term outcome can be assured; and
  - c. the variation is consistent with all the relevant planning principles and objectives of this DCP Chapter.
14. It is strongly advised that any proposal that involves variations to the measures within this DCP Chapter, or any proposed offsetting are discussed through Council's pre-lodgement consultation process prior to lodgement (See B1.3.3).
15. If the development application is required to enter the Biodiversity Offset Scheme (BOS) under the *Biodiversity Conservation Act 2016*, the accompanying Biodiversity Development Assessment Report (BDAR) is to include assessment of all entities for serious and irreversible impacts on **biodiversity values** as defined under the Biodiversity Assessment Method (BAM). Additional entities for assessment may further be required by Council as per BAM (s10.2.1.5).
16. If the development application **is not** required to enter the Biodiversity Offset Scheme (BOS) under the *Biodiversity Conservation Act 2016*, any native vegetation, threatened or other significant fauna habitat cleared, damaged, or degraded as a result of development shall be offset or otherwise compensated for in accordance with contemporary best practice or adopted Council policy. Such areas are to be secured in perpetuity as protected habitat and managed under a vegetation or biodiversity conservation management plan (see B1.2.5).
17. Council may waive the requirement for offsetting where the proponent can demonstrate that they have voluntarily created equivalent habitat on the land (or adjoining land in the same ownership) which is subject to the development application. Such areas are to be secured in perpetuity as protected habitat and managed under a vegetation or biodiversity conservation management plan (VMP or BCMP see B1.2.5).

## Examples of Acceptable Solutions:

**Note:** variations must lead to *no net loss* to biodiversity. Examples of where an **ecological setback** applies may be dealt with in a variety of ways (see Figures 5 and 6).

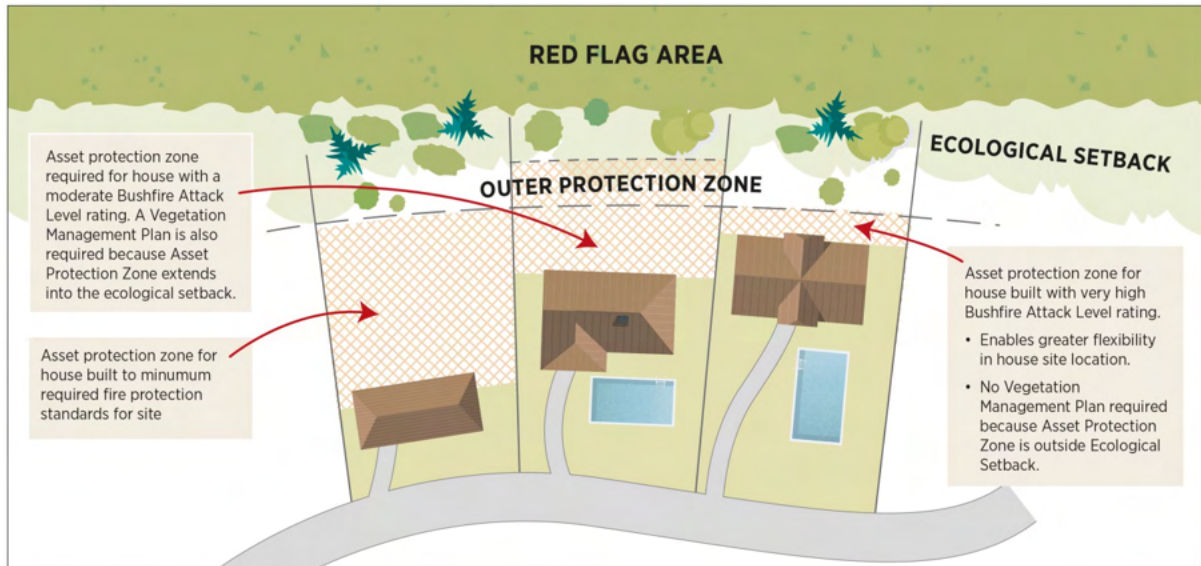


Figure 5: Example of red flagged area, **ecological setback**, differing Asset Protection Zones (APZs) and vegetation management requirements.

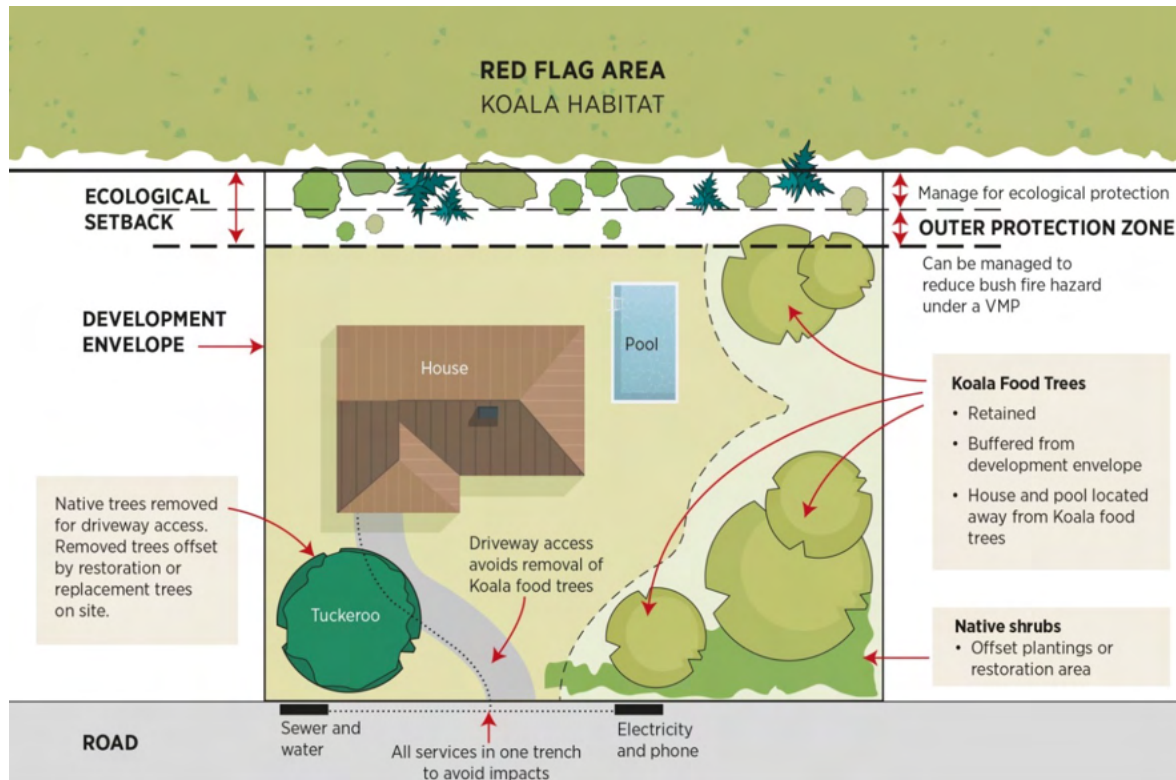
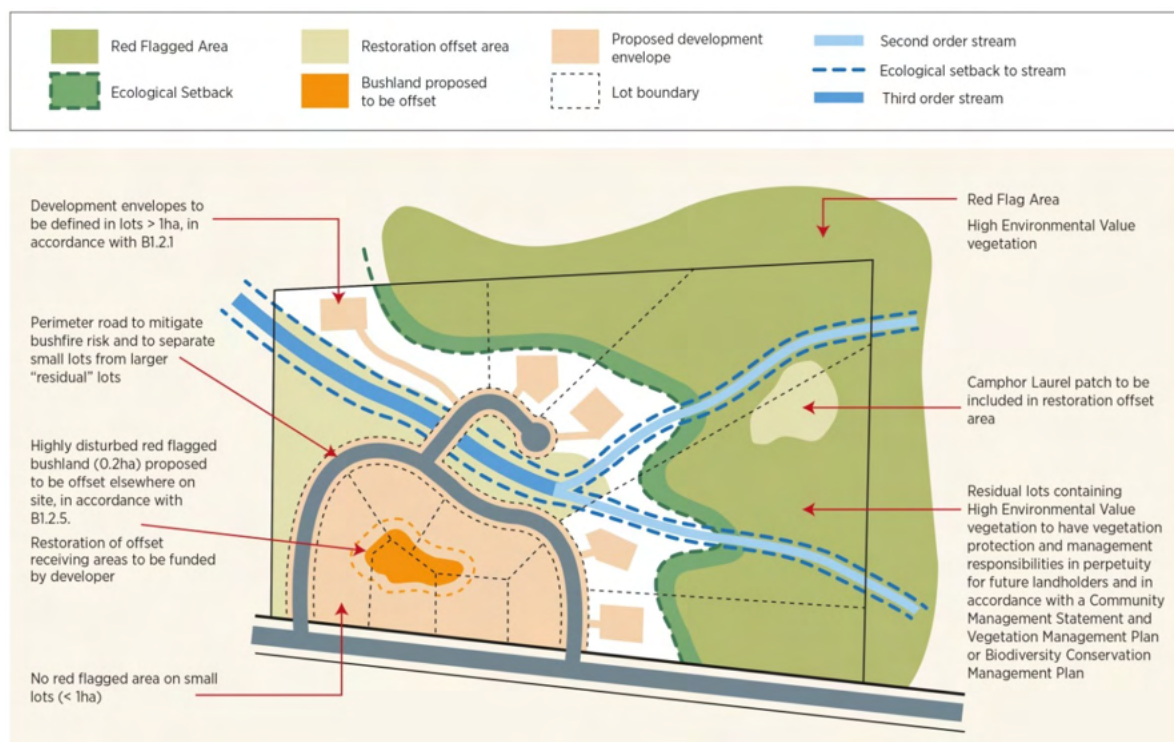


Figure 6: Example of a red flagged area and **ecological setback** with avoid and minimise components.

## Subdivisions:

Where the subdivision of land is required for development, more complex design may be required (Figure 7) alongside additional management objectives (Table 4). In accordance with the principles of ecologically sustainable development, the proponent or development should bear the costs of managing ongoing pressures placed on **biodiversity values** as a result of development as outlined in Table 4 (below).

**Note:** For developments not outlined in Table 4, requirements will be determined on a case by case basis consistent with the scale and type of impact associated with the proposal.



**Figure 7: Example of a subdivision layout incorporating restoration areas as offsets for development and management requirements.**

**Table 4 Management and protection requirements for subdivisions**

Subdivision Type	Number of lots	Management Requirement	Protection Requirement
<b>Subdivisions in Residential zones, Tourist zones or Industrial</b>	<b>&gt;=25</b>	BCMP In perpetuity	All red flags and associated <b>ecological setbacks</b> over the entire site including 3 <sup>rd</sup> order streams or higher

Subdivision Type	Number of lots	Management Requirement	Protection Requirement
<b>zones.</b>	<b>6-24</b>	BCMP establishment period and 10 years maintenance	All red flags and associated <b>ecological setbacks</b> over the entire site including 3 <sup>rd</sup> order streams or higher
	<b>&lt;=5</b>	VMP Establishment period and 5 years maintenance	All red flags and associated <b>ecological setbacks</b> within 100m of any proposed <b>development envelope(s)</b>
<b>Subdivisions in Rural zones</b>	<b>&gt;=10</b>	VMP or BCMP (fauna dependant) in perpetuity	All red flags and associated <b>ecological setbacks</b> over the entire site including 3 <sup>rd</sup> order streams or higher
	<b>&lt;10</b>	VMP or BCMP (fauna dependant) Establishment period and 5 years maintenance	All red flags and associated <b>ecological setbacks</b> over the entire site including 3 <sup>rd</sup> order streams or higher



**Note:** An Establishment period means; the period commencing with the implementation of an approved vegetation or biodiversity management plan and ending when the works specified in that plan meet the performance criteria (as defined within the approved plan) to the satisfaction of Council. The establishment period represents the time necessary to carry out initial environmental repair, restoration and monitoring prior to on-going maintenance.

## B1.2.2 Development infrastructure and other controls

Included within the **development envelope** are associated infrastructure such as (but not limited to) roads, driveways, fencing, waste water systems, landscaping, bushfire protection zones, **ecological setbacks**, other **development setbacks** and easements for telephone, electricity and other services. Wherever development is proposed on land with or adjacent to, High Environmental Value (HEV) vegetation and/or red flags, the following prescriptive measures apply.

### Objectives

1. To ensure that the infrastructure related to development is designed in such a way that it avoids and mitigates impacts to **biodiversity values**.
2. To ensure that domestic animals and pest species are considered, and where possible, controlled, mitigated or eliminated as part of development design.

## Performance criteria

Development consistent with the provisions of this Section.

## Prescriptive measures

### Roads

1. Roads and associated infrastructure are considered part of the **development envelope** and their location should be consistent with the provisions outlined (above) in Table 3.
2. Wherever Council considers that on-going impacts to wildlife are likely to arise from new or upgraded roads, the proponent may be requested to carry out additional fauna surveys to determine the likely impacts on **biodiversity values** and explore fauna friendly road design such as; speed limits, traffic calming, signage, exclusion fencing and fauna crossing structures (under passes, overpasses etc.).
3. Where on-going impacts to wildlife are likely, the road design is to incorporate best practice fauna sensitive design features to facilitate unimpeded wildlife movement as well as minimising any other ongoing impacts on **biodiversity values**, paying particular attention to the requirements of any threatened fauna or other significant fauna. Such design features are to be monitored and maintained to minimise impacts on wildlife.
4. During road construction and upgrading, appropriate environmental safeguards are to be employed to minimise any biodiversity impacts.
5. Fauna friendly road design structures shall be maintained by the proponent for a minimum period of five years after road dedication unless otherwise agreed by Council.
6. Where a vegetation or biodiversity conservation management plan is required, any measures or related conditions of consent to mitigate road impacts on biodiversity shall be incorporated into the management plan and implemented accordingly.

### Fencing

7. Where wildlife are likely to move between areas of suitable habitat (e.g. rural residential development), fencing must be designed to permit the free movement of native fauna (unless designed to specifically exclude movement such as along roads).
8. Development design shall consider the potential impacts on biodiversity, paying particular attention to threatened fauna to ensure that fencing or other structures do not inadvertently direct native animals into danger.
9. Fauna exclusion fencing (or other measures) shall be used where there is a significant fauna mortality risk as a result of crossing from one area of suitable habitat to another (e.g. busy roads) or entering built up areas (e.g. urban development with dogs).
10. Any fauna exclusion fencing or other measures (including temporary structures to perform the same task) shall be constructed and operational prior to the physical commencement of works (including clearing vegetation, the use of heavy equipment for





the purpose of breaking ground for bulk earthworks, or infrastructure for the proposed development).

11. Fencing design shall include suitable clearances to maintain functionality and allow for access for replacement and routine maintenance.
12. All exclusion fencing, fauna friendly fencing or other structures designed to protect fauna shall be monitored and maintained to minimise impacts on wildlife.
13. Where appropriate, fencing, barriers or other measures shall be used to limit or control human access (e.g. motor vehicles) to environmentally sensitive areas.
14. Where a vegetation or biodiversity conservation management plan is required, any wildlife fencing measures or related conditions of consent shall be incorporated into the management plan and implemented accordingly.

## Noise and lighting

15. Where Council considers that wildlife impacts are likely to arise from noise, the proponent may be requested to carry out additional fauna surveys to determine the likely impacts on biodiversity, paying particular attention to threatened fauna or other significant fauna and explore appropriate mitigation measures including, but not limited to, suitable buffers to environmentally sensitive areas, traffic speed restrictions, timing of noisy activities and/or installing appropriate noise barriers.
16. Council will not support development where the impacts of noise on **biodiversity values** cannot be adequately mitigated.
17. Where the **development envelope** contains or adjoins known bush stone curlew habitat or microbar colonies, street lighting must be of a type that does not attract insects.
18. Sports field lighting (or similar high intensity outdoor lighting) shall be designed to avoid light spill into natural areas.
19. Development adjacent to beaches must prevent light arising from development spilling onto beaches to avoid potential impacts on shorebird and turtle behaviour (e.g. nesting).
20. Where a vegetation or biodiversity conservation management plan is required, any measures or related conditions of consent to mitigate noise and lighting shall be incorporated into the management plan and implemented accordingly.

## Domestic animals

21. Council may prohibit the keeping of domestic animals where there is an unacceptable residual risk (i.e. a risk that cannot be adequately mitigated by other measures such as exclusion fencing) arising from the development to threatened or other significant species. In such cases Council will require:
  - a. a restrictive covenant under Part 6 (Division 4) of the *Conveyancing Act* 1919 to ensure that the domestic animal(s) in question (e.g. dogs) are not kept or brought onto the allotment; and



- b. conditions of consent to prohibit domestic animals entering the site during construction.
- 22. The application of the above measure (21) does not apply to:
  - a. “assistance animals” as defined under the *Disability Discrimination Act* 1992 or
  - b. a “working dog” as defined under the *Companion Animals Act* 1998, in the case of non-urban zoned land.
- 23. Where permitted, all domestic animals are to be contained within the landholder’s property and prevented from roaming in natural areas.
- 24. In larger scale developments involving subdivision, where domestic dogs are permitted, adequate provision should be made for exercising them off leash. Such areas shall be designed to prevent dogs from accessing natural areas.
- 25. Where a vegetation or biodiversity conservation management plan is required, any measures or related conditions of consent to manage domestic animals shall be incorporated into the management plan and implemented accordingly.

## Pest animals

- 26. Developments must be designed to minimise the likelihood of pest animal establishment/proliferation and where relevant, include measures to control pest animals.
- 27. Standing water bodies and constructed wetlands shall be designed to minimise their suitability for cane toads and other aquatic pest species (e.g. Mosquitofish (*Gambusia spp.*)). Such areas shall be regularly monitored and managed to contain and adequately control pest animal populations.
- 28. Where a vegetation or biodiversity conservation management plan is required, any measures or related conditions of consent to manage pest animals shall be incorporated into the management plan and implemented accordingly.
- 29. For developments involving subdivision a restrictive covenant under Part 6 (Division 4) of the *Conveyancing Act* 1919 shall be applied to prohibit the keeping of declared pest animals (foxes, rabbits etc.) and/or other pest animals considered to pose a significant risk to biodiversity relevant to the site.

## Pest plants

- 30. Developments must be designed to minimise the establishment/proliferation of pest plant species (weeds) declared under the *Biosecurity Act* 2015, and where present, include measures to control them.
- 31. All landscaping and landscape design shall be consistent with DCP 2014 Chapter B9 Landscaping.
- 32. Where a vegetation or biodiversity conservation management plan is required, any measures or related conditions of consent to manage pest plants shall be incorporated into the management plan and implemented accordingly.





## B1.2.3 Koala Habitat

The Byron Coast Koala Habitat Study completed in 2012, identified a small population of approximately 240 koalas utilising 1750 hectares of highly fragmented habitat across the *coastal portion* of Byron's Local Government Area. The report found that based on an optimal occupancy rate of 50%, a minimum area of 2,800 hectares of well-connected **koala habitat** would be required to ensure the population's long-term viability within the coastal area.

Given the extent of National Parks (59%) and Nature Reserves (58%) burnt during the 2019-2020 fire season, with an estimated 3 billion animals killed, koala populations within NSW are projected to have been reduced by up to 70% and considered critically endangered. Further, the recent NSW Parliamentary inquiry into koalas and **koala habitat** in NSW found that without intervention, Koalas in NSW will become extinct before 2050, and:

- fragmentation and the loss of habitat poses the most serious threat to koala populations in NSW (Finding 4), and
- protecting **koala habitat** is hampered by the inconsistencies and disconnection between different planning instruments within the NSW planning system, and there is an urgent need to address this (Finding 14).

Within the 42 recommendations outlined in the Parliamentary report, funding and support to local councils to conserve **koala habitat** were identified and included: identifying pockets of urban bushland for inclusion into the State's protected area network, supporting the implementation of local koala conservation initiatives, and conducting mapping required for comprehensive koala plans of management.

As such, the retention of all **koala habitat** within Byron Shire is critical. This section applies to all identified **koala Habitat** within the Byron Coast Comprehensive Koala Plan of Management and all other areas where koalas and **koala habitat** are present.

For the purpose of this DCP Chapter **koala habitat** means:

1. Areas of native vegetation mapped and identified as per Clause 7 of the State Environmental Planning Policy Koala Habitat Protection 2019 (Koala SEPP); or
2. Areas identified within the Byron Coast Comprehensive Koala Plan of Management; or
3. Areas of native vegetation, including plantings, that comprise **koala use tree** species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1), and
4. Sightings and or records of koalas (within a 2.5km range of **koala habitat**) persistent over 3 koala generations that may be evidenced by breeding females and or historical records and or survey.

## Objectives

1. To protect the remaining koala populations and **koala habitat** in Byron Shire through the principle of avoidance.



2. To increase the total area of **koala habitat** within the identified koala planning area and across the broader Local Government Area by at least 25% including consolidated linkages within and beyond the identified koala planning area.
3. To maintain the presence of a self-sustaining koala population within the coastal area and undertake the identification of koala populations in the surrounding areas and hinterland.
4. To identify areas known to have koala populations as evidenced by land containing **koala use trees** species (Appendix 1) listed in Schedule 2 for the North Coast Koala Management Area within the Koala Habitat Protection SEPP 2019 and;
  - a. historical koala records (within a 2.5km range of **koala habitat**) that establish generational persistence and or,
  - b. records of breeding females, or
  - c. sufficient survey to establish generational persistence.

## Performance criteria

Development consistent with the provisions of this Section.

## Prescriptive measures

1. For development in areas identified in the Byron Coast Comprehensive Koala Plan of Management (CKPoM), the provisions of Part 2 within the CKPoM apply.
2. For development in areas outside of the identified areas within the CKPoM that have **koala use trees** (Appendix 1) and or **koala habitat** on or adjacent to their Lot, irrespective of the size of the Lot, the requirements of this DCP Chapter apply.
3. The following mitigation measures are required to be addressed within any development application that has the potential to impact koalas and or **koala habitat** irrespective of Lot size.
  - a. **Habitat buffer**
    - i. The entire **development envelope** must illustrate the required **ecological setback** as outlined in Table 3 to **koala use trees** (Appendix 1) and **koala habitat**.
  - b. **Disturbance**
    - i. Establishment of tree protections zones around retained **koala use tree** species as per the Australian Standards (AS 4970-2009 Protection of trees on development sites) before any construction or clearing commences and preclusion of any development activities within the tree protection zones until after all construction is completed.
    - ii. Any clearing of land not to commence until the proposed clearing area has been inspected for koala presence and written approval has been obtained from a suitably qualified person.



- iii. Clearing of native vegetation and or earthworks as part of any development must be temporarily suspended within a range of 25m from any tree that is occupied by a koala and must not resume until the koala has moved from the tree of its own volition.
- iv. Clearing in accordance with (ii) may only proceed for the day on which the inspection has been undertaken and where the suitably qualified person remains on site.
- v. Where (i)-(iv) do not apply, sites where koalas are within a 2.5km range of **koala habitat** are to be protected from disturbance through appropriate exclusion fencing from urban areas and roads. Such fencing should still allow for koalas to readily disperse through habitat and linkages within the landscape.

**c. Dog attack**

- i. The keeping of dogs is prohibited on the title of land for any new lots arising from a subdivision of land, where that land is adjacent to or forms part of **koala habitat**, **wildlife corridors** or **refugia**.
- ii. A restriction on the movement of dogs; including the use of dog and koala proof fencing that effectively contains dogs and excludes koalas, with the provision of koala furniture that allows koalas to escape yards should they gain entry.
- iii. Dog exclusion from **koala habitat** areas, and only allowed off leash in areas determined as to not contain linkages to **koala habitat**, **wildlife corridors** or **refugia**.
- iv. Signage and education as appropriate regarding koala conservation and habitat where dog exclusion applies.
- v. Exemption from (i)-(iii) may only apply to dogs who are assistance animals as defined under the *Companion Animals Act 1998*.

**d. Vehicle Strike**

- i. Traffic speed limit (40km) and calming measures where appropriate.
- ii. Consideration of fauna **appropriate lighting** where applicable given koalas are mostly active at night, for example 'down lighting' within 30m of **koala habitat**.
- iii. Use of koala proof fencing that includes the provision of escape mechanisms.
- iv. Inclusion of land bridges and or underpasses where appropriate in combination with koala proof fencing.

**e. Swimming Pools**

- i. Incorporation of features and koala furniture that allows koalas to escape pools and the fenced area; such as a shallow ramp or thick taut rope



(minimum 50mm diameter) that is secured to a poolside fixture and trails in the pool at all times.

- ii. Use of pool fencing that effectively excludes koalas.
- iii. No structures near pool fences that allow koalas to gain access over fencing.

**f. Bushfire**

- i. Bushfire asset protection zones required for development shall not include **koala habitat**.
- ii. The development and implementation of a bushfire management plan that specifically addresses risks to **koala habitat** where appropriate.

**g. Impediments to movement**

- i. Infrastructure or development must be designed in such a way that is reliably known to not impede the natural movements of koalas between **koala use trees** and or **koala habitat** and or **wildlife corridors** and or natural water sources.
  - ii. Infrastructure or development must be designed in such a way that facilitates koala movement by incorporating the retention of **koala use trees** and where it is safe to do so, planting **koala use trees** (Appendix 1) to provide safe passage and **refugia**.
  - iii. Infrastructure or development must retain existing **koala habitat**, **wildlife corridors** and **refugia** while minimising any adverse impacts from such infrastructure or development. In some instances this may mean the use of koala exclusion fencing in order to protect **koala habitat** or **wildlife corridors** from impacts.
- 4. All **koala use tree** species (Appendix 1) planted or otherwise, are to be retained.
  - 5. All **koala use tree** species (Appendix 1) that have been planted with public monies are to be retained and protected in perpetuity regardless of land tenure.
  - 6. All **koala habitat** and individual **koala use trees** (Appendix 1) are to be illustrated on all site plans by stadia metric survey and include: location, area size (where applicable), plant community type (where applicable), species name, height and DBH.
  - 7. All plantings of **koala use trees** (Appendix 1) as a result of consent conditions under the *Environmental Planning and Assessment Act 1979* are to be protected in perpetuity by an effective legal restriction on the title of land.
  - 8. All restoration of **koala habitat** as a result of consent conditions under the *Environmental Planning and Assessment Act 1979* shall be protected in perpetuity by an effective legal restriction on the title of land.

## B1.2.4 Ecological Assessment

For development proposals required to be assessed under the *Environmental Planning and Assessment Act* 1979 on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or *red flags* (Table 3), an ecological assessment (Appendix 2) may be required. This requirement is in addition to any other statutory requirements or provisions as defined under other legislation e.g. Coastal Management SEPP 2018 or Koala Habitat Protection SEPP 2019.

### Objectives


1. To ensure that any **biodiversity values** that could be impacted by the proposed development are adequately identified.
2. To inform the decision-making process in a timely and efficient manner.

### Performance criteria


Development consistent with the provisions of this Section.

### Prescriptive measures

1. For development where the proposed **development envelope** **does not** overlap with red flagged areas or associated **ecological setbacks** in Table 3 and a vegetation or biodiversity conservation management plan is not required:
  - a. A site plan and current aerial photo (at a scale of 1:200 or better) showing the extent of any red flagged areas and **ecological setbacks** as defined in Table 3 in relation to the proposed **development envelope**.
  - b. A signed statement from a qualified ecologist stating that the proposed **development envelope** does not impinge on any *red flagged* areas or **ecological setbacks** in Table 3, or require a vegetation or biodiversity management plan.
  - c. A signed statement from a qualified ecologist stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including:
    - i. Information to support the conclusion that the proposal does not exceed the BOS threshold; and
    - ii. A response to the five part test of significance set out under s7.3(1) of the BC Act.
  - d. Details of any site visits, ecological surveys (including historical) or previous vegetation/restoration activities conducted on the site.

 **Note:** Where the proposed development **avoids** impacting HEV or red flagged areas, **an ecological assessment is not required**. However, this will normally entail a site inspection ensuring that no threatened flora, or threatened fauna habitat are present within the **development envelope**.

2. For development where the proposed **development envelope** **does** overlap with red flagged areas or associated **ecological setbacks** in Table 3, or a vegetation or biodiversity conservation management plan is required:
  - a. A signed statement from a qualified ecologist stating that the Biodiversity Offset Scheme (BOS) does not apply to the development including:
    - i. Information to support the conclusion that the proposal does not exceed the BOS threshold; and
    - ii. A response to the five part test of significance set out under s7.3(1) of the BC Act.
  - b. An ecological assessment (Appendix 2) or management plan (where applicable) prepared in accordance with the requirements of B1.2.5 Vegetation Management Plans and Biodiversity Conservation Management Plans.
3. For development where the proposed also triggers entry into the Biodiversity Offset Scheme (BOS):
  - a. A Biodiversity and Development Assessment Report (BDAR) prepared in accordance with the Biodiversity Assessment Method (BAM) under the BC Act.
  - b. Consistent with the BAM (s10.2.1.5) the BDAR shall include an assessment of any additional candidate entities as required by Council.
  - c. A vegetation or biodiversity conservation management plan (where applicable) prepared in accordance with the requirements of B1.2.5 Vegetation Management Plans and Biodiversity Conservation Management Plans.

 **Note:** As per s7.13(4) of the *Biodiversity Conservation* (BC) Act 2016, Council may consider seeking an increase or reduction in the number of biodiversity credits required under the BC Act, dependant upon the application of the *no net loss* principle.

## B1.2.5 Vegetation Management Plans & Biodiversity Conservation Management Plans

In situ (on site) conservation ensures the retention, protection and rehabilitation of native vegetation and habitat on the site where it naturally occurs. As such it is the preferred option to offset any impacts (residual or otherwise) to biodiversity that may arise from development. Vegetation or Biodiversity Conservation Management Plans conserve local level genetics and ecosystem processes through the retention and restoration of native vegetation, thereby providing for the maintenance and connectivity of remnant and regrowth vegetation and habitat. Under changing climatic conditions, the restoration of existing native vegetation on site increases **resilience** and supports climate adaptation.

Managing the impacts of global temperature rise has become increasingly crucial. This part of the DCP Chapter addresses both mitigation and adaptation through the identification and restoration of natural areas and their processes which will retain and/or increase the sequestration of CO<sub>2</sub> (carbon).

## Objectives


1. To identify, maintain and improve natural areas and existing ecological processes and functions through the application of in situ (on site) conservation measures and techniques.
2. To retain local **biodiversity values** at the genetic, species and ecosystem levels.
3. To maintain and improve habitat and ecosystem connectivity at local and landscape levels.
8. To enhance the long-term viability of **wildlife corridors** and **refugia**.
4. To retain and/or enhance carbon (CO<sub>2</sub>) sequestration in situ (on site).

## Performance criteria

Development consistent with the provisions of this Chapter.

## Prescriptive measures

1. A [Vegetation Management Plan](#) (VMP) is required for any proposal:
  - a. that will impact High Environmental Value (HEV) vegetation and/or a *red flagged* area, or requires management of an **environmental management buffer** within an **ecological setback** (Table 3); and or
  - b. that has such a requirement under any other DCP Chapter (e.g. DCP Chapters D2, D3 and D6).
2. A [Biodiversity Conservation Management Plan](#) (BCMP) is required for any development that triggers the requirement of a VMP and **also** either:
  - a. impacts a threatened fauna species known to occur on site (e.g. **koala habitat**); and or
  - b. includes the subdivision of land (determined on a case by case basis).
3. The requirement of a BCMP overrides the necessity of a VMP as both contain similar information and management actions. However, a BCMP generally has increased management actions over a longer period of time (See Table 4) and requires more detailed information.

 **Note:** a preliminary desktop assessment of the site's **biodiversity values** is available on [Councils website](#) and the [SEED portal](#). Pending availability, Council staff can assist with some of this information and provide advice on its implications for preparing the information referred to above.



## B1.3 Development Application

### B1.3.1 Statutory Considerations

When determining an application for development consent involving impacts on biodiversity, the consent authority must consider various statutory provisions and statutory instruments such as:

- Environmental impacts on the natural environment under Section 4.15 (previously s79c) of the *Environmental Planning and Assessment Act 1979*
- Development affecting **koala habitat** under the Koala Habitat Protection SEPP 2019
- Development affecting Coastal wetlands and/or Littoral rainforest identified under the Coastal Management SEPP 2018
- Development that is “likely to significantly affect **threatened species**” as set out in the *Biodiversity Conservation Act 2016* (including development that triggers entry into the BOS under the BC Act).
- Potential impacts under other **threatened species** legislation such as the NSW *Fisheries Management Act 1994* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.
- Specific Council LEP Clauses including the overall aims of the LEP
- Clearing or other works within 40m of a designated stream under the *Water Management Act 2000*.

Proposed development should also be consistent with any relevant strategies, plans or policies prepared and adopted by State, Commonwealth or Local authorities such as:

- [Far North Coast Regional Conservation Plan 2010](#)
- [State and Federal Threatened Species Recovery Plans](#)
- [Byron Coast Comprehensive Koala Plan of Management](#)
- [Byron Shire Biodiversity Conservation Strategy 2020-2030](#)

### B1.3.2 Approvals required by other Agencies

In some instance, additional approvals will be required by other agencies before development can proceed, for example:

- Development in bushfire prone areas (Rural Fire Service),
- Works within 40m of the bed or banks of a waterway (Department of Primary Industries – Office of Water).



### B1.3.3 Pre-lodgement consultation

Consultation with Council officers regarding this DCP Chapter is encouraged prior to lodgement. Where written advice is required or complex issues arise (such as threatened fauna) applicants are encouraged to discuss the proposal with [Council's Development Assessment Panel](#)

Prior to attending a pre-lodgement consultation, the applicant should have considered the controls specified within this DCP Chapter and assembled sufficient information to allow a preliminary biodiversity constraints assessment. This will facilitate discussion on ways to improve or maintain biodiversity outcomes, including alternative designs is necessary.

A pre-lodgement consultation is strongly encouraged for proposals that:

- Intend to seek a variation to any of the development controls; or
- Involve **biodiversity offsets** or habitat compensation.

### B1.3.4 Variations to Development Controls

Where variations are sought as outlined in this DCP Chapter, all variation proposals should be discussed with Council staff and properly documented within the development application.

### B1.3.5 Development Application Lodgement Requirements

Once all the relevant matters regarding the size and location of the **development envelope**, design of the proposed development and any impacts associated with additional statutory issues have been considered, the following information is required to support the development application. This information is additional to the general information required under other Chapters of the DCP.

#### Objective

1. To ensure that development proposals are supported by sufficient information that demonstrate impacts on biodiversity and **biodiversity values** and allow the consent authority to determine the application.

#### Prescriptive measures

1. For development proposals required to be assessed under the *Environmental Planning and Assessment Act 1979* on land that has or is adjacent to High Environmental Value (HEV) vegetation and/or red flagged areas (Table 3), the requirements outlined in B1.2.4 Ecological Assessment apply.
2. For development proposals that will impact High Environmental Value (HEV) vegetation and/or a red flagged area, or require management of an **environmental management buffer** within an **ecological setback** (Table 3); and/or has such a requirement under any other DCP Chapter (e.g. DCP Chapters D2, D3 and D6), the



requirements of B1.2.5 Vegetation Management Plans and Biodiversity Management Plans apply.

3. A response to Statutory Considerations where relevant.
4. A response to development controls within this DCP Chapter.
5. A summary and record of pre-lodgement consultation minutes where relevant.
6. Details of any proposed variation to the prescriptive measures within this DCP Chapter including:
  - a. A response to establish consistency with the Biodiversity Planning Principles within this DCP Chapter, and
  - b. A response to establish consistency with the relevant objectives within this DCP Chapter.



# Appendices

## Appendix 1 – Schedule 2: Koala Use Tree Species for the North Coast Koala Management Area.

Common name	Scientific name
Forest Oak	<i>Allocasuarina torulosa</i>
Rough-barked Apple	<i>Angophora floribunda</i>
Red Bloodwood	<i>Corymbia gummifera</i>
Large-leaved Spotted Gum	<i>Corymbia henryi</i>
Pink Bloodwood	<i>Corymbia intermedia</i>
Spotted Gum	<i>Corymbia maculata</i>
White Mahogany	<i>Eucalyptus acmenoides</i>
Cabbage Gum	<i>Eucalyptus amplifolia</i>
Orange Gum	<i>Eucalyptus bancroftii</i>
Grey Gum	<i>Eucalyptus biturbinata</i>
New England Blackbutt	<i>Eucalyptus campanulata</i>
Large-fruited Grey Gum	<i>Eucalyptus canaliculata</i>
Thick-leaved Mahogany	<i>Eucalyptus carnea</i>
Narrow-leaved Ironbark	<i>Eucalyptus crebra</i>

Common name	Scientific name
Narrow-leaved stringybark	<i>Eucalyptus eugenoides</i>
Broad-leaved Red Ironbark	<i>Eucalyptus fibrosa</i>
Slaty Red Gum	<i>Eucalyptus glaucina</i>
White Stringybark	<i>Eucalyptus globoides</i>
Flooded Gum	<i>Eucalyptus grandis</i>
Silver-top Stringybark	<i>Eucalyptus laevopinea</i>
Craven Grey Box	<i>Eucalyptus largeana</i>
Tallowwood	<i>Eucalyptus microcorys</i>
Grey Box	<i>Eucalyptus moluccana</i>
Forest Ribbon Gum	<i>Eucalyptus nobilis</i>
Blackbutt	<i>Eucalyptus pilularis</i>
Grey Ironbark	<i>Eucalyptus placida</i>
Bastard Tallowwood	<i>Eucalyptus planchoniana</i>
Small-fruited Grey Gum	<i>Eucalyptus propinqua</i>
Bastard White Mahogany	<i>Eucalyptus psammitica</i>
Grey Gum	<i>Eucalyptus punctata</i>
Red Mahogany	<i>Eucalyptus resinifera</i>

Common name	Scientific name
Swamp Mahogany	<i>Eucalyptus robusta</i>
Steel Box	<i>Eucalyptus rummeryi</i>
Sydney Blue Gum	<i>Eucalyptus saligna</i>
Large-fruited Red Mahogany	<i>Eucalyptus scias</i>
Narrow-leaved Red Gum	<i>Eucalyptus seeana</i>
Grey Ironbark	<i>Eucalyptus siderophloia</i>
Scribbly Gum/Narrow-leaved Scribbly Gum	<i>Eucalyptus signata/Eucalyptus racemosa</i>
Forest Red Gum	<i>Eucalyptus tereticornis</i>
Stringybark	<i>Eucalyptus tindaliae</i>
Bastard White Mahogany	<i>Eucalyptus umbra</i>
Broad-leaved Paperbark	<i>Melaleuca quinquenervia</i>

## Appendix 2: Guidelines for an Ecological Assessment

An ecological assessment is to be prepared by a suitably qualified ecologist with tertiary qualifications in environmental science (or equivalent) and a minimum of 2 years experience.

Where an ecological assessment is required, assessment of the subject site and where appropriate, the adjoining land, must include the following information:

1. Identification of any of the following:
  - a. High Environmental Value (HEV) vegetation and habitats on or adjoining the subject site.
  - b. Land zoned W1 or W2.
  - c. Areas identified under the *Biodiversity Conservation Act* 2016.
  - d. Areas identified under the *Local Land Services Act* 2013.
  - e. Areas identified under the Coastal Management SEPP 2018 (e.g. Coastal wetlands, Littoral rainforest and proximity areas).
  - f. Areas identified under the Koala Habitat Protection SEPP 2019.
  - g. Any adjoining National Parks or Nature Reserves.
  - h. **Threatened Ecological Communities** (TECs) on or adjoining the subject site.
  - i. **Threatened species** records within 1 km of the subject site.
  - j. Identified **wildlife corridors**
  - k. Threatened fauna habitat
  - l. **Koala habitat**
  - m. **Koala use tree** species including; Species name, height, location and DBH (Diameter at breast height).
  - n. **Hollow** bearing trees including; Species name, height, location, DBH, use and or potential use evaluation.
  - o. Flying fox colony on or adjacent to the subject site.
  - p. Waterways (including **stream order**), wetlands and riparian vegetation.
2. A site plan based on a recent aerial photo at a scale of 1:200 (or better) that illustrates the following details:
  - a. The location of the ecological values identified on the site including those listed in point 1 (above), and
  - b. The extent and type of vegetation community present on site, and
  - c. The extent of the entire **development envelope**, red flagged areas and **ecological setbacks** (where applicable).





3. Where the removal of any **koala use tree** species (Appendix 1) is proposed, an assessment of koala activity must be included. Such an assessment must be undertaken by a suitably qualified person utilising current best practice techniques e.g. detection dog, SAT etc.
4. A response to the five part test of significance set out under s7.3(1) of the BC Act.
5. Full and accurate references to all material relied upon in the assessment must be provided in the report.

## Appendix 3: Definitions & Acronyms

**BAM:** Biodiversity Assessment Method established under the *Biodiversity Conservation Act* 2016.

**BDAR:** Biodiversity Development Assessment Report prepared in accordance with the *Biodiversity Conservation Act* 2016

**BOS:** Biodiversity Offsets Scheme established under the *Biodiversity Conservation Act* 2016

**Biodiversity offset:** measures taken to compensate for any residual significant, adverse impacts that cannot be avoided or minimised, and/or rehabilitated or restored, in order to achieve 'no net loss' or, a net gain to biodiversity.

**Biodiversity values:** as defined in s1.5 of the *Biodiversity Conservation Act* 2016:

- (a) vegetation integrity – being the degree to which the composition, structure and function of vegetation at a particular site and surrounding landscape has been altered from a near natural state,
- (b) habitat suitability – being the degree to which the habitat needs of **threatened species** are present at a particular site,
- (c) **biodiversity values**, or biodiversity-related values, prescribed by the regulations.

**Bushfire Attack Level (BAL) rating:** represents the scale used to determine a building's risk of catching fire. The use of a high BAL rating can minimise impacts to biodiversity through reducing the area required for Asset Protection Zones.

**Development envelope:** an area of land inclusive of all existing or proposed buildings and other associated infrastructure including but not limited to roads, driveways, waste water systems, landscaping, bushfire protection zones, **ecological setbacks**, other **development setbacks** and easements for telephone, electricity and other services. It does not include lands retained for extensive agriculture or nature conservation.

**Development setback:** an area of land required to separate elements of the **development envelope** (such as habitable buildings) from an incompatible land use or environmental hazard. Examples include setbacks to manage bushfire risk, noxious industries, odour and noise (see Chapter B6 Buffers and Minimising Land Use Conflict).

**Ecological setback:** an area of land required to separate the **development envelope** from an ecological asset or *red-flagged area* that is to be retained. NB in most instances the **ecological setback** will be less than the required setback to manage bushfire risk (See B1.2).

**Ecological values:** includes the composition, structure and function of ecosystems and includes (but is not limited to) species, populations, ecological communities and their habitats.

**Environmental management buffer:** a management area within the **ecological setback** that requires specific management to minimise on-going impacts of the development. The management requirements of the buffer will vary depending on the type of ecological asset (red-flagged area) it is protecting. Such management actions will be defined in either a vegetation or biodiversity conservation management plan.



**Koala habitat:** Areas of native vegetation mapped and identified as per Clause 7 of the Koala Habitat Protection SEPP 2019; or

1. Areas identified within the Byron Coast Comprehensive Koala Plan of Management; or
2. Areas of native vegetation, including plantings, that comprise **koala use tree** species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1), and
3. Sightings and or records of koalas (within a 2.5km range of **koala habitat**) persistent over 3 koala generations that may be evidenced by breeding females and or historical records and or survey.

**Koala use trees:** as outlined in State Environmental Planning Policy Koala Habitat Protection 2019, Schedule 2: Koala Use Trees for the North Coast Koala Management Area.

**Mitigation hierarchy:**

- **Avoidance:** measures taken to avoid creating impacts from the outset, such as careful spatial or temporal placement of infrastructure that avoids impacts on **biodiversity values**.
- **Minimisation:** measures taken to reduce the duration, intensity and / or extent of impacts (including direct, indirect and cumulative impacts) that are unable to be avoided as far as practically feasible.
- **Offset:** measures taken to compensate for any residual or adverse impacts that are unable to be avoided, minimised and /or rehabilitated or restored, in order to achieve *no net loss* or a *net gain* of biodiversity.

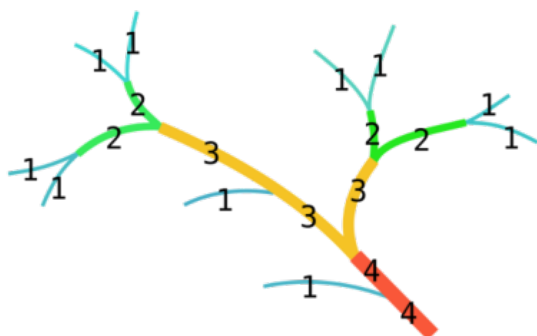
**Other significant fauna/flora:** Fauna or flora that have local significance but are not yet determined as threatened under NSW State or Commonwealth legislation.

**Refugia:** an area that species can retreat to, persist in and potentially expand from under changing climatic conditions and or disturbance.

**Resilience:** the capacity of an entity or entities to recover from or adapt to disturbance or change.

**Stream order:** the topmost sections of a dendritic waterway network mapped at 1:25000 scale as defined by the Strahler stream classification (see diagram below). Where two flow paths of a first order stream join, the section downstream of their junction becomes a second order stream. Where two second order streams join, the waterway downstream of the junction becomes a third order stream and so on. **Ecological setbacks** associated with specific stream orders are measured from the top of the highest bank.





**Strahler stream order**

**Suitably qualified person:** means a person who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis to performance relative to the subject matter using the relevant protocols, standards, methods or literature.

**Threatened Ecological Communities:** an ecological community facing a high risk of extinction in the near future, listed as critically endangered, endangered or vulnerable under NSW State or Commonwealth legislation. For example, the Critically Endangered Ecological Community ([Commonwealth](#)): Lowland Rainforests of Subtropical Australia.

**Threatened Population:** a species population facing a high risk of extinction in the near future, listed as critically endangered, endangered or vulnerable under NSW State or Commonwealth legislation. For example, the Endangered Population ([NSW State](#)): Koala *Phascolarctos cinereus* (Goldfuss, 1817) between the Tweed and Brunswick Rivers east of the Pacific Highway (previously listed under the *Threatened Species Conservation Act 1995*).

**Threatened species:** any individual species facing a high risk of extinction in the near future, listed as critically endangered, endangered or vulnerable under NSW State or Commonwealth legislation. For example, the Critically endangered ([Commonwealth](#)): Mitchell's Rainforest Snail (*Thersites mitchellae*) and Critically endangered ([NSW State](#)): Scrub Turpentine (*Rhodamnia rubescens*).

**Wildlife corridor:** refers to linear areas that link wildlife habitat and provide a crucial role in maintaining connectivity between plant and animal populations that would otherwise be at greater risk of extinction. Such corridors are critical for the maintenance of ecological processes, enabling migration, colonisation and interbreeding of plants and animals.



# Byron Shire Development Control Plan 2014

## Chapter B2 Tree and Vegetation Management



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## Chapter B2 – Tree and Vegetation Management

### Contents

<b>B2.1 Introduction.....</b>	<b>5</b>
B2.1.1 Purpose of this Chapter .....	5
B2.1.2 Application of this Chapter .....	6
B2.1.3 Objectives of this Chapter .....	6
<b>B2.2 Declared Trees and Vegetation.....</b>	<b>8</b>
B2.2.1 Exemptions.....	8
B2.2.2 Exclusion from Exemptions – Environmental Heritage including Aboriginal Heritage .....	9
B2.2.3 Exclusion from Exemptions – Consent conditions and 88B instruments .....	10
B2.2.4 Dead or Dangerous vegetation .....	10
<b>B2.3 Tree Removal Permit Requirements.....</b>	<b>11</b>
B2.3.1 Information to Accompany Tree Removal Permit Applications .....	11
Appendix 1 Red flags.....	14
Appendix 2 Schedule 2: Koala Use Tree species.....	17
Appendix 3 Non native and or invasive tree species .....	20
Appendix 4 Guidelines and Requirements for Arborist's Reports .....	25
Appendix 5 Guidelines and Requirements for an Ecological Assessment.....	25
Appendix 6 Definitions & Acronyms .....	27





## Document History

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## B2.1 Introduction

Byron Shire's natural environment is one of the most biodiverse areas of Australia. Home to 145 threatened plant and 160 threatened animal species, 43% of our Shire is mapped as High Environmental Value vegetation. The unique ecosystems found here bring 2 million visitors a year making tourism our most valuable industry. However, our biodiversity, the very thing which makes Byron exceptional, is under increasing pressure due to escalating development and tourist visitation.

Of particular concern are the viability of Byron's coastal koala population and the recognition of koalas in urban areas, as the impacts of a changing climate become more prevalent. For the first time, Byron's rainforest burned in the unprecedented Black Summer fires which saw 60% of the States National Parks and State forests decimated. For Byron to remain the 'green jewel' of the North, there is a need to identify and protect our intrinsic values.

This DCP Chapter recognises Byron Shire's unique biodiversity and outlines controls for Tree and Vegetation Management to increase resilience and support climate adaptation.

### B2.1.1 Purpose of this Chapter

The purpose of this DCP Chapter is to declare vegetation under Part 3 of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Veg SEPP). Where vegetation is declared in this Chapter a person must not remove such vegetation without a permit granted by Council (Clause 10(1) Veg SEPP).

For the purposes of this DCP Chapter vegetation means:

- (a) trees (including any sapling or shrub or any scrub),
- (b) understory plants,
- (c) groundcover (being any type of herbaceous vegetation),
- (d) plants occurring in a wetland.

Native vegetation (*as defined by the Local Land Services Act 2013 s60B (1),(2)*) means:

A plant is native to New South Wales if it was established in New South Wales prior to European settlement.

For the purpose of this DCP Chapter, remove means (*the same as clearing as defined by the Local Land Services Act 2013 s60C*):

- Cutting down, felling, uprooting, killing, poisoning, ringbarking, burning or otherwise destroying the vegetation, or
- Lopping or otherwise removing a substantial part of the vegetation.

Pruning is defined as all other pruning which is not 'crown maintenance pruning' and includes 'crown modification' as defined in *Australian Standard AS 4373-2007*, "Pruning of Amenity Trees".

Council may only issue a permit for the removal or pruning of vegetation that is below the Biodiversity Offsets Scheme (BOS) threshold.



## B2.1.2 Application of this Chapter

This DCP chapter applies to the removal or pruning of vegetation that is under the BOS threshold on all non-rural land (land in any zone other than RU1 and RU2) within the Byron Shire local government area.

## B2.1.3 Objectives of this Chapter

1. To ensure the protection and preservation of local native vegetation that contributes to the biodiversity, social and amenity value of Byron Shire.
2. To recognise and conserve very large trees and hollow bearing trees of habitat, amenity or heritage value.
3. To avoid and minimise wherever possible the unnecessary removal of native vegetation.
4. To minimise the risks of destabilisation of foreshore, riparian or agricultural land.
5. To provide information ensuring land holders are aware when a permit is required for the removal or pruning of vegetation.
6. To provide a consistent framework for assessing permits to remove or prune vegetation.
7. To recognise the **biodiversity values** of vegetation that supports and provides **refugia** to native fauna.
8. To recognise the importance and retention of vegetation for carbon sequestration at a local scale.
9. To facilitate the removal of undesirable exotic, declared invasive or otherwise inappropriate plant species, and replace them with suitable local native species that contribute to ecological, environmental or habitat value.



**Note:** For the purpose of this DCP Chapter, **avoid** means “to keep away from”. Evidence of avoidance may be illustrated through the use of ecological buffers, the design of a development footprint, or by regulating the timing or location of activities. If it is not possible to avoid impacts, then opportunities should be sought to minimise the impacts. **Minimise** means “reduce to the smallest possible amount or degree”.

### Tree and Vegetation Management Pathways

To remove / prune vegetation in Byron Shire the following pathways shown in Figure 1 apply.

The pathways within Figure 1 are described below:

If the proposal to remove or prune vegetation involves development now or in the future, then Chapter B1 Biodiversity applies.

If the proposal doesn't involve development and the vegetation is in a rural zone, then the Local Land Services (LLS) Act applies. If the vegetation is dead or dangerous, then Council's Dead or Dangerous form and an arborist report are required.



If the proposal doesn't involve development and the vegetation is neither in a rural zone or dead or dangerous, and the removal of the vegetation triggers the Biodiversity Offsets Scheme (BOS) threshold, then BOS applies and a Biodiversity Development Application Report (BDAR) must be prepared and approval from the Native Vegetation Panel is required.

If the proposal doesn't involve development and the vegetation is neither in a rural zone or dead or dangerous, and the removal of the vegetation does not trigger the BOS threshold, then Chapter B2 Tree and Vegetation Management applies.

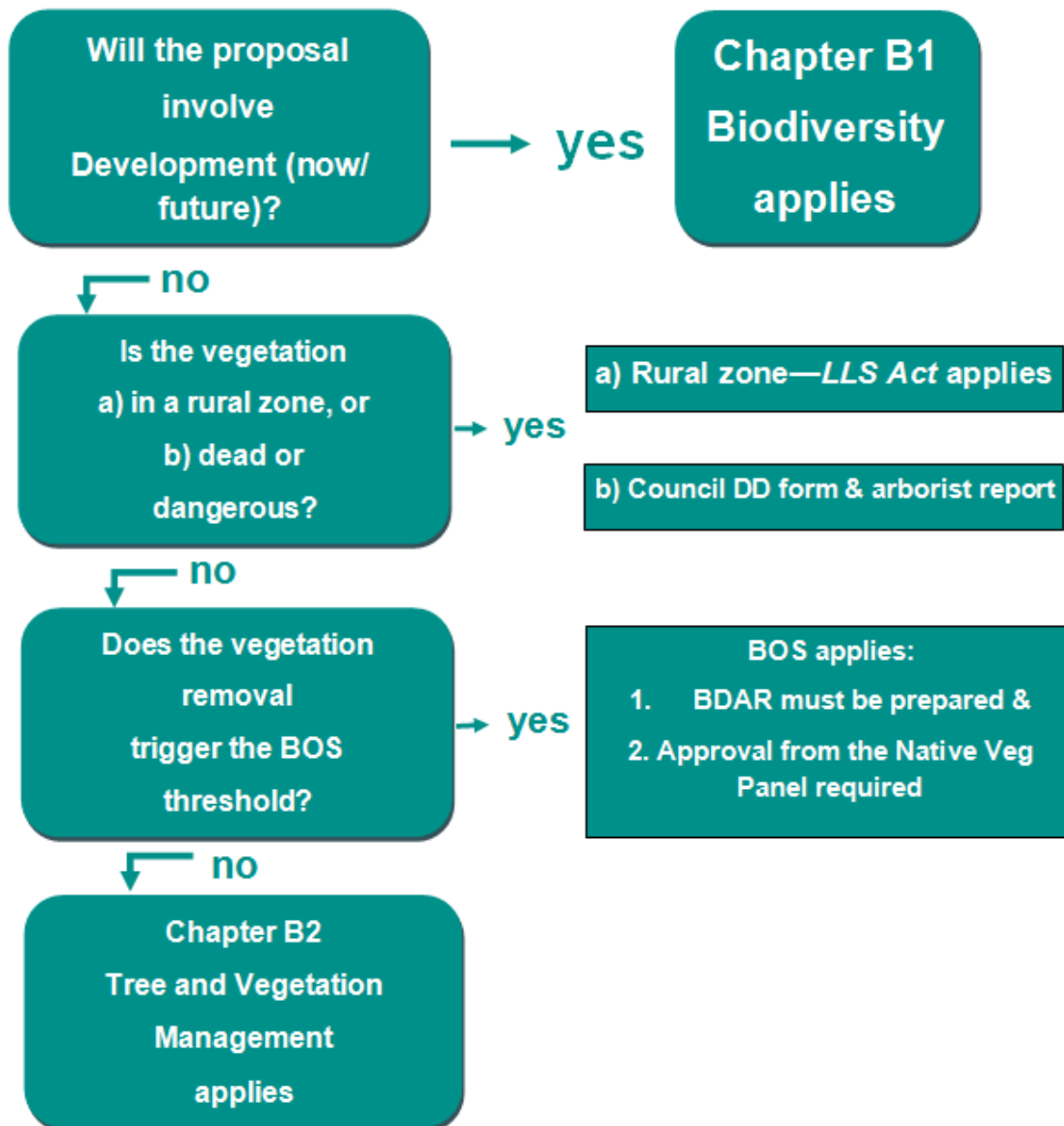


Figure 1: Vegetation removal pathways.

## B2.2 Declared Trees and Vegetation

### **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Veg SEPP)**

This chapter of the DCP addresses [State Environmental Planning Policy \(Vegetation in Non-Rural Areas\) 2017](#) (Veg SEPP) specifically relating to the *removal or pruning of vegetation* in non-rural areas, and declares such vegetation under Part 3 *clause 9(1),(2)*.

In accordance with Part 2 *clause 7(1)* of the Veg SEPP a person may not remove vegetation that is declared within a DCP without a permit granted by Council.

#### **Prescriptive measures**

The following vegetation is declared under Part 3 *clause 9(1), (2)* of the State Environmental Planning Policy (Vegetation in non-rural areas) 2017;

1. All vegetation mapped as High Environmental Value (HEV);
2. All red flags within Table 3 of DCP Chapter B1 Biodiversity (Appendix 1);
3. All **koala use tree** species found in Schedule 2 of the Koala Habitat Protection SEPP specific to the North Coast Koala Management Area (Appendix 2);
4. All vegetation on land zoned E2 or E3;
5. All native vegetation within 50m of a fourth order stream or river, or within 20m of a second or third order stream;
6. All native trees within a non-rural area >150cm diameter at breast height (DBH);
7. Any tree (native or non-native) that contains a [hollow](#);
8. Very large trees (non native) of significant cultural or amenity value (e.g. Norfolk pine);
9. All native vegetation that supports **threatened species** and their habitat (e.g. **koala use trees** that provide linkages within urban areas);
10. All native vegetation on publically owned or managed land including road reserve;
11. Where the native vegetation is a heritage item or within a heritage conservation area under the BLEP 2014 and does not otherwise require development consent as per the BLEP 2014;

### B2.2.1 Exemptions

#### **Prescriptive measures**

The following trees or other vegetation are exempt from applying for a permit from Council for the removal or pruning of vegetation;

1. The removal of vegetation that is authorised under Section 60O of the *Local Land Services Act* 2013.



2. Native vegetation that Council or the Native Vegetation Panel is satisfied is dead and is not required as habitat for native animals (see B2.2.4).
3. Native vegetation that Council is satisfied poses an unacceptable risk to human life or property (see B2.2.4).
4. Vegetation affected by works under State Environmental Planning Policy (Infrastructure) 2007 defined as exempt development.
5. Any tree where the nearside trunk is 3 metres from the nearest external wall of a lawfully approved existing permanent **dwelling** or manufactured home that is located on the same property. This does not apply to listed **threatened species** and **ecological communities** or areas mapped as **koala habitat** identified within the Byron Coast Comprehensive Koala Plan of Management or identified under the Koala Habitat Protection SEPP. A permit will be required in those instances.
6. Any non-native and /or invasive tree species listed in Appendix 3, regardless of size.
7. Vegetation declared under the *Biosecurity Act* 2015 as a Mandatory Measure or above (see [BSC Invasive Plant Species list](#))
8. Trees or saplings of Camphor laurel (*Cinnamomum camphora*) **if under 5m tall**.
9. Vegetation removal that is subject to works under an approved Vegetation Management Plan or Biodiversity Conservation Management Plan.
10. Restoration activities undertaken by landholders applying current 'best practice' camphor conversion techniques (e.g. Subtropical Rainforest Restoration 3<sup>rd</sup> Edition, Big Scrub Landcare).

## **B2.2.2 Exclusion from Exemptions – Environmental Heritage including Aboriginal Heritage**

The exemptions listed in B2.2.1 do not apply to any native vegetation located on a heritage item, Aboriginal object, Aboriginal place of heritage significance or on land within a heritage conservation area as per BLEP 2014 Part 5 clause 5.10.

### **Prescriptive measures**

1. In accordance with BLEP 2014 Council may only grant a permit for the removal or pruning of native vegetation on land that is defined under Part 5 clause 5.10 if;
  - a. It is of a minor nature; or
  - b. It is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area and would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.
2. Council requires a permit application for any removal or pruning of native vegetation that is minor in nature or is for the maintenance of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.



3. Council requires a development application for any other removal or pruning of native vegetation.

### **B2.2.3 Exclusion from Exemptions – Consent conditions and 88B instruments**

The exemptions listed in B2.2.1 do not apply to any native vegetation required to be retained by the conditions of development consent under the *Environmental Planning and Assessment Act 1979* or a restriction to user instrument. The Veg SEPP and subsequently this chapter of the DCP do not affect authorisations under other Acts that are required to be obtained regarding the clearing of vegetation.

### **B2.2.4 Dead or Dangerous vegetation**

Where the removal or pruning of vegetation is thought to be dead, or presents an unacceptable risk to life or property and is not required as habitat for hollow-dependant fauna;

1. A Dead, or Dangerous Tree Removal form must be filled out, and
2. It must be supported by an Arborist's Report prepared by an AQ Level 5 arborist (as outlined in Appendix 4).





## **B2.3 Tree Removal Permit Requirements**

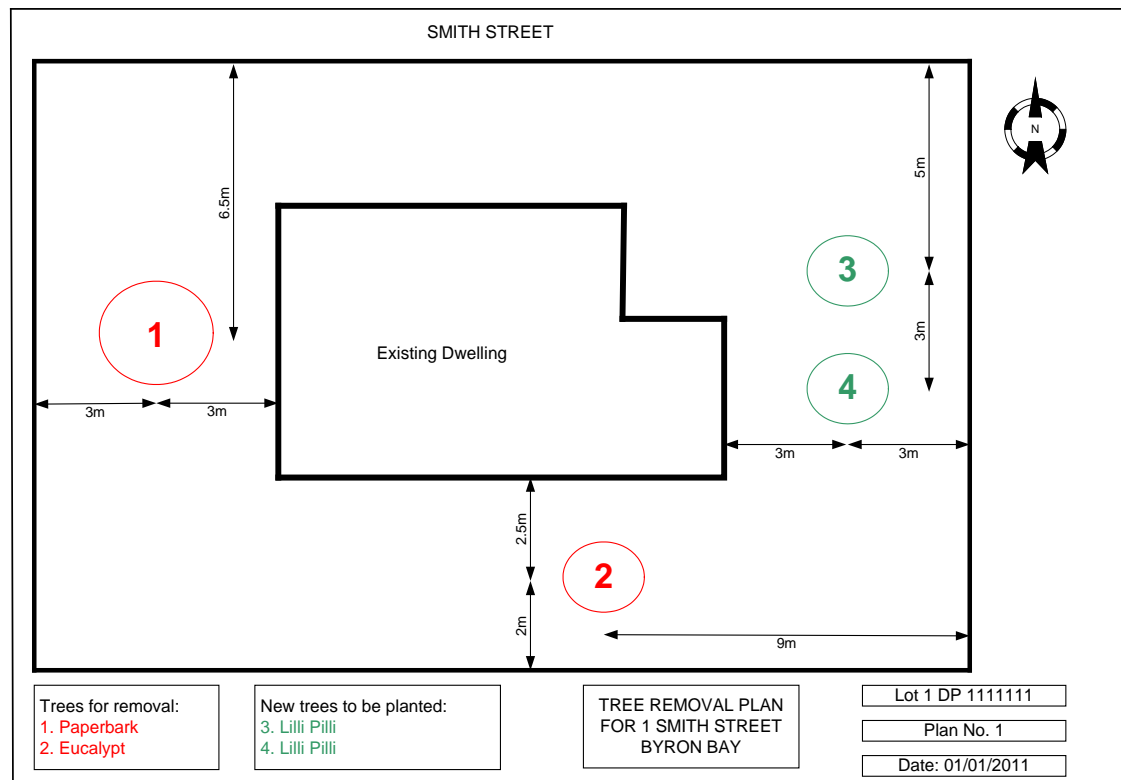
### **B2.3.1 Information to Accompany Tree Removal Permit Applications**

Applications for vegetation removal or pruning are to be made on the Tree Removal Permit form (available from Council) and must be supported by the following:

#### **Prescriptive measures**

1. Payment of the prescribed fee (in accordance with Council's adopted fees and charges).
2. Description of the property on which the vegetation is located (street address, lot, deposited plan).
3. Applicant's name and contact details.
4. Written consent of the landowner.
5. A site plan (Figure 2) providing the following details:
  - a. all property boundaries, street frontage(s), name of street(s) and any services/easements;
  - b. any existing structures, driveways and access roads;
  - c. an allocated number for each tree proposed for removal/pruning or proposed to be planted and the common and/or botanical species name for each numbered tree;
  - d. the location(s) of the vegetation proposed for removal/pruning or to be planted and its position in relation to the boundaries of the site and any existing buildings, structures, driveways, etc. Dimensions between the centre of the subject tree(s)/vegetation and property boundaries and buildings should be included;
  - e. a title, property address, Lot and Deposited Plan number, north point, scale, date, legend and author.





**Figure 2: Example of a Site Plan accompanying a Tree Permit for Vegetation Removal/Pruning**

6. A description of each numbered tree/vegetation detailing the following:
  - a. species of tree/vegetation (common name and botanical name);
  - b. quantity affected;
  - c. approximate height and DBH (diameter at breast height); and
  - d. colour photo(s) of the tree/vegetation to assist in identification (whole tree, bark, leaves) and a colour photo(s) to establish the context, location and position of the vegetation on the property.
7. The reasons why removal/pruning is required.
8. Any application for vegetation removal/pruning of the following should be supported by an Ecological assessment (Appendix 5) prepared by a suitably qualified ecological consultant:
  - a. Large locally indigenous trees of over 80 cm DBH (diameter at breast height),
  - b. Trees identified in Appendix 2,
  - c. Trees within High Environmental Value (HEV) vegetation and habitats,
  - d. Trees (whether dead or alive) containing tree [hollow](#)(s),
  - e. **Threatened species.**



**Note:** a preliminary desktop assessment of the site's **biodiversity values** is available on [Councils website](#) and the [SEED portal](#). Pending availability, Council staff can assist with some of this information and provide advice on its implications for preparing the information referred to above.

Conditions are likely to be placed on a tree removal permit regarding compensatory planting and survival rates where trees are proposed to be removed. The following compensatory ratios apply:

**1:10 for trees of high environmental value;**

e.g. **local indigenous** trees in **high environmental value vegetation and habitat**, **local indigenous** rainforest trees, trees within a **wildlife corridor**, trees with habitat value for local wildlife, trees with a **diameter at breast height** >50cm.

**1:5 for trees of medium environmental value;**

e.g. **local indigenous** trees not located in **high environmental value vegetation and habitat**, a **wildlife corridor** or which do not have habitat value for local wildlife.

**1:1 for trees of low environmental value;**

e.g. other trees not located in **high environmental value vegetation and habitat**, a **wildlife corridor** or which do not have habitat value for local wildlife.

**Survival rates**

These ratios apply to survival rates after 2 years, therefore it is recommended to plant additional trees (10 - 20% more) to accommodate for a survival rate of less than 100% of the planted trees.

## Appendix 1

## Red flags

Red flag <sup>a</sup>
<b>HEV vegetation<sup>b</sup></b>
<b>Threatened Ecological Communities</b> (includes Critically Endangered, Endangered or Vulnerable listed under <a href="#">State</a> or <a href="#">Commonwealth</a> legislation).
<p>Over-cleared vegetation types</p> <p>(A vegetation type of which more than 70% has been cleared in the Catchment Management Area).</p>
<p>Over-cleared landscapes</p> <p>(A Mitchell landscape in which more than 70% native vegetation cover has been cleared. NSW is divided into 580 relatively homogeneous landscape units in terms of geomorphology, soils and broad vegetation types mapped at a scale of 1: 250000 (Mitchell 2002, 2003), which are colloquially termed “Mitchell Landscapes” after their author).</p>
<p>Old growth</p> <p>(<a href="#">old-growth forests</a> are ecologically mature forests, often diverse in structure and species with relatively large old trees, some of which may contain tree hollows).</p>
<p>Important wetlands</p> <p>(Wetlands protected under NSW State or Commonwealth legislation or policy. Includes wetlands mapped under the NSW State Environmental Planning Policy (SEPP) Coastal Management 2018, previously SEPP 14 Wetlands).</p>
<p>Other wetlands</p> <p>(Any other wetland other than an Important wetland. Wetland has the same meaning as defined within <a href="#">NSW Wetland Policy</a>:</p> <ul style="list-style-type: none"><li>• Wetlands are areas of land that are wet by surface water or groundwater, or both, for long enough periods that the plants and animals in them are adapted to, and depend upon moist conditions for at least part of their lifecycle. They include areas that are inundated cyclically, intermittently or permanently with fresh, brackish, or saline water, which is generally still or slow moving except in distributary channels such as tidal creeks which may have higher peak flows.</li><li>• Examples of wetlands include; mangroves, backwaters, sedgeland, wet heathlands, lakes, lagoons, estuaries, rivers, floodplains, swamps, bogs, billabongs, marshes,</li></ul>



## Red flag<sup>a</sup>

coral reefs and seagrass beds).

Other bushland on a slope >18 degrees

Pre-existing protected habitat

(Areas of existing habitat (or other land) provided with formal long-term protection designed to limit further development.

Protected habitat can be established by various mechanisms including but not limited to; restrictive covenants, rezoning, voluntary planning agreements, formal conservation agreements, biodiversity stewardship agreements, or in some cases dedication to Council or other public authority. The mechanism(s) to establish protected habitat must be conditioned or otherwise approved by Council).

Land within a defined **wildlife corridor**

(Refers to linear areas that link wildlife habitat and provide a crucial role in maintaining connectivity between plant and animal populations that would otherwise be at greater risk of extinction. Such corridors are critical for the maintenance of ecological processes, enabling migration, colonisation and interbreeding of plants and animals).

Areas with a species polygon for threatened fauna or other significant fauna that are known or predicted to occur at the site.

(Threatened fauna or flora is any species listed as critically endangered, endangered or vulnerable under NSW State or Commonwealth legislation).

Areas with a species polygon for threatened flora or other significant flora that are known or predicted to occur at the site.

(A species polygon is an area of land enclosing the known or predicted habitat of targeted flora or fauna. In most cases known records will be used for flora and predicted habitat will be used for fauna).

**Koala habitat** outside of areas defined within a Comprehensive Koala Plan of Management.

Isolated or scattered **koala use trees** with evidence of koala activity

Any other areas where koalas are present and/or **koala habitat** is planted with public monies.

## Waterways and Riparian areas (from the top of the bank)



## Red flag<sup>a</sup>

### Stream order

First order stream

Second order stream

Third order stream

Fourth order stream

Estuarine area

(Any part of a river, lake, lagoon or coastal creek whose level is periodically or intermittently affected by coastal tides, up to the highest astronomical tide).

Flying fox camps -Year round or intermittent

Very large native trees

(Local native trees that have a trunk diameter of greater than or equal to 0.8 metres at 1.4 metres above the natural ground level. Local native trees are trees that existed in the Byron Shire before European settlement).

Stags and [hollow-bearing](#) trees

Raptor nests

<sup>a</sup> an area of land with high biodiversity conservation value which should be excluded from any **development envelope**.

<sup>b</sup> see [Council website](#) for HEV Mapping



## Appendix 2

## Schedule 2: Koala Use Tree species

### North Coast koala management area

Common name	Scientific name
Forest Oak	<i>Allocasuarina torulosa</i>
Rough-barked Apple	<i>Angophora floribunda</i>
Red Bloodwood	<i>Corymbia gummifera</i>
Large-leaved Spotted Gum	<i>Corymbia henryi</i>
Pink Bloodwood	<i>Corymbia intermedia</i>
Spotted Gum	<i>Corymbia maculata</i>
White Mahogany	<i>Eucalyptus acmenoides</i>
Cabbage Gum	<i>Eucalyptus amplifolia</i>
Orange Gum	<i>Eucalyptus bancroftii</i>
Grey Gum	<i>Eucalyptus biturbinata</i>
New England Blackbutt	<i>Eucalyptus campanulata</i>
Large-fruited Grey Gum	<i>Eucalyptus canaliculata</i>
Thick-leaved Mahogany	<i>Eucalyptus carnea</i>
Narrow-leaved Ironbark	<i>Eucalyptus crebra</i>
Narrow-leaved stringybark	<i>Eucalyptus eugenoides</i>
Broad-leaved Red Ironbark	<i>Eucalyptus fibrosa</i>





Common name	Scientific name
Slaty Red Gum	<i>Eucalyptus glaucina</i>
White Stringybark	<i>Eucalyptus globoidea</i>
Flooded Gum	<i>Eucalyptus grandis</i>
Silver-top Stringybark	<i>Eucalyptus laevopinea</i>
Craven Grey Box	<i>Eucalyptus largeana</i>
Tallowwood	<i>Eucalyptus microcorys</i>
Grey Box	<i>Eucalyptus moluccana</i>
Forest Ribbon Gum	<i>Eucalyptus nobilis</i>
Blackbutt	<i>Eucalyptus pilularis</i>
Grey Ironbark	<i>Eucalyptus placita</i>
Bastard Tallowwood	<i>Eucalyptus planchoniana</i>
Small-fruited Grey Gum	<i>Eucalyptus propinqua</i>
Bastard White Mahogany	<i>Eucalyptus psammitica</i>
Grey Gum	<i>Eucalyptus punctata</i>
Red Mahogany	<i>Eucalyptus resinifera</i>
Swamp Mahogany	<i>Eucalyptus robusta</i>
Steel Box	<i>Eucalyptus rummeryi</i>
Sydney Blue Gum	<i>Eucalyptus saligna</i>



Common name	Scientific name
Large-fruited Red Mahogany	<i>Eucalyptus scias</i>
Narrow-leaved Red Gum	<i>Eucalyptus seeana</i>
Grey Ironbark	<i>Eucalyptus siderophloia</i>
Scribbly Gum/Narrow-leaved Scribbly Gum	<i>Eucalyptus signata/Eucalyptus racemosa</i>
Forest Red Gum	<i>Eucalyptus tereticornis</i>
Stringybark	<i>Eucalyptus tindaliae</i>
Bastard White Mahogany	<i>Eucalyptus umbra</i>
Broad-leaved Paperbark	<i>Melaleuca quinquenervia</i>



## Appendix 3 Non native and or invasive tree species

**Table 3: Non-native and/or invasive tree species:**

Common name	Scientific name
Queensland Silver Wattle	<i>Acacia podalyriifolia</i>
Cootamundra Wattle	<i>Acacia baileyana</i>
Golden Wreath Wattle	<i>Acacia saligna</i>
Himalayan Cedar	<i>Acrocarpus fraxinifolius</i>
Tree of Heaven	<i>Ailanthus altissima</i>
Alexander Palm	<i>Archontophoenix alexandrae</i>
Creeping Bamboo	<i>Arundinaria spp.</i>
Running Bamboo	<i>Bambusa sp</i>
Paper Mulberry	<i>Broussonetia papyrifera</i>
Datura	<i>Brugmansia suaveolens</i>
Butterfly bush	<i>Buddleja madagascariensis</i>
Cecropia	<i>Cecropia peltata</i>
Cigar Box Cedar	<i>Cedrela odorata</i>
Chinese Elm, Hackberry	<i>Celtis sinensis</i>
Bush lemon	<i>Citrus limonia</i>
Coffee	<i>Coffea arabica</i>



Common name	Scientific name
Coreopsis	<i>Coreopsis lanceolata</i>
Cadaghi	<i>Corymbia torelliana</i> (syn <i>Eucalyptus</i> )
Cotoneaster	<i>Cotoneaster glycophylla</i>
Rubber Vine	<i>Cryptostegia grandiflora</i>
Duranta	<i>Duranta repens</i>
Common Horsetail	<i>Equisetum arvense</i>
Loquat	<i>Eriobotrya japonica</i>
Cockspur Coral Tree	<i>Erythrina crista-galli</i>
Orange Coral tree	<i>Erythrina nigra</i>
Coral Tree	<i>Erythrina x sykesii</i>
Coral tree	<i>Erythrina indica</i>
Grumichama	<i>Eugenia brasiliensis</i>
Brazilian Cherry	<i>Eugenia uniflora</i>
Weeping Fig	<i>Ficus benjamina</i>
Rubber Tree	<i>Ficus elastica</i>
Malay Banyan	<i>Ficus microcarpa</i>
Queensland Maple	<i>Flindersia brayleyana</i>
Himalayan Ash	<i>Fraxinus griffithii</i>



Common name	Scientific name
Honey Locust	<i>Gleditsia triacanthos</i>
Icecream Bean	<i>Inga edulis</i>
Jacaranda	<i>Jacaranda mimosifolia</i>
Golden Rain Tree	<i>Koelreuteria paniculata</i>
Coastal tea tree	<i>Leptospermum laevigatum</i>
Lead Tree, Coffee Bush	<i>Leucaena leucocephala</i>
Large-leaved Privet	<i>Ligustrum lucidum</i>
Small-leaved Privet	<i>Ligustrum sinense</i>
African Box-thorn	<i>Lycium ferocissimum</i>
Curry Leaf Tree	<i>Murraya koenigii</i>
Murraya	<i>Murraya paniculata</i>
Oleander	<i>Nerium oleander</i>
Mickey Mouse plant	<i>Ochna serrulata</i>
African Olive	<i>Olea africana</i>
Wild olive	<i>Olea europaea subsp. cuspidata</i>
Common Olive	<i>Olea europaea subsp. Europea</i>
Paulownia	<i>Paulownia tomentosa</i>
Date Palm	<i>Phoenix canariensis</i>



Common name	Scientific name
Caribbean Pine	<i>Pinus caribaea</i>
Slash Pine	<i>Pinus elliottii</i>
Monterey Pine	<i>Pinus radiata</i>
Cherry Guava	<i>Psidium cattleianum</i>
Guava	<i>Psidium guajava</i>
Indian Hawthorn	<i>Raphiolepis indica</i>
Yeddo Hawthorn	<i>Raphiolepis umbellata</i> 'Ovata'
Castor Oil Plant	<i>Ricinus communis</i>
Black Locust	<i>Robinia pseudoacacia</i>
Black Willow	<i>Salix nigra</i>
Willows	<i>Salix spp.</i>
Umbrella Tree	<i>Schefflera actinophylla</i>
Dwarf Umbrella Tree	<i>Schefflera arboricola</i>
Pepper Tree	<i>Schinus areira</i>
Broad-leaf Pepper Tree	<i>Schinus terebinthifolius</i>
Tower Tree, Schizolobium	<i>Schizolobium parahyba</i>
Winter Senna	<i>Senna pendula</i> var. <i>glabrata</i>
Smooth Senna	<i>Senna septemtrionalis</i> (syn <i>X floribunda</i> )



Common name	Scientific name
Turkey Berry	<i>Solanum torvum</i>
Devils Apple	<i>Solanum capsicoides</i>
Devil's Fig, Thorn Apple	<i>Solanum chrysotrichum</i>
Tobacco Bush	<i>Solanum mauritianum</i>
Jerusalem Cherry	<i>Solanum pseudocapsicum</i>
African Tulip Tree	<i>Spathodea campanulata subsp. rotundata</i>
Cocos Palm	<i>Syagrus romanzoffiana</i>
Golden Trumpet Tree	<i>Tabebuia chrysantha</i>
Tecoma	<i>Tecoma stans</i>
Rhus	<i>Toxicodendron succedanea</i>
Chinese Tallow	<i>Triadica sebifera</i>





## Appendix 4 Guidelines and Requirements for Arborist's Reports

An arborist's report required under this DCP Chapter shall:

1. Be prepared in accordance with the requirements of Australian Standard 4373:2007 Pruning of Amenity Trees, AS 4970:2009 Protection of Trees on Development Sites and competencies outlined in the Australian Qualifications Framework (AQF), and
2. Be prepared by an arborist with a minimum AQF Level 5 qualification in arboriculture, and
3. In addition to the requirements of the Australian Standards, an arborist's report must contain the following information:
  - a) the name, business address, telephone number of the company/ proprietor;
  - b) evidence of Industry Body Membership, technical qualifications and experience of the arborist who undertakes the tree inspection, diagnosis and prepares the report;
  - c) the name of the person or company for whom the report is prepared;
  - d) An assessment of the health and/or risk proposed by the tree and the proposed measures to address that risk.



**Note:** Council will not accept arborist's reports with inadequate information or reports that have been prepared by persons who do not hold the qualifications detailed above.

## Appendix 5 Guidelines and Requirements for an Ecological Assessment

An ecological assessment is to be prepared by a suitably qualified ecologist with tertiary qualifications in environmental science (or equivalent) and a minimum of 2 years experience.

Where an ecological assessment is required, assessment of the subject site and where appropriate, the adjoining land, must include the following information;

1. Identification of any of the following:
  - a. High Environmental Value (HEV) vegetation and habitats on or adjoining the subject site.
  - b. Land zoned W1 or W2.
  - c. Areas identified under the *Biodiversity Conservation Act 2016*.



- d. Areas identified under the *Local Land Services Act 2013*.
  - e. Areas identified under the Coastal Management SEPP 2018 (e.g. Coastal wetlands, Littoral rainforest and proximity areas).
  - f. Areas identified under the Koala Habitat Protection SEPP.
  - g. Any adjoining National Parks or Nature Reserves.
  - h. **Threatened Ecological Communities** (TECs) on or adjoining the subject site.
  - i. **Threatened species** records within 1 km of the subject site.
  - j. Identified **wildlife corridors**
  - k. Threatened fauna habitat
  - l. Koala habitat**
  - m. **Koala use tree** species including; Species name, height, location and DBH (Diameter at breast height).
  - n. **Hollow** bearing trees including; Species name, height, location, DBH, use and or potential use evaluation.
  - o. Flying fox colony on or adjacent to the subject site.
  - p. Waterways (including **stream order**), wetlands and riparian vegetation.
2. A site plan based on a recent aerial photo at a scale of 1:200 (or better) that illustrates the following details:
    - a. The location of the ecological values identified on the site including those listed in point 1 (above), and
    - b. The extent and type of vegetation community present on site.
  3. Where the removal of any **koala use tree** species (Appendix 2) is proposed, an assessment of koala activity must be included. Such an assessment must be undertaken by a suitably qualified person utilising current best practice techniques e.g. detection dog, SAT etc.
  4. Where an assessment does not identify any additional ecological values on the site a statement to that effect must be provided with the permit application and should include details of the assessment undertaken to reach this conclusion.

## Appendix 6 Definitions & Acronyms

**Amenity:** Characteristics that influence and enhance people's appreciation of a particular area.

**BDAR:** Biodiversity Development Assessment Report prepared in accordance with the *Biodiversity Conservation Act 2016*

**BOS:** **Biodiversity Offsets** Scheme established under the *Biodiversity Conservation Act 2016*

**Biodiversity values:** as defined in s1.5 of the *Biodiversity Conservation Act 2016*:

- (a) vegetation integrity – being the degree to which the composition, structure and function of vegetation at a particular site and surrounding landscape has been altered from a near natural state,
- (b) habitat suitability – being the degree to which the habitat needs of **threatened species** are present at a particular site,
- (c) **biodiversity values**, or biodiversity-related values, prescribed by the regulations.

**Development envelope:** an area of land inclusive of all existing or proposed buildings and other associated infrastructure including but not limited to roads, driveways, waste water systems, landscaping, bushfire protection zones, **ecological setbacks**, other **development setbacks** and easements for telephone, electricity and other services. It does not include lands retained for extensive agriculture or nature conservation.

**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.

**Note:** a dwelling does not include a detached garage, carport, pergola, deck or caravan.

**Ecological values:** includes the composition, structure and function of ecosystems and includes (but is not limited to) species, populations, ecological communities and their habitats.

**Koala habitat:** Areas of native vegetation mapped and identified as per Clause 7 of the Koala Habitat Protection SEPP 2019; or

1. Areas identified within the Byron Coast Comprehensive Koala Plan of Management; or
2. Areas of native vegetation, including plantings, that comprise **koala use tree** species found in Schedule 2 of the Koala Habitat Protection SEPP 2019 specific to the North Coast Koala Management Area (Appendix 1), and
3. Sightings and or records of koalas (within a 2.5km range of **koala habitat**) persistent over 3 koala generations that may be evidenced by breeding females and or historical records and or survey.

**Koala use trees:** as outlined in State Environmental Planning Policy Koala Habitat Protection 2019, Schedule 2: Koala Use Trees for the North Coast Koala Management Area.

**Native vegetation:** for the purposes of this DCP Chapter, native vegetation means any of the following types of plants;



- (a) trees (including any sapling or shrub or any scrub),
- (b) understory plants,
- (c) groundcover (being any type of herbaceous vegetation),
- (d) plants occurring in a wetland

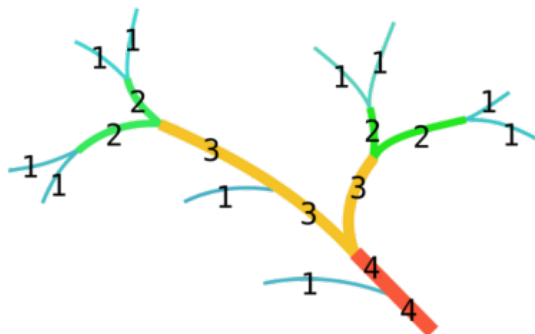
A plant is native to New South Wales if it was established in New South Wales prior to European settlement.

**Other significant fauna/flora:** Fauna or flora that have local significance but are not yet determined as threatened under NSW State or Commonwealth legislation.

**Refugia:** an area that species can retreat to, persist in and potentially expand from under changing climatic conditions and or disturbance.

**Resilience:** the capacity of an entity or entities to recover from or adapt to disturbance or change.

**Stream order:** the topmost sections of a dendritic waterway network mapped at 1:25000 scale as defined by the Strahler stream classification (see diagram below). Where two flow paths of a first order stream join, the section downstream of their junction becomes a second order stream. Where two second order streams join, the waterway downstream of the junction becomes a third order stream and so on. **Ecological setbacks** associated with specific stream orders are measured from the top of the highest bank.



**Strahler stream order**

**Suitably qualified person:** means a person who has professional qualifications, training, skills or experience relevant to the nominated subject matter and can give authoritative assessment, advice and analysis to performance relative to the subject matter using the relevant protocols, standards, methods or literature.

**Threatened Ecological Communities:** an ecological community facing a high risk of extinction in the near future, listed as critically endangered, endangered or vulnerable under NSW State or Commonwealth legislation. For example, the Critically Endangered Ecological Community ([Commonwealth](#)): Lowland Rainforests of Subtropical Australia.

**Threatened species:** any individual species facing a high risk of extinction in the near future, listed as critically endangered, endangered or vulnerable under NSW State or Commonwealth legislation. For example, the Critically endangered ([Commonwealth](#)):



Mitchell's Rainforest Snail (*Thersites mitchellae*) and Critically endangered ([NSW State](#)):  
Scrub Turpentine (*Rhodamnia rubescens*).

**Wildlife corridor:** refers to linear areas that link wildlife habitat and provide a crucial role in maintaining connectivity between plant and animal populations that would otherwise be at greater risk of extinction. Such corridors are critical for the maintenance of ecological processes, enabling migration, colonisation and interbreeding of plants and animals.



# Byron Shire Development Control Plan 2014

## Chapter B3 Services



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## Chapter B3 – Services

### Contents

<b>B3.1</b>	<b>Introduction.....</b>	<b>5</b>
B3.1.1	Purpose of this Chapter .....	5
B3.1.2	Aims of this Chapter.....	5
B3.1.3	Application of this Chapter .....	5
B3.1.4	Relevant Byron LEP 2014 Provisions.....	5
<b>B3.2</b>	<b>Development Controls.....</b>	<b>5</b>
B3.2.1	Provision of Services .....	5
B3.2.2	On-site Sewage Management.....	10
B3.2.3	Stormwater Management.....	12
B3.2.4	Sedimentation and Erosion Control Measures .....	17

### Tables

Table B3.1 – Key pollutants in stormwater flows to be addressed .....	16
Table B3.2 – Pollutants and Retention Criteria .....	17

**Document History**

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## **B3.1 Introduction**

### **B3.1.1 Purpose of this Chapter**

The purpose of this Chapter is to identify the minimum requirements necessary to adequately service development for water, sewer, stormwater management, on-site effluent disposal and other necessary infrastructure.

### **B3.1.2 Aims of this Chapter**

The Aims of this Chapter are:

1. to protect the environment and public health
2. to ensure developments are adequately serviced with necessary infrastructure
3. to enable Council to plan and co-ordinate the installation of necessary services

### **B3.1.3 Application of this Chapter**

This Chapter applies to all development where services are required to facilitate the construction and ongoing operation of the development.

### **B3.1.4 Relevant Byron LEP 2014 Provisions**

The provisions of Clause 6.2 Essential Services requires that development consent should not be granted unless adequate arrangements have been made in relation to the supply of water, supply of electricity, the disposal and management of sewage, stormwater management and suitable road access. This Chapter provides more detailed guidelines as to how satisfy the provisions of Clause 6.2.

## **B3.2 Development Controls**

### **B3.2.1 Provision of Services**

#### **Objectives**

1. *Ensure adequate water, electricity, sewerage, drainage, road and telecommunication facilities are provided to development;*
2. *Provide flexibility for the provision of alternative water, electricity and telecommunications sources where appropriate;*
3. *To ensure provision of adequate engineering and safety standards for public road access, together with equitable apportionment of road upgrading requirements and*



*associated costs for development served by existing public roads, un-constructed or partially constructed public roads and Crown Roads.*

## Performance Criteria

There are no performance criteria.

## Prescriptive Measures

### 1. Water Supply

- a) Development shall be provided with an adequate water supply connection or have suitable arrangements in place for the provision of an adequate water supply service.
- b) Development requiring a water supply from off-site is to be connected to a reticulated water system where such a connection is practically available to the site. Alternate water sources may be provided in conjunction with reticulated services.
- c) For Reticulated Water, the following applies:
  - i) The water supply system must be located and designed to optimise the effective building envelope of each parcel of land designed for occupation, having regard to site constraints.
  - ii) All water mains within private property must be located within easements designed in accordance with Council's requirements.
  - iii) Pump Stations, Hydrants, Metering and other ancillary works must be located with due consideration to the amenity of the subdivision, adjacent developments, and the environment; and provide for the access and maintenance requirements of the Council.
  - iv) Subdivisions and residential development must demonstrate with compliance with relevant NSW Fire and Rescue Guidelines for provisions of hydrants.
- d) Businesses or facilities (e.g. **caravan parks, camping grounds, farm stay accommodation, educational establishments, restaurants or cafes**) that supply people with drinking water from an independent water supply shall comply with the *Private Water Supply Guidelines*, published by NSW Health. This includes water pumped from rivers, creeks, bores, dams and rainwater tanks. It does not include supplies provided by water utilities or individual household supplies.
- e) A business involved in the preparation or manufacture of food must use potable water for all activities associated with these activities. Non potable water may be used only where it can be demonstrated that it will not adversely affect the safety of the food handled by the business.
- f) Rural dwellings without reticulated water are to have a **minimum** domestic tank capacity of 40,000 litres. Secondary dwellings must have a minimum 20,000 litres in addition to the primary dwelling requirements. For applicants who seek to be better prepared for extended periods of little or no rain, please refer to Section 8.4 of the Byron Rural Settlement Strategy 1998. In bushfire prone areas additional water dedicated for fire fighting purposes is to be provided. For specific bushfire requirements please refer to the current version of the NSW Rural Fire Service (RFS) *Planning for Bushfire Protection* and any additional design information included in the Practice Notes or Fast Facts Sheets provided by the RFS.



- g) Substantial contributions and developer charges may be payable in relation to different types of development. Applicants should contact Council before preparing a development application to determine what costs are involved.

Note: Applicants should be aware of Council's equivalent tenement (ET) policy and make enquiries to Council or on Council's website as to the required charges.
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## 2. Electricity Supply

- a) Development shall be provided with an adequate connection to grid supplied electricity services or its equivalent. Transformers and associated infrastructure is to be contained within the development.
- b) Alternative electricity sources for development other than urban and rural residential subdivision may be considered where the applicant can demonstrate the provision of reticulated services is prohibitive due to cost of connection or there is a clear environmental benefit in not connecting to mains infrastructure (e.g. enables supply from renewable sources, avoids the need to remove areas of **high environmental value vegetation and habitats**). Details are to be provided with the development application.

## 3. Telecommunications Infrastructure

- a) Development shall be provided with access to the telecommunications network for fixed line telephone services.
- b) Developers are required to install fibre ready facilities for all developments unless exempted by Planning Circular No. PS 17-005. Arrangements are to be made for the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Developers are to have regard to other new technologies to improve telecommunications speeds for the internet and other computer based communication devices, and to facilitate new and evolving industries.

- c) Alternative means of telecommunications access for rural subdivision may be considered where the applicant can demonstrate that an NBN Fixed Wireless service is available and is supported by a letter from NBN Co Limited confirming that each allotment can be serviced by such a system.

Approvals for rural subdivisions utilising alternative means of telecommunications access will require restrictions on the title of all new allotments consistent with the concept sought by the developer (e.g. fixed line telephone services not provided).

- d) Alternative means of telecommunications access for development other than subdivision may be considered where the applicant can demonstrate that the provision of fixed line services is prohibitive due to the cost of connection or that there is a clear environmental benefit in not connecting to fixed line infrastructure. Details are to be provided with the development application.

#### 4. Sewage Management

- a) Development shall be provided with an adequate reticulated sewer connection or have suitable arrangements in place for such a connection to be made where access to reticulated sewer is available.
- b) For reticulated sewer the following applies:
  - i) The system must be sized and designed in accordance with the Northern Rivers Development and Design Manual;
  - ii) Sewer reticulation for the proposed development must be constructed at the proponent's cost by an approved contractor;
  - iii) A sewer connection point must be provided to each parcel of land designed for separate occupation. The system must be designed to optimise the effective building envelope of each lot;
  - iv) All sewer mains and rising mains must be located within easements designed in accordance with Council's requirements;
  - v) Pump Stations, Wells, Access Chambers, Vents and other ancillary works must be located with due consideration to the amenity of the subdivision, of adjacent developments and the environment. Consideration must be given to noise, odours and the aesthetic impact of the system, and to access and maintenance requirements of the Council.
- c) Where access to reticulated sewer is not available, arrangements must meet the requirements of Section B3.2.2 in relation to on-site sewage management.
- d) Substantial contributions and developer charges may be payable in relation to different types of development. Applicants should contact Council before preparing a development application to determine what costs are involved.

Note: Applicants should be aware of Council's equivalent tenement (ET) policy and make enquiries to Council or on Council's website as to the required charges.

#### 5. Stormwater and Drainage

Development must comply with the requirements set out in Sections B3.2.3 and B3.2.4 relating to stormwater management and erosion and sedimentation control.

#### 6. Road Access – General (Including Driveways)

- a) Development must comply with road access requirements contained in Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access, and the *Northern Rivers Development & Design Manual*.
- b) On **bushfire prone land**, road access may need to be improved to facilitate access by the NSW Rural Fire Service. For specific requirements please refer to the current version of the NSW RFS *Planning for Bushfire Protection* and any additional design information included in "Practice Notes or Fast Facts Sheets".

## 7. Road Access - Council controlled roads

Where development is proposed with frontage to a Council controlled road, or where access to a development site relies on a Council controlled road, the following road construction and upgrading requirements will apply:

- a) Construction or upgrading of the adjoining road to Council's adopted engineering standards, currently the *Northern Rivers Development Design & Construction Manuals*, for the full frontage of the property. In cases where the development is staged or does not utilise the full property frontage a reduced length of frontage construction may be applied — applicants should discuss those cases with Council's development engineer before lodging a Development Application. Council may require upgrading for the full frontage or more, for safety, dust, noise, amenity, or environmental reasons. Laneway construction or upgrading should be in accordance with Chapter D6 Subdivision (D6.4.3).
- b) Where road(s) providing access to the immediate site frontage do not meet Council's construction standards to accommodate the additional traffic volume predicted to be generated by the proposed development, Council will require partial or full construction or upgrading of those road(s) to Council's adopted engineering standards, currently the *Northern Rivers Development Design & Construction Manuals*. The proportional quantum of the construction required will be based on the proportion of the volume of traffic predicted to be generated by the proposed development relative to the total traffic predicted on the access road. If in Council's opinion the proportional works or equivalent contribution will not be sufficient to provide a safe and practical standard of road access Council may refuse consent to the development application.
- c) In cases where the above requirements are not appropriate to the proposed development developers may seek to enter into a Voluntary Planning Agreement with Council pursuant to Section 93F of the *Environmental Planning and Assessment Act 1979* to address access road requirements.
- d) Where the construction or upgrade works are specifically identified in an adopted contributions plan and the works are not required to provide a safe and practical standard of road access, the works can be provided for by-payment of the relevant contributions. If the works are required, the Council may accept an offer by the applicant to provide the works as an "in-kind" contribution (i.e. the applicant completes part or all of the work identified in the Plan) in lieu of the payment of the monetary contribution. The applicant should make any request for an "in-kind" contribution at the time of lodging a Development application.

## 8. Road Access – Crown Roads:

- a) Crown Roads are public roads administered by the NSW Land and Property Management Authority under the *Roads Act 1993*. Crown roads are generally available as 'natural terrain roads' to provide a means of public access for pedestrians, vehicles (where possible) and to drive stock. The entitlement to use a Crown Road for the purpose of access must not be interpreted as an automatic right to undertake construction or upgrading works to improve access along the Crown road.
- b) Applicants proposing to upgrade a Crown Road to provide access to a property need to submit the written consent from the NSW Land and Property Management Authority. The NSW Land and Property Management Authority may agree to applications seeking approval for minor works on Crown roads involving:





- i) Slashing undergrowth and clearing trees where demonstrated to be necessary
  - ii) Light grading of the natural terrain
  - iii) Slightly crowning the track formation to establish surface and cross for drainage
  - iv) Establishing cross-banks and/or mitre drains or comparable effective devices to control water and sediment run-off
  - v) Placement of gravel, road base or stones to stabilise the track formation or fill potholes.
- c) Where development consent with access from a Crown Road will require upgrading of the road in part or full to Council's standards, the road standards applied will be the same as for Council controlled roads, discussed above. In such instances the NSW Land and Property Management Authority will usually require the road to be dedicated to Council. Council will not accept dedication of the Crown Road unless the road has been constructed to Council's standards and the Council has agreed to accept the transfer of such a road reserve from the Crown.
- d) Council may accept access construction to the "minor works" standard of the NSW Land and Property Management Authority, (subject to the Authority's agreement) for developments that are not estimated to increase the traffic demand (e.g. where there is an existing dwelling entitlement). However, construction or upgrading works may be required to provide a safe and practical standard of road access or to satisfy bushfire requirements.

### B3.2.2 On-site Sewage Management

#### Objectives

1. To ensure that **on-site sewage management systems** are designed and operated to ensure protection of ground and surface water, including drinking water supplies;
2. To ensure rural residential developments including rural subdivisions are adequately serviced with **on-site sewage management system(s)**;
3. To ensure **on-site sewage management systems** that service or are required for industrial, commercial and rural industries are appropriately designed.
4. To encourage and provide for the use of water recycling systems where appropriate;
5. To minimise public health risk including the spread of disease by micro-organisms;
6. To prevent degradation of soil and vegetation including soil structure, salinisation, water logging, chemical contamination and soil erosion; and
7. To ensure that neighbouring properties are not adversely affected by effluent or effluent management systems.

#### Performance Criteria

There are no performance criteria.

#### Prescriptive Measures

1. Residential, commercial and industrial development that produces sewage and is not to be connected to the urban sewage system must comply with the Council's *Design Guidelines for On-Site Sewage Management for Single Households*.



2. A detailed on-site sewage management report may be required with a development application depending upon the scale of the development, the size of the land and distances to **watercourses**. A report is generally required with a Development Application for systems that service rural dwellings on land less than 1 hectare, rural and rural residential subdivisions creating lots smaller than 5 ha, rural tourist and commercial developments, or for dwellings on constrained land such as:
- a) steeply sloping land > 15%;
  - b) land within 100 metres to permanent surface water, 250 metres to **groundwater** wells or 40 metres to intermittent watercourse, dams, dry gullies and drainage channels;
  - c) **flood prone land**;
  - d) land within 12 metres to a neighbouring property; or
  - e) land subject to erosion or mass movement;
  - f) land with poor soils (clay or sand); or
  - g) land located within the **drinking water catchment**

For further details on constrained land see Council's *Design Guidelines for On-Site Sewage Management for Single Households* and Chapter C4 Development in a Drinking Water Catchment for land in the **drinking water catchment**.

Applicants proposing an **on-site sewage management system** are encouraged to Contact Councils Environmental Health Officers to discuss the level of detail to be submitted with a development application.

Note: The Rous Water On-site Wastewater Management Guidelines may assist applicants to identify appropriate solutions to situations when site limitations represent a risk to drinking water quality.

3. Generally, as a minimum **secondary treatment** will be required. **Primary treatment** is not supported. For developments on small lots, **tertiary level treatment** will likely be required. Upgrades to an existing **on-site sewage management system** may be required when alterations or additions to an existing **dwelling house** are proposed (depending on the age, capacity and performance of the existing system, and the scale and size of the development).
4. Plans must be submitted with reports to show the location of the **on-site sewage management system** drawn to scale relative to boundaries, structures (proposed and existing), roads and driveways, environmentally sensitive areas and vegetation, **watercourses**, bores, dams, and other topographic features. Details of the type of system, storage capacity and area for land disposal must be indicated.

Note: In addition to any development approval obtained as above, separate approval must be obtained under Section 68 of the Local Government Act 1993 with respect to **on-site sewage management systems**. This includes new systems as well as alterations/ upgrades to existing systems. An application for Section 68 approval can be made concurrently with a development application or separately. Such an application under Section 68 requires a detailed on-site sewage management report.

### B3.2.3 Stormwater Management

#### Objectives

1. *To promote on-site stormwater management practices that support the 'pre-development' hydrological regime (surface flow, streams and **groundwater**).*
2. *To ensure that new development does not reduce the effectiveness of existing drainage patterns (including built infrastructure).*
3. *To minimise the impacts of stormwater runoff from a site on adjoining properties.*
4. *To provide an acceptable level of protection against personal injury and property damage due to localised stormwater runoff.*
5. *To promote on-site retention, detention and infiltration of stormwater.*
6. *To promote stormwater harvesting and other forms of innovative water conservation.*
7. *To promote better integration of stormwater management into development proposals.*
8. *To ensure that on-site stormwater management facilities can be economically maintained, and that adequate arrangements are made for on-going maintenance.*
9. *To provide for the ongoing environmental health of receiving waters;*
10. *To ensure that stormwater management systems protect ground and surface water and other ecological values;*
11. *To achieve best practice stormwater treatment targets for stormwater quality.*

#### Performance Criteria

There are no performance criteria.

#### Prescriptive Measures

##### 1. Development Applications

Development applications must contain sufficient information to assess whether the proposed stormwater system is effective and feasible, both within the site and in its connection to the public drainage system.

An approval of the stormwater management system may be required under *Section 68 of the Local Government Act 1993* or *Section 138 of the Roads Act 1993*.

An applicant may lodge detailed stormwater management plans with the development application for concurrent approval *under Section 68 of the Local Government Act 1993* and *Section 138 of the Roads Act 1993*, as necessary. Alternatively stormwater management concept plans must be lodged with the development application and a condition of consent will require the relevant approvals prior to issue of the Construction Certificate.

Plans showing the method of draining the land are to be in accordance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards. Sample drawings developed as part of the Northern Rivers Local Government Development Design and Construction Manuals provide guidance on the type of information that should be included in stormwater management plans for subdivision works. AS/NZS 3500.3:2003 Plumbing and drainage - Stormwater drainage is the relevant Australian Standard at the time of writing this document. Appendices C and K of AS/NZS 3500.3:2003



provide guidance on the type of information that should be included in stormwater management plans for building works.

Council's manuals, and guidelines, including standard and sample drawings, are available on Council's website.

## 2. Properties adjacent to or containing waterways

Lands identified as containing or directly adjoining **waterways** may be subject to inundation (during the 1 in 100 year **ARI** storm event). Development applications must demonstrate that the proposal complies with the requirements of the Northern Rivers Development and Design Manual. Development proposals in close proximity to **waterways** or other areas of possible inundation must be accompanied by a hydrologic study submitted by an appropriately qualified person to demonstrate that the proposal or any future development will not interfere with the natural flowpath or be subject to flooding (refer to Chapter C2 Areas Affected by Flood). Appropriate buffers to **waterways** must be provided.

## 3. Site Drainage

- a) Site drainage shall be in accordance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards.
- b) For building works, the piped property drainage system is to capture and convey to a **lawful point of discharge** all stormwater runoff from the following areas of the development site:
  - i) impervious areas including roofs, paved areas and driveways
  - ii) areas subject to changes to **ground level (existing)** including **excavation** or filled areas
  - iii) areas where the natural or pre-development overland flow regime is disrupted to the potential detriment of an adjoining property.
- c) The development must not introduce, impede or divert stormwater runoff in such a manner as to increase stormwater flow across a boundary onto adjoining property. Concentrated, collected or diverted stormwater flow onto an adjoining property must be at a **lawful point of discharge**.

## 4. Lawful Point of Discharge

- a) A **lawful point of discharge** exists at a particular location, if:
  - i) the location of the discharge is under the lawful control of the Council or other statutory authority from whom permission to discharge has been received; and
  - ii) in discharging in that location, the discharge will not cause an actionable nuisance.
- b) Where a **lawful point of discharge** is not available in the vicinity drainage may need to be constructed and any easements may need to be acquired to direct collected stormwater to a **lawful point of discharge**. Negotiations with property owners must be undertaken along feasible easement routes to determine whether an easement can be obtained to provide stormwater system that will drain by gravity to a public drainage system. Where easements are proposed over downstream properties for drainage purposes, a letter of consent from the owner(s) of the downstream properties must be submitted with the development application.



- c) For properties involving building works generally at a higher level than the adjoining road, where the site drainage system can be piped under gravity to the road drainage system, then the discharge is to be connected to the street drainage system.
- d) For properties involving building works generally at a lower level than the adjoining road, where the site drainage system cannot be piped under gravity to the road drainage system, the discharge is to be carried out entirely in accordance with one of the following options:
  - i) Discharge to a public drainage system within the development site.
  - ii) Private drainage easement across neighbouring properties.
  - iii) Charged systems, but ONLY for residential developments up to and including a single **dwelling** where it can be demonstrated that an easement cannot be obtained and where the roof gutters are sufficiently above the road gutter to permit drainage via a (pressurised) sealed system.
  - iv) Dispersion trenches, but ONLY for residential developments up to and including a single **dwelling**, where it can be demonstrated that an easement cannot be obtained and sufficient land is available.
  - v) Infiltration trenches, but ONLY where it can be demonstrated that: an easement cannot be obtained; there is sufficient land available; the underlying soil is sandy enough to infiltrate all runoff up to the 20 year **ARI** storm; and infiltration will not lead to contamination of the groundwater. Other storm events may be considered having regard to the consequences of failure and impacts on downstream properties.
  - vi) Pump-out systems, but ONLY for basement car park areas where: it can be demonstrated that, if gravity drainage is not possible, an easement cannot be obtained; the contributing catchment is the driveway ramp only, up to a maximum of 60 m<sup>2</sup>; and, pump failure will not cause overflow affecting neighbouring properties or habitable floor areas.

## 5. Easements

- a) Easements are to be in accordance with the Northern Rivers Local Government Development Design and Construction Manuals.
- b) Where a site is traversed by a drain (under the control of Council) that is not within an easement, a suitable easement must be created in favour of the Council.
- c) Where an easement is benefiting private property(s) only, the easement is not to be to the benefit of Council.
- d) Where an easement is required to be created a written agreement must be made between all relevant parties agreeing to its creation. Evidence of the written agreement to the creation of the easement is to be submitted with a Development Application. Council may grant deferred commencement consent subject to easement creation.

## 6. On-site Stormwater Detention (OSD)

- a) On-site Stormwater Detention (OSD) shall be provided in accordance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards.
- b) OSD shall generally be incorporated into all development (except as provided by 'c)' below), including the following:



- i) residential, commercial and industrial development;
  - ii) **educational establishments, hospitals**, community services and other institutions;
  - iii) public buildings;
  - iv) impervious **car parks**; and
  - v) tennis and other impervious playing courts.
- c) OSD is not required in the following circumstances:
- i) where the total net increase in impervious area is less than 150 m<sup>2</sup>;
  - ii) if the application is for or relates to a **dwelling house** unless a restriction on title specifies otherwise;
  - iii) if the application is for development on land zoned RU1, RU2, or R5 unless needed to provide a **lawful point of discharge**;
  - iv) where the site drains directly to a trunk drainage system within the tidal reach of a river or stream;
  - v) where the site is located within a catchment within which a regional detention structure has been provided for the ultimate development of the catchment;
  - vi) where dispersion or infiltration is used as the means of stormwater discharge from the site; or
  - vii) where a Consulting Engineer has undertaken a detailed analysis of the entire catchment and demonstrated that the provision of detention on the subject property, including consideration of the cumulative affect of detention provision across the catchment, will provide no benefit to any downstream drainage system for storm frequencies between the 5 year and 100 year **ARI**.

## 7. Stormwater Quality and Treatment

- a) Applications for development types listed in Table B3.1 (including redevelopment) must address the “key” pollutants identified in that table (see below).



**Table B3.1 – Key pollutants in stormwater flows to be addressed**

Development Type	Litter	Coarse Sediment	Fine Particles	Total Phosphorous	Total Nitrogen	Hydrocarbons, motor fuels, oils & grease
Low Density Residential <sup>1.</sup> <b>bed and breakfast accommodation &amp; farm stay accommodation</b>	Y	N	N	Y	Y	N
Medium Density Residential <sup>2.</sup> & <b>tourist and visitor accommodation</b> (excluding <b>bed and breakfast accommodation &amp; farm stay accommodation</b> )	Y	Y	Y	Y	Y	N
Commercial, Shopping & Retail Outlets	Y	Y	Y	N	N	N
Industrial	Y	Y	Y	?	?	Y
Car Parks, Service Stations & Wash Bays	Y	Y	Y	N	?	Y

- Y - Key pollutant, needs to be addressed.  
 ? - Variable, requires site specific assessment.  
 N - Not significant.

(Source: Adapted from the *Byron Shire Urban Stormwater Management Plan*)

1. - "Low Density Residential" development refers to dual occupancies, dwelling houses, rural workers' dwellings, secondary dwellings, shop top housing comprising 2 or less dwellings and semi-detached dwellings.  
 2. - "Medium Density residential" development refers to attached dwellings, boarding houses, group homes, hostels, multi dwelling housing, residential flat buildings, seniors housing and shop top housing comprising 3 or more dwellings.

- b) Applications for subdivisions and developments involving an area of land greater than 2,500m<sup>2</sup> must provide measures to address the "key" pollutants in accordance with Table B3.2 for all stormwater flows up to 25% of the 1 year **ARI** peak flow from the development site.

**Table B3.2 – Pollutants and Retention Criteria**

Pollutant / Issue	Retention Criteria
Litter	70% of average annual load greater than 5mm.
Coarse Sediment	80% of average annual load for particles 0.5mm or less.
Fine Particles	50% of average annual load for particles 0.1mm or less.
Total Phosphorous	45% of average annual load.
Total Nitrogen	45% of average annual load.
Hydrocarbons, motor fuels, oils & grease	90% of average annual load.

- c) Runoff from all areas (including roofs and paved areas) needs to be treated. Significant water quality improvements can be achieved by configuring a sequence of treatment measures (a 'treatment train'). Such measures may include roofwater tanks, infiltration devices, filtration & bio-retention devices, porous paving, grassed swales, better landscape practices, ponds & wetlands and stormwater tanks. The suitability of treatment measures will depend largely on site conditions. For example, infiltration devices are not suitable in areas with heavy clay soils and subsoils.
- d) A soil and water management plan is required where the area of soil surface disturbance exceeds 2500m<sup>2</sup>. Sites of this scale typically require sediment retention basins to minimise sediment pollution.

## B3.2.4 Sedimentation and Erosion Control Measures

### Objectives

1. *Encourage implementation of contemporary best practice in erosion and sediment control;*
2. *Prevent land degradation by soil erosion through inappropriate land use practices;*
3. *Protect waterways and sensitive environments from being degraded by increased sediment load;*
4. *Promote and protect biodiversity by minimising cumulative impacts of sedimentation on the environment; and*
5. *Protect amenity and prevent discharge of sediment on to both **public land** and private land.*

### Performance Criteria

There are no performance criteria.

### Prescriptive Measures

1. An erosion and sediment control plan is required where the area of soil surface disturbance is in the range 250m<sup>2</sup> – 2 500m<sup>2</sup>, or where the area of soil surface disturbance is less than 250m<sup>2</sup> but the site has either a slope exceeding 20% or immediately adjoins a **waterway**.
2. A soil and water management plan is required where the area of soil surface disturbance exceeds 2 500m<sup>2</sup>. Sites of this scale typically require sediment retention basins to minimise sediment pollution.
3. Plans must be prepared in accordance with Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and 'Managing Urban Stormwater: Soils and





Construction' (Landcom, Sydney, 2003). An approval must be obtained for the plan from Council, under *Section 68 of the Local Government Act, 1993*, prior to issue of a Construction Certificate.



# Byron Shire Development Control Plan 2014

## Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access



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## Chapter B4 – Traffic Planning, Vehicle Parking, Circulation and Access

### Contents

<b>B4.1</b>	<b>Introduction.....</b>	<b>5</b>
B4.1.1	Purpose of this Chapter .....	5
B4.1.2	Aims of this Chapter .....	5
B4.1.3	Application of this Chapter .....	5
B4.1.4	Relevant Byron LEP 2014 Provisions .....	5
<b>B4.2</b>	<b>Development Controls .....</b>	<b>6</b>
B4.2.1	Traffic Impact.....	6
B4.2.2	Parking Layout Standards.....	8
B4.2.3	Vehicle Access and Manoeuvring Areas.....	8
B4.2.4	Structures Adjacent to Driveways .....	9
B4.2.5	Car Parking Requirements.....	10
B4.2.6	Underground/ Basement Car Parks .....	10
B4.2.7	Car Parking Credits and Street Parking .....	11
B4.2.8	Bicycle, Motorcycles and Coach Parking .....	12
B4.2.9	Loading Bays.....	13
B4.2.10	Monetary Contributions.....	13
B4.2.11	Landscaping .....	14
B4.2.12	Parking Schedules.....	16

### Tables

Table B4.1 – Parking Rates.....	16
Table B4.2 – Loading Bays .....	21

### Figures

Figure B4.1 – Minimum Sight Lines for Pedestrian Safety.....	10
Figure B4.2 – Car park landscaping configurations .....	15



**Document History**

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## **B4.1 Introduction**

### **B4.1.1 Purpose of this Chapter**

The purpose of this Chapter is to provide guidelines, controls and standards for traffic planning, vehicle access, circulation and parking for developments.

### **B4.1.2 Aims of this Chapter**

The Aims of this Chapter are to:

1. To ensure that all relevant traffic impacts relating to development are identified, assessed and mitigated.
2. To ensure that parking supply and management in new developments supports Council policies and objectives for the development of Byron Shire;
3. To ensure that traffic generating developments make adequate provision for off-street car parking, such that the needs of occupants, users, visitors, employees, service and delivery vehicles are met;
4. To ensure the safe and efficient circulation of vehicles entering, leaving and within car parking and service/delivery areas;
5. To minimise the detrimental effects (particularly visual and radiated heat effects) associated with off-street car parking areas on the amenity of urban areas
6. To ensure that entry/exit points to car parking and service/delivery areas are situated in a way that sight distances are maximised, and disruption to the circulation of vehicles on the public road system is minimised.
7. To have regard to the objectives contained within the Byron Shire Strategic Transport Statement (Transport Policy)

### **B4.1.3 Application of this Chapter**

This Chapter applies to all development types where vehicle access and/or parking is required.

### **B4.1.4 Relevant Byron LEP 2014 Provisions**

There are no specific LEP provisions relating to car parking and vehicle access other than Clause 6.6 which requires the provisions of suitable vehicular access for developments. A **car park** has the same meaning as defined under Byron LEP 2014. Land uses in Table B4.1 have the same meaning as defined under Byron LEP 2014.



## B4.2 Development Controls

### B4.2.1 Traffic Impact

#### 1. Introduction

A traffic impact assessment is a process of compiling and analysing information on the impacts that a specific development proposal is likely to have on the operation of roads and transport networks.

The assessment will not only include general impacts relating to traffic management (road efficiency and safety), but should consider specific impacts on all road users, including on-road public transport, pedestrians, cyclists and heavy vehicles.

The scope of a traffic impact assessment will depend on the location, type and size of the development and the ability of the road network to handle traffic generated by the development. The assessment may have to address broader transport planning and environmental considerations and will need to take into account any traffic management strategy, strategic plan or local development plan.

A traffic impact assessment is undertaken by competent experts on behalf of the proponent of a development and is documented in a *Traffic Impact Statement* or *Traffic Impact Study*, according to level of impact.

#### 2. The Need for Traffic Impact Assessment

The traffic attracted to a new land use development or a major expansion of an existing development, such as an industrial project or a major shopping centre, can have significant impacts on the performance of the current or future road network. These need to be properly assessed and addressed so that a satisfactory level of road safety and transport efficiency is maintained.

Judgment is required to decide whether a project requires a full traffic impact assessment or some lesser analysis of traffic issues. For example, small urban developments may only require alterations to driveways and off-street parking spaces, whereas a similar development on a rural road may require turn lanes because of the high speed environment, the level of traffic generated and/or site geometry that restricts visibility.

The following is a guide for deciding on the level of traffic assessment required:

- a) Low Impact (generally less than 10 peak hour trips) – submit a safety assessment demonstrating satisfactory access location, sight distances and sightlines to pedestrians.
- b) Moderate Impact (10 – 50 peak hour trips) – *Traffic Impact Statement* required.
- c) High Impact (more than 50 peak hour trips) – *Traffic Impact Study* required.

The need for a traffic impact assessment can be influenced by many factors apart from the volume of peak hour traffic to be generated by the development. Where other criteria are significant, the discretion of Council can be exercised. Where development is to be located in a particularly sensitive area (e.g. densely populated) a traffic impact study may be deemed necessary, even though fewer than 10 peak hour trips are generated. Conversely, there may be cases where the development is in an isolated and less sensitive area and a traffic impact statement is considered to be sufficient



even though the development generates more than 50 peak hour trips. Similarly a lower threshold, in terms of additional traffic generated, may be appropriate in more densely populated areas.

### 3. Traffic Impact Statement

A *Traffic Impact Statement* serves the same purpose as a traffic impact study but is not as comprehensive. A *Traffic Impact Statement* should include:

- a) a brief description of the development in terms of proposed land use and trips generated;
- b) a brief description of the existing operational conditions of the road network in the immediate vicinity of the development;
- c) analysis of the operation of the accesses and parking arrangements for the development;
- d) analysis of the parking demand and supply of the development;
- e) analysis for the mobility impaired;
- f) analysis of the operation of the first intersection, as a minimum, on either side of the accesses;
- g) a conceptual geometric layout of the access arrangements, including any nearby driveways and intersections; and
- h) professional opinion on the expected traffic impact based on a site observation during the expected critical peak hour and the analysis conducted.

### 4. Traffic Impact Study

A *Traffic Impact Study* should follow the standard format and structure described in the Roads and Maritime Authority's (RMS) '*Guide to Traffic Generating Developments*' (as amended from time to time by a superseding document prepared by RMS).

All proposed developments listed in Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 require referral to either a Regional Traffic Development Committee or a Local Traffic Development Committee. In most situations, a *Traffic Impact Study* will be required for developments listed under column 2 in that schedule.

### 5. Road Safety Audit

The person carrying out the traffic impact assessment will need to determine whether a Road Safety Audit, prepared in accordance with RMS requirements, needs to be included as part of the traffic impact assessment. This would be particularly relevant when road safety is identified as a major concern, for example, activities that generate large numbers of heavy vehicles or new schools.





## B4.2.2 Parking Layout Standards

1. Car parking requirements, parking layout, driveway widths and vehicle manoeuvring areas are to be in accordance with the relevant sections of the current editions of Australian Standard 2890.
2. All parking spaces in commercial and industrial developments must be available for unrestricted public access and employee use. There shall be no restriction on public parking in the required car park, other than car spaces set aside for any residential units approved on the site.
3. Access for the disabled and parking facilities are to be provided in accordance with the current editions of AS 2890 and the Building Code of Australia and the requirements of the *Disability Discrimination Act, 1992* (Commonwealth).
4. Tandem or stacked parking is not generally favoured. However, in certain cases, the provision of a limited number of employee parking spaces may be provided in this way in circumstances where no inconvenience arises from its use and subject to the following guidelines:
  - a) The applicant must be able to demonstrate that there is a real need for stacked parking and that the provision of stacked parking will not adversely affect the use of the site.
  - b) No more than two (2) cars are parked in a stacked arrangement, so that no more than one (1) vehicle has to move to allow egress of another.
  - c) Stacked parking is only to be used to provide parking for people employed on the premises and likely to park all day or a major part of the day.
  - d) Stacked parking spaces are to be used by the occupants of the site in one tenancy.
  - e) Stacked parking for customer/public and for separate **dwelling**s on the same property will not be supported.

## B4.2.3 Vehicle Access and Manoeuvring Areas

1. Driveways and manoeuvring areas are to be designed and constructed in accordance with the requirements of the current editions of Australian Standard 2890 and the Northern Rivers Local Government Development & Design Manual.
2. All parking and service areas shall be provided with sufficient manoeuvring areas to allow vehicles to enter and leave the site in a forward direction. **Dwelling houses** and **dual occupancy developments** may seek a variation this requirement on roads with low traffic volumes by demonstrating there are no traffic safety issues on the frontage roadway or within the site.
3. Designs for manoeuvring areas are to be in accordance with the current editions of Australian Standard 2890 and must include a swept path analysis for the relevant design vehicle.
4. Driveways, manoeuvring areas and parking areas, including loading & unloading areas, should be sealed with an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment. Porous paving should be provided, where soils are capable of high infiltration rates, for parking spaces (other than those for people with disabilities) and domestic driveways. Gravel



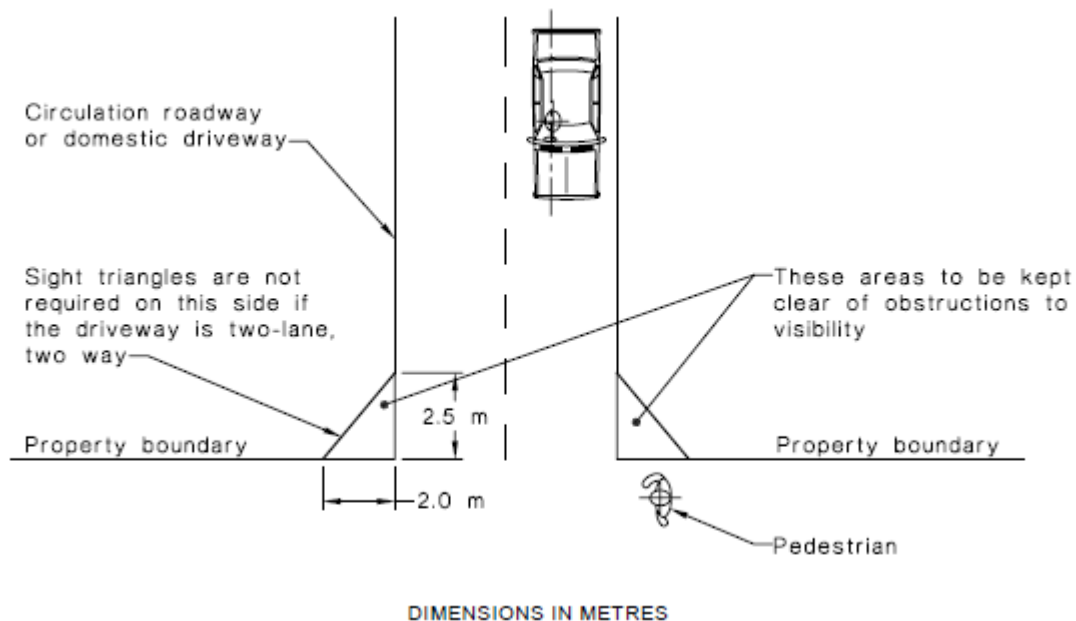
surfaces are generally not acceptable in urban locations and some rural situations (issues such as noise, dust, and erosion need to be considered).

5. Internal driveways for more than three **dwelling**s should have a minimum driveway width of 5.5 metres to facilitate two way access. The driveway width may be reduced to a minimum width of 3.5m where there are no potential internal driveway conflicts or traffic safety issues having regard to the following:
  - a) a minimum driveway width of 5.5m is provided for at least the first 6 m from the property boundary;
  - b) adequate passing opportunities are provided;
  - c) good sight distance is available;
  - d) slope of driveway is not excessive;
  - e) frontage roadway has less than 3000 vehicle trips per day; and
  - f) traffic and pedestrian volumes on the driveway.
6. Where driveways are to be negotiated by a waste collection vehicle, they must have a maximum gradient of 16% at any one point.
7. Internal driveways for three dwellings or less are to have a minimum width of 3m with a 4m wide X 2.7m high access corridor to facilitate landscaping, services, retaining walls etc.
8. Driveways for hatchet shaped lots should be fenced and landscaped on either side in order to minimise any potential noise or light pollution for adjoining lots with different ownership.

#### **B4.2.4 Structures Adjacent to Driveways**

Boundary fencing, garages, carports, landscaping, vegetation, signs, letterboxes or any other structures adjacent to a driveway that exceed 1.15 metres in height are to demonstrate compliance with the current editions of Australian Standard 2890 in relation to the provision of sight lines for vehicles and pedestrians. No permanent sight obstruction exceeding 1.15 metre in height shall be located within the identified clearance area for sight distances. The following diagram is provided from Australian Standard 2890.1:2004 for guidance:





**Figure B4.1 – Minimum Sight Lines for Pedestrian Safety** (Source: Australian Standard 2890.1: 2004)

## B4.2.5 Car Parking Requirements

1. Unless otherwise specified elsewhere in this DCP, car parking is to be provided in accordance with the schedule contained in Table B4.1
2. Where a proposed use is not represented in Table B4.1 or elsewhere in this DCP, the rates under the RMS Guide to Traffic Generating Developments (as amended from time to time by a superseding document prepared by RMS) will apply.
3. If a rate is not provided by the RMS Guide to Traffic Generating Developments (as amended from time to time by a superseding document prepared by RMS) a merit based assessment will apply. In such circumstances applicants are encouraged to review car parking rates for adjoining or surrounding Councils and to contact Council's Development Engineers as to what an appropriate rate may be.

## B4.2.6 Underground/ Basement Car Parks

1. Where excavation is proposed for basement **car parks** development applications should demonstrate that:
  - a) The proposed access to and appearance of the **car park** will be visually compatible with the existing and desired future character of the locality, streetscape and immediate surrounds.

- b) The proposed access to the **car park** is consistent with the Council's pedestrian and traffic management strategies for the commercial area and will not detract from pedestrian safety or the safety and amenity of community spaces or any public road. In this regard rear lane or secondary street access to the basement **car park** is preferred to minimise amenity impacts to streetscape and remove pedestrian conflicts.
- c) All **earthworks** are located on the subject property and do not require any underpinning into neighbouring properties or adjoining road reserves.
- d) Access to the basement complies with the **Flood Planning Level** to prevent the ingress of flood waters. Where grading cannot achieve compliance with the **Flood Planning Level** and provided no other feasible option (i.e. driveway design) is available, then the design may incorporate elements (e.g. ramps etc) or automatic mechanisms (e.g. hydraulic barriers etc) to prevent the ingress of flood waters to the basement, subject to the elements or mechanisms complying with the relevant **Flood Planning Level**. The basement to also include facilities for the pumping of water in the event of failure, or larger flood events.
- e) Access to the basement is designed to prevent the entry of stormwater. Driveway ramps that allow for the ingress of rainwater are to be predominantly covered, with a maximum area of 60m<sup>2</sup> only that is exposed to direct rainfall.
- f) The proposal will not adversely affect **groundwater** levels, flows, characteristics or quality.

## **B4.2.7 Car Parking Credits and Street Parking**

1. Council may acknowledge car parking credits for a site based on the current approved use/s.
2. Any car parking credit shall be based on the rates in Table B4.1 in this DCP Chapter.
3. Car parking credit is equivalent to the parking requirement for current approved use/s calculated in accordance with (1) and (2) above, less the number of parking spaces specified by current approvals.
4. Where a developer contribution for car parking has previously been paid for a current approved use/s on a development site, new development may be entitled to car parking credits equivalent to the number of spaces for which developer contributions were received by Council if the above calculation does not acknowledge the credit.
5. Where a car parking credit has previously been granted for land dedications in conjunction with development, a new development on the same site will be entitled to take that into consideration in calculating the number of car parking credits.
6. Car parking credits are not transferable to other development sites.
7. Council will consider proposals to increase on street parking capacity for the provision of some or all customer car parking spaces by increasing on street parking capacity where there is a material public benefit, and where:



- a) The net increase in formalised (ie paved &/or linemarked) on street parking is 25% greater than the number otherwise required on site;
- b) The resulting streetscape conforms with the principles of good urban design;
- c) The level of pedestrian, cycle and traffic amenity on the street is maintained; and
- d) The proposal is not detrimental to utility services.

Note: Council is more likely to give favourable consideration to such proposals if they provide an offsetting benefit to the public - such as property boundary setback dedication to allow conversion of existing parallel parking to angle parking. Other proposals that promote ESD policies will also be entertained.

In B4.2.7, '*current approved use*' means a current use for which there is an effective development consent in place or an existing lawful use.

## B4.2.8 Bicycle, Motorcycles and Coach Parking

### 1. Bicycle Parking

Development Proposals must make provision for bicycle parking in accordance with Table B4.1. The Bicycle parking is also to be designed in accordance with the current editions of AS 2890 Parking Facilities, Austroads and the NSW RTA Bicycle Guideline 2005 as appropriate and as nominated under Chapter B5 Providing for Cycling.

### 2. Coach Parking

Large developments, such as shopping centres, sporting facilities and hotels require on-site parking for regular passenger buses (and taxis), shopper-coaches, tourist coaches, etc. Parking for sufficient numbers of vehicles at convenient places (usually at main entrance points) should be provided on-site. Adequate provision must be made for access, safe manoeuvring and parking of coaches in proposals for tourist, commercial and recreational developments. Where applicants submit alternate proposals for a lesser number of car parking spaces based on bus/ coach transport, then bus parking will be required on the site.

A reduction in car parking may be approved if adequate demonstrated arrangements are made for bus/coach or other transport to the development. Any reduction shall be validated by a Traffic Impact Study & Survey.

### 3. Motorcycles

To encourage alternative forms of motor transport and to enable applicants to utilise areas within a car park that are undersized for the standard vehicle space, the following motorcycle parking provisions are to apply:

- a) Large commercial developments with a gross floor area exceeding 1000m<sup>2</sup> shall make provision for the parking of motorcycles. Two percent of car parking spaces shall be converted to Motorcycle spaces at a general rate of 4 motor cycle spaces for every space converted. (e.g. a development generating 50 car parking spaces will have 49 car parking spaces and 4 motorcycle spaces).



- b) For smaller developments where motorcycle spaces are proposed in lieu of car parking, these will be considered on merit, provided a minimum of 90% of parking is for cars, and 4 bike spaces are provided for every vehicle space not provided (eg a development generating 10 car parking spaces, could propose 9 spaces and 4 motorcycle spaces).

## **B4.2.9 Loading Bays**

1. All developments have a need for a safe loading and unloading area (service area) which does not obstruct the passage of vehicles or pedestrians. Unless designed specifically for a nominated vehicle type or types appropriate to the use of the proposed development, loading bays should be provided in accordance with the schedule contained in Table B4.2.
2. Where a proposed use is not represented in Table B4.2, the rates under the RMS Guide to Traffic Generating Developments (as amended from time to time by a superseding document prepared by RMS) will apply.
3. Access, loading bays and manoeuvring for a service area must be designed in accordance with the current editions of AS 2890 Parking Facilities.
4. In general, service areas should satisfy the following requirements:
  - a) The service area must be a physically defined location, screened from public view, and not used for purposes other than servicing, loading and unloading.
  - b) Service area layout must facilitate its efficient use and must effectively discourage on-street loading and unloading.
  - c) Requirements for storage and collection of waste must be taken into account in service area design.
  - d) All service vehicles must be able to enter and leave the site in a forward direction, i.e. adequate manoeuvring space is required on site.
  - e) Internal roadways must be of a size adequate for the largest vehicle anticipated to use the site.
  - f) Service vehicle movements should be separated from car movements.

## **B4.2.10 Monetary Contributions**

Council may consider accepting a monetary contribution in lieu of on-site car parking on land predominantly zoned B2 where there is a nexus between the development and the area in which public parking is or will be provided. Such cases will be considered on merit, with reference to:

- a) the size of the development;
- b) the site's proximity to, and the accessibility of, existing or proposed public car parking areas;
- c) the demand for car parking generally in the locality; and



- d) the general traffic flow in the area;
- e) the cost to Council of providing the parking off site;
- f) the likelihood of the parking being occupied and not being available for parking associated with the proposed development.

Should a monetary contribution be proposed, applicants will need to discuss this option with Council prior to lodgement of the Development Application, and propose either a voluntary planning agreement (VPA) or submit a VPA with the development application. (Note: There is no Section 94 Plan for car parking).

In locations away from the main commercial areas, or where no public **car parks** are planned, on-site car parking is to be provided with the development.

For works in kind, Council may consider car parking on public land or in the road reserve for all or part of the car parking required for an adjacent development proposal. Such work if permitted, is at the applicants expense, and such arrangements will only be allowed when a positive outcome results and the streetscape is improved.

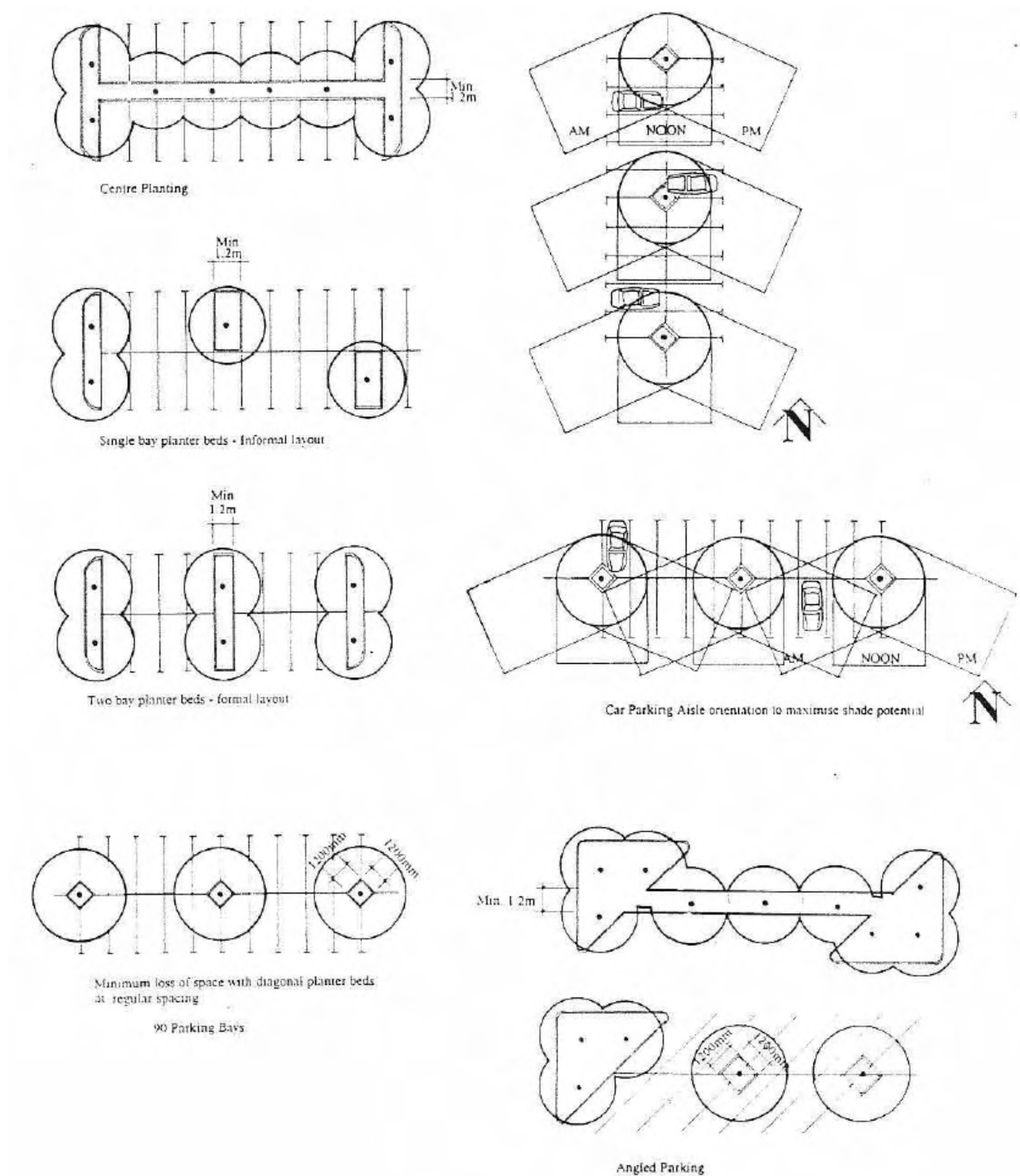
### **B4.2.11 Landscaping**

As an integral and important component of outdoor parking area design, suitable landscaping must be provided in accordance with the requirements of Chapter B9 Landscaping. In particular shade trees can assist with cooling the car parking area and the vehicles parked therein, and assist with managing the microclimate of urban areas.

Specifically outdoor **car parks** comprising 10 or more vehicle spaces are to incorporate a landscape bay of a suitable dimension to support the healthy growth of shade trees with a minimum height of 8 metres (at maturity) to shade every 2-5 parking spaces. The bay can also incorporate **water sensitive urban design** principles to facilitate stormwater disposal and also irrigation of the trees. Figure B4.1 below illustrates various **car park** landscaping configurations.







**Figure B4.2 – Car park landscaping configurations** (Source: South Sydney DCP No. 11 Transport Guidelines for Development 1996)



## B4.2.12 Parking Schedules

Table B4.1 – Parking Rates

Land Use	Car Parking	Bicycle Spaces
<b>Amusement centre</b>	4 spaces per 100m <sup>2</sup> GFA plus 1 per 2 employees	8 per 100m <sup>2</sup> of GFA
<b>Backpackers accommodation</b>	1 space per 8 beds	1 per 5 beds
<b>Bed and breakfast accommodation</b>	1 space per guest bedroom plus 1 space per <b>dwelling</b>	
<b>Boarding house</b>	See <i>SEPP (Affordable Rental Housing) 2009</i>	1 space per bed
<b>Business premises</b>	1 space per 20m <sup>2</sup> GFA	2 per 100m <sup>2</sup> (or part thereof) up to a floor area of 200 m <sup>2</sup> and 1 per 200 m <sup>2</sup> thereafter
<b>Bulky goods premises</b>	1 space per 50m <sup>2</sup> GFA	
<b>Caravan park/ Camping grounds</b>	In accordance with the <i>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2000</i>	
<b>Commercial premises</b>	See <b>business premises</b>	
<b>Community facilities</b>	Merit based at a general rate of 1 space per 40m <sup>2</sup> of GFA.	1 per 100 m <sup>2</sup> of GFA
<b>Child care centre</b>	1 space per 4 children plus drop off/pick up area	
<b>Dual occupancy</b>	See <b>medium density housing</b> , except visitor car spaces are not required where on-street car parking is available within close proximity to the development.	
<b>Dwelling house</b>	2 spaces per <b>dwelling</b>	
<b>Educational establishment</b>	(Primary) 1 space per 2 staff members	1 per 5 students over year 4



Land Use	Car Parking	Bicycle Spaces
<b>Educational establishment</b>	(Secondary) 1 space per 2 staff members plus 1 per 10 students aged 17 and over	1 per 5 students
<b>Educational establishment</b>	(Tertiary) 1 space per 5 students plus 1 space per 2 staff members	1 per 5 students
<b>Entertainment facility</b>	1 per 10 seats	1 Space per 10 car parks
<b>Exhibition home</b>	2 spaces per home external to garage/ <b>dwelling</b> parking Space	
<b>Food and Drink Premises</b>	1 per 20 m <sup>2</sup> of GFA in Business and Industrial Zones.  1 per 7.5 m <sup>2</sup> in all other zones.	1 per 25m <sup>2</sup> of GFA
<b>Function centre</b>	Same as food and drink premises	
<b>Funeral home</b>	2 spaces plus either 1 space per 30m <sup>2</sup> GFA or 1 per 5 seats in chapel, whichever is greater	
<b>Garden centre</b>	1 space per 70m <sup>2</sup> display area (including accessories).  Where landscape supplies are included an additional 1 space per employee plus 2 customer spaces.	
<b>Group home</b>	Refer <i>SEPP (Affordable Rental Housing) 2009</i>	
<b>Hardware and building supplies</b>	1 space for 50m <sup>2</sup> GFA.	
<b>Health consulting rooms</b>	2 spaces per consulting room plus 1 space per 2 employees plus any <b>dwelling</b> requirement	1 space per consulting room
<b>Hotel or motel</b>	1 spaces per unit plus 1	2 Spaces for



Land Use	Car Parking	Bicycle Spaces
<b>accommodation</b>	space per 2 employees (on site at any one time) plus 1 space for on-site manager.  If public restaurant or function room included, as per food and drink premises	accommodation units only  If public restaurant or function room included, add 1 per 25m <sup>2</sup> of GFA
<b>Industry</b>	1 space per 100 m <sup>2</sup> or two per factory unit which ever is the greater.	
<b>Kiosk</b>	See <b>food and drink premises</b>	See <b>food and drink premises</b>
<b>Landscape material supplies</b>	1 space per employee plus 2 customer spaces  Where applicable add 1 space per 70m <sup>2</sup> product display/showroom area	
<b>Market</b>	2.5 spaces per stall	1 space per 10 stalls
<b>Medical centre</b>	1 space per 20m <sup>2</sup> GFA plus any ancillary development requirement	1 space per consulting room
<b>Mortuary</b>	See <b>funeral home</b>	
<b>Medium density housing including multi dwelling housing, residential flat buildings and shop top housing</b>	1 space per 1 or 2 bed unit, 2 spaces per 3 or more bed unit, 1 visitor space per 4 <b>dwelling</b> s or part thereof. Each <b>dwelling</b> to have at least one covered car space.  Where <b>dwelling</b> s are designed with studies/offices and other areas capable of being utilised as separate sleeping quarters these will be counted as bedrooms.	
<b>Neighbourhood shop</b>	See <b>retail premises</b>	
<b>Office premises</b>	See <b>business premises</b>	See <b>business premises</b>
<b>Place of public worship</b>	1 space per 10 seats	1 space per 100 seats
<b>Plant nursery</b>	See <b>garden centre</b>	



Land Use	Car Parking	Bicycle Spaces
<b>Pub</b>	1 space per 5m <sup>2</sup> of public area in bars and lounges.	2 per 25 m2 of public areas in bars and 2 per 100 m <sup>2</sup> of lounges and beer gardens
<b>Public administration building</b>	See <b>business premises</b>	
<b>Recreation facility (indoor)</b>	Bowling Alley: 3 spaces per lane Squash Courts: 3 spaces per court Gymnasium: 1 spaces per 20m <sup>2</sup> GFA Other activities: on merit	1 per 4 employees and 1 per 200m2 of GFA
<b>Recreation facility (outdoor)</b>	Tennis Courts: 3 spaces per court Bowling Club: 15 spaces per green plus any restaurant and pub requirements where applicable Golf Course: 4 spaces per hole on course plus any food and drink requirements where applicable.  Other activities: on merit	1 per 4 employees and 1 per 200m2 of GFA
<b>Registered club</b>	See <b>pub</b>	See <b>pub</b>
<b>Restaurant</b>	See <b>food and drink premises</b>	See <b>food and drink premises</b>
<b>Retail premises</b>	See <b>business premises</b>	See <b>business premises</b>
<b>Roadside stall</b>	Assessed on merit Consideration to be given to parking rates for <b>markets</b>	
<b>Rural supplies</b>	1 space per 50m <sup>2</sup> GFA	
<b>Rural tourist accommodation</b>	1 space per guest bedroom	
<b>Secondary dwelling</b>	Nil	
<b>Seniors housing</b>	See <i>SEPP (Housing for seniors or people with a disability) 2004</i>	
<b>Service station</b>	5 spaces per mechanical	



Land Use	Car Parking	Bicycle Spaces
	Work bay plus 1 space per 20m <sup>2</sup> of GFA of convenience store GFA. Tandem Parking permitted and work bays can be counted as a space.	
<b>Serviced apartment</b>	See <b>medium density housing</b>	
<b>Shop</b>	See <b>business premises</b>	See <b>business premises</b>
<b>Shopping centre</b>	Per area of <b>gross leasable floor area</b> (GLFA): 1000 -10,000m <sup>2</sup> GLFA - 6.1 spaces per 100m <sup>2</sup> 10,000 - 20,000m <sup>2</sup> GLFA - 5.6 spaces per 100m <sup>2</sup> > 20,000 m <sup>2</sup> GLFA Parking Study required	See <b>business premises</b>
<b>Small Bars</b>	See <b>Pub</b>	See <b>Pub</b>
<b>Shop top housing</b>	See <b>Medium density housing</b> requirement plus <b>shop</b> requirement	
<b>Takeaway food or drink premises</b>	See <b>food and drink premises</b>	See <b>food and drink premises</b>
<b>Timber yard</b>	See <b>landscape material supplies</b>	
<b>Transport Depot</b>	1 space per vehicle driver, 1 per 2 onsite employee	
<b>Truck Depot</b>	1 space per vehicle driver, 1 per 2 onsite employee	
<b>Vehicle repair station</b>	5 spaces per service bay. Tandem parking permitted and service bays are counted as a car parking space	
<b>Vehicle sales or hire premises</b>	1 space per 200 m <sup>2</sup> of GFA and any outdoor motor display, plus 5 per mechanical work bay. Tandem parking permitted and service bays are counted as a car parking space	



Land Use	Car Parking	Bicycle Spaces
<b>Veterinary hospital</b>	3 spaces per veterinarian plus 1 space per 2 employees	
<b>Warehouse or distribution centre</b>	1 space per 300 m <sup>2</sup> of GFA	
<b>Wharf or boating facilities</b>	1 per mooring 1 spaces per two employees	
<b>Wholesale supplies</b>	See <b>bulky goods premises</b>	

**Table B4.2 – Loading Bays**

Development type	Gross floor area (GFA), m <sup>2</sup>	Number of Loading Bays Required by Vehicle Class			
		Small rigid vehicle	Medium rigid vehicle	Heavy rigid vehicle	Articulated vehicle
<b>Business premises/office premises</b>  (For premises less than 200 m <sup>2</sup> , loading bays can be shared with staff parking provided the parking bay meets the minimum dimension requirements under AS2890 for a small rigid vehicle, there is adequate manoeuvring area and the space is suitably located for loading and unloading on-site)	0-999	1	-	-	-
	1,000-2,499	-	1	-	-
	2,500-7,999	1	1	-	-
	8,000-19,999	2	1	-	-
	20,000-34,999	2	2	-	-
	35,000-64,999	2	2	1	-
	>65,000	2	3	1	-
<b>Retail premises, tourist and visitor accommodation (except bed and breakfast accommodation and farmstay accommodation)</b>  (For premises less than 200 m <sup>2</sup> , loading	0-199	1	-	-	-
	200-599	-	1	-	-
	600-1,499	1	1	-	-
	1,500-1,999	2	1	-	-
	2,000-2,799	2	2	-	-
	2,800-4,399	2	2	1	-
	4,400-8,499	2	2	1	1
	8,500-11,499	3	2	1	1
	11,500-20,999	3	3	1	1



Development type	Gross floor area (GFA), m <sup>2</sup>	Number of Loading Bays Required by Vehicle Class			
		Small rigid vehicle	Medium rigid vehicle	Heavy rigid vehicle	Articulated vehicle
bays can be shared with staff parking provided the parking bay meets the minimum dimension requirements under AS2890 for a small rigid vehicle, there is adequate manoeuvring area and the space is suitably located for loading and unloading on-site)	21,000-23,999	3	3	2	1
	24,000-32,999	3	3	2	2
	>33,000	3	4	3	2
<b>Industry</b>  (For premises less than 200 m <sup>2</sup> , loading bays can be shared with staff parking provided the parking bay meets the minimum dimension requirements under AS2890 for a medium rigid vehicle, there is adequate manoeuvring area and the space is suitably located for loading and unloading on-site)	0-199		1	-	-
	200-799		-	1	-
	800-1,599		1	1	-
	1,600-2,399	1	1	1	-
	2,400-3,199	1	1	1	1
	3,200-3,999	1	2	1	1
	4,000-4,799	2	2	1	1
	4,800-5,599	2	3	1	1
	5,600-6,399	2	3	2	1
	6,400-7,199	2	3	3	1
	7,200-7,999	2	3	3	2
	>8,000	Same as previous – additional loading bays to be assessed on merit at a general rate of 1 bay per 1000m <sup>2</sup> GFA			





# Byron Shire Development Control Plan 2014

## Chapter B5 Providing for Cycling



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## Chapter B5 – Providing for Cycling

### Contents

<b>B5.1</b>	<b>Introduction.....</b>	<b>5</b>
B5.1.1	Aims of this Chapter.....	5
B5.1.2	Application of this Chapter .....	5
B5.1.3	The Byron Shire Bike Strategy and Action Plan .....	5
<b>B5.2</b>	<b>Development Controls.....</b>	<b>6</b>
B5.2.1	Transport Management and Access Assessment .....	6
B5.2.2	Design to Promote and Facilitate Cycling.....	7
B5.2.3	Provision of Cycleways .....	8
B5.2.4	Provision of Bicycle Storage, Parking and End of Trip Facilities.....	8



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## B5.1 Introduction

### B5.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To implement those provisions of the **Byron Shire Bike Strategy and Action Plan** that can be achieved through the development process.
2. To reduce car dependency and to promote alternative transport such as cycling as a sustainable means of transport by ensuring the appropriate provision of cycling facilities and by accommodating the needs of cyclists through the development process.
3. To improve equity and accessibility for people who do not have access to motor vehicles or other conventional modes of transport.
4. To increase opportunities for community and social interaction and for the pursuit of healthier and more active living by ensuring the provision of cycling facilities through the development process.
5. To provide minimum standards for facilities for cycling and cyclists within Byron Shire.

### B5.1.2 Application of this Chapter

This Chapter applies to development applications that are subject to the provisions of Byron LEP 2014 and are intended for:

1. **Residential accommodation** for 3 or more **dwellings** in any zone; or
2. Subdivision to create 3 or more residential, large lot residential, industrial or commercial lots in any zone; or
3. **Tourist and visitor accommodation** (more than 5 beds) in any zone; or
4. **Commercial premises** (more than 100 m<sup>2</sup> of GFA) in any zone; or
5. Any other traffic generating land use in any zone where there is a nexus with cycling or cycling facilities.

### B5.1.3 The Byron Shire Bike Strategy and Action Plan

The primary objectives of the **Byron Shire Bike Strategy and Action Plan** (Bike Plan) are to:

1. retain, increase and improve cycling facilities;
2. consistently review cyclist needs;
3. provide a consistent standard of facilities for cyclists within the area.



The Bike Plan is a comprehensive strategic and action plan that develops:

- a) the strategic framework for improved cycling in the Shire;
- b) a non-infrastructure based Action Plan;
- c) an infrastructure based Action Plan;

The Bike Plan's strategic framework defines Council's vision and direction regarding the bike network and its future management. It is based upon the identified needs of cyclists and review of existing bike network and facilities. The framework recognises the needs of different cyclists (commuter, recreational, child, utility, sporting or tourist) and the often competing demands they and other road users generate, including on and for limited road space, land use and funding.

The framework also recognises the role cycling has or potentially has in delivering sustainability, be it economic (tourism and trade), environmental (less polluting) or social (health, community building); benefits which just as often need non-infrastructure activities (promotional materials and events, behavioural programs) to support the ongoing and proposed infrastructure improvements.

The Bike Plan's Action Plans in particular are intended to define the most important issues to be addressed in the delivery and the development of an integrated transport network. The infrastructure-based Action Plans focus on the provision and upgrading of intra-town bikeway links, inter-town bikeway links and the New South Wales coastline cycleway.

## **B5.2 Development Controls**

### **B5.2.1 Transport Management and Access Assessment**

#### **Objectives**

1. *To further the Aims set out in the Byron LEP 2014 by promoting the use of cycling in Byron Shire as a means of transport that is consistent with the Principles of Sustainability.*
2. *To ensure that development proposals take into account the full range of transport implications, impacts, modes and opportunities related to the proposed development.*
3. *To encourage an increase in the use of cycling as an alternative transport mode in order to reduce the dependence on use of motor vehicles within Byron Shire.*
4. *To provide a consistent basis for assessing the need for provision of facilities for cycling and cyclists in the development process.*

#### **Performance Criteria**

1. Development applications must demonstrate that all potential modes of transport have been addressed in assessing the requirements for transport and access to and from the proposed development. The assessment must address the potential for cycling as a means of transport to and from the site and the resultant need for the provision of facilities for cycling and cyclists at the site. The assessment must also address the need for providing and/or upgrading cycleways and other cycle related facilities to serve the proposed development, including those defined in the 'Action Plans' contained in the **Byron Shire Bike Strategy and Action Plan**.



2. Larger scale developments, including projects where completion of the approved, pending and intended future stages of development would result in a total parking demand of more than 100 car spaces calculated in accordance with the requirements of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access must be accompanied by a Transport Management and Access Plan that addresses:
  - a) the strategic environment of the site and its access, including relevant Council roads and transport strategies, the [Byron Shire Bike Strategy and Action Plan](#) and Council's Section 94 Plans and Contributions Plans;
  - b) a description of the proposed development and the existing transport infrastructure that provides access to and within the site;
  - c) an assessment of the transport, freight and access demands and travel patterns projected to be generated by the proposed development across all potential transport modes in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access with the addition of cycling;
  - d) analysis of the capability of the existing external transport system and internal facilities on site, including cycling facilities, to accommodate the development's transport and access demands;
  - e) proposed transport action plan, including the measures proposed to address external shortfalls, to provide facilities on site and to accommodate the needs of cycling and cyclists.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

### **B5.2.2 Design to Promote and Facilitate Cycling**

#### **Objectives**

1. *To further the Aims set out in the Byron LEP 2014 by promoting the use of cycling in Byron Shire as a means of transport that is consistent with the Principles of Sustainability.*
2. *To promote and foster alternative means of transport that reduce the dependency on use of motor vehicles in Byron Shire.*
3. *To ensure that development proposals encourage and promote cycling as a mode of transport by incorporating provision for well-designed, safe and convenient cycling access and end of trip facilities.*

#### **Performance Criteria**

1. Development proposals must be designed in a manner that encourages and facilitates safe and convenient cycle access to and from the site.
2. Cycle access to and from the site must be designed to afford cyclists protection from threat of collision or unsafe interaction with motor vehicles accessing the site.
3. Cycle access within the site must be designed to provide convenient, direct and safe access to and from cycle parking and end of trip facilities located on the site, and must afford cyclists protection from collision or unsafe interaction with motor vehicles. Cycle parking and end of trip facilities must be located to facilitate easy access between those facilities and the development, consistent with Section B5.2.4.



### **Prescriptive Measures**

There are no Prescriptive Measures.

## **B5.2.3 Provision of Cycleways**

### **Objectives**

1. *To augment and implement the existing and proposed cycleways identified by the **Byron Shire Bike Strategy and Action Plan** where they relate to development proposals.*
2. *To ensure that development applications accommodate, and where required provide cycleways and related facilities identified by the **Byron Shire Bike Strategy and Action Plan**.*

### **Performance Criteria**

Where development applications include or adjoin the site of an existing or proposed Cycleway or facilities identified in Table 6: Infrastructure Based Action Plan of the **Byron Shire Bike Strategy and Action Plan**, the proposed development must be designed to accommodate the cycleway and/or related facilities so identified.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **B5.2.4 Provision of Bicycle Storage, Parking and End of Trip Facilities**

### **Objectives**

1. *To facilitate and encourage the use of cycling as an alternative, sustainable mode of transport in Byron Shire.*
2. *To ensure that development proposals include provision for well-located and well-designed bike parking, storage and end of trip facilities for cyclists, consistent with current sustainable transport practise and provision standards.*

### **Performance Criteria**

1. Development applications that include site construction works other than internal building alterations must include provision for well-located and well-designed bicycle storage, parking and end of trip facilities within the development. They must be located to maximise their accessibility and ease-of-use for persons using the site. They must provide convenient, direct and safe access to and from the adjoining road and cycleway network.
2. The number and extent of bicycle storage, parking and end of trip facilities provided must be capable of accommodating the anticipated demand for cycling and cyclist numbers demonstrated by the Transport Management and Access Assessment prepared for the development in accordance with Section B5.2.1. Bicycle parking, storage and associated facilities must be designed and constructed in accordance with AS 2890.3. If a Transport Management and Access Assessment is not required, Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access still applies.

## Prescriptive Measures

1. Development applications that include site construction works other than internal building alterations must include Bicycle parking spaces as per the requirements of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access. Details to be submitted identifying if the parking is for short term purposes (e.g. for customers) or for the longer term (e.g. storage for staff).
2. Bicycle parking facilities must be designed and constructed in accordance with Figure B3 in AS 2890.3. The provision of all-weather protection for bicycle parking is encouraged.
3. Bicycle parking facilities must be located and designed to provide 600mm minimum clearance between parked bicycles and the edge of a motor vehicle traffic lane; and 1m minimum clearance where the average speed of traffic exceeds 60 km per hour. Bicycle parking facilities must provide a minimum 1200mm clearance between a parked bicycle and any other obstruction where pedestrians may need to pass.
4. **Bicycle storage spaces** may be provided as fully enclosed individual lockers (referred to in AS 2890.3 as Class 1 facilities), or as locked compounds (referred to in AS 2890.3 as Class 2 facilities), depending on the type of development and practicality of access to the facility. Compounds must be fitted with a sufficient number of devices for securing bicycles (referred to in AS 2890.3 as Class 3 facilities). Bicycle storage facilities must be covered to provide weather protection.
5. A private garage is deemed to incorporate the equivalent of an individual locker space.
6. Access paths to bicycle storage or parking facilities must ensure that the clearances shown in Figure 3.1 in AS 2890.3 will be provided. Where an access path to a bicycle storage or parking facility includes stairs, the stairs must include a bicycle wheeling ramp in accordance with figure 7.12 in the Austroads Guide to Traffic Engineering Practice - Part 14, Bicycles.
7. Bicycle parking and storage facilities must be located and designed to ensure that:
  - a) the bicycle frame can be secured, not just a wheel or wheels;
  - b) the device must provide stability for the bicycle;
  - c) the device must not create potential for damage to the bicycle;
  - d) the device must not include a slot in the ground that may fill with dirt and become difficult to maintain or use over time;
  - e) the facilities are in view of staff, customers and passers by or covered by surveillance cameras;
  - f) the facilities are located outside pedestrian movement paths;
  - g) the facilities are easily accessible from the road including provision of a convenient cut-down crossing (pram/kerb ramp) near the bicycle parking facilities;
  - h) the facilities are arranged so that parking entries and exits will not damage adjacent vehicles;
  - i) the facilities are protected from manoeuvring motor vehicles and opening car doors;
  - j) the facilities are be as close as possible to the cyclist's ultimate destination;
  - k) the facilities are well lit by appropriate new or existing lighting and protected from the weather; and
  - l) the facilities are attractive and designed to blend in with the development.



7. Where bicycle parking and storage facilities are not immediately obvious from the street or a building, directional signs must be provided to facilitate and promote use of the facilities.
8. Showers and lockers (where required by a Transport Management and Access Assessment) must be provided close to bicycle storage and parking facilities.



# Byron Shire Development Control Plan 2014

## Chapter B6 Buffers and Minimising Land Use Conflict



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## Chapter B6 – Buffers and Minimising Land Use Conflict

### Contents

<b>B6.1</b>	<b>Introduction.....</b>	<b>5</b>
B6.1.1	Purpose of this Chapter .....	5
B6.1.2	Application of this Chapter .....	5
B6.1.3	Aims of this Chapter.....	5
B6.1.4	Planning to avoid land use conflict .....	5
<b>B6.2</b>	<b>Development Controls.....</b>	<b>6</b>
B6.2.1	Responsibility for Managing Land Use Conflict .....	6
B6.2.2	Conflict Risk Assessment (CRA).....	7
B6.2.3	Planning Principles to Minimise Land use conflict .....	7
B6.2.4	Buffers .....	9

### Tables

Table B6.1 – Recommended minimum buffers (metres) for primary industries .....	12
Table B6.2 – Recommended minimum buffers (metres) for key environmental assets .....	13
Table B6.3 – Recommended minimum buffers (metres) for other land uses.....	14

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## **B6.1 Introduction**

### **B6.1.1 Purpose of this Chapter**

The purpose of this Chapter is to provide advice and guidance on planning for land use compatibility, avoiding land use conflict and the use of buffers. The emphasis in this Chapter is on identifying current and potential future land use conflicts at the outset and designing to avoid them during the development process where possible.

Valuable information, advice and techniques for planning to avoid land use conflicts in rural situations on the NSW North Coast are available in the publication '*Living and Working in Rural Areas, a handbook for managing land use conflict issues on the NSW North Coast*' (referred to in this Chapter as 'North Coast Living and Working in Rural Areas Handbook').

### **B6.1.2 Application of this Chapter**

This Chapter applies to all of the land subject to Byron LEP 2014.

### **B6.1.3 Aims of this Chapter**

The Aims of this Chapter are:

1. To ensure that potential land use conflicts are identified early in the development process.
2. To provide planning principles aimed at avoiding or minimising land use conflicts.
3. To ensure that development proposals are designed to minimise land use conflicts.
4. To provide standards for various types of buffers that aim to avoid conflicts or reduce them to acceptable levels.
5. To encourage a diversity of small agricultural enterprises by providing opportunities to vary the recommended buffer distances through the site assessment process where best practice is being utilised.

### **B6.1.4 Planning to avoid land use conflict**

Byron Shire provides a wide range of living, recreational and working environments, including coastal, urban, tourism, agricultural, rural living and environmentally sensitive environments. To accommodate the needs of residents and visitors a wide range of transport, infrastructure and resource-based facilities must also be provided. Consequently there is extensive potential for land use conflict, ranging from conflicts about noise and amenity issues between permanent residents and visitors in urban areas, through the types of rural conflicts discussed in the following paragraphs, to conflicts between residents and the carrying on of essential activities such as quarries, transport corridors and waste management facilities.

In relation to rural conflicts, 'North Coast Living and Working in Rural Areas Handbook' advises:



*'Rural amenity issues are the most common land use conflict issues, followed by environmental protection issues. Rural amenity issues include:*

- the impacts of agricultural and rural industry operations on local air quality (odour, pesticides, dust, smoke and particulates)*
- impacts on the use and enjoyment of neighbouring land e.g. noise from machinery*
- visual impacts associated with rural industry e.g. the use of netting, planting of mono cultures and impacts on views.*

*Environmental protection issues include soil erosion leading to land and water pollution, clearing of native vegetation and stock access to waterways. In addition to farming and residential conflicts, there are also conflicts between forestry and mining and residential land uses, and conflicts within the farming sector in rural areas.'*

The primary focus of this Chapter is to ensure that the potential for land use conflict is recognised at the project planning stage and is addressed in the development application process. Satisfactory avoidance of land use conflicts at DA stage can often be achieved through good site planning, sustainable management measures, or the provision of well-planned buffers.

## **B6.2 Development Controls**

### **B6.2.1 Responsibility for Managing Land Use Conflict**

#### **Objectives**

- 1. To ensure that existing legitimate development and land uses are not compromised by new development.*

#### **Performance Criteria**

1. It is the responsibility of applicants for development consent to ensure that potential land use conflicts are identified and managed appropriately.
2. Development applications must identify potential land use conflicts and must be designed to avoid those conflicts, or to reduce them to acceptable levels.
3. Where relevant, development applications must demonstrate that the natural and built resources of importance to the local, regional or state economy are not unreasonably constrained, impacted or sterilised by the location of incompatible land uses or by the design of new developments.
4. If potential conflicts cannot be resolved by site design or sustainable management methods, the most effective means of preventing conflict may be to plan for adequate separation between conflicting land uses. Where development design alone cannot deal adequately with potential adverse impacts and land use conflicts it often will be necessary to provide a buffer. It is the responsibility of the new development to provide the necessary buffer. Unless extenuating circumstances apply, a buffer must not extend beyond the boundary of the property on which the new development is located.

Particular criteria for buffers are addressed in Section B6.2.4.

#### **Prescriptive Measures**

There are no Prescriptive Measures.



## B6.2.2 Conflict Risk Assessment (CRA)

### Objectives

1. *To ensure that potential for land use conflict is identified and addressed systematically in the early stages of the development application process.*

### Performance Criteria

1. All development applications must identify any potential for land use conflicts and the means proposed to address those conflicts. In cases where potential for conflict is evident, development applications must be accompanied by a formal **Conflict Risk Assessment (CRA)** and associated mapping that defines and addresses at least the following:
  - a) The nature, intensity, extent and operational characteristics of any intended activities or uses within the proposed development that may create potential for land use conflicts in the locality.
  - b) Details of all geographical, topographical, vegetation, meteorological and other factors in the surrounding environment that may influence the potential for land use conflict.
  - c) Location, separation distances and use of all adjoining and other lands likely to create or influence potential for conflict between the proposed development and existing or proposed land uses.
  - d) The nature, intensity, extent and operational characteristics of activities or land uses within the adjoining and nearby lands that may create potential for land use conflicts with the proposed development.
  - e) An assessment of the external effects and impacts likely to be generated by both the proposed development and the adjoining land uses and their potential to cause conflict.
  - f) Details of the proposed management measures, buffers and other planning or operational strategies to be incorporated in the proposed development to manage potential land use conflicts, together with an evaluation of the nature, extent and quantum of mitigation expected to be achieved.
2. The format, level of detail and assessment criteria for each **CRA** will vary depending on factors such as the nature and scale of the proposed development, the likely intensity and significance of potential conflicts, local environment and circumstances. Consequently no prescriptive format is specified for a **CRA**, however valuable guidance can be found in the 'North Coast Living and Working in Rural Areas Handbook'.

### Prescriptive Measures

There are no Performance Criteria.

## B6.2.3 Planning Principles to Minimise Land use conflict

### Objectives

1. *To ensure that development applications are designed to avoid land use conflicts.*
2. *To define planning principles to be applied to proposed development to minimise the risk of land use conflicts.*





## Performance Criteria

When considering development applications and associated **CRAs** where potential for land use conflict arises, Council will apply the following principles adapted from 'North Coast Living and Working in Rural Areas Handbook'. Development applications involving potential land use conflict must demonstrate how the proposed development addresses each principle and achieves the above Objectives.

### 1. General

- a) Decisions about new development should ensure that the natural and built resources of importance to the local, regional or State economy are not unreasonably constrained, impacted or sterilised by the location of incompatible land uses.
- b) Buffers between incompatible land uses do not take the place of sound strategic planning though they do offer an added level of conflict risk avoidance in land use planning and development.
- c) It is the responsibility of the encroaching development to provide the necessary setback and buffer to incompatible land uses. The extent of a buffer should not extend beyond the boundary of the property required to provide the buffer except via negotiation and agreement.
- d) The most effective means of preventing conflict is to plan for adequate separation between conflicting land uses.
- e) Potential risks of conflict created by residential expansion towards rural lands should be systematically assessed as early as possible in the planning process.
- f) New development next to or near to farmland, extractive resources, waterways, wetlands, and areas of high biodiversity value should incorporate buffers to avoid land use conflict.

### 2. Environmental Protection

- a) New urban development, rural settlement and other development should be sited and designed to protect key environmental assets and, where possible, enhance environmental assets including **high conservation value vegetation and habitats** and ecosystems, ecosystem corridors, waterways, endangered ecological communities and key habitat.
- b) The potential for land use conflict and development of mitigation measures should be assessed as part of any proposed intensification of use, in particular proposed residential development at the urban/rural interface and within the rural areas.
- c) Natural resources and environmental assets should not be damaged, constrained or sterilised by the location of incompatible land uses.

### 3. Community engagement

- a) Community engagement, including consultation with adjoining landowners and operators of 'scheduled activities' (as defined by the *Protection of the Environment Operations Act*), should be part of the development planning process to identify and avoid land use conflict.

### 4. Protection of resource access and use

- a) New urban development, rural settlement and other development in rural areas should be sited and designed so they do not interfere with legitimate and routine rural land uses on adjoining lands.



- b) Landscape values of rural lands should be protected.
- c) The different values of rural lands should be co-managed.
- d) Rural land uses should be protected from conflict with residential uses.
- e) The compatibility of proposed development in rural areas with the rural land uses currently or expected to take place in the locality and on adjoining lands should be documented and assessed before determining an application for new development in rural areas.
- f) Current best practice and the most likely intensive rural land use should be adopted in assessing the compatibility of adjoining land uses.
- g) Agricultural farmland should remain available in large contiguous areas for future rural industry activities. Lack of current viability of a property or farming areas is not enough justification to convert rural land to non-rural uses.
- h) The potential for land use conflict and development of mitigation measures should be assessed as part of any proposed residential development at the urban/rural interface and within rural areas.
- i) In rural zones, rural land uses should generally take precedence over non rural land uses in order to protect resource access and use.

#### 5. Cultural heritage recognition

- a) Aboriginal cultural heritage should be taken into account in the planning, siting, design and management of developments where there is a threat or perceived threat to Aboriginal cultural values including significant sites and places.
- b) Early consultation with Aboriginal communities in a culturally appropriate manner is a fundamental prerequisite of any development application where these sensitivities require consideration. Consult the local council's Aboriginal liaison officer or Local Aboriginal Land Council community support officer.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

## **B6.2.4 Buffers**

### **Objectives**

1. *To avoid land use conflicts between proposed new development and existing, legitimate land uses.*
2. *To outline controls for buffers aimed at reducing land use conflicts between proposed new development and existing, legitimate land uses where development design and siting cannot deal satisfactorily with land use conflict.*
3. *To provide for existing, legitimate agricultural and associated rural industry uses to take precedence over other rural land uses within primary production rural zones and where appropriate in other rural zones.*
4. *To protect significant environmental and natural resources through incorporation of buffers into developments.*



## Performance Criteria

Where development design and siting cannot deal satisfactorily with potential for land use conflict between a proposed development and existing or proposed developments or land uses, Council will apply the following requirements and principles for the establishment of buffers. Much of the following has been adapted from Chapter 6 of *'North Coast Living and Working in Rural Areas Handbook'*. Measures to ensure that buffers are maintained for the life of the proposed development should be nominated in the development application.

Development applications involving such potential for land use conflicts must demonstrate how the proposed development addresses each of the following criteria and achieves the above Objectives:

### 1. The Role of Buffers

Defining minimum buffer distances between incompatible land uses and key natural resource assets is a useful mechanism for reducing and avoiding the threat of land use conflict issues between incompatible land uses. However, buffers have their limitations and need to be used with caution and in combination with other strategies to reduce land use conflict risks and manage interface issues.

Complying with prescribed buffer setbacks will help decrease the potential for conflict, though it cannot guarantee that land use conflict and interface issues will be totally removed. Variables such as changes in ownership of adjoining lands, changes in land use and management practices and variable climatic conditions can affect the success of land use buffers.

Similarly, complying with a buffer setback does not guarantee that Council will grant consent to a development application. Equally, where a buffer is found to not be suitable for the subject site Council may reduce the width of the buffer. Mitigation of land use conflict and the application of land use buffers are part of a broader consideration of environmental, social and economic factors which Council must take into account in determining the merits of a given land use proposal.

In circumstances where the use of a buffer does not deal satisfactorily with conflicts or impacts (e.g. in cases where farm machinery, crop spraying or other agricultural practices are used on an adjoining property) it will be necessary for the proposed development to incorporate further design or management measures to address those impacts.

### 2. Types of Buffers

Different types of buffers may be used to deal with differing land-use conflicts and planning scenarios, including the following:

- a) *Separation buffers* are the most common and involve establishing a physical separation between land uses where conflict could arise. The aim of doing this is to reduce the impacts of the uses solely by distance separation, rather than by any physical means such as earthworks or vegetation planting. These can be fixed separation distances or variable. Fixed separation distances generally apply in the absence of evidence that an alternate lesser buffer will be effective in the circumstances. Variable separation distances are calculated based on the site specific circumstances given factors such as the scale of the development, risk of conflict and risk to the adjoining environment having regard to accepted procedures for assessing these risks.
- b) *Biological and vegetated buffers* are buffers created by vegetation planting and physical landscaping works. They are most commonly designed to reduce visual impact and reduce the potential for airborne-created conflict such as chemical



spray drift and dust. They can help provide environmental protection through vegetated filter strips and riparian plantings.

- c) *Landscape and ecological buffers* refer to the use of vegetation to help reduce the ecological impacts from development. They are mostly used to protect a sensitive environment by maintaining or enhancing existing habitat and wildlife corridors.
- d) *Riparian buffers* are a particular form of separation, biological and ecological buffers. They are designed to protect the biophysical and geophysical integrity of riparian environments.
- e) *Property management buffers* refer to the use of alternative or specialised management practices or actions at the interface between uses where the potential for conflict is high. The aim of these buffers is to reduce the potential of conflict arising in the first place. Examples include siting cattle yards well away from a nearby residence to reduce potential nuisance issues, and adopting a specialised chemical application regime for crops close to a residence or waterways with the aim of minimising off-site impacts on neighbours and the environment.
- f) Other buffers: There are other statutory and recommended buffers that can apply to a specific sites and situations. These include:
  - i) Bushfire protection buffers.
  - ii) Mosquito buffers.
  - iii) Airport buffers.
  - iv) Power line buffers.
  - v) Rifle range buffers.
  - vi) Railway line buffers.
  - vii) Cultural heritage buffers.

### **Prescriptive Measures**

1. The buffer distances in Tables B6.1, B6.2 and B6.3 (adapted from 'North Coast Living and Working in Rural Areas Handbook') apply generally to development. Because each case will be different depending on the nature of the local environment and the extent and intensity of existing and proposed land uses, Council may vary the buffer distances specified herein following consideration of a formal **Land Use Conflict Risk Assessment**, planning principles and resultant management measures as referred to in Sections B6.2.2 and B6.2.3.
2. In circumstances where the proposed buffer does not satisfactorily deal with conflicts or impacts the proposed development must incorporate further management measures to ensure that those impacts are addressed.

**Table B6.1 – Recommended minimum buffers (metres) for primary industries**

(Note: The desirable buffer in the circumstances will be the separation distance and conflict avoidance strategy that protects: community amenity, environmental assets, the carrying out of legitimate rural activities in rural areas and the use of important natural resources.)

	Residential areas & urban development	Rural dwellings	Education facilities & pre-schools	Rural tourist accommodation	Watercourses & wetlands	Bores & wells	Potable water supply/ catchment	Property boundary	Roads
Piggeries <sup>1</sup> Housing & waste storage (9)	1000	500	1000	500	100	SSD	800	100	100
Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Feedlots <sup>2</sup> Yards & waste storage (9)	1000	500	1000	1000	100	SSD	800	100	100
Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Poultry <sup>3</sup> Sheds & waste storage (9)	1000	500	1000	500	100	SSD	800	100	100
Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Dairies <sup>4</sup> Sheds & waste storage (9)	500	250	250	250	100	SSD	800	100	100
Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Rabbits <sup>5</sup> Wet shed, ponds & irrigation.	300	150	150	150	100	SSD	800	50	50
Dry shed	120	60	120	60	100	SSD	800	20	20
Other intensive livestock operations <sup>6</sup>	500	300	500	300	100	SSD	800	100	100
Grazing of stock	50	NAI	50	50	BMP	SSD	BMP	NAI	BMP
Sugar cane, cropping & horticulture	300	200	200	200	BMP	SSD	BMP	NAI	BMP
Greenhouse & controlled environment horticulture	200	200	200	200	50	SSD	SSD	50	50
Macadamia de-husking	300	300	300	300	50	SSD	SSD	50	50
Forestry & plantations	SSD	SSD	SSD	SSD	STRC	SSD	SSD	BMP	STRC
Bananas	150	150	150	150	BMP	SSD	SSD	BMP	BMP
Turf farms <sup>8</sup>	300	200	200	200	50	SSD	SSD	BMP	SSD
Rural industries (incl. feed mills and sawmills)	1000	500	500	500	50	SSD	SSD	SSD	50
Abattoirs	1000	1000	1000	1000	100	SSD	800	100	100
Potentially hazardous or offensive industry	1000	1000	1000	1000	100	SSD	800	100	100
Mining, petroleum, production & extractive industries	500 1000*	500 1000*	500 1000*	500 1000*	SSD	SSD	SSD	SSD	SSD
* Recommended minimum buffer distance for operations involving blasting.									

**Source:** Table 6, 'North Coast Living and Working in Rural Areas Handbook'.



**NAI:** Not an issue.

**SSD:** Site specific determination (no standard or simple buffer distance applies).

**BMP:** Best management practice to apply given site circumstances. Buffer and/or management practice should represent duty of care to the environment and the public and include measures necessary to protect bank stability, maintain riparian vegetation and protect water quality. The incorporation of best management practice measures in property and farm plans is encouraged.

**STRC:** Subject to relevant codes.

Buffer distances represent the recommendations of the North Coast Land Use Conflict Working Group following a synthesis of existing guidelines and policy. In some cases, specific and relevant guidelines may require larger buffers or lesser buffers than those prescribed and may be appropriate in the circumstances.

**Notes:**

1. Subject to environmental assessment in accordance with National *Environmental Guidelines for Piggeries* (APL 2004) and *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
2. Subject to environmental assessment in accordance with *NSW Feedlot Manual* (NSW Agriculture 1997) or *A Producers Guide to Starting a Small Beef Feedlot in NSW* (NSW Agriculture, 2001) and *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
3. Subject to environmental assessment in accordance with *NSW Poultry Farming Guidelines* (NSW Agriculture 1996), *NSW Meat Chicken Guidelines* (NSW Agriculture 2004), *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
4. Subject to environmental assessment in accordance with *NSW Guidelines for Dairy Effluent Resource Management – Draft* (NSW Agriculture 1999), and *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
5. Subject to environmental assessment in accordance with *Rabbit Farming: Planning and development control guidelines* (NSW Inter-Departmental Committee on Intensive Agriculture, 1999) and environmental assessment in accordance with *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)
6. Subject to environmental assessment in accordance with *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006) and any other relevant guideline or policy
7. Subject to environmental assessment in accordance with *Guidelines for the Development of Controlled Environment Horticulture* (NSW DPI 2005)
8. Subject to environmental assessment in accordance with *Turf Farming – Guidelines for Consent Authorities in NSW* (NSW Agriculture 1996)
9. Smaller enterprises may not require the recommended buffer distance provided that nuisance issues created by odour, noise, machinery, vehicle movements (tractors/ delivery trucks etc), dust and the like are actively managed and minimised in accordance with the best practice guidelines

**Table B6.2 – Recommended minimum buffers (metres) for key environmental assets**

	Residential areas & urban development	Rural settlement	Education facilities & pre-schools	Rural tourist accommodation
State & regionally significant farmland	300	SSD	SSD	SSD

**Source:** Table 7 (modified), 'North Coast Living and Working in Rural Areas Handbook'.

**SSD:** Site specific determination (no standard or simple buffer distances apply).

Buffer distances represent the recommendations of the North Coast Land Use Conflict Working Group following a synthesis of existing guidelines and policy. In some cases, specific and relevant guidelines may require larger buffers or lesser buffers than those prescribed and may be appropriate in the circumstances.

**Table B6.3 – Recommended minimum buffers (metres) for other land uses**

	Residential areas & urban development	Rural settlement	Education facilities & pre-schools	Rural tourist accommodation
Waste facilities	300	300	300	300
Sewage treatment plant	400	400	400	400
Dip sites <sup>1</sup>	200	200	200	200
Boarding kennels	500	500	500	500
Stock yards including cattle yards	200	200	200	200
Stock homes/stables <sup>2</sup>	SSD	SSD	SSD	SSD
Effluent re-use areas <sup>3</sup>	SSD	SSD	SSD	SSD

**Source:** Table 8, 'North Coast Living and Working in Rural Areas Handbook'.

**SSD:** Site specific determination (no standard buffer distances apply).

**Notes:**

1. The Cattle Tick Dip Site Management Committee (DIPMAC) recommends a nominal 200 metre radius assessment zone around cattle dip sites. Residential development proposed within this zone should be subject to a contaminated lands assessment to determine the extent of contamination and risks posed by contamination. The assessment and any proposed remediation works must also meet the requirements of *State Environmental Planning Policy No. 55 – Remediation of Land*. Urban encroachment onto working cattle dip sites is to be avoided where possible.
2. Subject to assessment in accordance with NSW Department of Environment and Conservation publication *Environmental Management on the Urban Fringe – Horse Properties on the Rural Urban Fringe, Best Practice Environmental Guide for Horses* (2004).
3. Subject to assessment in accordance with NSW Department of Environment and Conservation publication *Use of Effluent by Irrigation* (2003) or local policy as adopted by individual councils.





# Byron Shire Development Control Plan 2014

## Chapter B7 Mosquitoes and Biting Midges



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## Chapter B7 – Mosquitoes and Biting Midges

### Contents

<b>B7.1</b>	<b>Introduction</b> .....	<b>5</b>
B7.1.1	Mosquitoes and Biting Midges in Byron Shire.....	5
B7.1.2	Aims of this Chapter .....	6
B7.1.3	Application of this Chapter .....	6
<b>B7.2</b>	<b>General Provisions</b> .....	<b>6</b>
B7.2.1	Mosquito and Biting Midge Risk Zones .....	6
B7.2.2	Strategies and Guidelines for proposed developments within risk zones .....	7
	References.....	13

### Maps

Map B7.1 – Mosquito risk zones associated with saltmarsh and coastal swamp habitats in Byron Shire. ....	11
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### Tables

Table B7.1 – Entomological and environmental factors to be considered in mosquito risk assessment reports.....	12
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## B7.1 Introduction

### B7.1.1 Mosquitoes and Biting Midges in Byron Shire

This purpose of this Chapter is to address the public health and nuisance issues associated with mosquitoes and biting midges by recommending strategies to be incorporated into the approval and construction process of new residential and tourism developments. While it is impossible to eliminate all biting insect risk, minimizing pest problems through 'mosquito aware' urban design is possible.

In April 2012 Byron Shire Council adopted a comprehensive Mosquito Management Plan that provides important information on the biology, ecology and pest status of mosquitoes in Byron Shire and the most effective management strategies to deal with them. This document should be referred to in preparing any development application in a mosquito risk area.

Biting midges are a less diverse group of insects and, although they are not responsible for the transmission of human disease-causing pathogens, they are important vectors of veterinary disease. These insects are often mistakenly called "sandflies" in Australia. However, true sandflies belong to a completely different group of biting insects (subfamily Phlebotominae, family Psychodidae) that do not occur in Australia.

While both mosquitoes and biting midges have the potential to cause serious nuisance-biting impacts, it is the transmission of disease-causing pathogens by mosquitoes that is of greatest concern in the Byron Shire. The two most common mosquito-borne pathogens that cause human disease are Ross River virus (RRV) and Barmah Forest virus (BFV). These viruses can cause potentially debilitating (but not fatal) disease with symptoms including fever, rash, arthritic pain, fatigue and nausea and rash that may last for less than a week but occasionally for many months.

#### Predicting areas of greatest risk

Predicting the areas of greatest risk from biting insects can be difficult due to the biological and ecological traits of each species, particularly their propensity to disperse from breeding habitats and the environmental/climatic drivers of population abundance. A map of mosquito and biting midge risk zones has been produced for Byron Shire (See Map B7.1). This map has been produced based on surveys of vegetation categories and their associated adult and immature mosquito and biting midge populations (both diversity and population abundance) as well as local environmental drivers of population abundance. This information is a guide that can be used to estimate those areas where potential biting insect pest problems is most likely to occur.

Detailed information on the key pest mosquito and biting midge species is provided in the Byron Shire Council Mosquito Management Plan (Webb & Russell 2011).

#### Development considerations

As well as increasing the human population close to biting insect habitats, the developments themselves can increase pest impacts by enhancing breeding conditions for these insects. Developments that can increase the biting insect problems include the creation of waterfront estates, extensive stormwater basin development, reduced water quality through nutrient load or acidic runoff, altered natural drainage systems and siltation problems. Many elements of **water sensitive urban design (WSUD)**, including the installation of rainwater tanks, rain gardens and bio-retention swales, can create potential mosquito habitats if not designed, constructed or maintained appropriately.



## B7.1.2 Aims of this Chapter

The Aims of this Chapter are:

1. To provide advice on mosquito and biting midge risk in Byron Shire.
2. To highlight areas where there is greater risk and to make provision in new developments to minimize pest and public health risk.
3. To provide guidelines for the consideration of reducing habitats for biting insects within new developments

## B7.1.3 Application of this Chapter

This Chapter applies to all development in Byron Shire incorporating residential subdivision, **residential accommodation** or **tourist and visitor accommodation**.

## B7.2 General Provisions

### B7.2.1 Mosquito and Biting Midge Risk Zones

#### Objectives

1. *To identify potential mosquito and biting midge risk zones.*
2. *To ensure that Development Applications identify all potential mosquito and biting midge risks and consider risk minimisation strategies.*

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

To facilitate this Chapter, a risk map has been developed for the Shire that highlights areas of elevated risk posed by mosquitoes and/or biting midges. These risk zones are illustrated in Map B7.1. It must be noted however, that the impacts of mosquitoes and biting midges may be experienced beyond the current mapped risk zones.

The following measures apply to areas identified in Map B7.1:

- a) Development Applications must address biting insect mitigation and management issues.
- b) Where the presence of biting insect risk is disputed, the onus of proof is on the developer to demonstrate that mosquitoes and biting midge nuisances and/or associated disease problems are not serious. In those cases it will be necessary for the developer to submit a report prepared by a suitably qualified and experienced entomologist engaged to carry out the scientific investigations necessary to evaluate Mosquitoes and Biting Midge nuisance and/or disease risks. The report will need to address the issues in Table B7.1. Furthermore it will be necessary for both the entomologist and his/her proposed methodology to be acceptable to the Council.



## B7.2.2 Strategies and Guidelines for proposed developments within risk zones

### Objectives

1. *To identify minimum mosquito and biting midge mitigation strategies for proposed development in risk zones.*
2. *To provide mosquito and biting midge management guidelines for proposed new development.*

### Overview

A common strategy to mitigate the nuisance-biting impacts of mosquitoes and biting midges is to provide a buffer zone cleared of substantial vegetation between known biting insect habitats and residential **allotments**.

Mosquitoes and biting midges usually travel along well-vegetated corridors where the shaded, relatively cooler and humid conditions provide protection from the desiccating effects of sun and wind. Consequently an open, lightly treed buffer is preferable to heavily shaded, moist, foliated buffers.

Council is guided by the Byron Biodiversity Conservation Strategy 2004 and by other statutory requirements regarding habitat management and clearing of vegetation.

Various planning objectives contained within those planning policies and instruments may be inconsistent with the guidelines for alleviating and minimizing biting insect nuisance. It is therefore essential that landowners and developers contact Council prior to clearing vegetation or proposing to clear vegetation.

### Performance Criteria

The following suggested management and mitigation considerations are to be addressed in development proposals relating to subdivision for residential purposes, **tourist and visitor accommodation**, **multi dwelling housing** and **artificial waterbodies** associated with residential developments.

#### 1. Residential Subdivision

To assist in mitigating mosquito and biting midge nuisance biting in residential subdivisions proposed in risk areas, the following design features should be considered:

- a) Open buffer zones should be placed between new housing subdivisions and known mosquito and biting midge breeding and harborage areas. These buffers should be free of dense shady vegetation.

Different mosquito and biting midge species vary greatly in their ability to disperse in search of blood meals, so the width necessary for buffer zones to be effective can vary from as little as 50m to over 3km. It should be noted that mosquito and biting midge impacts will gradually reduce as the distance from breeding habitat increases rather than suddenly disappearing once a critical distance is reached.

The appropriateness of buffer zone distances will tend to be site-specific with consideration needing to be given to the species of mosquito present, mosquito habitats adjoining the proposed development and the local environmental drivers of mosquito abundance. Buffer zone distances of less than 20m would not be considered effective in mitigating any pest mosquito impacts. Mitigation of the impacts associated with coastal swamp mosquitoes may be achieved with buffer distances of over 40m dependent on site-specific environmental factors.

Where possible, residential **allotments** within a proposed development should be located as far as possible from known biting insect habitats in adjoining environments. Open parkland, sporting fields, car parks, cycle ways and roadways should be located between the adjacent habitats and the nearest residential allotments.

- b) Continuous vegetation lines or smaller clumps of dense vegetation leading into residential areas from breeding areas will act as corridors for biting insects.
- c) Any earthworks to be undertaken in conjunction with development (e.g. filling of land above flood height, roadway construction etc) must consider the implications for runoff and surrounding drainage systems. This is to minimize any opportunities for the creation of standing water on-site or increases in water flow into potential mosquito and biting midge breeding areas.
- d) **Water Sensitive Urban Design (WSUD)** elements such as the installation of bioretention swales, raingardens and above ground and subterranean rainwater storage tanks should be designed in a way to minimize mosquito breeding. Structures should be designed so that standing water drains from surface pools quickly and rainwater tanks should be appropriately screened and installed so that mosquitoes have no access to the internal areas of the tank.
- e) Discharge or overflow points from drains into waterways or wetlands should be designed to avoid habitat changes at discharge points such as will occur if organically enriched drainage from urban areas is directed into mangrove areas or tea tree wetlands.
- f) Development applications for the subdivision of five (5) or more lots within risk zones, or where it is considered necessary by Council, must be accompanied by a report from a suitably qualified and experienced entomologist addressing mosquito and biting midge risks and management measures. In most instances, such a report will require sampling of site-specific biting insect populations and this sampling should be undertaken at an appropriate time (e.g. within the period November – May) and following environmental events (e.g. spring tides or substantial rainfall) that would be expected to trigger population abundance increases of biting insects. The report will need to address the issues in Table B7.1.

## 2. **Tourist & Visitor Accommodation and Multi Dwelling Housing**

The above 'Residential Subdivision' considerations apply equally to **tourist and visitor accommodation** and **multi dwelling housing**. However due to the master planned nature of these developments some considerations can be taken further, including the following:

- a) Daytime only recreation areas such as golf courses and tennis courts and open parkland, car parks, cycle ways and roadways should be located between the adjacent habitats and the accommodation facilities.
- b) On-site habitat modification of low-lying areas (e.g. degraded cattle pasture or cane farms) may be possible to reduce the risk of mosquito and biting midge breeding. However, the design plans of any wetland construction and/or rehabilitation planned to be undertaken within the proposed development should be reviewed by a qualified entomologist as to provide site-specific mosquito mitigation elements into the initial phases of the project's design and construction.
- c) Landscape layout and vegetation species should be selected to minimize the enhancement of biting insect harborage and dispersal corridors. Sparse growing native ground covers can provide aesthetic appeal to buffer zones without facilitating the movement of biting insects. Native shrubs (e.g. grevilleas and banksias) can be useful but care should be taken when planting extensive stands



of she-oaks (i.e. casuarinas) or paperbarks/tea-trees (i.e. melaleucas) that can create shaded areas. Heavily foliated plants, particularly those requiring frequent watering as used in “Hawaiian” styled gardens should be avoided near accommodation areas or evening recreation areas. Tall, lightly foliated species with a high canopy such as eucalypts and palms pose a lower risk as they allow good air circulation at ground level.

- d) The provision of screened outdoor areas of a size commensurate with the number of people who are likely to use it will provide protection from mosquitoes during the periods of peak activity and during the evening when mosquito activity is generally greatest. A combination of permanent and temporary screened areas can be employed and with the incorporation of retractable and/or removable screens providing additional flexibility to respond to seasonal differences in mosquito activity.
- e) Development Applications within risk zones of five (5) or more tourism units, or where it is considered necessary by Council, must be accompanied by a report from a suitably qualified and experienced entomologist addressing mosquito and biting midge risks and management measures. In most instances, such a report will require sampling of site-specific biting insect populations and this sampling should be undertaken at an appropriate time (e.g. within the period November – May) and following environmental events (e.g. spring tides or substantial rainfall) that would be expected to trigger population abundance increases of biting insects. The report will need to address the issues in Table B7.1.

### 3. Constructed waterbodies within residential or tourism developments

The following guidelines are suggested for constructed waterbodies to reduce potential biting insect problems:

- a) Maintaining good water quality in the waterbody will encourage the colonization of predatory macroinvertebrates (e.g. dragonfly larvae, beetle larvae etc) that may assist in minimizing the production of mosquitoes as well as sustaining endemic predatory fish populations.
- b) Water levels in waterbodies should be able to be managed and maintained at a depth of at least 300mm. Shallow waterbodies hold a greater likelihood of producing abundant mosquito populations. Waterbodies should also not be highly ephemeral in nature as habitats that regularly flood (and remain flooded for more than one week) and dry out can produce abundant mosquito populations following each flooding.
- c) Waterbodies should be designed to avoid the potential for extensive emergent aquatic plant growth. Native plants with a generally sparse growth are most desirable and fast growing invasive species (e.g. *Typha* spp and *Phragmites* spp.) should be avoided. Deep water areas that are resistant to invading aquatic plants and will not quickly fill with sediment are important to facilitate wind generated wave action across the water body and provide a refuge for predatory fish populations. Deeper water zones along the shoreline separating shallow macrophyte zones can provide additional access by predatory fish. Hard edges around the wetland that separate aquatic and terrestrial vegetation can greatly assist maintenance of both vegetation classes.
- d) Water flows and circulation should be actively managed as stagnant water and/or poor circulation can promote biting insect production directly or indirectly by encouraging algal growth that can provide enhanced conditions for biting insect production. The outline of the wetland should be simple and avoid complex areas where water flow is restricted. To maximize water movement around the margins of the wetlands, the installation of a hard vertical edge of at least 200mm (or a





suitable height to ensure that the water level remains in contact with the hard edge) will greatly reduce the suitability of the habitat for mosquitoes.

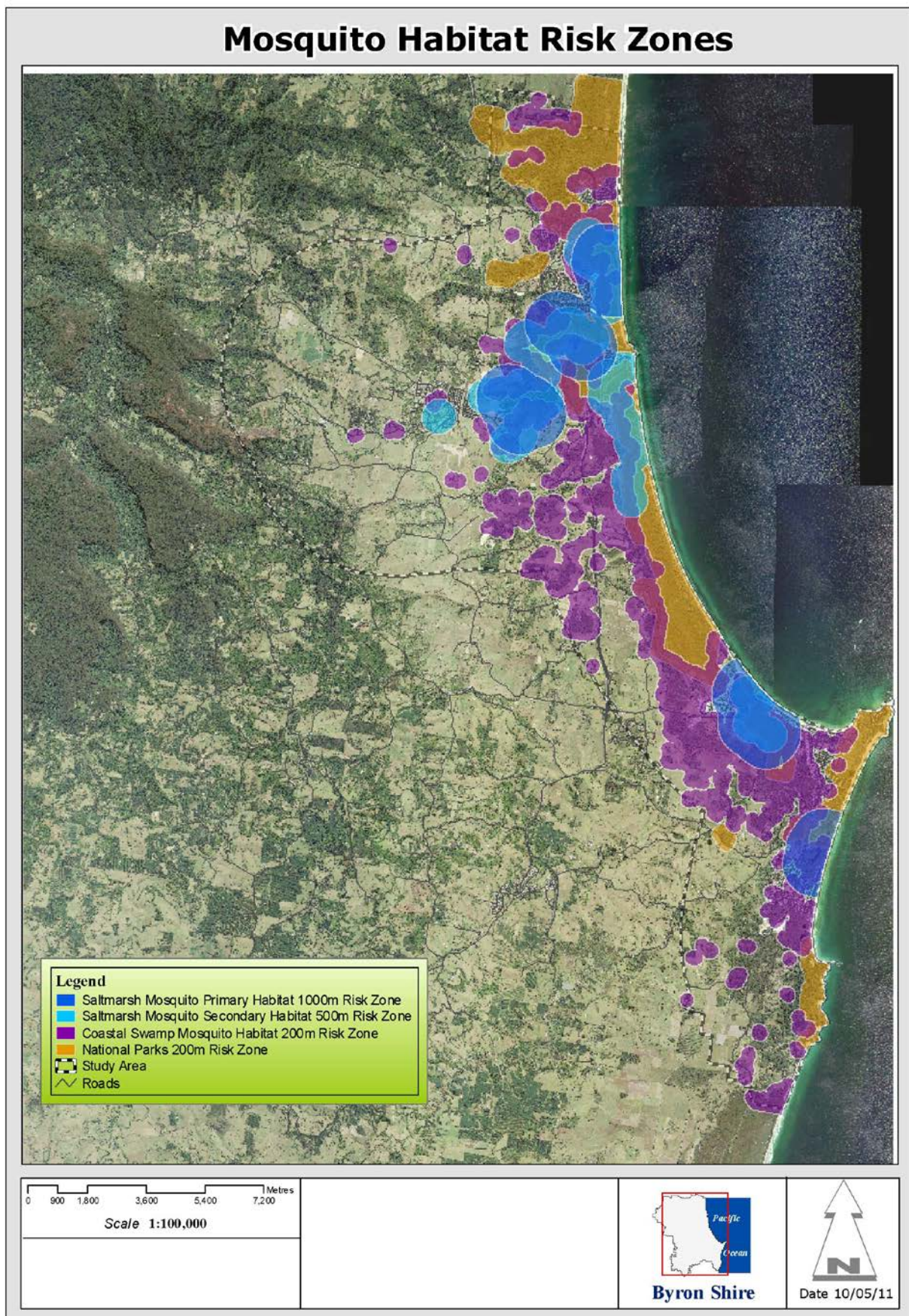
- e) Wetlands which cannot be managed using the above methods or would require the use of pesticides to maintain mosquito and biting midge control will be unlikely to receive approval.
- f) Constructed waterbodies should have a maintenance manual and an ongoing funding base for maintenance activities. All constructed waterbodies will require some level of maintenance on an annual basis to ensure inflow structures are cleaned of sediments, debris and rubbish, vegetation density is minimised and invasive plants removed and water flow/circulation devices are adequately serviced. A key element of the maintenance of the water body should be periodic monitoring to assess mosquito and biting midge productivity and the impacts on nearby residents.

### **Prescriptive Measures**

The following measures apply to all development incorporating a **residential dwelling(s)**, **educational establishment**, **recreation area** or **tourist and visitor accommodation** located within a mosquito risk zone identified in Map B7.1:

- a) All development must provide effective insect screening to all windows, doors and other openings to all parts of the development used for residential purposes.
- b) All development must incorporate an effectively screened outdoor area of a size commensurate with the number of people who are likely to use it, to enable an outdoor lifestyle to continue to be enjoyed during periods of high mosquito and biting midge activity. This may be a communal area for development incorporating more than one **dwelling** or more than one tourist accommodation unit.
- c) Measures arising from the entomologist's recommendations to minimise the potential impact on residents from mosquitoes and biting midges must be based on a demonstrated investigation strategy and sound knowledge of all the nearby habitats that could be expected to significantly affect the breeding and harborage of mosquitoes and biting midges.
- d) Establishment of any buffers required must be within the development site and not reliant upon neighbouring or adjoining land, public reserves, Crown Land and Nature Reserves. Buffers must be on land of low biodiversity significance.

**Map B7.1 – Mosquito risk zones associated with saltmarsh and coastal swamp habitats in Byron Shire.**





**Table B7.1 – Entomological and environmental factors to be considered in mosquito risk assessment reports**

Consideration	Notes
Location of proposed development	Does the site of the proposed development occur within the nominated mosquito risk zones of Byron Shire (Map B7.1)
Local mosquito habitats	Have the neighbouring actual and potential mosquito habitats to the proposed development been identified along with the local drivers of increased mosquito activity in those habitats?
Local mosquito fauna	Have the key pest species, and their role in mosquito-borne pathogen transmission, likely to impact a proposed development been identified through existing site-specific data or fauna surveys
Mosquito fauna surveys	In the absence of site-specific data on pest mosquitoes, have mosquito fauna surveys been conducted? Detailed information on the methodology of mosquito surveys should be included in documentation and include: <ul style="list-style-type: none"> <li>i. Dates of sampling</li> <li>ii. Location of trap sites within proposed development as well as reference sites</li> <li>iii. Trap types and other sampling methods</li> <li>iv. Reference to taxonomic guides used for identification and records of voucher specimens identified during surveys</li> <li>v. Records of environmental conditions preceding and during surveys (e.g. tide heights, rainfall, temperature)</li> </ul>
Comparative risk analysis	Site-specific mosquito data should be compared to existing data collected by Byron Shire Council to provide a relative measure of potential mosquito risk within the proposed development compared to other areas within the region
On-site mosquito habitat construction or creation	Will new mosquito habitats be created on-site in the form of constructed, modified or rehabilitated waterbodies, stormwater systems or elements of <b>Water Sensitive Urban Design (WSUD)</b> (e.g. rain gardens, bioretention swales) or installation of above ground or below ground rainwater tanks?
Constructed, modified or rehabilitated waterbodies	If such waterbodies are to be included in proposed development, detailed information should be provided regarding the design, construction, planting and maintenance strategies and how mosquito production will be minimised
Building design and layout	Has the layout of the proposed development and the building design within given consideration to mosquitoes (i.e. appropriate screening of windows and provision of outdoor screened enclosures)?
Buffer zones	Has appropriate consideration been given to buffer zones between residential allotments and adjoining mosquito habitats?

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# Byron Shire Development Control Plan 2014

## Chapter B8 Waste Minimisation and Management



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## Chapter B8 – Waste Minimisation and Management

### Contents

<b>B8.1</b>	<b>Introduction.....</b>	<b>5</b>
B8.1.1	Purpose of this Chapter .....	5
B8.1.2	Aims of this Chapter .....	5
B8.1.3	Application of this Chapter .....	6
B8.1.4	Abbreviations.....	7
<b>B8.2</b>	<b>Submission Requirements for DAs .....</b>	<b>7</b>
B8.2.1	Documentation required for all DAs .....	7
B8.2.2	Site Waste Minimisation and Management Plans .....	7
B8.2.3	Waste/Recycling Generation Rates .....	8
<b>B8.3</b>	<b>General Development Criteria.....</b>	<b>8</b>
B8.3.1	Demolition of Buildings or Structures .....	8
B8.3.2	Construction of Buildings or Structures .....	10
B8.3.3	Bin Sizes and Collection Measures.....	11
<b>B8.4</b>	<b>Specific Development Criteria .....</b>	<b>12</b>
B8.4.1	Dwelling Houses, Semi Detached Dwellings and Dual Occupancies .....	12
B8.4.2	Multi Dwelling Housing, Residential Flat Buildings and Attached Dwellings .....	14
B8.4.3	Tourist Accommodation and Commercial and Retail Development.....	17
B8.4.4	Mixed Use Development.....	19
B8.4.5	Industrial Development .....	20

### Tables

Table B8.1 – Examples of demolition materials and potential reuse/recycling opportunities .10

### Appendices

Appendix B8.1	Site Waste Minimisation and Management Plan Template (SWMMP) .....	23
Appendix B8.2	Waste/Recycling Generation Rates.....	30
Appendix B8.3	Indicative Bin Sizes.....	31
Appendix B8.4	Waste Recycling/Storage Rooms in Multi Dwelling Housing .....	32
Appendix B8.5	Garbage Truck Dimensions for Residential Waste Collection.....	33
Appendix B8.6	Commercial/ Industrial Waste and Recycling Storage Areas.....	35



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## B8.1 Introduction

**Waste** and resource consumption is a major environmental issue and a priority for all levels of government within Australia. This is particularly the case as landfill sites become scarce and the environmental and economic costs of **waste** generation and disposal rise. Government and society alike are exposed to the issue of managing the increasingly large volumes of **waste** generated by our society.

Sustainable resource management and **waste** minimisation has emerged as a priority action area and a key in the quest for Ecologically Sustainable Development (ESD). Critical actions in this regard include the following (moving from most desirable to least desirable):

1. avoiding unnecessary resource consumption;
2. recovering resources for reuse;
3. recovering resources for recycling or reprocessing;
4. disposing of residual **waste** (as a last resort).

The building and construction industry in particular is a major contributor to **waste**, much of which is still deposited to landfill. The implementation of effective **waste** minimisation strategies has the potential to significantly reduce these volumes.

Effective **waste** planning and management can also benefit the builder/developer. Some of the benefits of good waste planning and management include:

1. reduced costs;
2. improved workplace safety;
3. enhanced public image;
4. compliance with legislation such as the *Protection of the Environment Operation Act 1997* that requires waste to only be transported to a place that can lawfully accept it.

### B8.1.1 Purpose of this Chapter

This Chapter aims to facilitate sustainable **waste** management within Byron Shire in a manner consistent with the principles of ESD.

### B8.1.2 Aims of this Chapter

The Aims of this Chapter in pursuit of sustainable waste management include:

#### **Waste minimisation**

1. To minimise resource requirements and construction **waste** through reuse and recycling and the efficient selection and use of resources.
2. To minimise demolition **waste** by promoting adaptability in building design and focussing upon end of life deconstruction.



3. To encourage building designs, construction and demolition techniques in general which minimise **waste** generation.
4. To maximise reuse and recycling of household waste and industrial/commercial **waste**.

#### **Waste management**

5. To assist applicants in planning for sustainable **waste** management, through the preparation of a **Site Waste Minimisation and Management Plan**.
6. To assist applicants to develop systems for **waste** management that ensure **waste** is transported and disposed of in a lawful manner.
7. To provide guidance in regards to space, storage, amenity and management of **waste** management facilities.
8. To ensure **waste** management systems are compatible with collection services.
9. To minimise risks associated with **waste** management at all stages of development.

### **B8.1.3 Application of this Chapter**

This Chapter applies to the following types of development, where that development may be carried out only with development consent:

1. demolition;
2. development involving construction, erection of a building or carrying out works;
3. change of use.

Storage and disposal of liquid **waste** such as oils, chemicals, grease, interceptor **waste** and other liquid trade **wastes** are not covered by this Chapter. Developments that generate these types of **waste** will require a separate Liquid Trade **Waste** approval pursuant to Section 68 of the *Local Government Act, 1993*.

#### Development that Requires Consent

When determining a Development Application under Section 79C of the *Environmental Planning and Assessment Act, 1979* (as amended) (The Act), Council must consider the contents of this Chapter. Compliance with the minimum provisions herein does not, however, necessarily mean that an application will be approved, as each application will be considered on its merits.

#### Exempt and Complying Development

Even though a **Site Waste Minimisation and Management Plan** is not required for exempt and complying development persons carrying out exempt and complying development are encouraged to minimise the generation of **waste** in the construction and operation of any such use or activity and deal with any **waste** generated in accordance with the objectives herein.

## B8.1.4 Abbreviations

The following abbreviations are used in this Chapter:

<b>BCA</b>	Building Code of Australia
<b>CC</b>	Construction Certificate
<b>DA</b>	Development Application
<b>DCP</b>	Development Control Plan
<b>EPA</b>	Environment Protection Authority
<b>ESD</b>	Ecologically Sustainable Development
<b>SEE</b>	Statement of Environmental Effects
<b>The Act</b>	<i>Environmental Planning and Assessment Act, 1979</i>
<b>SWMMP</b>	<b>Site Waste Minimisation and Management Plan</b>

## B8.2 Submission Requirements for DAs

### B8.2.1 Documentation required for all DAs

The Statement of Environmental Effects submitted for all Development Applications must include a **Site Waste Minimisation and Management Plan (SWMMP)** that addresses the requirements of this Chapter.

In addition to submission of a **SWMMP**, the waste management facilities proposed as part of the development must be clearly illustrated on the plans and drawings accompanying the Development Application.

### B8.2.2 Site Waste Minimisation and Management Plans

The level of detail required for the **Site Waste Minimisation and Management Plan (SWMMP)** will vary with the size and complexity of the proposed development. For example, a DA seeking consent for a single **dwelling house** would normally require a very simple **SWMMP**, while a DA seeking consent for a large commercial or industrial complex is likely to require an extensive SWMMP that documents full details of proposed **waste** generation, management, recycling, storage and disposal measures.

The **SWMMP** must outline measures to minimise and manage **waste** generated during:

1. demolition;
2. construction; and
3. ongoing operation and use of the development.

In doing so, the **SWMMP** must nominate:

1. the volume and type of **waste** and recyclables to be generated;
2. proposed measures for storage and treatment of **waste** and recyclables on site;
3. proposed measures for disposal of residual **waste** and recyclables;



4. proposed operational procedures for ongoing **waste** management once the development is complete;
5. proposed means of access and manoeuvring for recycling/ **waste** management bins and vehicles.

The **SWMMP** must specify the proposed method of recycling or disposal and the **waste** management service provider.

Appendix B8.1 provides a template for the compilation of a **SWMMP**.

Note: The following two documents that include useful information relating to managing and minimising waste in the development context and may be useful when preparing a Site Waste Minimisation and Management Plan:

Better Practice Guide for Waste Management in Multi-unit Dwellings, NSW Department of Environment & Climate Change, 2008

Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities', NSW Environment Protection Authority, 2012

### B8.2.3 Waste/Recycling Generation Rates

In the absence of project specific calculations, the rates specified in Appendix B8.2 - **Waste/Recycling Generation Rates** and Council's current rate of provision of services to residential properties can be used to inform the compilation of a **SWMMP**.

## B8.3 General Development Criteria

### B8.3.1 Demolition of Buildings or Structures

#### Objectives

1. To maximise resource recovery and minimise residual **waste** from demolition activities.
2. To optimise adaptive reuse opportunities of existing building/structures.
3. To maximise reuse and recycling of materials.
4. To minimise **waste** generation.
5. To ensure appropriate storage and collection of **waste**.
6. To minimise the environmental impacts associated with **waste** management.
7. To avoid illegal dumping.
8. To promote improved project management.

#### Performance Criteria

There are no Performance Criteria.

## Prescriptive Measures

1. A **Site Waste Minimisation and Management Plan (SWMMP)** must be submitted with Development Applications seeking consent for demolition. The **SWMMP** must demonstrate that the proposed development will:
  - a) pursue adaptive reuse opportunities of buildings/structures;
  - b) identify all **waste** likely to result from the demolition, and opportunities for reuse of materials. Refer to Table B8.1;
  - c) facilitate reuse/recycling by using the process of 'deconstruction', where various materials are carefully dismantled and sorted;
  - d) reuse or recycle salvaged materials on-site where possible;
  - e) allocate an area for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation, and access and handling requirements);
  - f) provide separate collection bins or areas for the storage of residual **waste**;
  - g) clearly 'signpost' the purpose and content of the bins and storage areas;
  - h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter;
  - i) minimise site disturbance, limiting unnecessary excavation.
2. When implementing the **SWMMP** the applicant must ensure that:
  - a) footpaths, public reserves, street gutters are not used as places to store demolition waste or materials of any kind without Council approval;
  - b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*;
  - c) **waste** is only transported to a place that can lawfully be used as a **waste** facility;
  - d) generation, storage, treatment and disposal of hazardous waste and special **waste** (including asbestos) is conducted in accordance with relevant **waste** legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW.;
  - e) documentary evidence such as weighbridge dockets and invoices for **waste** disposal or recycling services are retained.

Note: Materials that have an existing reuse or recycling market should not be disposed of in a landfill. Table B8.1 provides a list of some potential reuse/recycling options. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

**Table B8.1 – Examples of demolition materials and potential reuse/recycling opportunities**

Material	Reuse/recycling potential
Concrete	Reused for filling, levelling or road base
Bricks and Pavers	Can be cleaned for reuse or rendered over or crushed for use in landscaping and driveways
Roof Tiles	Can be cleaned and reused or crushed for use in landscaping and driveways
Untreated Timber	Reused as floorboards, fencing, furniture, mulched or sent to second hand timber suppliers
Treated Timber	Reused as formwork, bridging, blocking and propping, or sent to second hand timber suppliers
Doors, Windows, Fittings	Sent to second hand suppliers
Glass	Reused as glazing or aggregate for concrete production
Metals (fittings, appliances and wiring)	Removal for recycling
Synthetic Rubber (carpet underlay)	Reprocessed for use in safety devices and speed humps
Significant Trees	Relocated either on-site or offsite
Overburden	Power screened and used as topsoil
Garden Waste	Mulched, composted
Carpet	Can be sent to recyclers or reused in landscaping
Plasterboard	Removal for recycling, return to supplier

**Source:** Based on the *Combined Sydney Regional Organisation of Councils Model DCP 1997*.

## B8.3.2 Construction of Buildings or Structures

### Objectives

1. To maximise resource recovery and minimise residual **waste** from construction activities.
2. To maximise reuse and recycling of materials.
3. To minimise **waste** generation.
4. To ensure appropriate collection and storage of **waste**.
5. To minimise the environmental impacts associated with **waste** management.
6. To avoid illegal dumping.
7. To promote improved project management.
8. To optimise adaptive reuse opportunities of existing building/structures.

## Performance Criteria

There are no Performance Criteria.

## Prescriptive Measures

A **Site Waste Minimisation and Management Plan (SWMMP)** must be submitted with Development Applications seeking consent for construction of buildings or structures. The **SWMMP** must:

- a) estimate volumes of materials to be used and incorporate these volumes into a purchasing policy so that the correct quantities are purchased. For small-scale building projects see the rates in Appendix B8.2 for a guide;
- b) identify potential reuse/recycling opportunities of excess construction materials;
- c) incorporate the use of prefabricated components and recycled materials where possible;
- d) specify arrangements for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage;
- e) consider organising to return excess materials to the supplier or manufacturer;
- f) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation);
- g) nominate proposed arrangements to ensure appropriate transport, processing and disposal of waste and recycling; and to ensure that all contractors are aware of the legal requirements for disposing of **waste**;
- h) promote separate collection bins or areas for the storage of residual **waste**;
- i) clearly 'signpost' the purpose and content of the bins and storage areas;
- j) specify intended implementation measures to prevent damage by the elements, odour and health risks, and windborne litter;
- k) minimise site disturbance and limit unnecessary excavation;
- l) ensure that all **waste** is transported to a place that can lawfully be used as a **waste** facility;
- m) require retention of all records demonstrating lawful disposal of **waste** and keep them readily accessible for inspection by regulatory authorities such as council, DECC or WorkCover NSW.

### B8.3.3 Bin Sizes and Collection Measures

#### Objectives

1. *To ensure that adequate provision is made for collection, storage and transport of **waste** for all development, commensurate with the development's scale, nature and potential for **waste** generation.*
2. *To ensure that the design and provision of **waste** collection, storage and transport facilities does not create significant adverse impacts on the amenity of the surrounding locality.*
3. *To ensure that the design and provision of **waste** collection, storage and transport facilities does not create significant adverse parking, cycle or traffic impacts on adjoining roads.*





## Performance Criteria

Recycling and **waste** collection services in Byron Shire provide for two primary levels of on-site **waste** storage and collection facilities. Council provides a kerbside pickup service utilising 80 Litre, 140 Litre and 240 Litre 'wheelie bins'. For larger developments where **waste** generation is predicted to exceed the aforementioned capacities a bulk bin service is required, for which the land owner and/ or occupier must enter into a contractual arrangement with a service provider.

## Prescriptive Measures

1. The **SWMMP** provided with the Development Application must specify the proposed bin sizes and collection arrangements for the development.
2. Where collection is proposed by Council's kerbside pickup service for development other than a **dwelling house**, the **SWMMP** and Development Application must specify and illustrate in a site plan drawn to a readily legible scale:
  - a) the site's boundary dimensions and available kerbside/ road frontage space, after deducting existing or proposed access driveways;
  - b) the kerbside/ road frontage space intended to be occupied by 'wheelie bins' on pickup days, based on the dimensions of the bins proposed. Bin dimensions are available on request from Council.
3. If the kerbside/road frontage space intended to be occupied by 'wheelie bins', to service development other than a **dwelling house**, exceeds 75% of the site's available kerbside/road frontage space (after deducting existing or proposed access driveways), the **SWMMP** must include justification of reasons why a bulk bin service should not be provided. That justification must include an analysis of the likely amenity, pedestrian, cycle and traffic impacts of the proposed kerbside/ road frontage bin storage and collection arrangements on pickup day. The analysis must address visual impacts, amenity impacts, pedestrian and cycle impacts and impacts on parking and traffic movement on adjoining roads. In those circumstances Council is unlikely to approve a kerbside pickup service for the development unless it considers that those impacts are likely to be not significant.
4. Where collection is proposed other than by Council's kerbside pickup service, the **SWMMP** and Development Application must specify and illustrate in a site plan drawn to a readily legible scale:
  - a) the proposed bin storage location, dimensions, pickup vehicle access and manoeuvring arrangements;
  - b) The proposed means of ensuring that the pickup vehicle can enter and exit the site in a forward direction and can manoeuvre safely on site, consistent with the requirements of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

## B8.4 Specific Development Criteria

### B8.4.1 Dwelling Houses, Semi Detached Dwellings and Dual Occupancies

#### Objectives

1. *To encourage source separation of **waste**, reuse, and recycling by ensuring appropriate storage and collection facilities for waste, and quality design of **waste** facilities.*





2. *To maximise reuse and recycling of materials.*
3. *To minimise **waste** generation.*
4. *To ensure appropriate collection and storage of **waste**.*
5. *To minimise the environmental impacts associated with **waste** management.*
6. *To avoid illegal dumping*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

A **Site Waste Minimisation and Management Plan (SWMMP)** is to be submitted with a Development Application and must show:

- a) the location of an indoor **waste/recycling cupboard** (or other appropriate storage space) for each **dwelling**;
- b) the location of an on-site **waste**/recycling storage area for each **dwelling**, that is of sufficient size to accommodate Council's waste and recycling bins. Indicative bin sizes are shown in Appendix B8.3;
- c) an identified kerbside collection point for the collection and emptying of Council's **waste** and recycling bins.

In addition the **SWMMP** must:

- a) identify arrangements for **waste** container storage in a suitable location so as to avoid vandalism, nuisance and adverse visual impacts;
- b) demonstrate that any designated area for composting is not likely to adversely impact on adjoining properties;
- c) where possible, locate the **waste**/recycling storage area in the rear yard and minimise the distance of travel to the collection point;
- d) demonstrate that the **waste** storage area will be easily accessible and will have unobstructed access to Council's usual collection point;
- e) demonstrate that there will be sufficient space within the kitchen (or an alternate location) for the interim storage of **waste** and recyclables;
- f) demonstrate that the placement of bins for collection at the nominated collection point will ensure that adequate traffic and pedestrian safety is maintained.

Note 1: It is the responsibility of **dwelling** occupants to move bins to the identified collection point no earlier than the evening before collection day and to then return the bins to their storage area no later than the evening of collection day. Bins must remain in their on-site storage area at all other times.

Note 2: There is a general trend towards recycling of food and garden **waste**. Consideration should be given to provision of sufficient space in the **waste** storage area (or suitable alternate location) for a food/garden **waste** recycling bin (if in an urban area where collection of organic **waste** is available) and/or a compost bin/worm farm.

Service options available to **dwelling houses**, **semi-detached dwellings** and **dual occupancies** are described on the Byron Shire Council web site.



## B8.4.2 Multi Dwelling Housing, Residential Flat Buildings and Attached Dwellings

### Objectives

1. To encourage source separation of **waste**, reuse, and recycling by ensuring appropriate storage and collection facilities for **waste**, and quality design of **waste** facilities.
2. To ensure appropriate **waste** storage and collection facilities.
3. To maximise source separation and recovery of recyclables.
4. To ensure **waste** management systems are as intuitive for occupants as possible and are readily accessible.
5. To ensure appropriate resourcing of **waste** management systems, including servicing.
6. To minimise risk to health and safety associated with handling and disposal of **waste** and recycled material, and ensure optimum hygiene.
7. To minimise adverse environmental impacts associated with **waste** management.
8. To discourage illegal dumping by providing on-site storage, and removal services.

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. A **Site Waste Minimisation and Management Plan (SWMMP)** is to be submitted with a Development Application and must show:
  - a) the location of an **indoor waste/recycling cupboard** (or other appropriate storage space) for each **dwelling**;
  - b) the location of individual **waste**/recycling storage areas (such as for townhouses and villas) or a communal **waste**/recycling storage room(s) able to accommodate Council's **waste** and recycling bins;
  - c) the location of any interim storage facilities for recyclable materials;
  - d) the location of any **waste** compaction equipment;
  - e) an identified location for individual compost containers or communal compost container;
  - f) an identified collection point for the collection and emptying of Council's **waste** and recycling bins;
  - g) the path of travel for moving bins from the storage area to the identified collection point (if collection is to occur away from the storage area);
  - h) the on-site path of travel for collection vehicles (if collection is to occur on-site), taking into account accessibility, width, height and grade.
2. The **SWWMP** must address and demonstrate that the following criteria and outcomes will be achieved:
  - a) systems must be designed to maximise source separation and recovery of recyclables;

- b) **waste** management systems must be designed and operated to prevent the potential risk or injury or illness associated with the collection, storage and disposal of **wastes**.
3. The following minimum collection and storage facilities must be provided:
- a) each **dwelling** must be provided with an indoor **waste/recycling cupboard** (or other appropriate storage space) for the interim storage of a minimum one day's garbage and recycling generation;
  - b) **residential flat buildings** must include communal **waste/recycling** storage facilities in the form of a **waste/recycling** storage room (or rooms) designed in accordance with Appendix B8.4 and the Better Practice Guide for Waste Management in Multi-Unit Dwellings.
  - c) **multi dwelling housing** and **attached dwellings** in the form of townhouses and villas must include either individual **waste/recycling** storage areas for each **dwelling** or a communal facility in the form of a **waste/recycling** storage room (or rooms) designed in accordance with Appendix B8.4 and the Better Practice Guide for Waste Management in Multi-Unit Dwellings;
  - d) the **waste/recycling** storage area(s) or room(s) must be of a size that can comfortably accommodate separate garbage, recycling and garden **waste** containers at the rate of Council provision;
  - e) for multi-storey developments that include ten or more **dwellings**, a dedicated room or caged area must be provided for the temporary storage of discarded bulky items which are awaiting removal. The storage area must be readily accessible to all residents and must be located close to the main **waste** storage room or area;
4. The following location and design criteria apply to collection and storage facilities:
- a) in townhouse and villa developments with individual **waste/recycling** storage areas, such areas must be located and designed in a manner which minimises adverse impacts upon neighbouring properties and upon the appearance of the premises;
  - b) there must be an unobstructed and **continuous accessible path of travel** (as per Australian Standard 1428 Design for Access and Mobility - 2001) from the waste/recycling storage area(s) or room(s) to:
    - i) the entry to any **adaptable housing** (as per Australian Standard 4299 Adaptable Housing - 1995),
    - ii) the principal entrance to each **residential flat building**,
    - iii) the point at which bins are collected/emptied;
  - c) in instances where a proposal does not comply with these requirements, Council will consider alternative proposals that seek to achieve a reasonable level of access to **waste/recycling** storage area(s) or room(s);
  - d) communal **waste** storage areas must have adequate space to accommodate and manoeuvre Council's required number of **waste** and recycling containers;
  - e) each service room and storage area must be located for convenient access by users and must be well ventilated and well lit;
  - f) where site characteristics, number of bins and length of street frontage allow, bins may be collected from a kerbside location. In instances where kerbside bin collection is not appropriate, bins must be collected on-site. Bins that are collected

on-site must be collected either from their usual storage point or from an on-site temporary holding area located inside the property boundary and close to a property entrance;

- g) where bins cannot be collected from a kerbside location or from a temporary holding area located immediately inside the property boundary, the development must be designed to allow for on-site access by garbage collection vehicles (of dimensions detailed at Appendix B8.5). In these instances, the site must be configured so as to allow collection vehicles to enter and exit the site in a forward direction and so that collection vehicles do not impede general access to, from or within the site. Access driveways to be used by collection vehicles must be of sufficient strength to support such vehicles. All access design must be consistent with the requirements of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access;

Note: As a minimum requirement for collection vehicle access, Council will require indemnity against claims for loss or damage to the pavement or other driving surface. Council may also require indemnity against liabilities, losses, damages and any other demands arising from any on-site collection service. In all cases, a hazard assessment will need to be conducted prior to Council agreeing to undertake the service.

Should a collection vehicle be required to enter a property, access driveways and internal roads must be designed in accordance with *Australian Standard 2890.2 Parking Facilities – Off-Street Commercial Vehicle Facilities – 2002*, and must comply with the provisions of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

- h) if Council **waste** collectors and/or **waste** collection vehicles are required to enter a site for the purpose of emptying bins, then site specific arrangements must be in place;
  - i) if bins need to be moved from normal storage areas to a different location for collection purposes, it is the responsibility of agents of the owners' corporation to move the bins to the collection point no earlier than the evening before collection day and to then return the bins to their storage areas no later than the evening of collection day. Bins must remain in their on-site storage areas at all other times;
  - j) residents must have access to a cold water supply for the cleaning of bins and the **waste** storage areas. Storage areas must be constructed and designed to be weather proof and easy to clean, with wastewater discharged to sewer;
  - k) the design and location of **waste** storage areas/facilities must be such that they complement the design of both the development and the surrounding streetscape.
5. The **SWMMP** must include measures to ensure that agents of the owners' corporation will take responsibility for the management of **waste** and recyclable materials generated upon the site. Arrangements must be in place in regards to the management, maintenance and cleaning of all **waste**/recycling management facilities

Note: Food and garden **waste** may be recycled either via on-site processes such as composting, worm farms or mulching, or via kerbside collections for garden **waste** or food and garden **waste**. This can be difficult to manage in a multi dwelling complex, particularly where communal bin storage areas are used and bins are shared. Consideration should be given to provision of an individual compost container for each **dwelling** (such as in townhouse and villa developments) or for a communal compost container; the siting of which will have regard to potential amenity impacts.

Service options available to **multi dwelling housing, residential flat buildings and attached dwellings** are described on the Byron Shire Council web site.



### B8.4.3 Tourist Accommodation and Commercial and Retail Development

This Section applies to development to which Chapters D4 Commercial and Retail Development and D3 Tourist Accommodation apply.

#### Objectives

1. To specify recycling and **waste** management criteria that apply to development.
2. To ensure that new developments and changes to existing developments are designed to maximise resource recovery (through **waste** avoidance, source separation and recycling); and to ensure that appropriate well-designed storage and collection facilities are accessible to occupants and service providers.
3. To ensure provision of appropriate **waste** storage and collection facilities.
4. To maximise source separation and recovery of recyclables.
5. To ensure that **waste** management systems are as intuitive for occupants as possible and readily accessible to occupants and service providers.
6. To ensure appropriate resourcing of **waste** management systems, including servicing.
7. To minimise risk to health and safety associated with handling and disposal of **waste** and recycled material and ensure optimum hygiene.
8. To minimise adverse environmental impacts associated with **waste** management.
9. To discourage illegal dumping by providing on-site storage, and removal services.

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

1. A **Site Waste Minimisation and Management Plan (SWMMP)** is to be submitted with a development application and must show:
  - a) the location of the designated **waste** and recycling storage room(s) or areas, sized to meet the **waste** and recycling needs of all tenants;
  - b) the location of temporary **waste** and recycling storage areas within each tenancy. These are to be of sufficient size to store a minimum of one day's worth of **waste**;
  - c) an identified collection point for the collection and emptying of **waste**, recycling and garden **waste** bins;
  - d) the path of travel for moving bins from the storage area to the identified collection point (if collection is to occur away from the storage area);
  - e) the on-site path of travel for collection vehicles (if collection is to occur on-site).
2. The **SWWMP** must address and demonstrate that the following criteria and outcomes will be achieved:
  - a) there must be convenient access from each tenancy to the **waste**/recycling storage room(s) or area(s). There must be step-free access between the point at which bins are collected/emptied and the **waste**/recycling storage room(s) or area(s);
  - b) every development must include a designated **waste**/recycling storage area or room(s) (designed in accordance with Appendix B8.6);



- c) depending upon the size and type of the development, it may be necessary to include a separate **waste**/recycling storage room/area for each tenancy;
- d) all commercial tenants must keep written evidence on-site of a valid contract with a licensed **waste** contractor for the regular collection and disposal of the **waste** and recyclables that are generated on site;
- e) between collection periods, all **waste**/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow. Bins must be stored in the designated **waste**/recycling storage room(s) or area(s);
- f) arrangements must be in all parts of the development for the separation of recyclable materials from general **waste** and for the movement of recyclable materials and general **waste** to the main **waste**/recycling storage room/area. For multiple storey buildings, this might involve the use of a goods lift;
- g) the **waste**/recycling storage room/area must be able to accommodate bins that are of sufficient volume to contain the quantity of **waste** generated (at the rate described in Appendix B8.2) between collections;
- h) the **waste**/recycling storage room/area must provide separate containers for the separation of recyclable materials from general **waste**. Standard and consistent signage on how to use the **waste** management facilities should be clearly displayed;
- i) the type and volume of containers used to hold **waste** and recyclable materials must be compatible with the collection practices of the nominated **waste** contractor;
- j) **waste** management facilities must be suitably enclosed, covered and maintained so as to prevent polluted wastewater runoff from entering the stormwater system;
- k) where possible, waste/recycling containers should be collected from a rear lane access point. The servicing location and methodology shall minimise adverse impacts upon residential amenity, pedestrian movements and vehicle movements;
- l) the size and layout of the **waste**/recycling storage room/area must be capable of accommodating reasonable future changes in use of the development;
- m) a **waste/recycling cupboard** must be provided for each and every kitchen area in a development, including kitchen areas in hotel rooms, motel rooms and staff food preparation areas. Each **waste**/recycling cupboard must be of sufficient size to hold a minimum of a single day's **waste** and to hold separate containers for general **waste** and recyclable materials;
- n) premises which generate at least 240 litres per week of meat, seafood, poultry or food **waste** must have that **waste** collected in mobile garbage bins (wheelie bins) at least twice weekly or must store that **waste** in a dedicated and refrigerated **waste** storage area until collection;
- o) arrangements must be in place regarding the regular maintenance and cleaning of **waste** management facilities. Tenants and cleaners must be aware of their obligations in regards to these matters.

Service options available to Commercial Developments are described on the Byron Shire Council web site

Where the type of tenancies are unknown at construction stage applicants should indicate in the SWMMP the likely land uses that may be housed in the proposed building/s and



demonstrate the development can flexibly accommodate this range of uses in accordance with Prescriptive measures 1 and 2 above.

Flexibility could be incorporated into building design by:

- identifying waste storage and collection point locations that would enable onsite collection in the future
- avoiding potential obstacles that could limit bin size in waste storage areas e.g. fixed structures to separate individual bins or bays.
- Incorporating access paths and doorways that are larger than the minimum widths required to allow for potential changes in bin size e.g. double doors on a waste storage area.
- Sizing bin storage areas to allow for a potential increase in waste generation.

[Source: Draft Commercial & Industrial Waste Management Guidelines (WA Waste Authority, undated)]

## B8.4.4 Mixed Use Development

### Objectives

1. *To ensure that new developments and changes to existing development are designed to maximise resource recovery (through **waste** avoidance, source separation and recycling) and to ensure appropriate, well-designed storage and collection facilities are accessible to occupants and service providers.*
2. *To ensure appropriate **waste** storage and collection facilities.*
3. *To maximise source separation and recovery of recyclables.*
4. *To ensure **waste** management facilities are safely and easily accessible to occupants and service providers.*
5. *To ensure appropriate resourcing of **waste** management systems, including servicing.*
6. *To minimise risk to health and safety associated with handling and disposal of **waste** and recycled material and ensure optimum hygiene.*
7. *To minimise adverse environmental impacts associated with **waste** management.*
8. *To discourage illegal dumping by providing on-site storage, and removal services.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

A **Site Waste Minimisation and Management Plan (SWMMP)** must be submitted with a development application for **mixed use development**. The **SWMMP** must address and demonstrate that the following criteria and outcomes will be achieved:

- a) the provisions of Section B8.4.2 apply to the residential component of **mixed use development**;
- b) the provisions of Section B8.4.3 apply to the non-residential component of **mixed use development**;

- c) **mixed use development** must incorporate separate and self-contained **waste** management systems for the residential component and the non-residential component. In particular, the development must incorporate separate **waste**/recycling storage rooms/areas for the residential and non-residential components. Commercial tenants must be prevented (via **signage** and other means), from using the residential waste/recycling bins and vice versa;
- d) the residential **waste** management system and the non-residential **waste** management system must be designed so that they can efficiently operate without conflict. Conflict may potentially occur between residential and non-residential storage, collection and removal systems, and between these systems and the surrounding land uses. For example, collection vehicles disrupting peak residential and commercial traffic flows or causing noise issues when residents are sleeping.

Service options available to **mixed use development** are described on the Byron Shire Council web site.

## B8.4.5 Industrial Development

### Objectives

1. *To ensure that new developments and changes to existing developments are designed to maximise resource recovery (through **waste** avoidance, source separation and recycling) and to ensure appropriate, well-designed storage and collection facilities are accessible to occupants and service providers.*
2. *To ensure appropriate **waste** storage and collection facilities.*
3. *To maximise source separation and recovery of recyclables.*
4. *To ensure that **waste** management facilities are as intuitive for occupants as possible and readily accessible to occupants and service providers.*
5. *To ensure appropriate resourcing of **waste** management systems, including servicing.*
6. *To minimise risk to health and safety associated with handling and disposal of **waste** and recycled material and ensure optimum hygiene.*
7. *To minimise adverse environmental impacts associated with **waste** management.*
8. *To discourage illegal dumping by providing on site storage, and removal services.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

This Section applies to Industrial and other development referred to in Chapter D5 Industrial Development.

1. A **Site Waste Minimisation and Management Plan (SWMMP)** is to be submitted with a Development Application and must show:
  - a) the location of designated **waste** and recycling storage room(s) or areas sized to meet the **waste** and recycling needs of all tenants. **Waste** should be separated into at least 3 streams, paper/cardboard and recyclables, general **waste**, industrial process type **wastes**;





- b) the on-site path of travel for collection vehicles.
2. The **SWWMP** must address and demonstrate that the following criteria and outcomes will be achieved:
- a) the **SWMMP** must provide evidence of compliance with any specific industrial **waste** laws/protocols. For example, those related to production, storage and disposal of industrial and hazardous **wastes** as defined by the *Protection of the Environment Operations Act 1997*.
  - b) there must be convenient access from each tenancy and/or larger **waste** producing area of the development to the **waste**/recycling storage room(s) or area(s). There must be step-free access between the point at which bins are collected/emptied and the **waste**/recycling storage room(s) or area(s);
  - c) every development must include a designated general **waste**/recycling storage area or room(s) (designed in accordance with Appendix B8.6), as well as designated storage areas for industrial **waste** streams (designed in accordance with specific **waste** laws/protocols);
  - d) depending upon the size and type of the development, it might need to include separate **waste**/recycling storage room/area for each tenancy and/or larger **waste** producing areas;
  - e) all tenants must keep written evidence on site of a valid contract with a licensed **waste** contractor for the regular collection and disposal of all the **waste** streams and recyclables which are generated on site;
  - f) between collection periods, all **waste**/recyclable materials generated on-site must be kept in enclosed bins with securely fitted lids so the contents are not able to leak or overflow. Bins must be stored in the designated waste/recycling storage room(s) or area(s);
  - g) arrangements must be in place in all parts of the development for the separation of recyclable materials from general **waste**. Arrangements must be in place in all parts of the development for the movement of recyclable materials and general **waste** to the main **waste**/recycling storage room/area;
  - h) the **waste**/recycling storage room/areas must be able to accommodate bins that are of sufficient volume to contain the quantity of **waste** generated between collections;
  - i) the type and volume of containers used to hold **waste** and recyclable materials must be compatible with the collection practices of the nominated **waste** contractor;
  - j) **waste** management storage rooms/areas must be suitably enclosed, covered and maintained so as to prevent polluted wastewater runoff from entering the stormwater system;
  - k) a **waste/recycling cupboard** must be provided for each and every kitchen area in the development. Each **waste/recycling cupboard** must be of sufficient size to hold a minimum of a single day's **waste** and to hold separate containers for general **waste** and recyclable materials;
  - l) arrangements must be in place regarding the regular maintenance and cleaning of **waste** management facilities. Tenants and cleaners must be aware of their obligations in regards to these matters;

- m) production, storage and disposal of hazardous **wastes** (such as contaminated or toxic material or products) require particular attention. The appropriate laws and protocols must be observed.

Service options available to Industrial developments are described on the Byron Shire Council web site

## Appendix B8.1 Site Waste Minimisation and Management Plan Template (SWMMP)

**NOTE:** The level of detail required for the **Site Waste Minimisation and Management Plan (SWMMP)** will vary with the size and complexity of the proposed development. For example, a DA seeking consent for a **dwelling house** would normally require a very simple **SWMMP**, while a DA seeking consent for a large commercial or industrial complex is likely to require an extensive **SWMMP** that documents full details of proposed **waste** generation, management, recycling, storage and disposal measures.

### Applicant and Project Details (All Developments)

#### Applicant Details

Application No.	
Name	
Address	
Phone number(s)	
Email	

#### Project Details

Address of development	
Existing buildings and other structures currently on the site	
Description of proposed development	

*This development achieves the waste objectives set out in the DCP. The details on this form are the provisions and intentions for minimising waste relating to this project. All records demonstrating lawful disposal of waste will be retained and kept readily accessible for inspection by regulatory authorities such as council, DECC or WorkCover NSW.*

Name	
Signature	
Date	

## Demolition (All Types of Developments)

Address of development: \_\_\_\_\_

Refer to Section B8.3.1 for objectives regarding demolition waste.

favourable      most favourable            least

	Reuse	Recycling	Disposal	
Type of waste generated	Estimate Volume (m <sup>3</sup> ) or Weight (t)	Estimate Volume (m <sup>3</sup> ) or Weight (t)	Estimate Volume (m <sup>3</sup> ) or Weight (t)	Specify method of on-site reuse, contractor and recycling outlet and /or waste depot to be used
Excavation material				
Timber (specify)				
Concrete				
Bricks/pavers/tiles				
Metal (specify)				
Glass				
Furniture				
Fixtures and fittings				
Floor coverings				
Packaging (used pallets, pallet wrap)				
Garden organics				
Containers (cans, plastic, glass)				
Paper/cardboard				
Residual waste				
Hazardous/asbestos waste (specify)				
Other (specify)				

## Construction (All Types of Developments)

Address of development: \_\_\_\_\_

Refer to Section B8.3.2 for objectives regarding construction

most favourable



least favourable

	Reuse	Recycling	Disposal	
Type of waste generated	Estimate Volume (m <sup>3</sup> ) or Weight (t)	Estimate Volume (m <sup>3</sup> ) or Weight (t)	Estimate Volume (m <sup>3</sup> ) or Weight (t)	Specify method of on site reuse, contractor and recycling outlet and/or waste depot to be used
Excavation material				
Timber (specify)				
Concrete				
Bricks				
Tiles				
Metal (specify)				
Glass				
Plasterboard (offcuts)				
Fixtures and fittings				
Floor coverings				
Packaging (used pallets, pallet wrap)				
Garden organics				
Containers (cans, plastic, glass)				
Paper/cardboard				
Residual waste				
Hazardous/special waste (specify)				

**Ongoing Operation (Residential, Multi Unit, Commercial, Mixed Use and Industrial)**

Address of development: \_\_\_\_\_

Show the total volume of waste expected to be generated by the development and the associated waste storage requirements.

	Recyclables		Compostables	Residual waste <sup>*</sup>	Other
	Paper/ cardboard	Metals/ plastics/ glass			
Amount generated (L per unit per day)					
Amount generated (L per development per week)					
Any reduction due to compacting equipment					
Frequency of collections (per week)					
Number and size of storage bins required					
Floor area required for storage bins (m <sup>2</sup> )					
Floor area required for manoeuvrability (m <sup>2</sup> )					
Height required for manoeuvrability (m)					

\* Current “non-recyclables” waste generation rates typically include food waste that might be further separated for composting.

## Construction Design (All Types of Developments)

Outline how measures for waste avoidance have been incorporated into the design, material purchasing and construction techniques of the development (refer to Section B8.3.2):

### Materials

### Lifecycle

**Detail the arrangements that would be appropriate for the ongoing use of waste facilities as provided in the development. Identify each stage of waste transfer between residents' units/commercial tenancies and loading into the collection vehicle, detailing the responsibility for and location and frequency of, transfer and collection.**

### Plans and Drawings (All Developments)

The following checklists are designed to help ensure SWMMPs are accompanied by sufficient information to allow assessment of the application.

Drawings are to be submitted to scale, clearly indicating the location of and provisions for the storage and collection of waste and recyclables during:

1. demolition;
2. construction;
3. ongoing operation.

#### Demolition

Refer to Section B8.3.1 for specific objectives and measures.

Do the site plans detail/indicate:

	Tick Yes
Size and location(s) of waste storage area(s)	
Access for waste collection vehicles	
Areas to be excavated	
Types and numbers of storage bins likely to be required	
Signage required to facilitate correct use of storage facilities	

#### Construction

Refer to Section B8.3.2 for specific objectives and measures.

Do the site plans detail/indicate:

	Tick Yes
Size and location(s) of waste storage area(s)	
Access for waste collection vehicles	
Areas to be excavated	
Types and numbers of storage bins likely to be required	
Signage required to facilitate correct use of storage facilities	



### Ongoing Operation

Refer to Section B8.4 for specific objectives and measures.

Do the site plans detail/indicate:

	Tick Yes
<b>Space</b>	
Size and location(s) of waste storage areas	
Recycling bins placed next to residual waste bins	
Space provided for access to and the manoeuvring of bins/equipment	
Any additional facilities	
<b>Access</b>	
Access route(s) to deposit waste in storage room/area	
Access route(s) to collect waste from storage room/area	
Bin carting grade	
Location of final collection point	
Clearance, geometric design and strength of internal access driveways and roads	
Direction of traffic flow for internal access driveways and roads	
<b>Amenity</b>	
Aesthetic design of waste storage areas	
Signage – type and location	
Construction details of storage rooms/areas (including floor, walls, doors, ceiling design, sewer connection, lighting, ventilation, security, wash down provisions etc)	

## Appendix B8.2 Waste/Recycling Generation Rates

### Construction Waste

'Rule of Thumb' for renovations and small home building

- Timber 5-7% of material ordered
- Plasterboard 5-20% of material ordered
- Concrete 3-5% of material ordered
- Bricks 5-10% of material ordered
- Tiles 2-5% of material ordered

Source: *Waste Planning Guide for Development Application, Inner Sydney Waste Board, 1998*

### Ongoing Operation

Premises type	Waste generation	Recyclable material generation
<b>Backpackers' Accommodation</b>	40L/occupant space/week	20L/occupant space/week
<b>Boarding Houses, Tourist and Visitor Accommodation</b> (excluding <b>Hotel or Motel Accommodation</b> )	60L/occupant space/week	20L/occupant space/week
<b>Retail Premises</b> including: <ul style="list-style-type: none"> <li>• Butcher</li> <li>• Delicatessen</li> <li>• Fish Shop</li> <li>• Greengrocer</li> <li>• Restaurant, Café</li> <li>• Supermarket</li> <li>• Takeaway food shop</li> </ul>	80L/100 sq m floor area/day 80L/100 sq m floor area/day 80L/100 sq m floor area/day 240L/100 sq m floor area/day 10L/1.5 sq m floor area/day 240L/100 sq m floor area/day 80L/100 sq m floor area/day	Variable Variable Variable 120L/100 sq m floor area/day 2L/1.5 sq m floor area/day 240L/100 sq m floor area/day Variable
Hairdresser, Beauty Salon	60L/100m <sup>2</sup> floor area/week	Variable
<b>Hotel or Motel Accommodation</b> , Licensed Club	5L/bed space/day 50L/100m <sup>2</sup> bar area/day 10L/1.5m <sup>2</sup> dining area/day	1L/bed space/day 50L/100m <sup>2</sup> bar area/day 50L/100m <sup>2</sup> dining area/day
Offices	10L/100m <sup>2</sup> floor area/day	10L/100m <sup>2</sup> floor area/day
Shop less than 100m <sup>2</sup> floor area	50L/100m <sup>2</sup> floor area/day	25L/100m <sup>2</sup> floor area/day
Shop greater than 100m <sup>2</sup> floor area	50L/100m <sup>2</sup> floor area/day	50L/100m <sup>2</sup> floor area/day
Showroom	40L/100m <sup>2</sup> floor area/day	10L/100m <sup>2</sup> floor area/day
<b>Multi Dwelling Housing, Residential Flat Buildings and Attached Dwellings</b> <sup>1</sup>	80L/unit/week	40L/unit/week

Sources: Adapted from *Waverley Council Code for the Storage and Handling of Waste*.

<sup>1</sup> Appendix A, *Better Practice Guide For Waste Management In Multi-Unit Dwellings 2007*



## Appendix B8.3 Indicative Bin Sizes

Bin type	Height	Depth	Width
80 Litre Bin	870mm	530mm	450mm
120 Litre Bin	940mm	560mm	485mm
140 Litre Bin	1065mm	540mm	500mm
240 Litre Bin	1080mm	735mm	580mm
1 cubic metre	1400 mm	900 mm	900 mm
1.5 cubic metre	2000 mm	900 mm	900 mm
2 cubic metre	2000 mm	1200 mm	900 mm
3 cubic metre	2000 mm	1400 mm	1200 mm
4.5 cubic metre	2040mm	1470 mm	1800mm

**Note:** These dimensions are only a guide and differ slightly according to manufacturer, if bins have flat or dome lids or are used with different lifting devices.

## Appendix B8.4 Waste Recycling/Storage Rooms in Multi Dwelling Housing

### Building Code of Australia

**Waste**/recycling storage rooms must be constructed in accordance with the requirements of the *Building Code of Australia (BCA)*.

### Location and Appearance

1. **Waste**/recycling storage rooms must be integrated into the design of the overall development. It is preferable that such rooms be located behind the front building line. Wherever possible, the room should be in a basement location within the main building envelope (rather than a separate stand-alone structure). Materials and finishes visible from outside should be similar in style and quality to the external materials used in the rest of the development.
2. **Waste**/recycling storage rooms must be located and designed in a manner that reduces adverse impacts upon the inhabitants of any **dwelling**s on the site and upon neighbouring properties. The location and design of the room should minimise adverse impacts associated with:
  - a) the proximity of the room to any **dwelling**s;
  - b) the visibility of the room;
  - c) noise generated by any equipment located within the room;
  - d) noise generated by the movement of bins into and out of the room ;
  - e) noise generated by collection vehicles accessing the site; and
  - f) odours emanating from the room.

### Size

**Waste**/recycling storage rooms must be of adequate size to comfortably accommodate all **waste** and recycling bins associated with the development.

### Layout

The gradient of **waste**/recycling storage room floors and the gradient of any associated access ramps must be sufficiently level so that access for the purpose of emptying containers can occur in accordance with WorkCover NSW Occupational Health and Safety requirements.

Within **waste**/recycling storage rooms, containers used for the storage of recyclable materials should be kept separate from (but close to) general **waste** containers — so that the potential for contamination of recyclable materials is minimised.

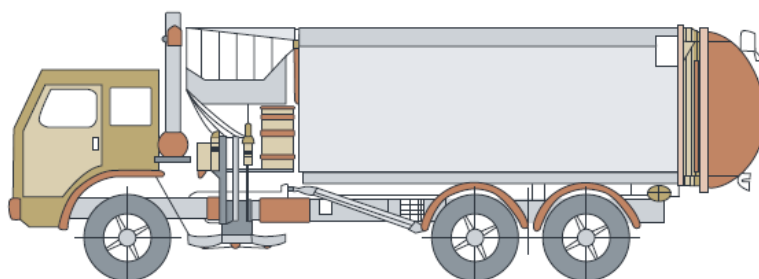
## Appendix B8.5 Garbage Truck Dimensions for Residential Waste Collection

This page includes information regarding the dimensions of garbage trucks that are typically used for the collection of residential **waste**. Developments that require Council garbage trucks to enter the site for the collection of residential **waste** must be designed to accommodate on-site truck movement.

Requirements regarding vehicle turning circles and driveway width/gradient are contained in *Australian Standard 2890.2 2002/Planning Facilities — off street commercial vehicles*.

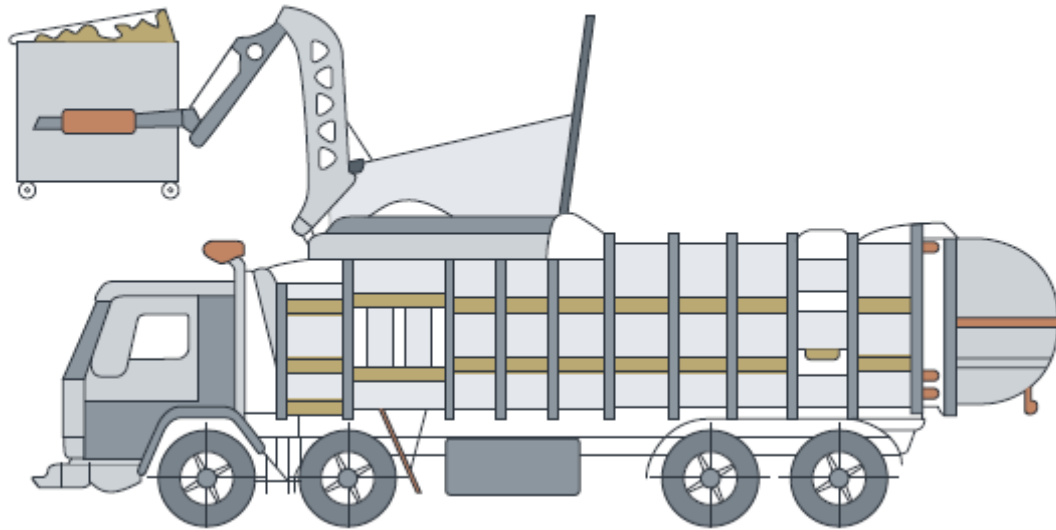
It is recommended that an applicant speak with Council's **Waste** Services Coordinator in regards to the design of development proposals that involve garbage trucks entering the site. Services will not be provided where there are undue risks.

Side-loading collection vehicle	
Length overall	9.64m
Front overhang	1.51m
Wheelbase	5.20m
Rear overhang	2.93m
Turning circle kerb to kerb	17.86m
Turning circle wall to wall	20.56m
Front of vehicle to collection arm	3.8m
Maximum reach of side arm	3.0m
Travel height	3.63m
Clearance height for loading	3.9m



This is the most commonly used vehicle for domestic garbage and recycling collections. It is only suitable for collecting MGBs up to 360 litres in size.

## Front-lift loading collection vehicle



Front-lift loading collection vehicle	
Length overall	10.52m
Front overhang	1.51m
Wheelbase	5.84m
Rear overhang	3.17m
Turning circle kerb to kerb	22.10m
Turning circle wall to wall	23.66m
Travel height	3.82m
Clearance height for loading	6.1m

This is mainly used for collecting commercial and industrial waste, and is only suitable for bulk bins with front lift pockets (not MGBs).

Source of diagram: *Better Practice Guide for Waste Management in Multi-Unit Dwellings*, DECC 2008.

## Appendix B8.6 Commercial/ Industrial Waste and Recycling Storage Areas

### Building Code of Australia

**Waste**/recycling storage areas must be constructed in accordance with the requirements of the Building Code of Australia (BCA).

### Location and appearance

1. **Waste**/recycling storage areas must be integrated into the design of the overall development. Materials and finishes that are visible from outside should be similar in style and quality to the external materials used in the rest of the development.
2. **Waste**/recycling storage areas must be located and designed in a manner that reduces adverse impacts upon neighbouring properties and the streetscape. The location and design of the areas should minimise adverse impacts associated with:
  - a) the proximity of the area to **dwelling**s;
  - b) the visibility of the area;
  - c) noise generated by any equipment located within the area;
  - d) noise generated by the movement of bins into and out of the area;
  - e) noise generated by collection vehicles accessing the site; and
  - f) odours emanating from the area.

### Size

1. **Waste**/recycling storage areas must be of adequate size to comfortably accommodate all waste and recycling bins associated with the development.
2. **Waste**/recycling storage areas must be able to accommodate separate general **waste** bins and recycling bins which are of sufficient volume to contain the quantity of **waste** generated (at the rate described in Appendix B8.2) between collections.

### Layout

1. The gradient of **waste**/recycling storage area floors and the gradient of any associated access ramps must be sufficiently level so that access for the purpose of emptying containers can occur in accordance with WorkCover NSW Occupational Health and Safety requirements.
2. Within **waste**/recycling storage areas, containers used for the storage of recyclable materials should be kept separate from (but close to) general **waste** containers — so that the potential for contamination of recyclable materials is minimised.

### Access: waste/recycling collection

1. The development must be designed to allow access by collection vehicles used by the nominated **waste** contractor. Wherever possible, the site must be configured to allow collection vehicles to enter and exit the site in a forward direction and so collection vehicles do not impede general access to, from and within the site. Access driveways to be used by collection vehicles must be of sufficient strength to support such vehicles.

2. Servicing arrangements for the emptying of bins must be compatible with the operation of any other loading/unloading facilities on-site.
3. Access for the purpose of emptying **waste**/recycling storage containers must be able to occur in accordance with WorkCover NSW Occupational Health and Safety requirements.

#### **Access: general**

1. In commercial development, public buildings and industrial development, there must be convenient access from each tenancy to the **waste**/recycling storage area(s). There must be step-free access between the point at which bins are collected/emptied and the **waste**/recycling storage area(s).
2. Arrangements must be in place so that the **waste**/recycling storage area is not accessible to the general public.
3. Vermin must be prevented from entering the **waste**/recycling storage area.

#### **Surfaces**

**Waste**/recycling storage areas must have a smooth, durable floor and must be enclosed with durable walls/fences that extend to the height of any containers which are kept within.

#### **Doors/gates**

Doors/gates to **waste**/recycling storage areas must be durable. There must be a sign adjacent to the door/gate that indicates that the door/gate is to remain closed when not in use. All doors/gates are to be openable from both inside and outside the storage area and must be wide enough to allow for the easy passage of waste/recycling containers.

#### **Services**

1. **Waste**/recycling storage areas must be serviced by hot and cold water provided through a centralised mixing valve. The hose cock must be protected from the **waste** containers and must be located in a position that is easily accessible when the area is filled with **waste** containers.
2. The floor must be graded so that any water is directed to a sewer authority approved drainage connection located upon the site. In the SMA this is Sydney Water.

#### **Signage**

**Waste**/recycling storage areas must include signage that clearly describes the types of materials that can be deposited into recycling bins and general garbage bins.

#### **Management**

Arrangements must be in place for the regular maintenance and cleaning of **waste**/recycling storage areas. **Waste**/recycling containers must only be washed in an area which drains to a sewer authority approved drainage connection. In the SMA this is Sydney Water.

The “Better Practice Guide for **Waste** Management in Multi-Unit Dwellings” gives detailed information about **waste** recycling/storage rooms and facilities. The Guide was substantially reviewed in 2007 and is available on the NSW EPA website ([www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)). Further updates will be published as further information from social research and **waste** stream audits becomes available.





# Byron Shire Development Control Plan 2014

## Chapter B9 Landscaping



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## Chapter B9 – Landscaping

### Contents

<b>B9.1</b>	<b>Introduction.....</b>	<b>7</b>
B9.1.1	Purpose of this Chapter .....	7
B9.1.2	Application of this Chapter .....	7
B9.1.3	Aims of this Chapter .....	7
<b>B9.2</b>	<b>Landscape Plan Requirements.....</b>	<b>8</b>
B9.2.1	When is a Landscape Plan required? .....	8
B9.2.2	Landscape Plans for Development Applications .....	8
B9.2.3	Further requirements for more complex developments .....	9
B9.2.4	Landscape Plan prior to issue of a Construction Certificate .....	10
<b>B9.3</b>	<b>General Landscaping Principles .....</b>	<b>12</b>
B9.3.1	General Landscape Design Principles .....	12
<b>B9.4</b>	<b>Multi Dwelling Housing, Attached Dwellings and Residential Flat Buildings... </b>	<b>15</b>
B9.4.1	Landscape Principles.....	15
B9.4.2	Common Landscaped Area .....	15
<b>B9.5</b>	<b>Dual Occupancies and Semi Detached Dwellings.....</b>	<b>16</b>
B9.5.1	Landscape Principles.....	16
<b>B9.6</b>	<b>Tourist and Visitor Accommodation, Caravan Parks, Camping Grounds and Eco-tourist Facilities .....</b>	<b>17</b>
B9.6.1	Landscaping of Tourist and Visitor Accommodation (excluding bed and breakfast and farmstay accommodation).....	17
B9.6.2	Landscaping of Caravan Parks, Camping Grounds and Eco-tourist Facilities .....	17
<b>B9.7</b>	<b>Commercial and Retail Development.....</b>	<b>18</b>
<b>B9.8</b>	<b>Industrial Development .....</b>	<b>19</b>
B9.8.1	Industrial Landscaping.....	19
<b>B9.9</b>	<b>Car Parking and Open Storage Areas .....</b>	<b>19</b>
B9.9.1	Landscaping Of Car Parking and Open Storage Areas.....	19
<b>B9.10</b>	<b>Cycleways, Pedestrian Routes, Drainage and Watercourses.....</b>	<b>21</b>
B9.10.1	Landscaping of Cycleways and Pedestrian Routes.....	21
B9.10.2	Drainage and Watercourses .....	22
<b>B9.11</b>	<b>Street Trees in Subdivision and Developments .....</b>	<b>23</b>
B9.11.1	Design and Selection of Street Trees.....	23
<b>B9.12</b>	<b>Landscape Design Considerations .....</b>	<b>24</b>
B9.12.1	Underground Car Parks .....	24
B9.12.2	Roof Decks and Balconies .....	25
B9.12.3	Climate and Microclimate.....	25
B9.12.4	Existing Vegetation.....	26
B9.12.5	Planting Size, Density and Species .....	27
<b>B9.13</b>	<b>Landscape Works and Maintenance .....</b>	<b>28</b>
B9.13.1	Landscape Construction Works .....	28



## Figures

Figure B9.1 – Planting maintains sightlines into public areas for safety. ....	12
Figure B9.2 – Landscaping relative to building scale .....	13
Figure B9.3 – Landscaping breaks up the hard stand/car park area .....	20
Figure B9.4 – Planting in car parks.....	20
Figure B9.5 – Planting of commercial and industrial car parks.....	20
Figure B9.6 – Surveillance for pedestrians and cyclists to provide security .....	21
Figure B9.7 – Example of Natural vegetation alongside watercourses .....	22
Figure B9.8 – Example of drainage line that encourages the use of natural materials. ....	23
Figure B9.9 – Street trees that allow pedestrian movement.....	23
Figure B9.10 – Retention of suitable vegetation is encouraged .....	27

## Tables

Table B9.1 – Dwelling Size to Landscape Area .....	15
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**Document History**

Doc No.	Date Amended	Details (e.g. Resolution No.)
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### B9.1.1 Purpose of this Chapter

This Chapter provides advice, guidelines and controls relating to design, construction and maintenance of landscape and vegetation associated with all developments on land to which Byron LEP 2014 applies.

### B9.1.2 Application of this Chapter

This Chapter applies to all development on land subject to Byron LEP 2014.

### B9.1.3 Aims of this Chapter

The Aims of this Chapter are:

1. To facilitate implementation and achievement of the relevant Aims contained in Clause 1.2 of Byron LEP 2014.
2. To maintain, protect and enhance the Shire's biodiversity in conjunction with development.
3. To encourage the enhancement of the natural sub-tropical environment particular to the Shire of Byron.
4. To nominate landscaping requirements relating to all forms of development.
5. To ensure that adequate provision is made for landscaping, in accordance with the type, scale and location of the proposed development.
6. To encourage the recognition of climatic influences and the incorporation of landscaping design features to enhance or modify the climatic factors relating to the site.
7. To encourage design for low maintenance landscaping.
8. To encourage the retention of trees and native vegetation of ecological, aesthetic and cultural significance through integration as part of landscaping design.
9. To encourage the planting of species **locally indigenous** to Byron Shire.

To facilitate achievement of these Aims this DCP requires the planning and design of landscaping associated with all types of development to:

1. Consider the broader landscape setting and environmental context of the site;
2. Reflect the natural sub-tropical landscape character particular to the Shire of Byron;
3. Be sensitive to the natural landscape features and land capability of the site;
4. Retain trees and other vegetation of ecological, aesthetic and/or cultural significance;
5. Conserve and improve biodiversity and incorporate plants that are **locally indigenous** in preference to exotic species wherever possible;



6. Incorporate plants that are suited to prevailing site conditions (e.g. soil type, sun, shade, wind, water, nutrient and drainage regimes) that will be hardy, long-lasting and require minimal maintenance;
7. Be complementary to the scale of the proposed buildings and helps to integrate the development into the existing landscape setting;
8. Enhance the function, legibility and amenity of the proposed development;
9. Improve the microclimate in and around buildings, car parking areas and outdoor living spaces;
10. Incorporate innovation in design to contribute towards more sustainable lifestyles in the Byron Shire.

## B9.2 Landscape Plan Requirements

### B9.2.1 When is a Landscape Plan required?

A Landscape Plan must be submitted with all Development Applications, other than applications for:

1. minor development with minimal environmental impact (e.g. shed, fence, garage);
2. **dwelling houses** (unless on sites which are steeply sloping, in an area that Council considers to be environmentally sensitive, or on bushfire prone land);
3. **secondary dwellings**;
4. **rural workers dwellings** and **dual occupancies (attached)** in a Rural zone.
5. **farmstay accommodation** and **bed and breakfast accommodation** in a Rural zone;
6. change of use where no building works are proposed;
7. minor alterations and additions to existing residential, commercial and industrial buildings.

### B9.2.2 Landscape Plans for Development Applications

Landscape plans preferably should be prepared by a landscape architect or qualified landscape designer. Where a Landscape Plan is required for approval as part of a development application, the following documentation must be submitted:

1. A Site Plan that accurately shows existing site conditions including: contours, property boundaries, easements and any other restrictions or encumbrances affecting the property, existing vegetation, buildings and structures (e.g. sheds, roads, retaining walls, fences, water tanks, dams), natural landscape features (e.g. waterways, drainage lines, existing vegetation, wetlands, escarpments), location of driveways and pedestrian access points, location of overhead and underground services (electricity, water, sewer, gas, telecommunications), inspection pits, manhole covers, sewer vents, grease traps and stormwater drainage infrastructure. The location and extent of significant views to and from the site must also be indicated on the Site Plan.





2. A Landscape Concept Plan (drawn at an appropriate scale, e.g. 1:100 or 1:200) that includes the following information:
  - a) name, qualifications and contact details of the person who prepared the plan;
  - b) north point;
  - c) scale bar;
  - d) legend;
  - e) site boundaries;
  - f) all proposed buildings, including eave overhang;
  - g) demonstration that the proposal complies with any “minimum landscaped area” requirements according to type of development (e.g. **dual occupancy** and multi-dwelling residential developments);
  - h) location, spread and botanical name of existing trees to be removed/ retained;
  - i) location and botanical name of existing native vegetation to be removed/ retained;
  - j) all proposed surface finishes e.g. areas of concrete, paving, bitumen, gravel, garden beds, proposed edge treatment to garden beds, mown turf;
  - k) all proposed structures e.g. retaining walls, pergolas, awnings, fences, swimming pools, decks, driveways, kerb crossovers;
  - l) the existing soil characteristics;
  - m) details and depth of proposed imported soil and mulch to areas to be planted;
  - n) indicative planting (indicated as trees, shrubs, groundcovers);
  - o) indicative plant species, planting densities and container sizes.

### **B9.2.3 Further requirements for more complex developments**

For larger scale or more complex development projects, additional documentation may be required to adequately communicate what is proposed. For these projects Landscape Plans and supporting information must be prepared by a landscape architect or qualified landscape designer, and applicants are encouraged to discuss the landscaping requirements prior to lodging the Development Application.

Council may request any or all of the following:

1. Statement of Landscape Intent – A statement of Landscape Intent is a short report describing the aims, objectives, and design rationale that underpin the proposed Landscape Plan. It describes how the landscape proposal addresses any issues identified in an initial site analysis or assessment of the site. It describes the main features of the landscape proposal and can provide additional information to support accompanying Landscape Plans.
2. Landscape Structure Plan – A Landscape Structure Plan indicates the broad conceptual framework for larger scale projects and new subdivision proposals. It shows how the proposed development will “fit” into the existing environment. The Landscape Structure Plan defines the location, extent and proposed landscape treatments of the different functional areas proposed, such as: new residential



allotments, existing vegetation to be retained, environmental protection areas, proposed road hierarchy drainage infrastructure, open space areas, pedestrian and cycle networks.

3. Landscape Master Plan – A Landscape Master Plan is a concept plan for larger scale projects which describes the design intent and rationale for landscaping of larger and more complex sites. Landscape Master Plans must be prepared by a qualified landscape architect.
4. Earthworks Plan – An Earthworks Plan may be required for larger or more complex projects. The Earthworks Plan identifies:
  - a) existing and proposed contours;
  - b) finished surface levels to clearly indicate the depth of **excavation** / **fill**;
  - c) the extent of all **excavation** / **fill** batters;
  - d) the location and heights of retaining walls and other structures for retaining soil;
  - e) location of trees to be retained and finished levels within the dripline of trees.
5. Site Drainage Plan – A Site Drainage Plan may be required for larger or more complex projects. The Site Drainage Plan identifies:
  - a) proposed contours and spot levels at critical locations such as inlet and outlet points;
  - b) strategy for managing stormwater on the site including any **water sensitive urban design** landscaping measure;
  - c) direction of flow;
  - d) location and details of drainage infrastructure;
  - e) where landscaping is to be carried out above a basement, podium roof or other upper level, the means of drainage.

#### **B9.2.4 Landscape Plan prior to issue of a Construction Certificate**

Where a condition in a development consent requires a Landscape Plan to be submitted and approved prior to issue of a Construction Certificate for building works, the following documentation is required:

1. A 'Detailed Landscape Design Plan' (drawn at an appropriate scale, e.g. 1:100 or 1:200) prepared by a suitably qualified landscape architect or landscape designer that includes:
  - a) name, qualifications and contact details of the person who prepared the plan;
  - b) North point;
  - c) scale bar;
  - d) legend;
  - e) site boundaries;

- f) dimensions;
  - g) location, spread and botanical name of existing trees/ other vegetation to be removed and retained in accordance with the Landscape Plan approved with the development consent;
  - h) measures to be taken to protect vegetation during construction works;
  - i) all proposed buildings and structures e.g. pathways, retaining walls, fences, roads, driveways, driveway kerb crossovers, water features;
  - j) all proposed surface finishes e.g. areas of concrete, paving, bitumen, gravel, garden beds, mown turf;
  - k) details of proposed edging treatment to garden beds;
  - l) car parking spaces, in accordance with plans approved with the development consent;
  - m) vehicle barriers, bollards, wheel stops;
  - n) location and details of seating, bins, lighting, furniture, balustrades;
  - o) proposed materials and height of fences;
  - p) location and depth of planter boxes on balconies;
  - q) location of taps and/or irrigation system;
  - r) typical landscape construction details.
2. A 'Detailed Planting Plan' (drawn at an appropriate scale, eg 1:100 or 1:200) that includes:
- a) name, qualifications and contact details of the person who prepared the plan;
  - b) North point;
  - c) scale bar;
  - d) legend;
  - e) site boundaries.
  - f) location, spread and botanical name of existing trees/ other vegetation to be removed and retained, in accordance with the Landscape Plan approved with the development consent;
  - g) layout and spacing of all plants, with each species clearly labelled;
  - h) a 'Plant Schedule' that lists:
    - i) the Botanical Name and Common Name of all plants, sorted under the headings: Trees, Shrubs, Groundcovers;
    - ii) quantity of each species;
    - iii) pot/ container sizes;
  - i) specifications for imported topsoil, mulch, fertiliser application at time of planting;
  - j) section details of proposed planting method and staking;
  - k) details of maintenance period and program.

## B9.3 General Landscaping Principles

### B9.3.1 General Landscape Design Principles

#### Objectives

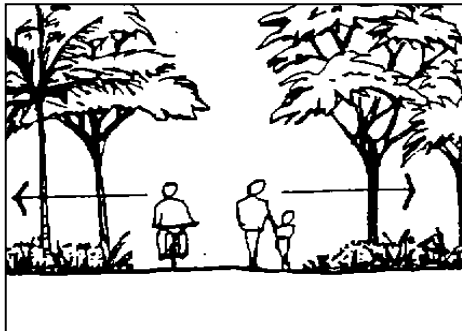
1. *To specify the general principles that apply to landscape design associated with development in Byron Shire.*

#### Performance Criteria

Landscape Plans and supporting information must demonstrate that the proposed landscaping will be consistent with the following general principles:

1. Landscape design for crime prevention and safety

Landscape design must comply with the requirements of Chapter B11 Planning for Crime Prevention, and must minimise the potential for crime and vandalism.



**Figure B9.1 – Planting maintains sightlines into public areas for safety.**

2. Landscaping not to interfere with utilities and services

Landscaping and planting must not interfere with the function and accessibility of underground or overhead services and facilities, including inspections pits/ meters.

3. Landscaping not to interfere with the structural integrity of buildings and structures

- a) Trees must not be planted within 3 metres of any building.
- b) When placing trees in the landscape, consideration must be given to the size and spread of the tree when it is mature. Ensure that trees have adequate space for their branches and roots to grow without interfering with building eaves, walls, concrete slabs, foundations, driveways, paths, retaining walls or other built structures.

4. Landscaping conserves and improves natural resources and biodiversity

Site and landscape design must:

- a) retain and protect existing significant native vegetation on the site wherever possible;
- b) retain any trees or other vegetation of cultural or heritage significance;

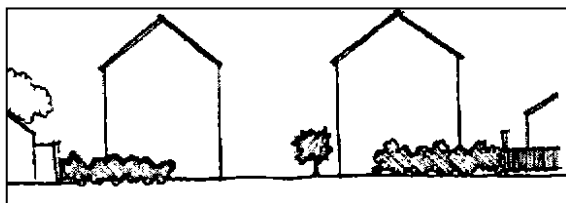
- c) incorporate the retention of existing mature trees (with the exception of weed species) into the landscape design wherever possible;
- d) utilise plant species **locally indigenous** to the area (and preferably) sourced from the local area, in preference to exotic plant material, wherever practicable;
- e) Ensure that weed species are removed from the site and are not used in the landscape design;
- f) Incorporate compensatory plantings whenever significant native vegetation is removed or damaged;
- g) on larger land parcels, incorporate bushland restoration/ regeneration works in strategic areas to consolidate naturally occurring plant communities and assist in the remediation of damaged lands.

5. Landscaping reinforces local character, identity and sense of place

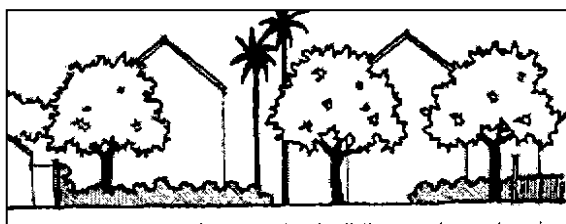
Where a street or a locality has a specific character derived from existing vegetation, similar or compatible species are planted on the site (except where the existing species are undesirable weed species).

6. Landscaping contributes positively to streetscape amenity and helps to integrate the development into the existing landscape setting

Landscaping must endeavour to soften the harsh visual effect of extensive areas of hard-surfacing, such as the cumulative effect of building walls, car parking areas and pavements. The height of plants selected must relate to the scale of the building(s), helping to visually break up hard surfaces and providing a balance between built and natural forms when the development is viewed from adjoining public streets or neighbouring properties.



*Note: This landscaping does not relate well to the building scale.*



*Note: This landscape relates to the building scale and assists integration of the building into the street.*

**Figure B9.2 – Landscaping relative to building scale**

7. Plant species are selected for long-term survival, minimal maintenance and visual interest

Plant species used in landscaping must:

- a) be suited to prevailing site conditions (such as soil characteristics, sun, shade, wind, rainfall and drainage regimes) and require minimal maintenance;
- b) be hardy and long-lived;

- c) be predominantly **locally indigenous** species (sourced from the local area wherever practicable), in preference to exotic plant species;
  - d) provide on-going visual interest through form, colour, texture, floral display and the like.
8. Landscaping improves the microclimate in and around buildings and enhances the function of outdoor living spaces
- Landscaping must provide year-round shade, shelter and amenity to outdoor living areas and help to define the function of different outdoor spaces.
9. Landscaping of public and semi-public areas provides clearly defined pedestrian pathways and assists with way-finding
- The landscape design of public areas and semi-public spaces such as car parking areas and the frontages of commercial and industrial buildings must incorporate:
- a) pedestrian pathways that have a different surface finish to, and are clearly differentiated from, driveways and vehicular movement areas;
  - b) planting or other design elements that help drivers and pedestrians locate the main entry/ exit points into the site;
  - c) planting or other design elements that assist pedestrians find their way around the development safely and locate the main entry/exit points into the building(s).
10. Adequate landscape buffers are provided between incompatible landuses
- Where the proposed development has the potential to impact upon the amenity of adjoining development, vegetative buffers are required to provide dense screening along the boundary of the proposed development.
11. Landscaping complies with bushfire protection requirements
- Where the proposed development is located on land mapped as **Bushfire Prone Land**, landscaping around proposed buildings must comply with the current legislative requirements of the *Rural Fires Act, 1997* in regards to measures required to protect the proposed development from bushfires.
- Further standards for landscape design specific to different types of development (e.g. **multi-dwelling housing**, business or industrial development) are included in the relevant Sections below.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## B9.4 Multi Dwelling Housing, Attached Dwellings and Residential Flat Buildings

### B9.4.1 Landscape Principles

#### Objectives

1. To ensure a high quality landscape and aesthetic environment for **multi dwelling housing, attached dwellings and residential flat buildings**.

#### Performance Criteria

**Multi dwelling housing, attached dwellings and residential flat buildings** shall provide a high quality landscape that seeks to enhance the amenity and function of the development and provide a pleasant environment for residents that supports their physical and psychological well-being.

#### Prescriptive Measures

1. The following design requirements apply to **multi dwelling housing, attached dwellings and residential flat buildings** developments:
  - a) retention of suitable existing vegetation;
  - b) screen planting to street frontages and driveway areas, to provide privacy between **dwelling houses** and around the boundaries of the **site**;
  - c) provision of pleasant landscaped settings for the enjoyment of residents;
  - d) planting selection that relates to building scale and mass.
2. The **common landscaped area** of the **site** must not be less than the total of the areas required for each **dwelling house**, calculated from the following table, less the total of the areas of approved private courtyards and approved private open space balconies in accordance with Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones.

**Table B9.1 – Dwelling Size to Landscape Area**

Dwelling <sup>(D)</sup> Size	Landscaped Area <sup>(D)</sup>
Small (under 55 m <sup>2</sup> in floor plan area <sup>(D)</sup> )	50 m <sup>2</sup>
Medium (55-85 m <sup>2</sup> in floor plan area <sup>(D)</sup> )	70 m <sup>2</sup>
Large (over 85 m <sup>2</sup> in floor plan area <sup>(D)</sup> )	90 m <sup>2</sup>

### B9.4.2 Common Landscaped Area

#### Objectives

1. To ensure appropriate treatment of **common landscaped areas**.

#### Performance Criteria

1. Landscaped areas and landscaping must be considered as components of the site planning process and must reflect the scale of development.



2. Landscaping must complement existing streetscapes, urban landscape and bushland, and must be in scale with the height and bulk of buildings. Landscaping must be sensitive to site attributes such as existing landscape features, streetscape, ecology, land capability, micro-climate, views and vistas.
3. Development must be designed to maximise the number of trees retained on the site.

#### **Prescriptive Measures**

1. The **common landscaped area** of the **site** must be in accordance with Section B9.4.1.
2. A minimum of 75% of the total **common landscaped area** of the site must consist of **deep soil areas**. Areas of landscaping over underground car parks, and the like, cannot be included in the calculation of **deep soil areas**.
3. The landscape design must address:
  - a) the retention and provision of appropriate trees on the **site**;
  - b) the use of earth mounding and terraced areas to create useful and visually pleasing recreation areas and to assist screening;
  - c) the orientation of landscape areas with regard to sunlight and prevailing winds;
  - d) the provision of sufficient areas adequately shaded against the summer sun and giving adequate access to the winter sun.
4. Areas used for the management of on-site sewage effluent must be excluded from calculations of the **common landscaped area**.

## **B9.5 Dual Occupancies and Semi Detached Dwellings**

### **B9.5.1 Landscape Principles**

#### **Objectives**

1. *To ensure a high quality landscape and aesthetic environment for **dual occupancies**, and **semi detached dwellings**.*

#### **Performance Criteria**

**Dual occupancies** and **semi detached dwellings** shall provide a high quality landscape that seeks to enhance the amenity and function of the development and provide a pleasant environment for residents that supports their physical and psychological well-being.

#### **Prescriptive Measures**

1. The following design requirements apply to **dual occupancies**, and **semi detached dwellings** developments:
  - a) retention of suitable existing vegetation;
  - b) screen planting to street frontages and driveway areas, to provide privacy between **dwelling houses** and around the boundaries of the **site**;
  - c) provision of pleasant landscaped settings for the enjoyment of residents;
  - d) planting selection that relates to building scale and mass.



2. Each **dwelling** must have a **minimum landscaped area** of 90m<sup>2</sup>, excluding any area used for vehicle circulation or parking. At least 25% of the site must consist of **deep soil areas**.

## **B9.6 Tourist and Visitor Accommodation, Caravan Parks, Camping Grounds and Eco-tourist Facilities**

### **B9.6.1 Landscaping of Tourist and Visitor Accommodation (excluding bed and breakfast and farmstay accommodation)**

#### **Objectives**

1. To ensure that **tourist and visitor accommodation** (excluding **farmstay** and **bed and breakfast**) provide useable outdoor areas that improve the amenity of the locality and visual appearance of the development.

#### **Performance Criteria**

The following design guidelines apply to **tourist and visitor accommodation** (excluding **farmstay** and **bed and breakfast**):

- a) retention of suitable existing vegetation;
- b) creation of a pleasant landscaped environment for customers;
- c) planting selection which can endure an intensively used environment;
- d) planting selection which relates to building proportions;
- e) embellishment and landscaping of the street and footpath area to integrate the development with the pedestrian network and to provide shade. (See B9.11.1)

#### **Prescriptive Measures`**

1. A minimum 10% of the **site area** must be dedicated to landscaping of **tourist and visitor accommodation** developments (excluding **farmstay** and **bed and breakfast**). **Landscaped areas** can be used for pedestrian access provided porous paving is utilised.
2. Screen and shade planting to car parking and driveway areas as required under B9.8.1. Screening is also required to visually obtrusive facades of the building. For effective landscaping a minimum garden bed width of 2 metres may be required for the front boundary (this will not be appropriate for all design layouts).

### **B9.6.2 Landscaping of Caravan Parks, Camping Grounds and Eco-tourist Facilities**

#### **Objectives**

1. To ensure that **caravan parks** and **camping grounds** provide useable outdoor areas that improve the amenity of the locality and visual appearance of the development.



2. *To ensure that **eco-tourist facilities** blend into their natural setting with minimal impact, while still providing a landscaped environment that improves the biodiversity of the locality without exacerbating bushfire risk.*

### **Performance Criteria**

1. The following design guidelines apply to **camping grounds** and **caravan parks**:
  - a) retention of suitable existing vegetation;
  - b) creation of a pleasant landscaped environment for customers;
  - c) planting selection which can endure an intensively used environment;
  - d) planting selection which relates to building proportions;
  - e) landscaping that provides for privacy balanced with crime prevention;
  - f) landscaping that is responsive to bushfire hazards.
2. The following design guidelines apply to **eco-tourist facilities**:
  - a) retention of suitable existing vegetation;
  - b) landscaping that minimises visual impacts of the development;
  - c) landscaping that minimises bushfire hazard;
  - d) planting selection that is **locally indigenous** to locality and improves biodiversity where possible.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **B9.7 Commercial and Retail Development**

### **Objectives**

1. *To enhance the built form of commercial and retail areas.*

### **Performance Criteria**

1. Retain existing vegetation where appropriate;
2. Where possible, provide street trees and/or plantings;
3. For stand-alone large scale retail or commercial development, provide suitable landscaping to visually soften the hard stand features of the built environment.

### **Prescriptive Measures**

For stand-alone large scale retail or commercial development, a minimum 10% of the site area must be dedicated to landscaping.

## B9.8 Industrial Development

### B9.8.1 Industrial Landscaping

#### Objectives

1. *To enhance the appearance, climatic conditions and character of industrial areas.*

#### Performance Criteria

Industrial development is potentially the most visually unattractive form of development in the Shire, particularly due to building type, use and size. Effective landscaping can reduce the visual impacts of such development and create a unifying element in the streetscape.

The following criteria apply to industrial developments:

- a) Screen planting at the rear and sides of industrial buildings, particularly where the development is located on the edge of industrial areas and abuts non-industrial lands;
- b) Retention of suitable existing vegetation;
- c) Screen planting to street frontages, adjacent to car parking and driveway areas, around the boundaries of the **site** and to visually intrusive facades of the building;
- d) Planting selection and design which is low maintenance and can endure an intensively used environment;
- e) Planting selection which relates to building scale and mass;
- f) Minimal use of concrete in **landscaped areas**;
- g) Use porous paving where appropriate.

#### Prescriptive Measures

The following design criteria apply to industrial developments:

1. For effective landscaping a minimum garden bed width of 2 metres is required for the front boundary. The garden bed must contain low shrubs and ground covers and clear trunked canopy shade trees with a minimum spacing of 6m between each tree;
2. At least 80% of the planting of industrial sites is to be at the front of the **site**.

## B9.9 Car Parking and Open Storage Areas

### B9.9.1 Landscaping Of Car Parking and Open Storage Areas

#### Objectives

1. *To enhance the built form, provide shade and assist in screening car parking and open storage areas.*

#### Performance Criteria

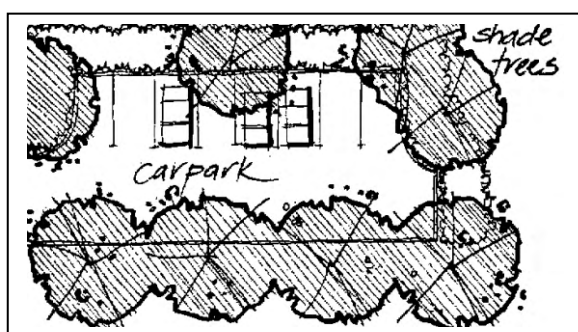
1. Planting in **car parks** reduces the harsh visual effect created by open concrete and asphalt areas and provides shade and wind protection. The landscape design should be an integral part of **car park** design and layout. The design can incorporate shade



tree planting throughout the **car park** and dense planting, mounding, walling and fencing on boundaries to provide screening.



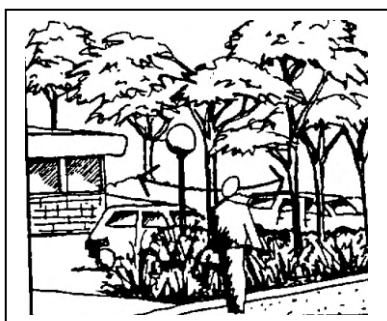
**Figure B9.3 – Landscaping breaks up the hard stand/car park area**



**Figure B9.4 – Planting in car parks**

### **Prescriptive Measures**

1. In commercial and industrial parking areas and in open storage areas, shade trees shall:
  - a) be provided at the rate of 1 tree to shade every 2-5 parking spaces and aim to provide adequate shade cover after five (5) years or less;
  - b) have high spreading branches;
  - c) have a low attraction to bird species;
  - d) be provided in garden beds of minimum width 2m.



**Figure B9.5 – Planting of commercial and industrial car parks**

2. Use smooth-barked trees, shrubs to 1m and ground covers for maximum visibility and surveillance.
3. The following design guidelines apply to **car parks**:
  - a) retention of suitable existing vegetation;
  - b) screen planting to street frontages and around the boundaries of the **site**;
  - c) buffer planting to adjacent land uses;
  - d) planting of shade trees throughout the **car park** (landscape works in the **car park** should aim to provide adequate shade cover after 5 years);
  - e) Shade trees are to be selected on the basis of those species which are not prone to limb drop or other risks that may cause damage to cars;
  - f) separation and definition of pedestrian and vehicular circulation routes;
  - g) for effective landscaping, a minimum garden bed width of 2 metres is required for the front boundary;
  - h) use of porous paving for parking bays and driveways where appropriate.

## **B9.10 Cycleways, Pedestrian Routes, Drainage and Watercourses**

### **B9.10.1 Landscaping of Cycleways and Pedestrian Routes**

#### **Objectives**

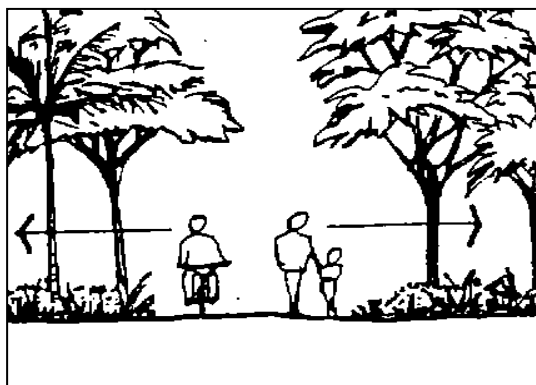
1. *To maximise natural characteristics and promote safety within cycleways and pedestrian routes.*

#### **Performance Criteria**

There are no Performance Criteria.

#### **Prescriptive Measures**

1. Landscaping along pedestrian and cycle routes shall consist of clear trunked trees, shrubs to 1 metre height and groundcovers to allow for maximum visibility and surveillance.



**Figure B9.6 – Surveillance for pedestrians and cyclists to provide security**

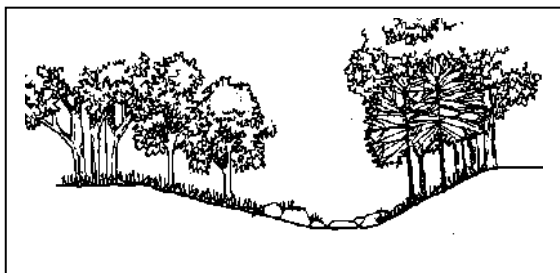
## B9.10.2 Drainage and Watercourses

### Objectives

1. *To promote ecological diversity and to maximise aesthetic values of drainage lines and watercourses.*

### Performance Criteria

1. The natural vegetation associated with rivers, streams and creeks forms the riverine and creek community. This vegetation can provide vital corridors for fauna and genetic links between remnant patches of forest. It also assists in maintaining high water quality and stream stability values.



**Figure B9.7 – Example of Natural vegetation alongside watercourses**

2. Development adjacent to rivers and creeks can degrade the function of these communities and careful landscape design is warranted. Planting should consist of **locally indigenous** species to reinforce ecological functions, and be tolerant of occasional inundation. It is important not to plant weed species along waterways as the river system will further distribute the unwanted species.
3. The following landscape design principles apply to areas adjoining watercourses and drainage lines:
  - a) retention of suitable existing vegetation;
  - b) rehabilitation of degraded areas and removal of weed infestation;
  - c) replanting of species which are indigenous to the area, tolerant of possible inundation and not likely to cause a weed problem;
  - d) landscape solutions for drainage lines, particularly in urban areas, which promote:
    - i. the utilisation of natural materials and natural feature solutions as an alternative to traditionally hard and unattractive open concrete drains;
    - ii. integration of engineering and landscape solutions for stormwater management;
    - iii. on steep land, swales and contour banks to reduce the detrimental effects of overland flow.

### Prescriptive Measures

There are no Prescriptive Measures.





**Figure B9.8 – Example of drainage line that encourages the use of natural materials.**

**Note:** Planting species should be tolerant of inundation and not likely to create a weed problem.

## B9.11 Street Trees in Subdivision and Developments

Street trees contribute to the identity of the Shire through the provision of pleasant streetscapes and planting themes. The character or theme in residential and commercial areas can be enhanced by the selection of street trees.

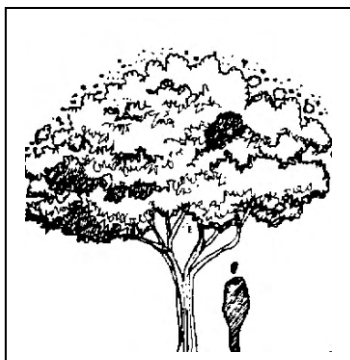
### B9.11.1 Design and Selection of Street Trees

#### Objectives

1. To promote ecological diversity and landscape character in the Shire's streets.

#### Performance Criteria

1. Native species, (preferably **locally indigenous** species), must be used as street trees in association with subdivision and development to preserve and enhance the natural character of the Shire. In addition, the retention and featuring of existing vegetation within the road reserve may provide a suitable established landscaped streetscape. Careful consideration is required in the location and choice of street trees, with particular attention to:
  - a) services and infrastructure (both underground and overhead),
  - b) sight lines at intersections, and
  - c) pedestrian and cycleway movements.



**Figure B9.9 – Street trees that allow pedestrian movement**

2. For **multi dwelling housing, attached dwellings, residential flat buildings** and commercial development the embellishment of the road reserve with street trees will be considered on merit and dependant upon existing street trees, width of the road frontage and size of the development. The Landscape Concept Plan prepared for the development needs to consider street trees and other landscaping of the road reserve as an integral part of the development.
3. The design of the planted area for street trees should encourage passive watering from the road and footpath surface and incorporate the principles of **water sensitive urban design**.

For design and technical guidelines refer to the Landcom Street Tree Design Guidelines available on the internet.

### **Prescriptive Measures**

1. Street trees should be chosen for their:
  - a) non-invasive root systems;
  - b) good canopy spread and shade provision;
  - c) mature height growth nature (under 10m in height)
  - d) colour and appeal;
  - e) low maintenance requirements;
  - f) suitability for soil type and drainage conditions.
2. Street trees provided as part of a new development must be a minimum of 45 litres in size to provide an early established character to the development. In some circumstances the use of root barriers will be required when planting trees close to kerbs, buildings and other structures under the possible threat of root damage.
3. A minimum of one street tree per 15 metres of residential lot street frontage with a minimum canopy diameter of 8 metres at maturity to be provided for new subdivisions.

## **B9.12 Landscape Design Considerations**

### **B9.12.1 Underground Car Parks**

#### **Objectives**

1. *To prevent adverse visual impacts from ventilation shafts and grilles.*

#### **Performance Criteria**

Ventilation openings in underground car parking structures must be carefully integrated into the landscape. Ventilator shafts or grilles must be positioned so that they are screened from view, yet still function effectively.

#### **Prescriptive Measures**

There are no Prescriptive Measures.



## B9.12.2 Roof Decks and Balconies

### Objectives

1. *To enhance the visual amenity and appearance of rooftops and balconies.*

### Performance Criteria

1. Rooftop and balcony planting (or vertical landscaping) is to be used on the upper levels of higher buildings to:
  - a) promote a more attractive facade for multi-level buildings;
  - b) soften the bulk of the building;
  - c) graduate the height of the building with planting;
  - d) increase privacy between upper level balconies and dwelling houses;
  - e) provide a subtropical ambience for buildings.
2. Where planter bays or landscape beds are proposed applicants are directed to the minimum landscaping provisions under the Residential Design Flat Code (Planning NSW) – Planting on Structures for depth and dimensions of planter bays and volume of soil required.
3. Roof decks must be so designed and constructed as to be structurally capable of carrying a sufficient volume of topsoil to allow development of a planting program integrated with landscape development on other parts of the site.

### Prescriptive Measures

There are no Prescriptive Measures.

## B9.12.3 Climate and Microclimate

### Objectives

1. *To ensure that the design of developments and landscaped areas addresses the climatic characteristics of the area and the microclimate of the site.*

### Performance Criteria

1. Landscaping should be designed to enhance and reinforce positive climatic influences and minimise the impact of adverse climatic features.
2. A site's microclimate is directly affected by a combination of the prevailing climatic conditions, the site's aspect (i.e. the direction it faces), the topography, the vegetation and the structures. With due consideration to the prevailing weather conditions, landscaping can effectively control climatic impacts on buildings and outdoor spaces.

Microclimate control aspects of landscaping must be designed to maximise the opportunity to create a comfortable environment. Landscape design must take into account the placement of evergreen and deciduous species to ensure winter sun penetration and summer shade to buildings and outdoor open space/ recreation areas. In particular:

- a) consider shade and canopy spread of trees when locating planting in design;
- b) deciduous vegetation to the north of the block provides summer shade and allows winter sun;
- c) vegetation on the western side of the block assists in control of afternoon sun;
- d) evergreen vegetation should be planted on the eastern, western and southern sides of the block to provide summer shade and to deflect cold winter winds.

### **Prescriptive Measures**

In summer the western elevations of buildings should be protected from the afternoon sun with trees of suitable mature height.

## **B9.12.4 Existing Vegetation**

### **Objectives**

1. *To promote ecological sustainability and to optimise aesthetic character by maximising retention of existing vegetation.*

### **Performance Criteria**

1. Landscaping should retain, protect and enhance existing natural vegetation.
2. Vegetation retention must be considered at the initial stages of development design. Buildings, roads, parkland, or other components of a development must be located to retain maximum vegetation on a **site**. Design intent is important in the protection of significant vegetation.
3. Maximum advantage should be taken of existing mature trees and shrubs on the **site** and these should be incorporated into the overall landscape strategy. The retention of vegetation on a development **site** adds an “established” effect and an immediate vertical dimension to the design. Existing vegetation also assists in the retention of the natural character of the Shire and has ecological benefits. In addition, existing vegetation on a **site** may be significant for historical, aesthetic or environmental reasons and may be required to be retained by Council provisions.
4. Provision must be made in the design for the protection of existing vegetation during construction works – for example, fencing barriers and appropriate signage should be provided. Particular effort must be made to protect the root zone of those trees to be retained, by avoiding compaction of this area by construction vehicles, and by ensuring that any stockpiling of materials occurs well away from the drip line of the tree.
5. The effective use of vegetation on a **site** can also substantially reduce the landscaping costs of a development and should be considered in the design process.



**Figure B9.10 – Retention of suitable vegetation is encouraged**

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **B9.12.5 Planting Size, Density and Species**

### **Objectives**

1. *To ensure that landscape and planting design is compatible with the scale and character of the proposed development.*
2. *To ensure that the density of landscaping and planting is compatible with the long term and short term character of the proposed development.*
3. *To promote a landscape character in the Shire which is based on **locally indigenous** plant species and the natural, subtropical environment of the area.*
4. *To promote sustainability through the provision of edible species in appropriate locations.*

### **Performance Criteria**

1. The selected planting size, density and species is dependent upon a number of factors, including the scale and nature of the project, availability of planting stock and particular requirements specified in conditions in a development consent. In many cases follow-up planting is advantageous once initial planting is established.
2. The landscape plan needs to address size, density and species composition consistent with best practice landscape architecture or landscape design principles.

### **Prescriptive Measures**

1. The following planting sizes are the minimum required to achieve an initial impact in the landscape design:
 

a) street and feature trees:	45 litre minimum
b) trees:	300mm minimum pot size
c) large shrubs:	200mm minimum pot size
d) groundcovers:	140mm minimum pot size
2. A minimum of 90% of all plants used shall be **locally indigenous**. These species are listed in the Native Species Planting Guide to Byron Shire which can be found on Council's website.

3. No species listed as undesirable in Chapter B2 Preservation of Trees and Other Vegetation shall be used in landscaping on any **site**.
4. Species listed as threatened species under the *Threatened Species Conservation Act 1995* should not be used for landscaping purposes unless the genetic provenance can be demonstrated in terms of locally sourced seed stock.
5. In new developments, consideration will be given to the provision of dedicated areas for the growing of vegetables, fruit trees and other edible species as part of the landscaped areas.

## **B9.13 Landscape Works and Maintenance**

### **B9.13.1 Landscape Construction Works**

#### **Objectives**

1. *To ensure the viability and survival of landscape and planting works.*
2. *To ensure survival and ongoing functioning of landscaping and planting.*

#### **Performance Criteria**

**Landscape areas** shall be constructed and maintained in accordance with best practice landscape architecture or landscape design principles.

#### **Prescriptive Measures**

There are no Prescriptive Measures.



# Byron Shire Development Control Plan 2014

## Chapter B10 Signage



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## Chapter B10 – Signage

### Contents

<b>B10.1 Introduction.....</b>	<b>5</b>
B10.1.1 Purpose of this Chapter .....	5
B10.1.2 Aims of this Chapter .....	5
B10.1.3 Application of this Chapter .....	5
<b>B10.2 General Requirements for Signage .....</b>	<b>6</b>
B10.2.1 Information to be Provided with Application .....	6
B10.2.2 Duration of Consent.....	6
<b>B10.3 Signage Types and Locations .....</b>	<b>7</b>
B10.3.1 Signage on or in the Vicinity of Heritage Items or Heritage Conservation Areas .....	7
B10.3.2 Signage in Residential, Village and Rural Zones .....	9
B10.3.3 Signage in Business and Industrial Zones and on Commercial or Industrial Development in other Zones.....	10
B10.3.4 Corporate Colours .....	13
B10.3.5 Undesirable Signage .....	14

### Figures

Figure B10.1 – Inappropriate Signage .....	7
Figure B10.2 – Appropriate Signage.....	8
Figure B10.3 – Above Awning Sign .....	11
Figure B10.4 – Indirectly Illuminated Sign.....	11
Figure B10.5 – Internally Illuminated Sign .....	12
Figure B10.6 – Multiple Identification Sign.....	12
Figure B10.7 – Under Awning Sign.....	13

### Appendices

Appendix B10.1 – Signage Assessment Criteria .....	15
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***Document History***

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#E2013/81000	20 March 2014	Res 14-118 – Public exhibition version
#E2014/32493		Draft to 26 June 2014 Extraordinary Meeting - for adoption
#E2014/42773		Adopted Version – Res 14-315



## B10.1 Introduction

### B10.1.1 Purpose of this Chapter

The purpose of this Chapter is to provide guidelines and controls for **signage** consistent with the objectives and provisions of Byron Local Environmental Plan 2014 and *State Environmental Planning Policy 64 – Advertising and Signage* (SEPP).

Well-designed and well-maintained signs that respect the scale and character of the street and their surrounds can enhance commercial or other areas. However, when signs do not relate appropriately to their surroundings, when they reach excessive size, or when they feature blatant and discordant designs, they reflect poorly on the overall quality of the built and natural environment of Byron Shire.

### B10.1.2 Aims of this Chapter

The Aims of this Chapter are:

1. To recognise the legitimate need for business identification and to enable occupiers of land to identify themselves and their businesses clearly and fairly.
2. To facilitate appropriate directional and information **signage** and to assist visitors to locate and enjoy the attractions of the Shire.
3. To minimise visual clutter in the environment by promoting high standards of **signage** and advertising quality, design and finish.
4. To limit the overall amount of advertising through provision of fewer, better designed signs.
5. To promote advertising and **signage** that is in harmony with their surroundings, including buildings to which they are attached, and are compatible with the amenity and visual character of the Shire's landscapes, rural areas, towns, villages and areas of historical and environmental significance.
6. To ensure that **signage** does not reduce the safety of any road, pedestrian path or navigable waterway.
7. To ensure that the costs of Council erected fingerboard signs are borne by the applicant.

### B10.1.3 Application of this Chapter

This Chapter applies to all **signage** that is permitted by Byron LEP 2014 and by SEPP 64 – Advertising and Signage. This Chapter does not override or replace the requirements of those environmental planning instruments rather it applies more detailed provisions with respect to certain **signage**.

This Chapter does not apply to **signage** that is Exempt Development specified in Clause 3.1 of Byron LEP 2014 and in SEPP (Exempt and Complying Development Codes).



## B10.2 General Requirements for Signage

### B10.2.1 Information to be Provided with Application

In addition to the usual requirements, a Development Application seeking consent for **signage** must be accompanied by the following information:

1. a description of the sign and any associated **advertising structure**, e.g. dimensions, whether illuminated, etc;
2. diagram accurately showing full colour scheme, wording and/or graphics drawn to an appropriate and clearly identified scale;
3. **site** plan accurately showing the location of the sign and **advertising structure** in relation to property and road boundaries. Such plans are to show dimensions and to be drawn to an appropriate and clearly identified scale (e.g. 1:50, 1:100);
4. in the case of a freestanding sign, drawings must also be provided to clearly identify the height and location of adjacent buildings, and/or tree canopies. Perspective diagrams or photographic imagery must be provided to demonstrate that the sign does not protrude above the dominant skyline (including building structures or tree canopies) when viewed from ground level within a visual catchment of 1 km;
5. where the sign is attached to a building, elevations showing building façade, windows, verandahs and other major architectural features in relation to the sign, drawn to an appropriate and clearly identified scale;
6. a detailed and justified assessment of the consistency of the proposed **signage** with all relevant Clauses of SEPP 64;
7. a detailed and justified assessment of the proposed **signage** in accordance with each of the assessment criteria in Appendix 1 of this Chapter;
8. signs are required to be supported in a suitable manner to withstand structural and wind loadings. In the case of large or complex advertising structures, a Certified Practising Engineer will be required to certify the structural adequacy of the sign and its supporting structure.

### B10.2.2 Duration of Consent

Consents granted for **signage** will typically be conditioned to expire 15 years after the date on which the consent becomes effective.

## B10.3 Signage Types and Locations

### B10.3.1 Signage on or in the Vicinity of Heritage Items or Heritage Conservation Areas

#### Objectives

1. To ensure that the design, form, location and size of **signage** does not detract from the character or **heritage significance** of **heritage items** and **heritage conservation areas**.
2. To ensure that new **signage** is visually sympathetic and where possible contributes to the heritage character of the streetscape.

#### Performance Criteria

Traditional style commercial buildings have flat parapets and other surfaces suitable for placing **signage**. Signs should not be added to end walls, or projecting panels or hung from verandahs. The addition of signs to all visible parts of buildings without due regard to the architectural form and integrity of the building creates a cluttered and untidy appearance.

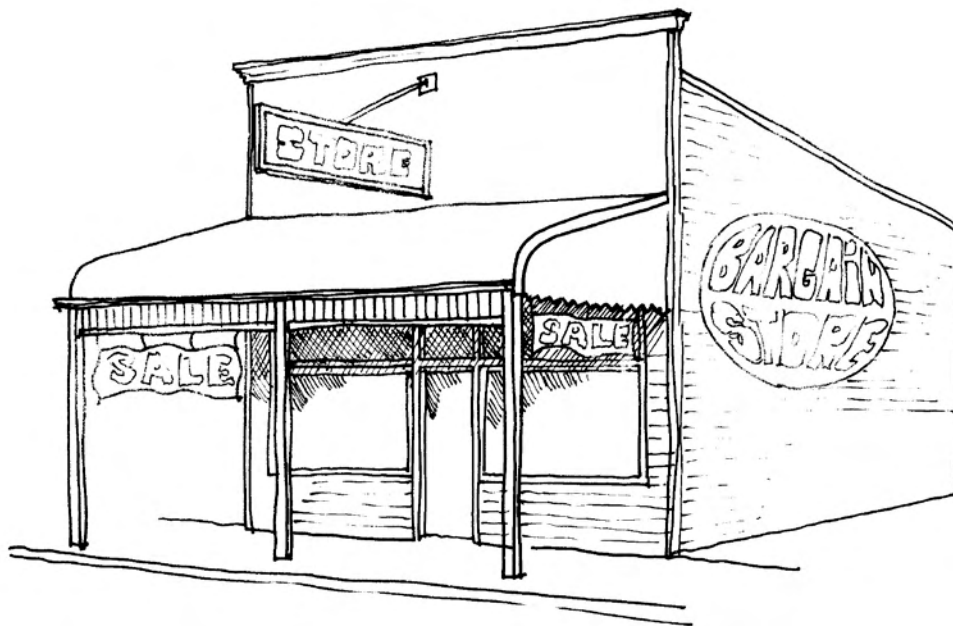
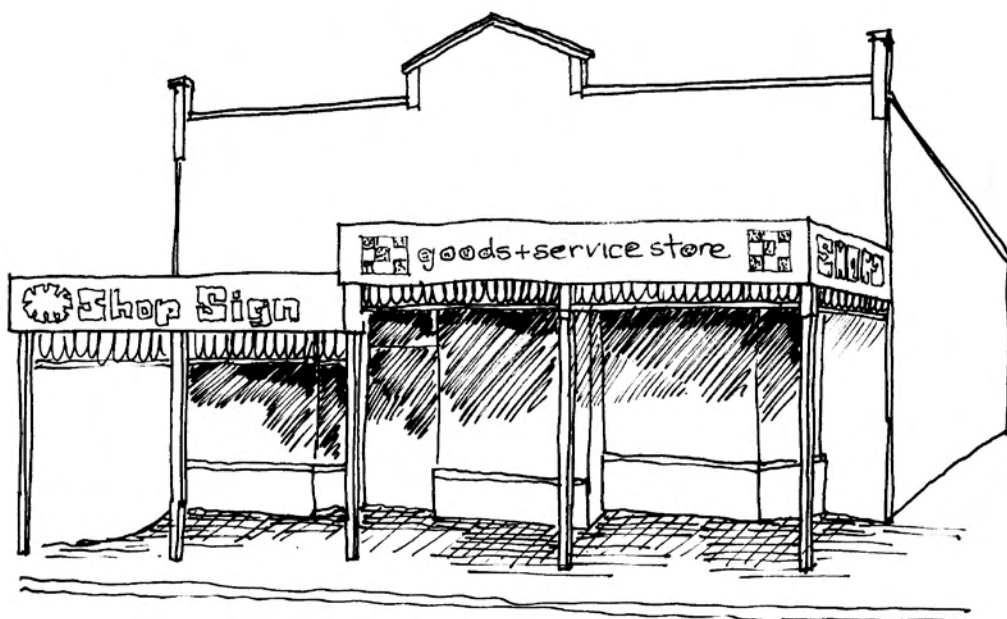


Figure B10.1 – Inappropriate Signage

**Signage** can be discreet and appropriate without interfering with architectural features.



**Figure B10.2 – Appropriate Signage**

### **Prescriptive Measures**

1. An **advertisement** must not be fixed to a building or site that is a **heritage item** unless the Development Application demonstrates that:
  - a) the building or site has traditionally displayed an **advertisement**; and
  - b) the application demonstrates that the proposed **signage** meets the statutory requirements of SEPP 64 and Byron LEP 2014.
2. **Signage** erected on land containing a heritage item or in a **heritage conservation area** must be designed and located to ensure:
  - a) compatibility with the architectural and heritage characteristics of the **heritage item** or **heritage conservation area**. Avoid signs above parapets or on large projections or fascias;
  - b) compatibility with the local architecture, streetscape, landscape and heritage character of towns and villages in which they are to be located;
  - c) use of traditional materials such as painted timber or flat metal panels is preferred;
  - d) lighting is limited to recessed or concealed spotlighting, internally illuminated signs such as box signs are generally incompatible with the heritage environment;
  - e) lettering must be simple, clear and symmetrical, using uppercase lettering and using symbols sparingly. Modern or highly stylised letter styles are inappropriate;
  - f) colours are dark or muted, e.g. maroon, dark green, terracotta, brown charcoal. Highlight with creams, pinks, ochres and earth tones. Use primary colours sparingly; and
  - g) the architectural details of the building and/ or the heritage character of the site are not obscured or diminished.
3. Development applications that propose **signage** on, or within 100m from the boundary of the land containing a **heritage item** or within a **heritage conservation area** may be requested to include an assessment of the impact of the **signage** on the **heritage item**

or **heritage conservation area**. Council may require submission of a **heritage Impact Statement** if it considers that the proposed **signage** has potential to create adverse impacts on heritage values or character.

## B10.3.2 Signage in Residential, Village and Rural Zones

### Objectives

1. *To enable legitimate, approved developments and land uses in residential, village and rural zones to be identified appropriately.*
2. *To ensure that the amenity, landscape, streetscape and character of residential, village and rural zones are not adversely affected by **signage**.*
3. *To minimise potential for visual roadside clutter.*

### Performance Criteria

There are no Performance Criteria for this Item.

### Prescriptive Measures

1. For Residential or Village Zones the following shall apply:
  - a) only one **business identification sign** or one **building identification sign** associated with a business or building located on the land may be erected on a property
  - b) illumination may only be by means of external recessed or concealed spotlighting;
  - c) the **display area** of **business identification signs** must not exceed 1.5m<sup>2</sup>.
2. For Rural Zones the following shall apply:
  - a) the **display area** of **business identification signs** must not exceed 1.5m<sup>2</sup>; and height above ground level must not exceed 2m;
  - b) the **display area** of **building identification signs** must not exceed 2.5m<sup>2</sup> and height above ground level must not exceed the height of the eaves of the building;
  - c) only one **business identification sign** or one **building identification sign** associated with a business or building located on the land may be erected on a property;
  - d) illumination may only be by means of external recessed or concealed spotlighting;
  - e) **signage** where permitted shall not be located in a position where it would intrude into the skyline as viewed from a public place;
  - f) **signage** where permitted must relate to the style, character and function of development, activity or building(s) on the site;
  - g) **signage** must relate to the land on which it is to be displayed, or to premises situated on that land or adjacent land and specify one or more of the following particulars:
    - i) the purpose for which the land or premises is or are used;
    - ii) the identification of a person residing or carrying on an occupation or business on the land or premises;
    - iii) a description of an occupation or business referred to in subparagraph (ii);

- iv) particulars of the goods or services dealt with or provided on the land or premises.

### **B10.3.3 Signage in Business and Industrial Zones and on Commercial or Industrial Development in other Zones**

#### **Objectives**

1. To ensure that **signage** in Business, Industrial and Village zones is compatible with the character and function of the locality in which it is located.
2. To ensure **signage** relating to **commercial premises** and **industries** in other zones is compatible with the character and function of the locality in which it is located.
3. To promote an integrated design approach to **signage**, consistent with the locality's architectural, streetscape and landscape character.
4. To encourage a coordinated approach to **signage** where multiple occupancy or **mixed use** of buildings or sites occurs.

#### **Performance Criteria**

There are no Performance Criteria.

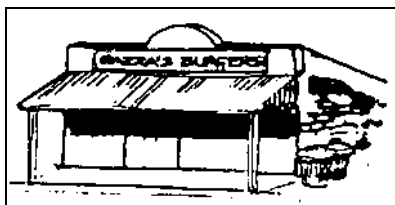
#### **Prescriptive Measures**

1. **Signage** must reflect the role and function of the premises on which it is erected. The design, siting and number of signs must be restricted to ensure equity for all land users in the locality and must promote a pleasant and uncluttered visual environment.
2. Signs must be located on the land to which they refer, unless otherwise approved in accordance with this DCP. The design, size and scale of signs must complement the buildings and structures to which they are attached and must be compatible with the existing and proposed future character of their locality.
3. All freestanding signs are permitted only where building setbacks are sufficient and Council is satisfied that the **signage** will be compatible with the character and function of surrounding community spaces, pedestrian areas and roads.
4. On buildings containing more than one shop or business, signs must be coordinated in height, shape, size and colour and must be located and designed in a coordinated manner so as to complement the building facade and enhance the visual appearance of the building and its surrounds.
5. Each industrial or **commercial premise** is limited to a maximum of three signs at road frontage which are to comprise a combination of **signage** types e.g. under awning sign, window sign, and fascia sign.
6. **Signage** must be simple, clear and concise and must provide essential information. Graphic symbols may be more effective than words. Advertisers are encouraged to include street numbers for ease of identification by customers and emergency services.
7. For good visibility, **signage** colours should contrast with, but complement, the surrounding building colour scheme. Bright fluorescent colours will not be approved. Colours and materials must complement the building colour scheme and facade treatment, including architectural features of the building.
8. **Signage** materials must be durable and waterproof. Signs that fade or deteriorate rapidly become unsightly and will not be approved.



9. Any sign that is illuminated may be required to incorporate an automatic timing device to extinguish the illumination during specified hours to minimise light spill into nearby areas.
10. The following are the maximum **display areas**, maximum dimensions and certain other criteria for various types of **signage**:

Above Awning Sign – **display area** 3.2m<sup>2</sup>



**Figure B10.3 – Above Awning Sign**

A-Frame Sign - **display area** 1m<sup>2</sup> on each of the two faces, width 0.75m

Building Identification Sign – **display area** 2.5m<sup>2</sup>

Business Identification Sign – **display area** 1.5m<sup>2</sup>

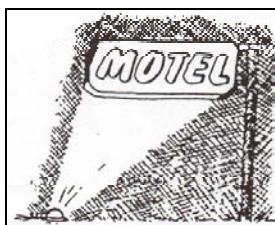
Chalk Board – **display area** 1m<sup>2</sup>, width 0.75m.

Directory Board – **display area** 4m<sup>2</sup>

Fascia Sign – lettering maximum 450mm high, lettering not to extend outside the fascia

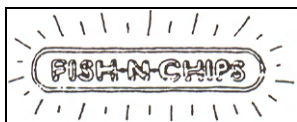
Freestanding Sign (or Pole Sign) – maximum one pole sign permitted for each premises. A pole sign must not have a **display area** exceeding 8m<sup>2</sup>, and a height not exceeding 6 metres, and must maintain a minimum height above ground level of 2.6 metres to the base of the **display area**. A pole sign must not protrude above the dominant skyline (including buildings, structures, or tree canopies) when viewed from ground level within a visual catchment of 1 km.

Indirectly Illuminated Sign – **display area** 4m<sup>2</sup> per premises



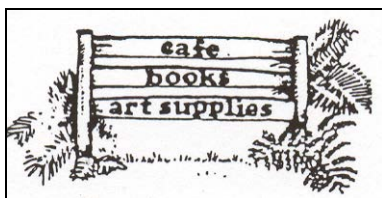
**Figure B10.4 – Indirectly Illuminated Sign**

Internally Illuminated Sign – **display area** 4m<sup>2</sup> per premises



**Figure B10.5 – Internally Illuminated Sign**

Multiple Identification Sign – **display area** 8m<sup>2</sup>



**Figure B10.6 – Multiple Identification Sign**

#### Projecting Sign

Vertical (height not less than width) – minimum 2.6 metres above the footpath and have no parts of the sign projecting above the roof, parapet or ridgeline, nor obscuring any architectural feature of the building. Where such signs have more than 2 faces, one face of the sign must be parallel to the building alignment. No part of the sign may be located within 0.6 metres of the vertical projection of the kerb alignment. Maximum allowable projection shall be:

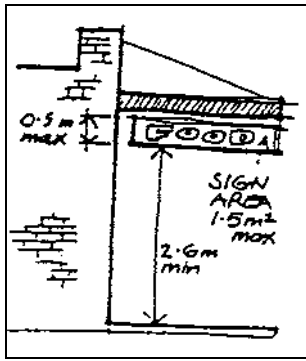
- a) 0.8 metres, where the sign incorporates a maximum height of 3.7 metres above the ground level;
- b) 0.9 metres, where the sign incorporates a maximum height of 4.6 metres above the ground level; or
- c) 1.2 metres, where the sign incorporates a maximum height of 5.5 metres above the ground level.

Horizontal (width greater than height) – may extend over the footpath to a maximum distance of 2.4 metres, or to within 0.6 metres of the edge of the kerb, whichever is the lesser, and must be located to achieve a minimum height of 2.6 metres above the footpath to the base of the sign. Any such sign must have no parts projecting above the roof, parapet or ridgeline, nor obscuring any architectural feature of the building. Where such signs have more than 2 faces one face of the sign must be parallel to the building alignment. Maximum depth shall be:

- a) 0.5 metres, where the sign incorporates a minimum height of 2.6 metres, at the base of the sign, and a maximum height of 3.7 metres above the ground level;
- b) 1.2 metres, where the sign incorporates a maximum height of between 3.7 metres and 6.0 metres above the ground level.

Under Awning Sign – **display area** 1.5m<sup>2</sup>, depth 0.5 metres, base of sign not less than 2.6 metres clearance to footpath. Positioned so that the sign's centre is not closer than 3 metres to the centre of any other under awning sign. Must not project beyond the edge of the awning except in the case of an awning wholly within the boundaries of the property occupied by the building.





**Figure B10.7 – Under Awning Sign**

#### Wall Advertisement (or Flush wall sign)

Only one wall **advertisement** may be displayed per **building elevation**.

The consent authority may grant consent to a wall **advertisement** only if:

- a) the consent authority is satisfied that the **advertisement** is integrated with the design of the building on which it is to be displayed,
- b) for a building having:
  - i) an above ground elevation of 200 square metres or more—the **advertisement** does not exceed 10% of the above ground elevation;
  - ii) an above ground elevation of more than 100 square metres but less than 200 square metres—the **advertisement** does not exceed 20 square metres;
  - iii) an above ground elevation of 100 square metres or less—the **advertisement** does not exceed 20% of the above ground elevation;
- c) the **advertisement** does not protrude more than 300 millimetres from the wall, unless occupational health and safety standards require a greater protrusion;
- d) the **advertisement** does not protrude above the parapet or eaves;
- e) the **advertisement** does not extend over a window or other opening;
- f) the **advertisement** does not obscure significant architectural elements of the building.

In the case of the display of a wall **advertisement** on **transport corridor land**, subclauses a) to f) do not apply and the consent authority may grant consent only if satisfied that the advertisement is consistent with the **Guidelines**.

Window Sign – **display area** 25% of total window area at street front elevation.

## **B10.3.4 Corporate Colours**

### **Objectives**

1. To ensure that **signage** that includes corporate colours does not adversely affect the amenity, landscape, streetscape and character of the Shire

### **Performance Criteria**

1. The following controls apply in all zones:

- a) corporate colours used on buildings are considered to be **signage** and must complement the building to which they are attached;
- b) corporate colours used on buildings must be compatible with the character of their locality;
- c) bold primary, fluorescent, reflective and/or strongly contrasting colours, stripes or other repeated patterns that do not respect the character and architectural features of the locality or that allow the building to dominate the streetscape should be avoided.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **B10.3.5 Undesirable Signage**

### **Objectives**

1. *To ensure that the built form, character and natural environment of the Shire are not adversely affected by inappropriate design or siting of advertising **signage**.*
2. *To ensure **signage** does not create a traffic hazard.*

### **Performance Criteria**

There are no Performance Criteria.

### **Prescriptive Measures**

The following signs are generally considered undesirable:

- a) animated signs,
- b) billboard signs,
- c) bunting,
- d) neon sign,
- e) roof advertisements,
- f) **signage** mounted on or attached to stationary vehicles or trailers,
- g) **signage** on bridges,
- h) **signage** on trees or electricity or telephone poles.

Applications for such signage must be accompanied by an assessment prepared according to Appendix B10.1 Signage Assessment Criteria. Approval will be dependent on justification for the use of such signage (to Council's satisfaction) according to the signage assessment criteria in Appendix B10.1.

## Appendix B10.1 – Signage Assessment Criteria

### 1. Character of the area

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

### 2. Special areas

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

### 3. Views and vistas

- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

### 4. Streetscape, setting or landscape

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?
- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?
- Does the proposal reduce clutter by rationalising and simplifying existing advertising?
- Does the proposal screen unsightliness?
- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?
- Does the proposal require ongoing vegetation management?

### 5. Site and building

- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed **signage** is to be located?
- Does the proposal respect important features of the site or building, or both?
- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

### 6. Associated devices and logos with advertisements and advertising structures

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the **signage** or structure on which it is to be displayed?

## **7. Illumination**

- Would illumination result in unacceptable glare?
- Would illumination affect safety for pedestrians, vehicles or aircraft?
- Would illumination detract from the amenity of any residence or other form of accommodation?
- Can the intensity of the illumination be adjusted, if necessary?
- Is the illumination subject to a curfew?

## **8. Safety**

- Would the proposal reduce the safety for any public road?
- Would the proposal reduce the safety for pedestrians or bicyclists?
- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?



# Byron Shire Development Control Plan 2014

## Chapter B11 Planning for Crime Prevention



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## Chapter B11 – Planning for Crime Prevention

### Contents

<b>B11.1 Introduction.....</b>	<b>5</b>
B11.1.1 Aims of this Chapter .....	5
B11.1.2 Application of this Chapter .....	5
<b>B11.2 Development Controls .....</b>	<b>5</b>
B11.2.1 Development that Requires a Formal Crime Risk Assessment .....	5
B11.2.2 Applying CPTED where Crime Risk Assessment is not required .....	6
B11.2.3 CPTED Design Opportunities .....	9



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## B11.1 Introduction

The former Department of Urban Affairs and Planning (now NSW Department of Planning and Infrastructure) in April 2001 published *“Crime Prevention and the Assessment of Development Applications – Guidelines under Section 79C of the Environmental Planning and Assessment Act 1979”*. The Guidelines recognise the principles of Crime Prevention Through Environmental Design (CPTED), and establish two levels of assessment of crime risk for consideration of Development Applications:

1. A formal Crime Risk Assessment is required for any development that, in the Council’s opinion, is likely to create a risk of crime.
2. CPTED principles must be considered in the assessment of all Development Applications.

The Department of Planning’s CPTED initiatives are implemented in conjunction with the NSW Police Force’s Safer by Design program.

### B11.1.1 Aims of this Chapter

1. To ensure that all development plays a role in enhancing the safety of our communities.
2. To reduce the vulnerability of our community to crime through good urban design.
3. To require developers to work with the community and the NSW Police Force to create a safer environment and be active in practical crime prevention.

### B11.1.2 Application of this Chapter

This Chapter applies to all development on land subject to Byron LEP 2014.

## B11.2 Development Controls

### B11.2.1 Development that Requires a Formal Crime Risk Assessment

#### Objectives

1. To specify those developments that must be accompanied by a formal Crime Risk Assessment prepared in accordance with NSW Police Force Safer by Design guidelines.
2. To promote community safety and crime prevention in Byron Shire through the development process.

#### Performance Criteria

There are no Performance Criteria.



## Prescriptive Measures

1. Council will expect a formal Crime Risk Assessment for the following types of development:
  - a) new or refurbished **shopping centres** or transport interchanges; or
  - b) residential developments or subdivisions comprising more than 20 **dwelling**s or 20 lots;
  - c) any subdivision that creates pedestrian egress from the end of a cul-de-sac to another public road, public reserve or the like; or
  - d) **car parks** with more than 20 spaces; or
  - e) any **commercial premises** involving the construction or alteration of basement car parking; or
  - f) development or redevelopment of a mall or other public place;
  - g) **health services facilities, nightclubs, pubs, registered clubs, restricted premises, sex services premises, small bars**; and
  - h) other developments that, in the Council's opinion, are likely to create a risk of crime.
2. Development Applications for the proposals listed in 1. above must be accompanied by a formal Crime Risk Assessment prepared by or on behalf of the applicant in accordance with NSW Police Force guidelines. The Crime Risk Assessment shall:
  - a) assess the crime risk characteristics of the area;
  - b) make provision in the design process to minimise crime risk; and
  - c) address the CPTED principles as they apply to the proposed development.

## B11.2.2 Applying CPTED where Crime Risk Assessment is not required

### Objectives

1. *To promote community safety and crime prevention in Byron Shire through the development process.*
2. *To ensure that all Development Applications address the principles of Crime Prevention Through Environmental Design and deliver optimum community safety through the design process.*
3. *To specify community safety design principles that must be addressed in the assessment of all Development Applications that do not require a formal Crime Risk Assessment.*

### Performance Criteria

1. Designing for safe environments is an essential and integral part of the initial design process for all development. Two issues in particular that must be addressed through urban design are:
  - a) increasing the public's sense of safety when using streets and other public spaces which, in turn, may lead to increasing public use and safety in numbers; and



- b) discouraging the potential for crime, including breaking into buildings and damaging property, through a combination of obvious security measures and other more subtle deterrents.
- 2. Council will consider the CPTED principles where relevant in assessing all Development Applications. Statements of Environmental Effects accompanying all Development Applications must include a comprehensive assessment of the CPTED principles that are relevant to the proposed development.
- 3. The four CPTED principles that must be addressed in the assessment of Development Applications to minimise the opportunity for crime are:
  - a) surveillance;
  - b) access control;
  - c) territorial reinforcement;
  - d) space management.

4. Guidelines for application of those principles include the following:

a) Surveillance

Providing opportunities for effective surveillance, both natural and technical, can reduce the attractiveness of crime targets.

Good surveillance means that people can see what others are doing. People feel safe in public areas when they can easily see and interact with others. Would-be offenders are often deterred from committing crime in areas with high levels of surveillance. Casual surveillance from homes, businesses and public streets is often a very effective means of deterring antisocial behaviour.

Well designed lighting can markedly improve night time surveillance. Solar and low wattage technology has made lighting an effective and affordable investment. Toughened glass lamps or shields may be required in higher risk areas and are essential where human scale lighting is used in public areas.

Achieving continuous lighting of public spaces is not always feasible. In those cases it may be appropriate to identify popular routes along which lighting is concentrated, in association with other measures such as **signage**, opportunities for casual surveillance, clear sightlines, paving, straight routes and appropriate landscaping.

Some ways of promoting deterrence through surveillance include:

- i) ensure clear sightlines between public and private places;
- ii) provide effective lighting of public places;
- iii) design landscaping that makes places attractive, but does not provide offenders with a place to hide or entrap victims.

b) Access control

Physical and symbolic barriers can be used to attract, channel or restrict the movement of people. They minimise opportunities for crime and increase the effort required to commit crime.

By making it clear where people are permitted to go or not go, it becomes difficult for potential offenders to reach and victimise people and their property. Illegible

boundary markers and confusing spatial definition make it easy for criminals to make excuses for being in restricted areas. However, care needs to be taken to ensure that the barriers are not tall or hostile, creating the effect of a compound.

Effective access control can be achieved by creating:

- i) landscapes and physical locations that channel and group pedestrians into activity areas;
- ii) public spaces which attract, rather than discourage people from gathering;
- iii) restricted access to internal areas or high-risk areas (like **car parks** or other rarely visited areas). This is often achieved through the use of physical barriers.

c) **Territorial reinforcement**

Community ownership of public space sends positive signals. People often feel comfortable in, and are more likely to visit places that feel owned and cared for. Well-used places also reduce opportunities for crime and increase risk to criminals.

If people feel that they have some ownership of public space, they are more likely to gather and to enjoy that space. Community ownership also increases the likelihood that people who witness crime will respond by quickly reporting it or by attempting to prevent it. Territorial reinforcement can be achieved through:

- i) design that encourages people to gather in public space and to feel some responsibility for its use and condition;
- ii) design with clear transitions and boundaries between public and private space;
- iii) clear design cues on who is to use space and what it is to be used for.

Care is needed to ensure that territorial reinforcement is not achieved by turning public spaces into pseudo private spaces, through gates and enclosures.

d) **Space management**

Popular public space is often attractive, well maintained and well used space. Linked to the principle of territorial reinforcement, space management ensures that space is appropriately utilised and well cared for.

Space management strategies include activity coordination, site cleanliness, rapid repair of vandalism and graffiti, the replacement of burned out pedestrian and **car park** lighting and the removal or refurbishment of decayed physical elements.

Encouraging a range of complementary land use activities that takes into account public activity in particular areas can be an effective means of discouraging antisocial behaviour.

## **Prescriptive Measures**

There are no Prescriptive Measures.

## B11.2.3 CPTED Design Opportunities

### Objectives

1. *To provide some examples of design opportunities to improve community safety in the development process.*

### Performance Criteria

Some opportunities for increasing people's safety and security through implementation of CPTED principles in the design process include:

1. Surveillance
  - a) orientate building frontages and entrances towards a public street and avoid screens, high walls, carports and landscaping that would obscure direct views to public areas;
  - b) place building entrances opposite each other, or group entrances onto a commonly visible area to maximise mutual surveillance;
  - c) arrange living areas, windows, access ways and balconies to overlook recreation areas and to provide observation points to activity areas such as entrances and car parks;
  - d) restrict access to the rear of sites to reduce opportunities for people to wander around, e.g. using gates or a continuation of side fencing to the building;
  - e) reduce opportunities for people to be unobserved in building foyers by providing direct access from the street and by placing windows to ensure the area can be observed before entering.
2. Lighting
  - a) achieve consistency in lighting to reduce contrast between shadows and illuminated areas;
  - b) ensure lighting is directed towards pedestrian pathways and public spaces, taking into account the mature height of landscaping and other impediments;
  - c) provide for ample lighting of common areas such as entrances, stairwells and parking areas;
  - d) locate bright lights in heavily used spaces, but ensure they do not create a 'wall of darkness' or create glare for pedestrians and motorists.
3. Land use mix
  - a) balance facilities such as bars and discos with other night-time uses such as restaurants and entertainment for a range of users;
  - b) mix uses at compatible scales within business, commercial and activity centres;
  - c) in commercial and activity areas mixed uses should provide a range of day and night-time activities in close proximity and should not segregate perceived 'nuisance' users such as youth from other age groups after hours;
  - d) mix land uses vertically as well as horizontally, e.g. promote shop top housing with views to public areas;

- e) design premises of after hours activities so that the public realm is visible to patrons, e.g. provide for outdoor seating.

#### 4. Landscaping

- a) avoid vegetation that conceals paths, building entrances or windows;
- b) consider the mature height and spread of landscaping to preserve surveillance and important sightlines, e.g. from pedestrian and cycle pathways.

#### 5. Pedestrian and cycle routes

- a) focus pedestrian movement after dark along a few well used and observable entry and exit routes that follow direct and logical paths between commonly visited locations;
- b) provide comfortable places to sit and socialise in activity areas and near building entrances;
- c) provide separate areas for young people to sit or socialise so that territorial conflicts do not occur, but ensure that these 'territories' do not violate security of **dwelling**s or other buildings, or compromise safety of pedestrians or cyclists;
- d) provide adequate, vandal proof lighting which does not cast dark shadows;
- e) locate **dwelling**s of particularly vulnerable groups (e.g. elderly, families with small children) close to services and facilities they frequently use;
- f) minimise the likelihood of potentially intimidating groups taking over some space by locating facilities for them elsewhere.

#### 6. Centres

- a) development within centres should provide car parking areas and transport facilities adjoining after hours uses such as video outlets, fast food shops, late-night chemists and entertainment facilities;
- b) ensure a mix of activities and uses aimed at extending hours and levels of activity;
- c) public spaces should be bounded by a range of compatible day and after hours activities such as schools, local shopping facilities and community facilities;
- d) pathways and public spaces should be identifiable, legible, appropriately lit and visible;
- e) entry and exit points should be well-defined and signposted;
- f) casual surveillance should be possible from adjacent developments;
- g) landscaping should enhance security, e.g. avoid dense shrubbery that will conceal attackers, specify high-branching trees;
- h) locate ATMs in well lit and highly visible areas, preferably adjoining other after hours activities.

#### 7. Public spaces and parks

- a) provide seats on the perimeter of the park or public space for use by people with mobility problems or concerns about security, and to encourage viewing into the space;

- b) ensure that the pathway system and overall layout allows pedestrians to observe the area of potential social contact before entering it;
- c) ensure that open space, community buildings and structures are capable of casual surveillance from the activity rooms of adjoining buildings;
- d) ensure that open space is attractive to legitimate users so that more intensive use will discourage antisocial activities;
- e) ensure that public spaces and parks are well lit and have good sightlines for easy surveillance;
- f) provide shortcuts through public spaces and ensure that there are several clearly visible escape routes;
- g) encourage people to stop and linger by incorporating attractive furnishing, focal elements and defined edges;
- h) design for year-round use;
- i) encourage ground level use in nearby buildings that can contribute to enlivening of public spaces, e.g. promote cafes with outdoor seating rather than offices or blank walls.

#### 8. Vandalism

- a) specify materials that withstand normal hard use and can be easily replaced;
- b) use standard size panels, light globes, panes, fittings and the like to facilitate speedy replacement;
- c) avoid obvious 'problem' materials that encourage wilful damage;
- d) use textured or 'fluted' surfaces, paint walls different colours, or plant vines to cover large wall spaces to avoid graffiti.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

#### **Further Information**

Information in this Chapter has been drawn from various sources, including the following. Further information about applying CPTED principles to development proposals is available from the following sources:

1. AMCORD Design and Development Practice Note PND 17 – Guidelines for Crime prevention is an excellent source of advice and guidelines on planning to create safer neighbourhoods, commercial centres and open space areas through urban design.
2. The Safer by Design program and course are available on website [www.police.nsw.gov.au/community\\_issues/crime\\_prevention/safer\\_by\\_design](http://www.police.nsw.gov.au/community_issues/crime_prevention/safer_by_design) (including a copy of the DUAP document).





# Byron Shire Development Control Plan 2014

## Chapter B12 Social Impact Assessment



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## Chapter B12 – Social Impact Assessment

### Contents

<b>B12.1 Introduction.....</b>	<b>5</b>
B12.1.1 Background to Social Impact Assessment in Byron Shire .....	5
B12.1.2 Aims of this Chapter .....	5
B12.1.3 Application of this Chapter .....	5
<b>B12.2 Qualifications for Conducting a Social Impact Assessment .....</b>	<b>7</b>
<b>B12.3 Conducting the Social Impact Assessment.....</b>	<b>7</b>

### Tables

Table B12.1 – Elements for Consideration .....	8
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### Appendices

Appendix B12.1 Proposals with Minimal Social Impact.....	11
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## **B12.1 Introduction**

### **B12.1.1 Background to Social Impact Assessment in Byron Shire**

Council is committed to the implementation of Social Impact Assessment (SIA). On 21 June 2005 Council resolved a commitment to social impact assessment as a means of considering social issues more comprehensively and consistently.

Council has a statutory obligation under Section 79C of the *Environmental Planning and Assessment Act 1979* to consider the social impacts of Development Applications. Demand for a stronger focus on social impacts is being driven in the Byron Shire through:

1. The need to generate data in order to measure and manage social impacts;
2. High levels of unemployment in the Shire;
3. Lack of affordable housing;
4. Significant impacts on community 'way of life' as a consequence of tourism development;
5. The need to recognise the value of 'way of life' to sustainable tourism; and
6. A strategic move towards triple bottom line accounting.

Social Impact Assessment (SIA) utilises measurable social variables plus community consultation processes to assess the potential social impacts of change. It includes plans for managing those impacts, whether positive or negative.

### **B12.1.2 Aims of this Chapter**

1. To assist in achieving cohesive, sustainable and resilient communities within the Shire.
2. To enhance consistency, certainty and transparency in Council's assessment of the positive and negative social impacts of proposed development.
3. To maximise the positive social impacts of development such as improved access, amenity, affordable housing provision, employment opportunity and safety.
4. To minimise the negative social impacts of development such as: increased traffic congestion; restriction of access to facilities; services and transport; loss of employment opportunity; loss of existing affordable housing stock; and loss of public safety or perceived public safety.

### **B12.1.3 Application of this Chapter**

1. This Chapter applies to Development Applications that seek consent pursuant to Byron LEP 2014.



2. A Social Impact Assessment (SIA) will be required for the following:
  - a) residential developments or subdivisions comprising more than 50 **dwelling**s or lots;
  - b) affordable housing accommodating more than 40 residents, or greater than 20 **dwelling**s in all stages, excluding individual **secondary dwelling**s;
  - c) **caravan parks, camping grounds** or **manufactured home estates** with 20 or more sites;
  - d) **boarding houses**, accommodating 20 or more residents;
  - e) **seniors' housing** comprising 40 **dwelling**s or more in all stages;
  - f) **business premises, office premises** or **retail premises** in any zone with a **gross floor area** of more than 3000m<sup>2</sup>;
  - g) industrial development with a **gross floor area** of more than 3000m<sup>2</sup>;
  - h) **tourist and visitor accommodation** for 50 or more persons;
  - i) **entertainment facilities, recreation facilities**, or **function centres** for 100 or more persons ;
  - j) **sex services premises**;
  - k) **restricted premises**;
  - l) **pubs and registered clubs**;
  - m) **retail premises** (not including licensed **restaurants**) that sell alcohol or that offer or display alcohol for the purpose of sale by retail;
  - n) designated development;
  - o) any development proposal deemed by Council to have likely significant social impacts.
3. This Chapter does not apply to applications where the owner of the land and the applicant is the NSW Department of Housing (or its equivalent) or its nominated community housing provider.
4. For developments not listed in 2. above a Social Impact Assessment will not be required, however potential social impact will need to be considered in the Statement of Environmental Effects. For a list of considerations see Appendix B12.1.
5. Where an SIA has been provided and endorsed by Council for an LEP amendment or rezoning application, a new SIA is not required for a resultant Development Application unless more than 5 years have elapsed, or unless the project has changed in a way that Council considers is likely to result in different social impacts.
6. Where land has been zoned for commercial or industrial purposes including B1, B2, B4, B7, IN1 and IN2 by way of amendment to Byron LEP 2014 an SIA is not required for **business premises, office premises, retail premises** or industrial development as prescribed in 2(f) and 2(g) above.

## B12.2 Qualifications for Conducting a Social Impact Assessment

### Objectives

1. *To ensure that social impact assessments are prepared and certified by persons with appropriate qualifications and experience.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. If a proposal requires a Social Impact Assessment, this must be conducted and certified by a suitably qualified person. Qualified persons are persons who:
  - a) have social science training and/ or extensive experience in the field of community needs analysis and community consultation; and
  - b) are familiar with the types of information required; and
  - c) may work in a range of fields including town planning, social planning, sociology, anthropology, human geography.
2. Where stakeholder consultation is required as part of the Social Impact Assessment, specialist skills may be required to consult with particular groups such as Aboriginal people, older people, youth, people with a disability or people who use English as a second language.

## B12.3 Conducting the Social Impact Assessment

### Objectives

1. *To ensure that social impact assessments are prepared systematically and contain the information required to enable objective evaluation of social issues, impacts and management measures.*

### Performance Criteria

1. The Social Impact Assessment (SIA) must be conducted by a suitably qualified person employed by the proponent. The SIA must be included as part of the Development Application for the proposal and should be prepared in four steps as follows:
  - a) Determine the **social impact assessment scope**

A **social impact assessment scope** is the first stage of the SIA. This must be prepared by a suitably qualified person on behalf of the proponent, in collaboration with relevant Council staff. The aim of the Social Impact Assessment Scope is to establish the range of potential issues that need to be considered and the geographical area of possible social impacts. This allows formulation of measures to mitigate adverse impacts.

The **social impact assessment scope** will:

- i) nominate the data collection methods and the measurement techniques, including the scale and size of the social catchment and geographical area to be considered (for example, Shire wide, town centre, village, hamlet or neighbourhood);
- ii) nominate how the data will be analysed;
- iii) provide preliminary identification of the potential important issues relating to a proposal, (both positive and negative);
- iv) nominate the Community Consultation Strategy; and
- v) identify the relevant elements for consideration as listed in Table B12.1:

**Table B12.1 – Elements for Consideration**

<b>The Social Impact Assessment Scope will draw on the following list of elements for consideration but will not be limited to it.</b>		
<b>Elements for Consideration</b>	<b>Outcomes</b>	<b>Information required</b>
<b>Transport</b> Access to employment and recreation opportunities by way of public and private transport has a significant bearing on social cohesion, economic development and regional education.	Access to recreation and training and employment via public and private transport.	Map showing accessibility of site to public transport, pedestrian and private transport networks linking to local commercial, recreation, tourism and industrial areas.
<b>Safety</b> The minimisation of potential security risks to persons and properties.	Design that addresses and responds to local crime statistics and conforms with CPTED Principles, consistent with Chapter B11 Planning for Crime Prevention.	Identify crime prevention strategies in relation to local crime statistics and address CPTED Principles, consistent with Chapter B11 Planning for Crime Prevention.
<b>Diversity</b> Nurturing and maintaining respect for points of cultural and demographic difference within the population	Maintain housing affordability to ensure community diversity.	Address increased demand for essential worker housing.
<b>Amenity</b> Quality of attractiveness experienced in a place as a result of the environmental, social/cultural and economic factors.	<p><i>Traffic:</i></p> <ul style="list-style-type: none"> <li>minimise increase in traffic congestion;</li> <li>maximise pedestrian and cycle access routes from proposed development to local attractors.</li> </ul> <p><i>Noise:</i></p> <ul style="list-style-type: none"> <li>minimise noise emanating from proposed development.</li> </ul> <p><i>Facilities:</i></p> <ul style="list-style-type: none"> <li>provide facilities for parents with young children, people with disabilities, young people and the elderly.</li> </ul>	<p><i>Traffic:</i></p> <ul style="list-style-type: none"> <li>show expected increase in traffic due to proposed development and existing and proposed pedestrian and cycle routes linking to local attractors.</li> </ul> <p><i>Noise:</i></p> <ul style="list-style-type: none"> <li>show design and management strategies to minimise noise from proposed development.</li> </ul> <p><i>Facilities:</i></p> <ul style="list-style-type: none"> <li>show facilities provided.</li> </ul>
<b>Employment and Training</b> Opportunities for paid	Generation of local employment and training opportunities.	Show employment generated by proposed development. Detail any training opportunities to be

The Social Impact Assessment Scope will draw on the following list of elements for consideration but will not be limited to it.		
Elements for Consideration	Outcomes	Information required
employment and paid training positions within award requirements.		generated from the proposed development. Identify likely local economic impact of proposed development.
<b>Culture</b> Communities are complex and multi-layered, meaning that a particular community is made up of many 'cultures'. Community culture includes expressions of identity such as language, dress, cuisine, sporting activities and more, in addition to what is narrowly termed 'arts'.	Development to be compatible with local identity and cultural goals as identified in key Council policies.	Address cultural goals of the Shire relevant to the proposed development.

b) Pre-lodgement Meetings with Council

For all types of development identified in this DCP that require a SIA, a pre-lodgement meeting must take place with Council staff during the initial stages of a development. This can be done by organising a meeting with Council's Development Assessment Panel, which is subject to Council's adopted fees and charges. The aim of this meeting is to discuss the proposed development with Council staff and the likely social impacts arising from the proposal. It also provides the opportunity for Council to advise the proponent as to what groups or people are potentially affected by the proposal that may need to be consulted.

c) Undertake Research, Consultation and Analysis

The research and consultation must be in accordance with the **social impact assessment scope** as determined in consultation with Council. Following from this, the research, consultation and analysis must include at least the following components:

- i) community profiling – this provides an overview and analysis of current social and historical trends;
- ii) formulation of alternatives – examination and comparison of options for change based on the projection and estimation of effects;
- iii) projection and estimation of effects – detailed examination of the potential impacts of one or more options against decision criteria;
- iv) community consultation – identification of community consultation methods and justification for the methods used and analysis of outcomes. Community consultation methods may include:
  - meeting(s) with the community and stakeholders carried out to identify issues. which may need to be run by a facilitator to achieve meaningful community input;



- survey of adjoining and surrounding residents;
- letterbox drop identifying/ describing proposal, details on web site and asking for comments/ issues to be provided to applicant via mail, email or telephone;
- group discussions with community/ interested members of the public and stakeholders.

The research, consultation and analysis must be conducted by a suitably qualified practitioner and in accordance with professional standards.

d) Preparation of the Social Impact Assessment

Documentation and certification of the research, consultation and analysis must be in the form of a Social Impact Assessment Report and must include at least:

- i) the **social impact assessment scope**;
- ii) community profiling;
- iii) identification of issues (both positive and negative);
- iv) the methodologies employed by the study to measure impacts;
- v) the primary and secondary data collection methods;
- vi) the primary and secondary data collected;
- vii) method of analysis employed and a discussion and analysis of the issues;
- viii) identification and measurement of likely impacts;
- ix) range of options for proceeding with the proposal; and
- x) recommendations including suggested mitigation measures for negative impacts that have been identified and/or strategies to monitor and manage negative impacts over time.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## Appendix B12.1 Proposals with Minimal Social Impact

It is recognised that some Development proposals will only have a limited impact and a full Social Impact Assessment will not be required. For those proposals not identified in B12.1.3 above the following matters should be considered in the preparation of the Statement of Environmental Effects and addressed where relevant.

### 1. Housing Stock

Will the proposal will have an impact on:

- the availability and affordability of low income housing;
- The average cost of housing rent;
- The choice of housing; and
- The provision of special needs housing.

### 2. Human Service Facilities

Will the proposal will have an impact on the provision of:

- community support/welfare services;
- child care, health or educational services;
- special services for high need/disadvantaged groups;
- the choice of local shopping facilities; and
- local recreation or leisure facilities.

### 3. Access

Will the proposal will improve access to:

- local community facilities and services;
- public transport services;
- disabled access to local facilities; and
- cycling and pedestrian paths.

### 4. Public Realm Safeguards or threatens heritage sites or buildings, or archaeological sites

Does the proposal:

- enhance or embellish public places and public open space;
- provide for public facilities; and
- respect heritage values and character of the neighbourhood.

### 5. Community Networks

Will the proposal once completed:

- Provide opportunities for social interaction;
- Improve community identity and cohesion;
- Impact on disadvantaged social groups; and
- Consolidate existing social or cultural networks

### 6. Economic Impacts

Will the proposal:

- Generate employment opportunities (short and long term, direct and indirect);
- Generate investment in the local economy;
- Provide for opportunities for skilled employment;
- Make better use of existing infrastructure;
- Increase retail and commercial opportunities within the local area; and
- Create a land use conflict and potentially affect the operations of an existing commercial or industrial land use on surrounding land.





# Byron Shire Development Control Plan 2014

## Chapter B13 Access and Mobility



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## Chapter B13 – Access and Mobility

### Contents

<b>B13.1 Introduction.....</b>	<b>5</b>
B13.1.1 Statutory Requirements and Obligations.....	5
B13.1.2 Byron Disability Access and Inclusion Plan 2008-2013.....	5
B13.1.3 Aims of this Chapter .....	5
B13.1.4 Application of this Chapter .....	6
B13.1.5 Unjustifiable Hardship.....	6
B13.1.6 Special Requirements for Development Applications.....	7
<b>B13.2 Development Controls .....</b>	<b>7</b>
B13.2.1 Dwellings, Dwelling Houses, Semi – Detached Dwellings and Dual Occupancies ...	7
B13.2.2 Multi Dwelling Housing, Attached Dwellings, Residential Flat Buildings, Shop Top Housing and Serviced Apartments.....	7
B13.2.3 Boarding Houses, Group Homes, and Hostels.....	8
B13.2.4 Commercial Premises and Industrial Premises – BCA Classes 5, 6, 7 & 8.....	9
B13.2.5 Development Affecting Heritage Conservation Areas and Heritage Items.....	10

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## B13.1 Introduction

### B13.1.1 Statutory Requirements and Obligations

The Commonwealth *Disability Discrimination Act 1992* (DDA) is the primary Australian statute that aims to eliminate discrimination on the grounds of **disability**. Section 23 of the DDA makes it unlawful to discriminate against people with a **disability** or their associates in relation to **access** to and use of premises that the public enter or use. Exemptions may be made for 'unjustifiable hardship'.

While this DCP provides guidelines to help with design and construction of appropriate **access** to both new and refurbished buildings, the final responsibility for ensuring compliance with the DDA rests with the owner or other person responsible for a building.

Various other Acts and statutory instruments and Australian Standards deal with equity of **access** and mobility, including (but not limited to):

1. *Anti-Discrimination Act 1977* (ADA). This New South Wales Act is similar in its intent to the *Disability Discrimination Act*;
2. *Local Government Act 1993*: Section 8 of the *Local Government Act* sets out a charter which commits Councils to consultation and to providing adequate, equitable and appropriate services and facilities to the community;
3. *Building Code of Australia (BCA)*. The BCA sets out technical requirements for design and construction of buildings. It specifies minimum requirements for **access** to new buildings and buildings undergoing refurbishment. It requires the provision of **access** for people with mobility **disabilities** to all classes of buildings except residential buildings;
4. Australian Standards. The Australian standards work in conjunction with the BCA to provide detailed technical requirements for individual building elements, e.g. in size and shapes of ramps, doors, rooms and lifts.

### B13.1.2 Byron Disability Access and Inclusion Plan 2008-2013

In 2008 Council adopted the Disability Access and Inclusion Plan 2008-2013 (DAIP). The DAIP reflects Council's commitment to ensuring that the community environment is accessible for, and inclusive of people with **disabilities**, their families and carers. Its strategic actions are reflected in this DCP.

### B13.1.3 Aims of this Chapter

The Aims of this Chapter are:

1. To implement Council's obligations under the *Disability Discrimination Act 1992* in the development process.
2. To ensure that the development process provides for equitable **access** to community facilities and services, places of work, leisure and community activity.
3. To establish standards for Council's assessment of provision of **access** to all new and upgraded buildings, services and places.



4. To ensure that the range of housing opportunities available for people with disabilities or other special mobility needs is representative of the local market in terms of **access**, size, location, orientation and general amenity of accommodation.
5. To inform the community, including building owners and developers, of their obligations under the *Disability Discrimination Act 1992* and the *Anti-Discrimination Act 1997* in the development process.
6. To provide guidance on the type of work required to provide non-discriminatory **access** to premises.

### B13.1.4 Application of this Chapter

This Chapter applies to all **residential accommodation** in addition to development that is intended to be used by the public or entered by the public on land subject to Byron LEP 2014.

For all such development, **access** must be provided to and within the facilities in accordance with the provisions of the BCA and AS1428.1 – Design for Access and Mobility –General Requirements for Access – New Buildings.

For all such development, parking must be provided in accordance with Australian Standard AS/NZS 2890.6:2009 Parking Facilities – Part 6: Off-street parking for people with disabilities.

### B13.1.5 Unjustifiable Hardship

Council is bound by the requirements of the *Environmental Planning and Assessment Act 1979* and the *Local Government Act 1993* to ensure that adequate **access** is provided for people with **disabilities**. However, the DDA makes provision for discrimination against a person with a **disability** where to do otherwise would cause unjustifiable hardship. Such cases of hardship must be proven to the Human Rights and Equal Opportunity Commission (HREOC).

The matters to be considered when deciding if the provision of **access** will cause unjustifiable hardship include:

1. the nature of the benefit or detriment likely to accrue or be suffered by any persons concerned; and
2. the effect of the **disability** of a person concerned; and
3. the financial circumstances and the estimated expenditure required to be made by the person claiming unjustifiable hardship; and
4. in the case of the provision of services, or the making available of facilities - an action plan given to the Commission under Section 64 of the DDA.

The DDA does not provide any specific exemptions for buildings or places of heritage significance.



## **B13.1.6 Special Requirements for Development Applications**

Development Applications must include evidence to demonstrate that the requirements of the *Disability Discrimination Act* have been considered and addressed in the design of the development. If the case for unjustifiable hardship is made, a copy of the decision of the Australian Human Rights Commission must be provided to Council with a Development Application.

## **B13.2 Development Controls**

### **B13.2.1 Dwellings, Dwelling Houses, Semi – Detached Dwellings and Dual Occupancies**

#### **Objectives**

1. To encourage the provision of equitable access in new and refurbished **dwelling houses** and **dual occupancy** developments.

#### **Performance Criteria**

In recognition of the objectives, principles and goals of the Byron Disability Access and Inclusion Plan 2008 – 2013, proponents are encouraged to provide Design and Access in accordance with AS 4299 - Adaptable Housing.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

### **B13.2.2 Multi Dwelling Housing, Attached Dwellings, Residential Flat Buildings, Shop Top Housing and Serviced Apartments**

#### **Objectives**

1. To implement the requirements and objectives of the *Disability Discrimination Act, 1992*, relevant equitable **access** legislation and the *Byron Disability Access and Inclusion Plan 2008 - 2013*.
2. To nominate **adaptable housing** standards for multi unit residential development in Byron Shire.

#### **Performance Criteria**

There are no Performance Criteria.

#### **Prescriptive Measures**

1. Design and Access in accordance with AS1428.1 – Design for Access and Mobility – General Requirements for Access – New Buildings (for class 3, 5, 6, 7, 8 and 9 buildings) and AS 4299 -Adaptable Housing must be provided to and within new developments and major alterations for residential development to which this Section applies as follows:

- a) **Dwelling Units:** A minimum of 10% of units, rounded up to the nearest whole number should be **adaptable housing**. Where a development is undertaken in stages after commencement of this DCP (including where earlier stages have been subdivided subsequently from the subject land) the calculation of the 'minimum 10% of units' shall include the units provided in those earlier stages.

The **adaptable housing** units must be located throughout the development with a variety of outlooks. **Access** to the upper level of townhouses can be by lift, stair lift, chair lift, inclinor or platform lift or ramp in accordance with the relevant Australian Standards. Any lift must comply with the relevant Australian Standards.

- b) **Access:** **A continuous accessible path of travel** in accordance with AS1428 or an inclinor/ lift/ hoist (in accordance with AS1735) as appropriate must be provided between the main street entrance to the residential complex, **adaptable housing** units, **access** or car parking spaces, letterboxes, garbage storage area, recreation areas and clothes drying areas.
- c) **Car Parking:** At least one accessible car parking space for the disabled must be provided for each **adaptable housing** unit, if a parking space is provided or if it is required pursuant to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access or any other Chapter of this DCP. These spaces must be located close to and accessible from the entrance to the **adaptable housing** units and from the main entrance to the building. The spaces must be attached to the title of the **adaptable housing** unit in any Strata Plan or Community Title plan. Car parking must be in accordance with the requirements of BCA Section D Part D3.5 and Australian Standard AS/NZS 2890.6:2009 Parking Facilities – Part 6: Off-street parking for people with disabilities.
2. In the interest of promoting the objectives, principles and goals of the Byron Disability Access and Inclusion Plan 2008 – 2013, the above standards are also encouraged in the case of refurbishment of existing buildings and developments that do not include major alterations.

### B13.2.3 Boarding Houses, Group Homes, and Hostels

#### Objectives

1. *To implement the requirements and objectives of the Disability Discrimination Act, 1992, relevant equitable **access** legislation and the Byron Disability Access and Inclusion Plan 2008 - 2013.*
2. *To nominate **adaptable housing** standards for shared **residential accommodation** in Byron Shire.*

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

1. Design and Access in accordance with BCA Part D3; AS1428.1 – Design for Access and Mobility – General Requirements for Access – New Buildings for class 3, 4 and 9 buildings; and AS 4299 - Adaptable Housing must be provided to and within new developments and major alterations for residential development to which this Section applies as follows:

- a) If the complex contains less than 20 beds: A minimum of two bedrooms plus associated bathroom/toilet facilities should be adaptable.
  - b) If the complex contains more than 20 beds: At least 10% or part thereof, plus 10% or part thereof of bathrooms/ toilets, rounded up to the nearest whole number should be adaptable.
  - c) Access: **Access** via **a continuous accessible path of travel** must be available to all communal areas including lounge, bathroom, kitchen, laundry, drying area and recreation areas.
  - d) Car Parking: Accessible car parking spaces equivalent in number to the number of **adaptable housing** units must be provided close to the entrance to the development, with **a continuous accessible path of travel** between the entrance and the car spaces. Car parking must be in accordance with the requirements of BCA Section D Part D3.5 and Australian Standard AS/NZS 2890.6:2009 Parking Facilities – Part 6: Off-street parking for people with disabilities.
2. In the interest of promoting the objectives, principles and goals of the Byron Disability Access and Inclusion Plan 2008 – 2013, the above standards are also encouraged in the case of refurbishment of existing buildings and developments that do not include major alterations.

## **B13.2.4 Commercial Premises and Industrial Premises – BCA Classes 5, 6, 7 & 8.**

### **Objectives**

1. *To implement the requirements and objectives of the Disability Discrimination Act, 1992, relevant equitable **access** legislation and the Byron Disability Access and Inclusion Plan 2008 - 2013.*
2. *To nominate **access** standards for BCA Class 5, 6, 7, 8 and 9 development including Office/ Commercial, Retail and Service and Industrial Development in Byron Shire.*

### **Performance Criteria**

There are no Performance Criteria.

### **Prescriptive Measures**

1. For new developments and development involving major alterations and / or extensions:

Design and **access** in accordance with AS1428.1 – Design for Access and Mobility – General Requirements for Access – New Buildings must be provided to and within all the areas or facilities of the development where there is a reasonable expectation of **access** by any owner, occupier, employee or visitor. This must at least consist of the entrance floor and any other floor to which vertical access is provided in accordance with AS 1428.1 by way of a ramp, step ramp, kerb ramp or passenger lift. It does not include service/ plant areas.

2. For work that involves changes to an existing entrance/exit but not any major alterations to other parts of the property:

**Access** must be provided to areas used by the public and if possible to all staff areas. If car parking is provided, spaces must be accessible and must be connected to the

premises by a **continuous accessible path of travel**. The owner must also be advised of the obligations imposed by the DDA.

3. For minor works that do not affect access to the property:

- a) The applicant is encouraged to provide **access** at the same time as carrying out minor works to the premises.
- b) No work will be permitted which may result in a decrease in the existing level of **access**.
- c) The owner should be advised of the obligations imposed by the DDA.

4. For change of use that includes building work:

A change in the use of the building may also change its classification under the BCA. If this is the case, Council can require the premises to be made fully accessible. As a minimum:

- a) if major new work, alterations and or additions are proposed, the above measures required for new developments and development involving major alterations and or extensions shall apply;
- b) if minor works are proposed that include a change of entrance/exit, the above measures applying to work that involves changes to existing entrance/exit but not any major alterations shall apply;
- c) if no change of classification applies and only minor building work is proposed, the above measures required for minor works that do not affect **access** to the property shall apply.

5. For change of use that does not involve building work:

The owner should implement obligations imposed by the DDA, where applicable.

## **B13.2.5 Development Affecting Heritage Conservation Areas and Heritage Items**

### **Objectives**

- 1. *To implement the requirements and objectives of the Disability Discrimination Act, 1992, relevant equitable **access** legislation and the Byron Disability Access and Inclusion Plan 2008 - 2013.*
- 2. *To nominate **access** standards for development in or near **heritage conservation areas** and **heritage items**.*

### **Performance Criteria**

- 1. Design and Access must be provided in accordance with the DDA and the relevant provisions of this DCP based on the type of development proposed. This includes compliance with AS1428.1 – Design for Access and Mobility –General Requirements for Access – New Buildings for class 3, 5, 6, 7, 8 and 9 buildings and AS 4299 - Adaptable Housing. Development Applications must demonstrate:
  - a) that the design of the **access** arrangements has regard to the heritage sensitivity of the site, and is consistent with the provisions of Chapter C1 Non-Indigenous Heritage



- b) that the proposed **access** arrangements are designed to avoid adverse impact on the heritage significance of the site, item or area, consistent with the provisions of Chapter C1 Non-Indigenous Heritage.

### **Prescriptive Measures**

There are no Prescriptive Measures.



# Byron Shire Development Control Plan 2014

## Chapter B14 Excavation and Fill



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## Chapter B14 – Excavation and Fill

### Contents

<b>B14.1 Introduction.....</b>	<b>5</b>
B14.1.1 Purpose of this Chapter .....	5
B14.1.2 Aims of this Chapter .....	5
B14.1.3 Application of this Chapter .....	5
<b>B14.2 Excavation and Fill in all Zones.....</b>	<b>5</b>

### Figures

Figure B14.1 – General Excavation and Fill Requirements.....	7
Figure B14.2 – Excavation and Fill for Car Parking .....	7
Figure B14.3 – Pool on level land.....	8
Figure B14.4 – Pool on sloping land.....	8



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E2019/65539	15 August 2019	Adopted 15 August 2019 Effective 11 September 2019 – Res 19-374

## B14.1 Introduction

### B14.1.1 Purpose of this Chapter

The purpose of this Chapter is to limit and control the extent of excavation and fill within development projects for aesthetic, character, engineering and geotechnical reasons, and to promote the appropriate use of **earthworks** for thermal sustainability and insulation.

### B14.1.2 Aims of this Chapter

1. To ensure that development applications for **earthworks** address aesthetics, character, engineering and geotechnical factors.
2. To ensure that the character, bulk and scale of development remain compatible with the unique environment that has been created by the area's natural features and its historical built character.
3. To control the extent of **earthworks**, so that the bulk, scale and appearance of development remain compatible with the character and visual amenity of the Shire's towns, villages, rural areas and natural landscapes.
4. To promote the appropriate use of well designed **earthworks** to achieve compatible and positive design outcomes in terms of improved landscapes, streetscapes, thermal sustainability and insulation in buildings and developments.
5. To prevent cumulative deterioration in the attractiveness of the Shire's built environment as a result of large scale **earthworks**, buildings and structures that by themselves may not appear highly significant, but that collectively and progressively contribute to reduced character and appeal.
6. To minimise the need for extensive engineering works required to support and manage large scale **earthworks**.
7. To minimise risks of geotechnical instability, landslip and surface movement associated with development in the Shire.

### B14.1.3 Application of this Chapter

This Chapter applies to all **earthworks** that require development consent on land to which Byron LEP 2014 applies.

## B14.2 Excavation and Fill in all Zones

### Objectives

1. *To ensure that towns, villages, commercial, industrial, residential and rural areas maintain overall compatibility with the Shire's natural features and its historical built character.*



2. *To control the extent, character, bulk and scale of **earthworks** so that both individual and cumulative earthworks over time do not detract from the existing and desired future character of their immediate locality, and the surrounding area.*
3. *To promote the use of **earthworks** to create landscapes and streetscapes that make a positive contribution to the existing and desired future character of their immediate locality and the surrounding area.*

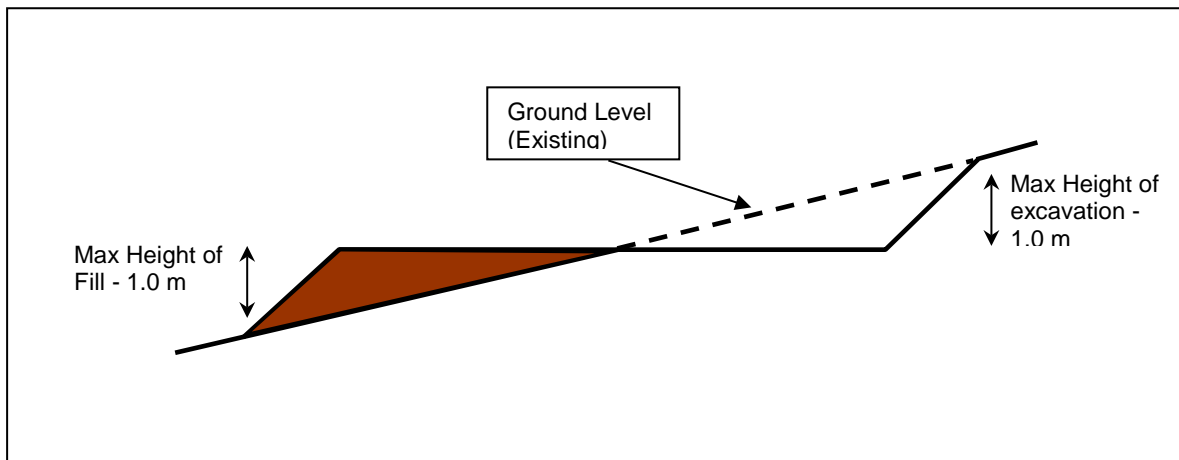
### Performance Criteria

1. Development proposals must demonstrate that proposed **earthworks** will be compatible with the low rise, low to medium density form, scale and desired future character of their locality and immediate surrounds. Proposals must demonstrate that **excavation** and **fill** will be limited to ensure that:
  - a) Adverse visual impacts, bulk and scale of both the proposed **earthworks** and the resultant overall development are minimised;
  - b) Overshadowing of adjoining private and **public land** is avoided;
  - c) The scale and character of the resultant landform and buildings will remain compatible with their surrounds and with the desired future character of the locality;
  - d) Resultant drainage characteristics and systems both on the site and in the locality will be consistent with Chapter B3 Services and with **Water Sensitive Urban Design** Principles.
  - e) The need for engineering and support works is minimised;
  - f) Risk of geotechnical instability and/ or landslip is minimised.
2. Where **earthworks** are designed to facilitate and/ or improve thermal sustainability and insulation in buildings and developments rather than as structural or landscape elements, development proposals must demonstrate the particular benefits to be gained from those **earthworks**.
3. **Earthworks** must be designed to ensure that the community /pedestrian scale and character of commercial areas will be retained and reinforced.
4. Where filling is proposed to mitigate flooding and stormwater issues, details are to be submitted with the application demonstrating the **fill** will not have a significant adverse impact on the flow characteristics of flood waters or detrimentally increase the level of flooding or stormwater on other properties or development.
5. Lots that are identified as having stability problems either on Council's GIS mapping or through the development assessment process (slopes greater than 15 degrees, land that has historically been used for uncontrolled filling, or land that is constrained by springs or wet areas etc.) are to adequately address geotechnical constraints through the submission of a detailed geotechnical report prepared by a suitably qualified professional.

The development application shall also incorporate preliminary design detail for footings, driveways and storm water management to demonstrate how the risk is adequately managed. In certain circumstances the geotechnical constraints will prevent properties from being developed for infill development and applications will not be approved.

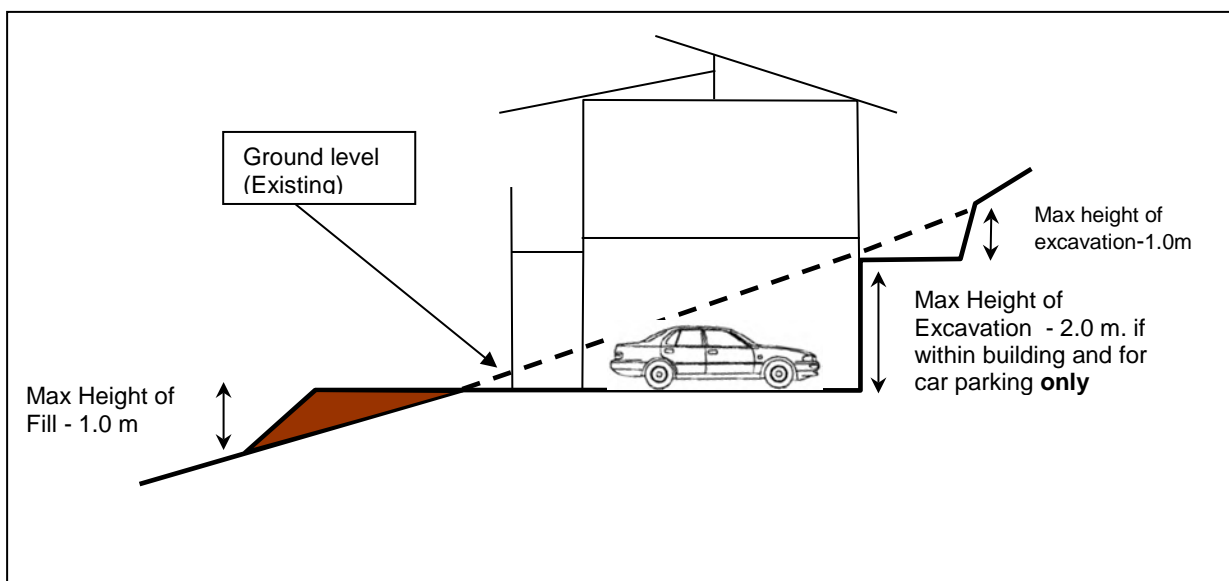
## Prescriptive Measures

1. Unless otherwise stated below, **excavation** and filling must be limited to a depth of 1 metre. See Figure B14.1.



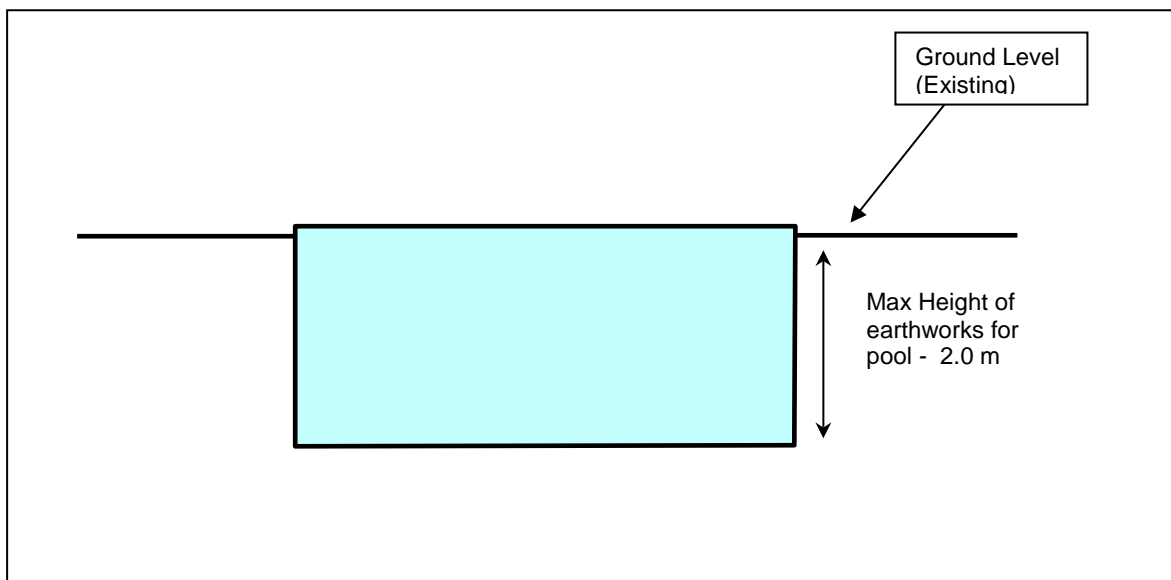
**Figure B14.1 – General Excavation and Fill Requirements**

2. The maximum **excavation** restriction is not applicable where the **excavation** is incorporated into the **dwelling** structure to satisfy minimum car parking requirements up to a maximum height of 2 metres. For details see Figure B14.2.

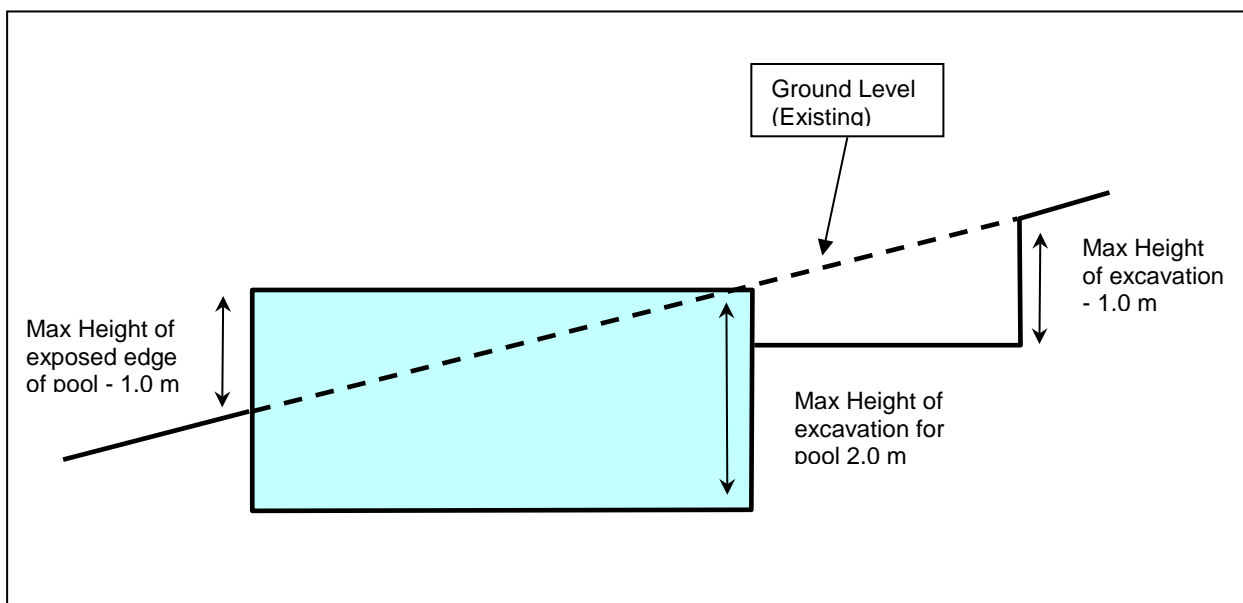


**Figure B14.2 – Excavation and Fill for Car Parking**

3. Batters and cuttings to be landscaped with appropriate native shrubs and ground covers to prevent erosion and not left exposed to the elements. Stripped top soil to be stockpiled on site and used to top dress disturbed areas
4. Where **earthworks** are proposed for swimming pools, the **earthworks** to have a maximum depth of no more than 2 metres. Where swimming pools are partially benched into the side of a hill to create an infinity edge or similar, the pool to extend no more than 1 metre out of the ground. For details see Figures B14.3 and B14.4.



**Figure B14.3 – Pool on level land**



**Figure B14.4 – Pool on sloping land**

5. Where pools are to be located on sloping land or on land considered by Council as geotechnically constrained, appropriate geotechnical investigations to be carried out by a suitably qualified engineer. Details to be submitted with the development application demonstrating that the site is suitable for the proposed pool.
6. Where in-ground water tanks and effluent disposal systems are proposed, there are no specific restrictions limiting the depth of **earthworks**. Where required details on geotechnical and **acid sulfate soils** constraints to be submitted with the development application.
7. Basement **car parks** - Any development application that seeks consent for a basement **car park** will need to have regard to the provisions contained within Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

8. Filling on the floodplain – Any development application that seeks consent to **fill** land within the **flood planning area** will need to have regard to the provisions contained within Chapter C2 Areas Affected by Flood.
9. Engineering detail by a suitably qualified structural or geotechnical engineer to be submitted for earthworks on land with a gradient exceeding 15% or where cut and fill of more than 1 metre is proposed.
10. A site plan shall be provided that shows all areas of cut and fill on the site and specifically identifies any areas over one metre.



# Byron Shire

# Development Control Plan

# 2014

## Chapter C1

## Non-Indigenous Heritage



TRADITIONAL HOME OF  
THE BUNDJALUNG PEOPLE

ALL COMMUNICATIONS TO BE  
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## Contents

C1.1	Introduction.....	5
C1.1.1	Purpose of this Chapter.....	5
C1.1.2	Application of this Chapter.....	5
C1.1.3	Aims of this Chapter.....	5
C1.1.4	How this Chapter Works.....	6
C1.2	Development Application Requirements .....	6
C1.2.1	What Development Requires Consent?.....	6
C1.2.2	Assessment Requirements.....	7
C1.3	Conservation Guidelines and Requirements – Heritage Items, Heritage Conservation Areas and Development in their Vicinity .....	10
C1.3.1	General Streetscape Context .....	10
C1.3.2	Signage and Advertising.....	12
C1.3.3	Gardens and Landscape .....	12
C1.4	Conservation Guidelines and Requirements – Heritage Items and Conservation Areas .	13
C1.4.1	Roof Form and Chimneys.....	14
C1.4.2	Verandahs.....	15
C1.4.3	Windows and Doors .....	16
C1.4.4	Building Materials.....	17
C1.4.5	Colours.....	18
C1.4.6	Parking, Garages and Carports .....	19
C1.4.7	Fences .....	19
C1.4.8	Outbuildings and Swimming Pools .....	22
C1.4.9	Subdivision.....	23
C1.4.10	Dual Occupancy, Subdivision and Development on Single Lots .....	23
C1.5	Special Guidelines – Development in the Vicinity of a Heritage Item.....	24
C1.5.1	New Development in the Vicinity of a Heritage Item .....	24
C1.6	Special Guidelines – Heritage Conservation Areas.....	26



C1.6.1	General policy .....	26
C1.6.2	Shirley Street, Byron Bay Conservation Area .....	26
C1.6.3	Kingsley Street, Byron Bay Conservation Area.....	27
C1.6.4	Burns Street, Byron Bay Conservation Area.....	28
C1.6.5	Railway Precinct, Byron Bay Conservation Area .....	28
C1.6.6	Eureka Village Landscape Conservation Area.....	29
C1.6.7	Bangalow Conservation Area .....	30
	Byron Street Precinct.....	31
	Station Street Precinct.....	34
C1.6.10	Mullumbimby Conservation Area .....	37
C1.6.11	New Development in Heritage Conservation Areas .....	37
C1.6.12	Alterations and Additions in Heritage Conservation Areas .....	39
C1.6.13	Change of Use in Heritage Conservation Areas.....	40
Appendix C1.1	Checklist of Requirements for Heritage Impact Statements for Heritage items ..	41
Appendix C1.2	Checklist of Requirements for Heritage Impact Statements for Places within Heritage Conservation Areas .....	43
Appendix C1.3	Maintenance colours, AS2700-2011 .....	45

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## C1.1 Introduction

### C1.1.1 Purpose of this Chapter

Byron Shire's heritage sites, features and characteristics make an important contribution to its environment and lifestyle. The form of the built environment and its relationship to the natural environment will be crucial factors in determining the future development of the Shire, particularly in ensuring heritage values are protected.

Any development to or **in the vicinity of Heritage items** or **Heritage Conservation Areas** will need to be in harmony with the surroundings, both natural and constructed, and enhance the physical context valued by the community and by the Shire's increasing number of visitors.

The purpose of this Chapter is to set out controls and guidelines that complement Byron LEP 2014 in relation to development to or **in the vicinity of Heritage items** and **Heritage Conservation Areas**.

Important resource information regarding heritage issues and places in Byron Shire is available in the Byron Shire Community-Based Heritage Study, which is accessible on Council's website. Schedule 5 of Byron LEP 2014 defines places and buildings that are formally recognised as **Heritage items** and **Heritage Conservation Areas** in the Shire. The LEP contains provisions that regulate development in those areas.

### C1.1.2 Application of this Chapter

This Chapter applies to applications for development of **Heritage items** or within **Heritage Conservation Areas** or to land **in the vicinity of** a **Heritage item** or **Heritage Conservation Area**.

### C1.1.3 Aims of this Chapter

1. To protect the significance and setting of **Heritage items** and **Heritage Conservation Areas** (including archaeology) in Byron Shire by supplementing the heritage conservation provisions contained in Byron LEP 2014.
2. To guide development of **Heritage items**, components of **Heritage Conservation Areas** and buildings and land **in the vicinity of** these items and areas.
3. To encourage a high standard of well-designed heritage conservation and heritage-related development that is sympathetic to and compatible with the cultural heritage of the Byron Shire.
4. To ensure that alterations and extensions to existing buildings/items respect those buildings/items and do not compromise the significance and character of the individual **Heritage items** or components of the **Heritage Conservation Areas**.
5. To ensure that new development respects the heritage context and is sympathetic in terms of its form, scale, character, bulk, orientation, **setback**, fabric, colours and textures so as not to adversely affect the significance of **Heritage items** and components of **Heritage Conservation Areas** and their settings.

6. To provide controls for development on land **in the vicinity of Heritage items** or **Heritage Conservation Areas**.

## C1.1.4 How this Chapter Works

The following Sections should be referred to when preparing a development application to which this Chapter applies.

Nature of Development Application	Relevant Sections of this Chapter
Development involving <b>Heritage item</b>	C1.1 – C1.4
Development in <b>Heritage Conservation Area</b>	C1.1 – C1.4, C1.6
Development <b>in the vicinity of</b> a <b>Heritage item</b>	C1.1 – C1.3, C1.5
Development <b>in the vicinity of</b> a <b>Heritage Conservation Area</b>	C1.1 – C1.3

## C1.2 Development Application Requirements

### C1.2.1 What Development Requires Consent?

Clause 5.10(2) of Byron LEP 2014 specifies that other than for certain exceptions, development consent is required for:

- a) *demolishing or moving a **Heritage item** or a building, work, relic or tree within a **Heritage Conservation Area**,*
- b) *altering a **Heritage item** or a building, work, **relic**, tree or place within a **Heritage Conservation Area**, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,*
- c) *altering a **Heritage item** that is a building by making structural changes to its interior,*
- d) *disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a **relic** being discovered, exposed, moved, damaged or destroyed,*
- e) *disturbing or excavating a **Heritage Conservation Area** that is a place of Aboriginal heritage significance,*
- f) *erecting a building on land on which a **Heritage item** is located or that is within a **Heritage Conservation Area**,*
- g) *subdividing land on which a **Heritage item** is located or that is within a **Heritage Conservation Area**.*

In the above 'structural changes to a building's interior' means all changes to the internal fabric of the building other than applied finishes.

The exceptions are specified in Clause 5.10(3) of LEP 2014 which refers to the circumstances for exemptions for works: of a minor nature or for **maintenance**; proposed within a cemetery or burial ground; involving a tree or vegetation that Council is satisfied is a risk to human life or property; or that are exempt.

**Maintenance** is defined in Byron LEP 2014. By way of further clarification it is a process that helps to prevent damage to a property and protect it from the effects of ageing and corrosion and includes works such as:

1. removing leaf litter from gutters to prevent deterioration;
2. tightening screws and bolts to ensure fixtures are securely held in place;
3. re-hinging doors/gates;
4. replacing broken windows, fly screens etc.;
5. sealing gaps; and
6. pest control.

It may include works required because of structural inadequacy or concerns about public safety, but does not extend to major changes to the appearance of the building.

**Maintenance** does not include other works that result in changes to the external appearance of the building or the introduction of new materials, e.g. the replacement of corrugated steel roofing with polymer coated or uncoated zincalume roofing or painting of external surfaces in some circumstances (see below).

Regular and sensible **maintenance** usually does not require development consent from Council. Council is likely to notify proponents pursuant to LEP 2014 Clause 5.10(3)(a) that consent is not required for re-painting surfaces which are already painted, using the same colours, or using colours specified in Appendix C1.3 or using colours established by scraping the building or structure.

Repainting in colours other than those listed in Appendix C1.3 (or using colours established by scraping the building or structure) is not regarded as **maintenance** and requires development consent, unless otherwise specifically exempted by Council.

**Note:** The colours specified in Appendix C1.3 are selected from *AS2700 – 2011, Colour Standards for General Purposes*, a copy of which is available for viewing at Council's Mullumbimby office during business hours. Some popular paint manufacturing companies publish their own guides to AS2700 – 2011; these are readily available on the internet.

## C1.2.2 Assessment Requirements

### 1. General Requirements

Clause 5.10(5) of Byron LEP 2014 relates to heritage assessment. Table C1.1 below and the guidelines following apply when development is proposed to a **Heritage item**,

component of a **Heritage Conservation Area** or **in the vicinity of a Heritage Conservation Area**.

**Table C1.1 – Heritage Assessment Requirements**

<b>Work</b>	<b>Heritage Conservation Area</b>	<b>Heritage item of State or regional significance</b>	<b>Heritage items of Local Significance</b>
<b>Maintenance</b> or Minor work that requires consent	Consult Council – Statement of Environment Effects may be sufficient; <b>Heritage Impact Statement</b> may be required	<b>Heritage Impact Statement</b>	Consult Council – Statement of Environment Effects may be sufficient; <b>Heritage Impact Statement</b> may be required
Other work (including new subdivision). Refer also to specific information requirements for subdivisions below	<b>Heritage Impact Statement</b>	<b>Heritage Conservation Management Plan</b>	<b>Heritage Impact Statement</b> or <b>Heritage Conservation Management Plan</b>
Demolition. refer also to specific information requirements and provisions for demolition below	Demolition Report	<b>Heritage Conservation Management Plan</b> and Demolition Report	Demolition Report

A **Heritage Impact Statement** is generally required for all work on **Heritage items** and in **Heritage Conservation Areas**. A **Heritage Impact Statement** should be prepared by an appropriately qualified heritage practitioner in accordance with the specific requirements in Appendix C1.1 or C1.2.

The amount of information required depends on the nature of work carried out and the significance of the place. If the proposed works will have an impact on the **heritage significance** of the **Heritage item or Heritage Conservation Area** the **Heritage Impact Statement** must provide clear arguments as to why such action is required. The statement should also demonstrate whether other options, which may have less impact, have been considered and why they were considered less viable. Where only minor work is proposed, such as new skylights, windows or work not visible to the public, a less detailed **Heritage Impact Statement** may be required as part of the Statement of Environmental Effects. However it is suggested that you liaise with Council staff as to what the requirements will be in such instances.

2. Applications for development **in the vicinity of a Heritage Item or Heritage Conservation Area**

Although each case will need to be determined individually generally any proposed development site located within 100 metres of a **Heritage item** or **Heritage Conservation Area** must be considered as being **in the vicinity of** the **Heritage item** or **Heritage Conservation Area**. Therefore a **heritage management document** may be required (refer to Byron LEP 2014 clause 5.10(5)). In some cases proposed development sites located well beyond 100 metres distance will be **in the vicinity of** a **Heritage Item** or **Heritage Conservation Area**.

A Heritage Impact Statement for proposed signage **in the vicinity of** a **Heritage item** or **Heritage conservation area** may be required. Refer to Chapter B10 Signage (B10.3.1).

3. Demolition

The demolition of **Heritage items** and/ or components that contribute to the character of a **Heritage Conservation Area** is contrary to the intent of the heritage listing and should be treated as a last resort.

Where demolition is proposed for a building on the site of a **Heritage item** or within a **Heritage Conservation Area**, Council will require a detailed Heritage Report for Demolition /Archival Recording ('Demolition Report') to be submitted with the development application. A qualified Heritage practitioner should prepare the report in conjunction with any other professional needed to carry out the condition assessment on the building.

In assessing an application for the demolition of a **Heritage item** or a building or component of a **Heritage Conservation Area**, Council will consider the following:

- a) the **heritage significance** of the item;
- b) the structural condition of the item;
- c) comparative analysis of the item in relation to other items;
- d) the contribution the item makes to the streetscape or precinct; and
- e) the design and suitability of the proposed replacement development.

In the case of partial demolition, the proposed development would need to conserve the **heritage significance** of the item, would need to facilitate its continued use or adaptive reuse, and would need to contribute to the ongoing conservation of the item or the affected part of the item that will be retained.

If the structural capability of the building is submitted as a reason for or contributing to the need for demolition, Council may request the submission of a report by an appropriately experienced structural engineer to determine whether the building is, or is not, structurally capable of reasonable and economic use. It should be noted that for demolition of a **Heritage item** to be approved it must be demonstrated that it is unsound, unsafe, or beyond reasonable conservation and is incapable of viable continued use or adaptive reuse.

Where demolition of a **Heritage item** or building in a **Heritage Conservation Area** is approved, it will generally be conditional upon preparation of an archival recording of the building and site. This must be prepared in accordance with guidelines in "How to Prepare

Archival Records of Heritage Items” and “Guidelines for the photographic recording of Heritage Items”, produced by the Department of Planning and Infrastructure and the NSW Heritage Council.

4. Subdivision applications involving a **Heritage item**, located within a **Heritage Conservation Area** or **in the vicinity of** a **Heritage item** or **Heritage Conservation Area**.

Subdivision applications for land on which a **Heritage item** is situated, or in a **Heritage Conservation Area**, or **in the vicinity of** either must be accompanied by adequate graphics and plans, showing the building envelopes, siting and setbacks of the proposed buildings, that demonstrate to Council's satisfaction that the:

- a) rhythm of buildings in the streetscape of **Heritage Conservation Areas** is retained;
- b) vistas and views to and of **Heritage items** and significant buildings, especially the principal elevations of buildings, are not interrupted or obscured;
- c) landscape quality of the streetscape in **Heritage Conservation Areas** is retained;
- d) setting of the **Heritage item** and a satisfactory **curtilage**, including important landscape and garden elements are retained; and
- e) subdivision will not require demolition of existing building stock or re-arranged vehicular access and car parking (on or off the site of the proposal) that would adversely affect the streetscape in the **Heritage Conservation Areas** or the principal elevations of **Heritage items**.

## C1.3 Conservation Guidelines and Requirements – Heritage Items, Heritage Conservation Areas and Development in their Vicinity

The following Sections apply to development of **Heritage items**, in **Heritage Conservation Areas** or **in the vicinity of** a **Heritage item** or **Heritage Conservation Area**.

### C1.3.1 General Streetscape Context

#### Objectives

1. To promote development that complements the existing heritage character and amenity of the area and the **heritage significance** of the **Heritage item** or **Heritage Conservation Area**.
2. To maintain and enhance the heritage character of the streetscape **in the vicinity of** the **Heritage item** or within the **Heritage Conservation Area**.
3. To ensure that new development respects the established patterns and visual setting in the streetscape including setbacks, siting, landscape settings, car parking and fencing.
4. To retain and reflect the character of building frontage design in the streetscape.

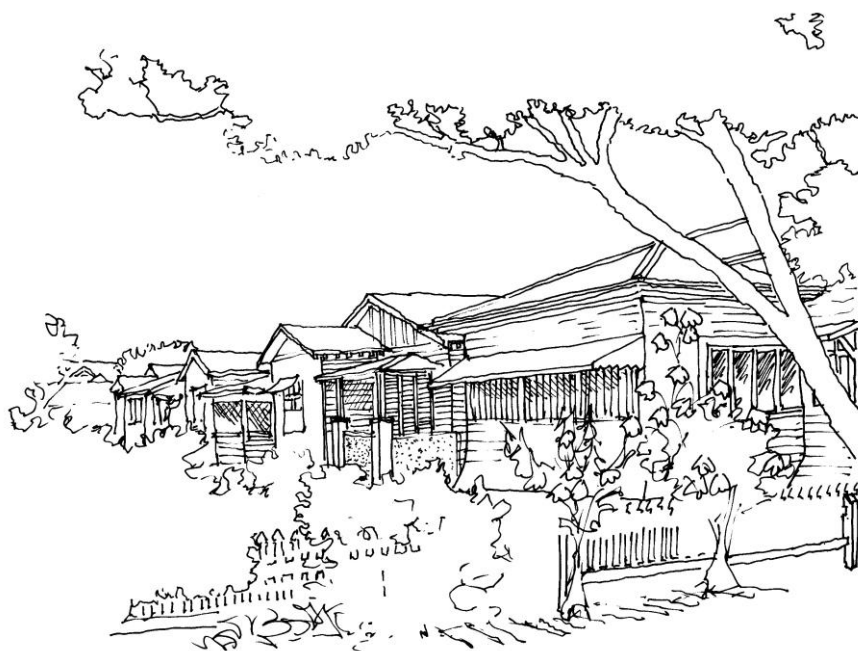


### Performance Criteria

1. The side and front **setbacks** must be typical of the spacing of existing buildings both from each other and from the street, such that the streetscape is retained.
2. The established landscape character of the locality including height of canopy and density of boundary landscape plantings must be retained in any new development.
3. New developments must respect and complement the existing heritage character of the streetscape by maintaining the general scale, height, articulation, bulk and proportions of traditional and new buildings in the streetscape.
4. Extensions must not overwhelm the original building. It may be preferable to create two separate buildings with a linkage in order to maintain the integrity of the original.
5. Floor levels must be compatible with floor levels of adjoining buildings.
6. Infill development should sympathetically respond to the character of the streetscape and should remain subservient to any Heritage or character items (especially in relation to height).

### Prescriptive Measures

1. The original front facades of buildings should not be altered. Additions may be better sited at the side or rear.
2. Infill development must not make replica copies of existing buildings, but must follow proportions and scale.
3. Developments must not use a mixture of features from different eras, nor add historical features to new buildings that are incompatible with the heritage context.
4. The following components of the streetscape must be illustrated and addressed in detail in a development application, and must demonstrate that the proposed development complements the character and heritage significance of established streetscapes:
  - a) front **setback** of **dwellings**
  - b) materials, colours, textures
  - c) roof form and pitch
  - d) scale, height and proportion of buildings
  - e) landscaping and garden treatment
  - f) spaces between buildings
  - g) facade treatment, verandahs and window placement
  - h) floor levels
  - i) height and design of fences
  - j) placement and design of garages and driveways
  - k) existing street trees
  - l) balance between solid walls and openings



**Figure C1.1 – Streetscape**

*The traditional buildings of the Byron Shire are diverse in their materials and architectural styles but they are generally consistent in their size and proportions, forming attractive groupings in the towns and villages.*

## C1.3.2 Signage and Advertising

### Objectives

1. To ensure that new **signage** is visually sympathetic and where possible contributes to the heritage character of the streetscape.
2. To ensure that inappropriate **signage** or advertising does not detract from the significance of the **Heritage item** or **Heritage Conservation Area** through inappropriate design, location, colour or scale.

### Performance Criteria

Refer to Chapter B10 Signage provides details in relation to **signage**.

### Prescriptive Measures

There are no Prescriptive Measures.

## C1.3.3 Gardens and Landscape

### Objectives

1. To ensure that development retains the traditional character of gardens and landscapes in **Heritage Conservation Areas** and in **Heritage items**.

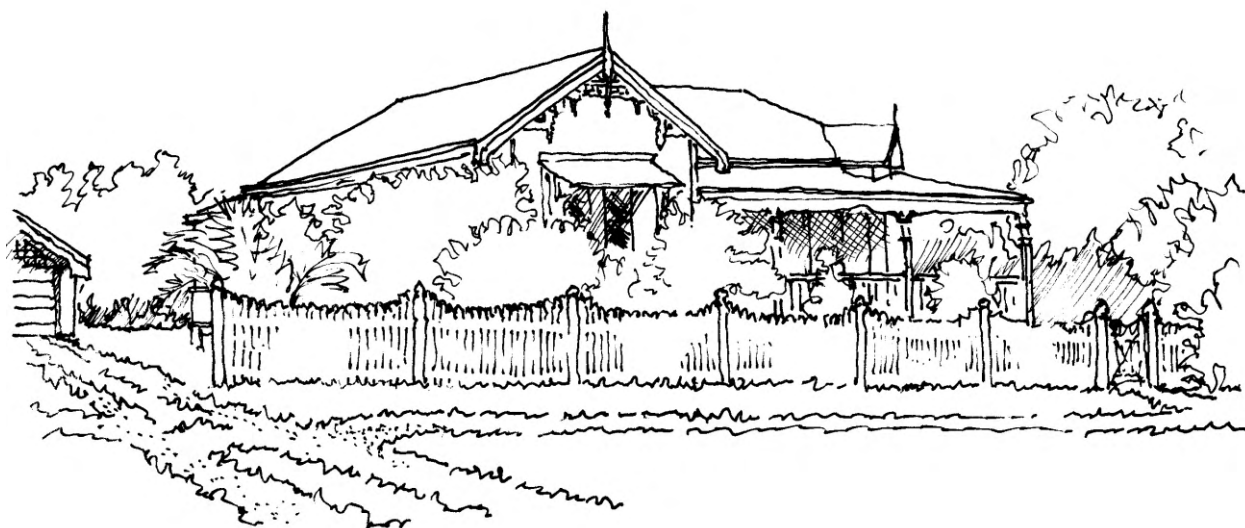
### Performance Criteria

1. The design of gardens and landscaping for development on or **in the vicinity of Heritage Conservation Areas** or **Heritage items** must be compatible with the traditional character, layout and species composition of gardens and landscaping in the **Heritage Conservation Areas** or **Heritage item** site.
2. Applications seeking consent for development on or **in the vicinity of Heritage Conservation Areas** or **Heritage items** must include a landscape plan that identifies the design, layout and species proposed, together with an evaluation of the landscape plan in terms of its compatibility with the traditional character, layout and species composition of gardens and landscaping in the **Heritage Conservation Areas** or **Heritage item** site.

### Prescriptive Measures

There are no Prescriptive Measures.

Refer to Chapter B9 Landscaping for other landscaping controls.



**Figure C1.2 – Gardens and Landscape**

*The traditional character of gardens should be retained without unnecessary hardening from concrete driveways, solid fences or intrusive modern features.*

## C1.4 Conservation Guidelines and Requirements – Heritage Items and Conservation Areas

The following Sections apply to development of **Heritage items** or within **Heritage Conservation Areas**

## C1.4.1 Roof Form and Chimneys

### Objectives

1. To retain the characteristic scale and massing of roof forms of **Heritage Items** and within **Heritage Conservation Areas**.
2. To ensure that the original chimney elements are retained and any new roof elements relate to the existing heritage fabric of the **Heritage item** or component of a **Heritage Conservation Area**.

### Performance Criteria

1. Maintain traditional roof forms and materials. Use terra cotta tiles, uncoloured galvanised steel where possible or reinstate a painted roof where evidence of this exists. If necessary the use of corrugated, galvanized steel in an unpainted finish or dark tones is the preferred roofing material for the replacement of corrugated iron. Modern materials and contemporary colours, e.g. blue roof colours or concrete tile roofing are inappropriate in **Heritage Conservation Areas** and on **Heritage items**. Despite that, Council may consider a development application for replacement of an existing iron roof where the application demonstrates that the replacement will be consistent in colour, design and character with the existing roof.
2. Use appropriate profile gutters in the maintenance of older buildings. Quad, half round and ogee gutters are the most appropriate profiles, depending on original details. Perforated box gutters are not appropriate in a historical context.
3. Roofs of extensions should be carefully related to the existing roof in materials, shape and pitch. Replacement materials must match the existing in colour, materials, finish and details. They must minimise large, blank areas of roofing to reduce the impact on the existing building and adjoining properties.
4. Attic rooms must use compatible roof forms that retain the streetscape appearance of the existing building. Attic rooms are preferred to complete upper floor extensions that alter the overall design of the building.
5. New buildings must have roofs that reflect the orientation, size, shape, pitch, eaves, ridge heights and bulk of existing roofs in the locality, and must be in proportion with the proposed building.
6. Where possible all chimneys must be retained internally and externally and where necessary repaired, even if the fireplace is no longer used. Demolition of chimneys is not favoured unless necessary for structural reasons.

### Prescriptive Measures

There are no Prescriptive Measures.



**Figure C1.3 – Roof replacement – tiling**

*The use of concrete and terra cotta roofing tiles on buildings in place of corrugated steel or AC roof sheeting is usually not appropriate due to the heavy loads imposed on the lightweight roof framing by the tiles. Tiles also look too heavy in most instances when used on weatherboard buildings with lightweight elements such as verandahs and window hoods.*

## C1.4.2 Verandahs

### Objectives

1. To ensure that original verandahs or verandah elements are retained where possible and that any new verandah elements relate to the proportions and scale of the existing heritage fabric of the **Heritage item** or component of a **Heritage Conservation Area**.

### Performance Criteria

1. Removal of verandahs is not favoured and maintenance or reconstruction of original detail is encouraged.
2. New development should include verandahs where consistent with the character of surrounding development. Simple skillion verandahs may be appropriate as this style integrates well with new buildings.
3. In altering existing buildings, original verandahs must be kept where possible, repaired and respected. Additional verandahs must not compete with the importance of the original and should be simple in design.



4. Enclosed verandahs should be opened up where feasible, and missing details re-instated. However in some cases the verandah infill may itself have heritage or aesthetic value and the removal of the infill may not be appropriate. These cases must be justified in any application.
5. The reconstruction of verandahs which once existed and whose detail is known is also encouraged. Where the form of the verandah survives but the details are missing, these can be reinstated if known from documentary evidence such as photographs or original drawings.
6. Features such as bullnose style, lace ironwork, decorative fretwork or Federation brackets on posts must not be introduced on modern buildings, as these features lack historical context. These features may be reinstated to a heritage building where it can be shown that they existed previously.
7. The infilling of front and side verandahs is generally not encouraged, although infilling verandahs at the rear of houses may be appropriate.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **C1.4.3 Windows and Doors**

### **Objectives**

1. To ensure that original windows and doors or window and door elements are retained and where new elements occur that the character and patterns of door and window openings and their construction are clearly related to the proportions, placement, character and scale of the existing heritage fabric.

### **Performance Criteria**

There are no Performance Criteria.



**Figure C1.4 – Original window**

*Original joinery details are a highly valued feature of the local heritage that must be carefully conserved. These features cannot be removed without consent.*

### **Prescriptive Measures**

1. Where possible original doors and windows must be retained and repaired/restored. Authentic reconstruction of similar material to the original is encouraged where repair of the original doors and windows is not possible.

2. Original leadlight and coloured glass panes must be kept where possible.
3. New doors and window openings must reflect the existing style, size, proportion, position and where possible must match sill and head heights of existing doors and windows. Where possible in new buildings they must be compatible with the proportions, position and size of those typical of the locality. Vertical proportions should be featured in window design.
4. Timber windows should be used for restoration of traditional buildings. Modern aluminium-framed windows are not acceptable.
5. Timber windows without glazing bars should be used for infill development.

## C1.4.4 Building Materials

### Objectives

1. To ensure that the selection of building materials is based on an understanding of the original building finishes and maintains heritage integrity and character.

### Performance Criteria

1. Finishes employed in new development must be compatible with the **heritage significance** and character of the **Heritage item** they adjoin or of development in the street or **Heritage Conservation Area**.
2. It is important to use the right materials to maintain the integrity and character of heritage buildings and streetscapes. Weatherboard cladding and metal roofing are the most commonly used building materials in **Heritage Conservation Areas**. Matching materials must be used where possible. Modern materials that replicate original materials such as polymer-coated claddings replicating weatherboards, reproduction slate roof sheeting and stamped or stencilled concrete do not have the same richness and often give a one-dimensional appearance. These materials are not appropriate on **Heritage items** and in **Heritage Conservation Areas**.
3. For infill development in a frontage dominated by timber buildings lightweight materials such as timber, compressed sheeting or cement profiled weatherboards may be appropriate. Masonry is acceptable only in a mixed street frontage of timber and masonry buildings where less than half the buildings are of timber construction.
4. The form and materials of principal elevations must not be altered. Removal of the external skin or rendering of exterior walls is not favoured unless associated with acceptable reconstruction works.
5. Matching materials must be used in repairing the fabric or external surfaces.
6. Any new development on the site of a **Heritage item** must use materials similar to or compatible with those of the original building or item.
7. Additions must be designed and detailed using materials that complement the character of the existing **Heritage item** and the area generally.
8. New decorative detailing is inappropriate on a **Heritage item** unless documentary or physical evidence indicates it once existed.
9. The colour and texture of bricks, their jointing profile and mortar colour must match the existing building as closely as possible. White, light, multicoloured or double height bricks or imitation sandstone blocks must not be used. In circumstances where existing bricks cannot

be matched compatible contemporary materials may be appropriate, particularly on rear elevations.

10. Textured paint finishes must not be used.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **C1.4.5 Colours**

### **Objectives**

1. To ensure that the selection of colours for **Heritage items** and components of a **Heritage Conservation Area** is based on an understanding of the original finishes.
2. To ensure that colours employed in new development are compatible with the significance and character of the **Heritage item** they adjoin or of development in the street or **Heritage Conservation Area**.
3. To avoid the use of colours that are inappropriate or incompatible with the heritage character of **Heritage items** or **Heritage Conservation Areas**.

### **Performance Criteria**

1. **Heritage items** may be painted in traditional colour schemes based on photographic, physical or documentary evidence. Where this is not available a colour scheme appropriate to the particular style of the building may be used. Advice on this subject is available from Council, paint companies and numerous books. The information in Appendix C1.3 may also assist with colour selection.
2. Colour schemes must respect and enhance the individual architectural details of the building.
3. Use traditional colour schemes and contrasting tones for alterations and additions. Variations to traditional colour schemes may be appropriate for new development provided the scheme maintains light colours for walls and roof with dark colours for trims and remains harmonious in the heritage landscape of the locality.
4. Face brickwork, stone, tiles or shingles must not be painted or rendered, as this will compromise the original character of the building. It will also create an ongoing maintenance requirement. Existing unpainted brickwork must remain unpainted except if part of an unsympathetic infill or addition.
5. Variations to traditional colours that will be harmonious in the streetscape may be used for new development.
6. Bold primary colours, black, white or textured paint finishes must not be used on external surfaces.
7. Where possible additions and alterations must reinstate traditional colour schemes.

### **Prescriptive Measures**

There are no Prescriptive Measures.



## C1.4.6 Parking, Garages and Carports

### Objectives

1. To allow for reasonable on-site car parking while retaining the character and significance of the **Heritage item** or **Heritage Conservation Area**.
2. To ensure that car parking facilities (such as garages, carports and driveways) are designed to be compatible with the heritage environment, do not have an adverse visual impact on heritage streetscapes and are visually discreet.

### Performance Criteria

1. The introduction of car parking must not interfere with the visual appreciation of the **Heritage item** or **Heritage Conservation Area**.
2. Early garages, carports and sheds must be retained wherever possible as they contribute to the character of **Heritage items** and **Heritage Conservation Areas**.
3. Garages and carports should generally be kept separate from the house. Attachment of garages and carports to the buildings they service is generally not favoured unless the structure is located at the rear of the building and is not visible from the surrounding streets, or it is set well back from the front façade and unobtrusively attached. In those cases a simple carport under a continuation of the roofline may be appropriate.
4. Garages should be located generally towards the rear of allotments. Where this is not achievable they must be set back a minimum of 1 metre from the front of the house.
5. Garages and carports must be of a simple design, must use traditional pitched roof forms and must match the roof pitch, form and materials of the main building as closely as possible. The design must respect vertical proportions. Double width horizontal doors are unacceptable. Garages and carports must not dominate existing buildings on site.
6. Prefabricated metal sheds with low-pitched roofs should be avoided, as they are incompatible with traditional streetscapes.
7. The location of car parking must respect the existing vegetation and original garden layouts on the site.

### Prescriptive Measures

There are no Prescriptive Measures.

## C1.4.7 Fences

### Objectives

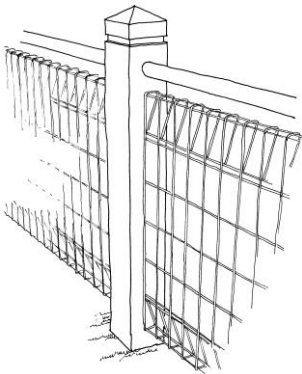
1. To provide or retain fencing which contributes to the heritage significance of the **Heritage item** or **Heritage Conservation Area**, defines public and private spaces and complements the overall character of the streetscape.

### Performance Criteria

1. Original fencing and gates must be retained where possible. If fences and gates are in good condition they can be maintained; if not they can be reconstructed with new, matching elements. Any good sections of the old fence should be integrated where possible.
2. New fencing on heritage properties must be of a traditional design, with modest height and not solid in order to allow views of the garden and front of the building. The design may be based on photographic evidence, or if this is not available, the design must be appropriate to the age and style of the house. New fencing must be consistent with traditional fences in the streetscape. Some examples include picket fences, low post and rail fences and low walls with galvanised pipe common in the 1920s and 1930s.
3. On new developments simple fencing styles that harmonise with the heritage streetscape may be appropriate.
4. New fencing must respect the traditional hierarchy of fences for the front, side and rear boundaries.
5. Fence heights must be consistent with the heights of the predominant fences in the street. Generally height should be 1.2m forward of the front building setback, and 1.8m elsewhere.
6. Metal panel fences, spear tops, and aluminium lace panels are generally inappropriate in the heritage environment.

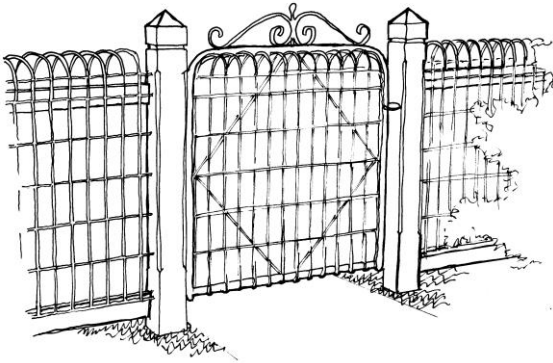
### Prescriptive Measures

There are no Prescriptive Measures.



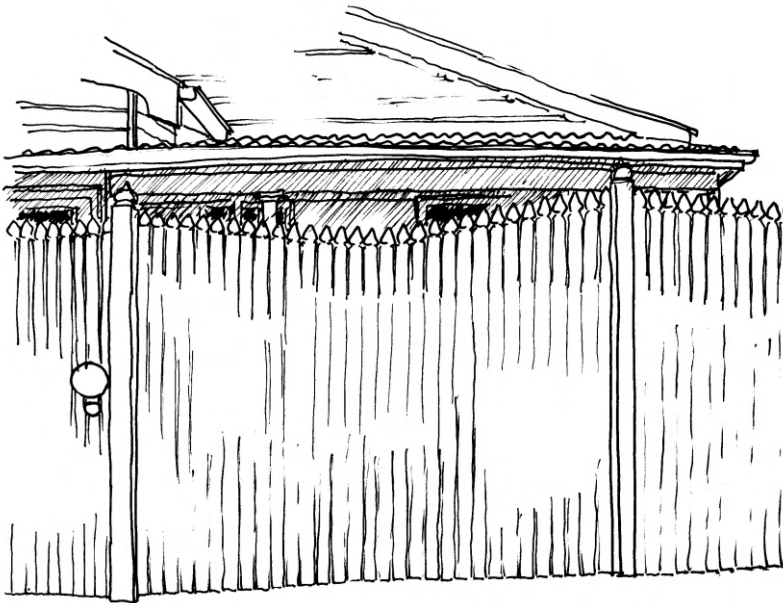
**Figure C1.5 – New mesh fence**

*New materials can be compatible with heritage places provided they are well designed and non-intrusive.*



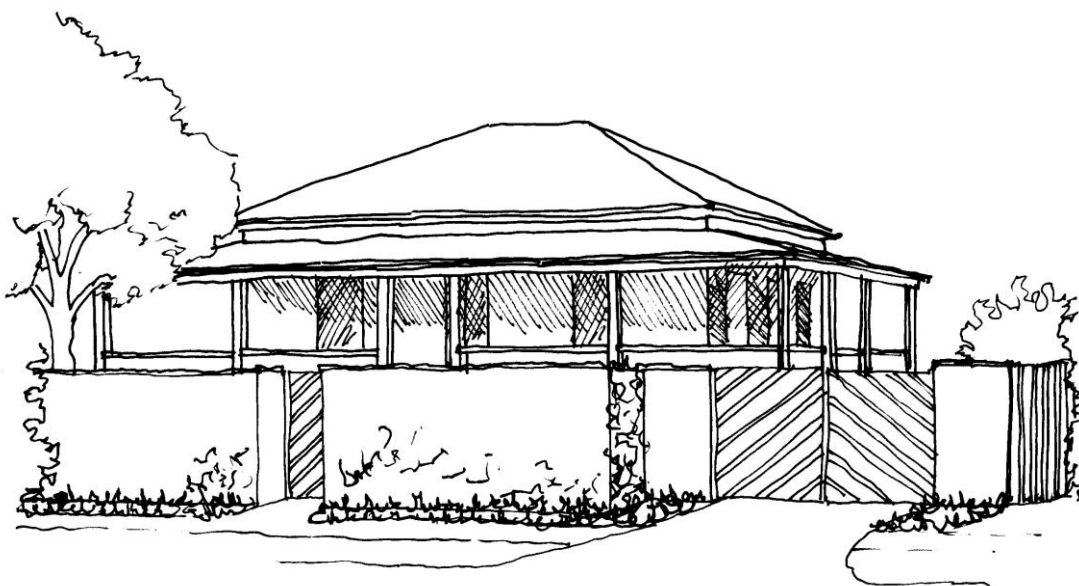
**Figure C1.6 – Traditional fence style**

*Some traditional fencing styles can be replicated in new materials such as PVC coated wire mesh.*



**Figure C1.7 – New fence – wrong approach**

*Traditional fence types should be used only in the traditional manner. The height, spacing of pickets, railings and posts should not be altered in an effort to solve privacy or security concerns. When elements such as timber pickets are close spaced or too tall they simply look wrong. Timber picket fences must maintain the correct visual relationship with the buildings they enclose.*



**Figure C1.8 – New fence – solid**

*Masonry fences and solid fences can be used in some situations provided they are designed well to be compatible with the surrounding place.*

## C1.4.8 Outbuildings and Swimming Pools

### Objectives

1. To ensure that outbuildings and swimming pools do not detract from the **heritage significance** of the **Heritage item** or **Heritage Conservation Area** through inappropriate siting, excessive scale, bulk or visibility.

### Performance Criteria

1. Swimming pools and additional shed space must be positioned to respect the setting and spaces around buildings and the original garden layouts of the **Heritage item** or the components of a **Heritage Conservation Area**. Generally they should be located at the rear of properties.
2. Swimming pool safety fencing must be located where it will be screened from public view. Landscaping must be provided where it is important to soften the impact on a **Heritage item**.
3. The proposed structure must be well integrated with its site and surrounds, and where appropriate the design must include landscaping such as screening or planting of species appropriate to the heritage character of the locality.
4. Significant outbuildings that may form part of a historical **curtilage** must be retained where feasible.

### Prescriptive Measures

There are no Prescriptive Measures.

## C1.4.9 Subdivision

### Objectives

1. To retain the development and subdivision pattern of the **Heritage Conservation Areas** including their characteristic rhythm and spacings of the built form.
2. To retain significant **curtilages**, views and vistas and landscape elements associated with individual **Heritage items** that may be lost through subdivision.

### Performance Criteria

1. The allotment and building spacing, including frontage widths, side and front boundary setbacks must not impact adversely on vistas and views to and of **Heritage items** and **Heritage Conservation Areas**. In particular the principal elevations of buildings must not be interrupted or obscured.
2. The setting of a **Heritage item** and a satisfactory **curtilage**, including important landscape and garden elements, must be retained.
3. The subdivision must not require rearranged vehicular access and car parking (on or off the site of the proposal) that would adversely affect the principal elevation of the **Heritage item** or components of a **Heritage Conservation Area**.
4. Landscape quality of the streetscape in **Heritage Conservation Areas** must be retained.

### Prescriptive Measures

There are no Prescriptive Measures.

## C1.4.10 Dual Occupancy, Subdivision and Development on Single Lots

### Objectives

1. To retain the traditional relationship between **Heritage items** or **Heritage Conservation Areas** and the original subdivision lot pattern and character.
2. To ensure that **Heritage items** are not dwarfed by new additions or new development.

### Performance Criteria

1. **Dual Occupancy** development on lots that were originally intended to contain a single **dwelling house** must not create adverse impacts on the traditional relationship between a **Heritage item** and the original lot boundaries, setbacks and characteristics.
2. **Dual Occupancy** development on lots that were originally intended to contain a single **dwelling house** must not dwarf a **Heritage item**, nor compromise its heritage values.
3. Applications seeking consent for subdivision of lots on which there is a **Heritage item** or in a **Heritage Conservation Area** must include full details of proposed future development on the land, together with an assessment of potential impacts on heritage values.

## Prescriptive Measures

There are no Prescriptive Measures.

# C1.5 Special Guidelines – Development in the Vicinity of a Heritage Item

This Section outlines the additional controls that apply specifically to development **in the vicinity of a Heritage item**.

## C1.5.1 New Development in the Vicinity of a Heritage Item

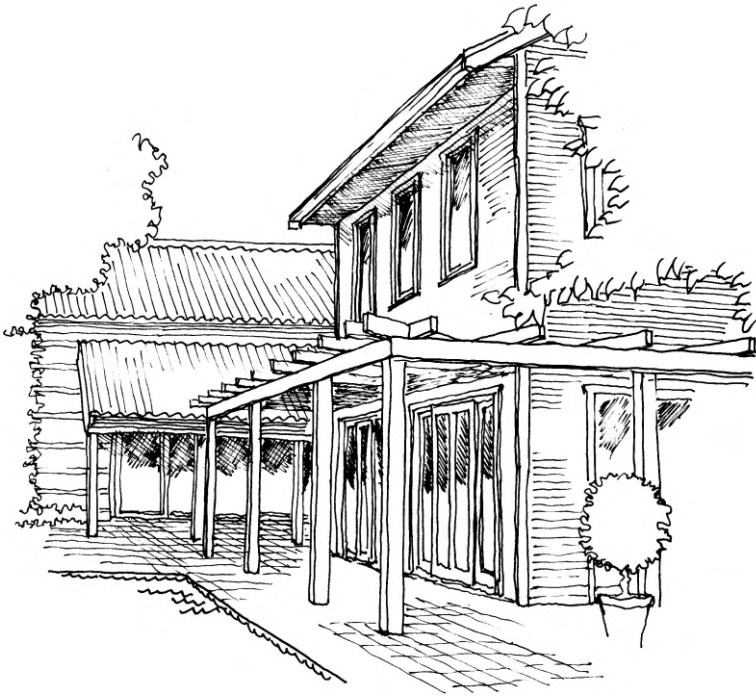
### Objectives

1. To ensure that new development achieves a sympathetic relationship with nearby **Heritage items** in terms of scale, massing, character, setback, orientation, materials and detailing.
2. To ensure that any new development respects the established streetscape, and the patterns of development **in the vicinity of the Heritage item**.
3. To ensure the careful siting of new development retains the integrity and setting of the **Heritage item**.

### Performance Criteria

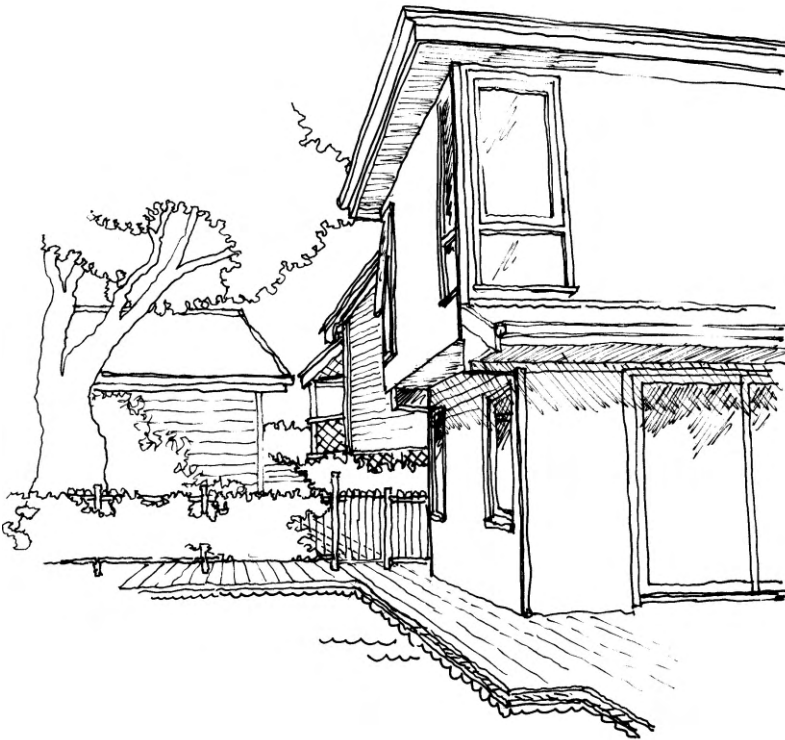
1. New developments must complement, not compete with the elements that contribute to the uniqueness and **heritage significance** of the **Heritage item**.
2. New development must be located so as to not overshadow, nor impede existing views of the **Heritage item** and must not visually dominate, compete with or be incompatible with the form of the **Heritage item**.
3. New development can be contemporary in design, however the scale, form, bulk and detail of the proposal must not detract from the scale, form, unity, cohesion and predominant character of the **Heritage item** in the vicinity. New development must avoid making a replica copy of a **Heritage item**.
4. The design of new development should be kept simple, and must not use a mixture of features from different eras or add heritage features to new buildings. Contemporary kit/project designs which purport to be “heritage homes” are often poorly integrated mixtures of design elements from different eras and do not fulfil the objectives for new development **in the vicinity of Heritage items**.
5. Proposals that include underground car parking must demonstrate that the proposed underground parking arrangements and ancillary facilities such as access and ventilation will be consistent with the Objectives, and will not adversely affect the heritage or pedestrian character of the site or nearby streets.





**Figure C1.9 – New development 1 – good**

*New development can incorporate traditional materials in a modern way, including the use of corrugated steel as a wall cladding.*



**Figure C1.10 – New development 2 – good**

*New development should not copy the form or detailing of **Heritage items**. It should be an expression of today's design value while being also visually compatible.*

### Prescriptive Measures

There are no Prescriptive Measures.

**Note:** Clause 5.10(5) of Byron LEP 2014 provides that Council may require a **heritage management document** prior to granting consent for development **in the vicinity of** a **Heritage item** or **Heritage Conservation Area**.

## C1.6 Special Guidelines – Heritage Conservation Areas

This Section outlines the additional controls that apply specifically to **Heritage Conservation Areas**. The general policy applying to all areas and the special requirements applicable to each **Heritage Conservation Area** are set out below with the associated provisions following.

### C1.6.1 General policy

1. Development must respect the scale, density, form and proportions of existing development, with special attention to the low-set, horizontal emphasis of existing buildings.
2. Generous setbacks and landscaping consistent with the existing pattern of development must be maintained, to conserve the space between buildings that contribute to the character of conservation areas.
3. Development in all areas must remain single **storey** (apart from land zoned B2 in Bangalow Heritage Conservation Area) in height to maintain the visual character and unity of the streetscape.
4. Car parking must not be located in the front setback areas, as it would erode the visual amenity of the streetscape and detract from the setting of the buildings.
5. Front fences if provided must be low (maximum height 1.2 m), consistent with the established pattern of development. Solid fencing to front boundaries will not be permitted as it is out of character in the streetscape, however solid fencing is acceptable on side and rear boundaries. Exceptions are the Railway Precinct and Eureka Conservation Area.

### C1.6.2 Shirley Street, Byron Bay Conservation Area

#### Character and Description

Pattern of settlement of distinctive character, contrasting with modern beach town development nearby. Characteristics include:

1. Single **dwellings** on lots.
2. Traditional materials – weatherboard, original timber stumps, corrugated iron roofs, brick chimneys and fire places.
3. Sharply pitched roofs.



4. Traditional lot sizes and setbacks, space for gardens and domestic animals.
5. Limited advertising and **signage**.
6. Consistent with the period 1920-1950.

### **Statement of Significance**

A group of  **dwellings**  and public buildings, rear lanes, street trees and landscaping which, taken together, illustrate a pattern of settlement in Byron Bay of distinctive character. The area contrasts strongly with the modern beachside developments on the eastern side of Shirley Street, although the two areas are unified by the striking avenue of mature Norfolk Island pine trees.

### **Policy**

1. Retain all attributes of the **Heritage Conservation Area** that demonstrate its heritage character and significance including its pattern of subdivision development, boundary setbacks and all original external fabric.
2. Development must respect the low-set horizontal emphasis of existing buildings.

## **C1.6.3 Kingsley Street, Byron Bay Conservation Area**

### **Character and Description**

Special coastal town character. Characteristics include:

1. Wide streets, ample verges, buildings set back behind fences.
2. Development respects the subdivision pattern but rises up the slope.
3. Predominantly traditional forms and materials, e.g. weatherboard, pitched roofs etc.
4. Buildings set on ample lots with subtropical vegetation.
5. No obvious kerbs and gutters.

### **Statement of Significance**

A group of  **dwellings**  and other buildings, back lanes, street trees and landscaping, which taken together illustrate an aspect of town development that has a special coastal town character which is highly attractive and of high value in the district.

### **Policy**

1. Retain all attributes of the **Heritage Conservation Area** that demonstrate its heritage character and significance including its pattern of subdivision development, boundary setbacks and all original external fabric.
2. Development must respect the existing character and integrity of the **Heritage Conservation Area** and must be designed to be compatible with the existing group in terms of its exterior appearances, facades, building heights, building styles, materials, landscaping and lot sizes.

## C1.6.4 Burns Street, Byron Bay Conservation Area

### Character and Description

Uniform scale and open character. Characteristics include:

1. Less dense development.
2. Ample lots with space around buildings.
3. Minimal kerbs and gutters.
4. Wide streets with ample verges.
5. Vegetation in the road reserve (swamp species).

### Statement of Significance

A group of **dwelling**s, back lanes, street trees and landscaping, which taken together, illustrate a pattern of settlement in Byron Bay with a distinctive coastal character defined by uniform scale of buildings and street plantings of coastal wetland species.

### Policy

1. Retain all attributes of the **Heritage Conservation Area** that demonstrate its heritage character and significance including its pattern of subdivision development, boundary setbacks and all original external fabric.
2. Development must respect the existing character and integrity of the **Heritage Conservation Area** and must be designed to be compatible with its particular character including lot sizes, setbacks, roofing pitch, building materials, fenestration, low fences, building scale and bulk.
3. Development must respect the low-set horizontal emphasis of existing buildings.

## C1.6.5 Railway Precinct, Byron Bay Conservation Area

### Character and Description

Group of civic buildings around Railway Park, creating a link to Byron Bay's past history. Characteristics include:

1. Open space at centre.
2. Substantial structures of obvious historical significance.
3. Community hub.

### Statement of Significance

The place is a group of modest civic buildings and landscape elements, which help define both the historical antecedents and the locus of community activity in the township of Byron Bay. Its current elements together form an unbroken link with the first settlement of the township. Although the passage of years has wrought cosmetic changes to the area (such as some kerbing and guttering, road sealing, footpath, public toilet and telephone installations) and renovations to many of the buildings, the character of the location remains intact, despite progressive redevelopment of the remainder of the township. The landscape remains an open area, from the central point of which

all but one element can be seen. An aesthetically pleasing aspect of the landscape is that the area contains only one building of two **storeys**(The Community Centre), on the eastern perimeter.

### **Policy**

1. Retain all attributes of the **Heritage Conservation Area** that demonstrate its heritage character and significance including: built form; modest height, bulk and scale; focus on the community space and landscape around Railway Park; civic streetscape character; pattern of subdivision development; and all original external fabric.
2. The relationship of former civic structures (railway station, post office and school of arts) should not be diminished by any development that would cause visual dislocation. The open space should be retained.
3. Development must foster integration of the site with the surrounding pedestrian network and open spaces.
4. On-site parking, underground parking and vehicle driveways across the footpath are not compatible in this precinct.

## **C1.6.6 Eureka Village Landscape Conservation Area**

### **Character and Description**

Spectacular landscape on the ridge anchored by Church, church hall and polar village developments. Characteristics include:

1. Open vistas.
2. Rural environment.
3. Rural fencing.

### **Statement of Significance**

The place is a rare group of buildings and landscape elements illustrating the Eureka community's historical antecedents and its continuing cohesion. It is in the hinterland of the shire and although when settled it was considered remote, it came to form part of the pattern of settlement associated with Far North Coast dairying industry. The village represents one of the earliest settlements of the Shire and retains rare integrity.

### **Policy**

1. Retain all attributes of the **Heritage Conservation Area** that demonstrate its heritage character and significance including its rural character, pattern of subdivision development, generous boundary setbacks, landscape character and all original external fabric.
2. Development must respect the open scale, low-density, rural form of existing development.
3. Fencing must be consistent with the traditional rural and village character of fencing in the locality.
4. The planting of large shade trees should be encouraged.

## C1.6.7 Bangalow Conservation Area

### Character and Description

Bangalow has a distinct village character. It is an historic township nestled in verdant landscape. A mix of commercial, civic and residential uses. It has a distinctive Main Street with awnings and verandahs. Station street precinct has a looser grain, containing mostly individual buildings in landscaped setbacks (including a number of Heritage items), which contrasts with the tighter urban fabric of Byron Street.

Characteristics include:

1. Leafy and well vegetated.
2. Sloping sites.
3. Predominantly traditional materials and forms.

### Statement of Significance

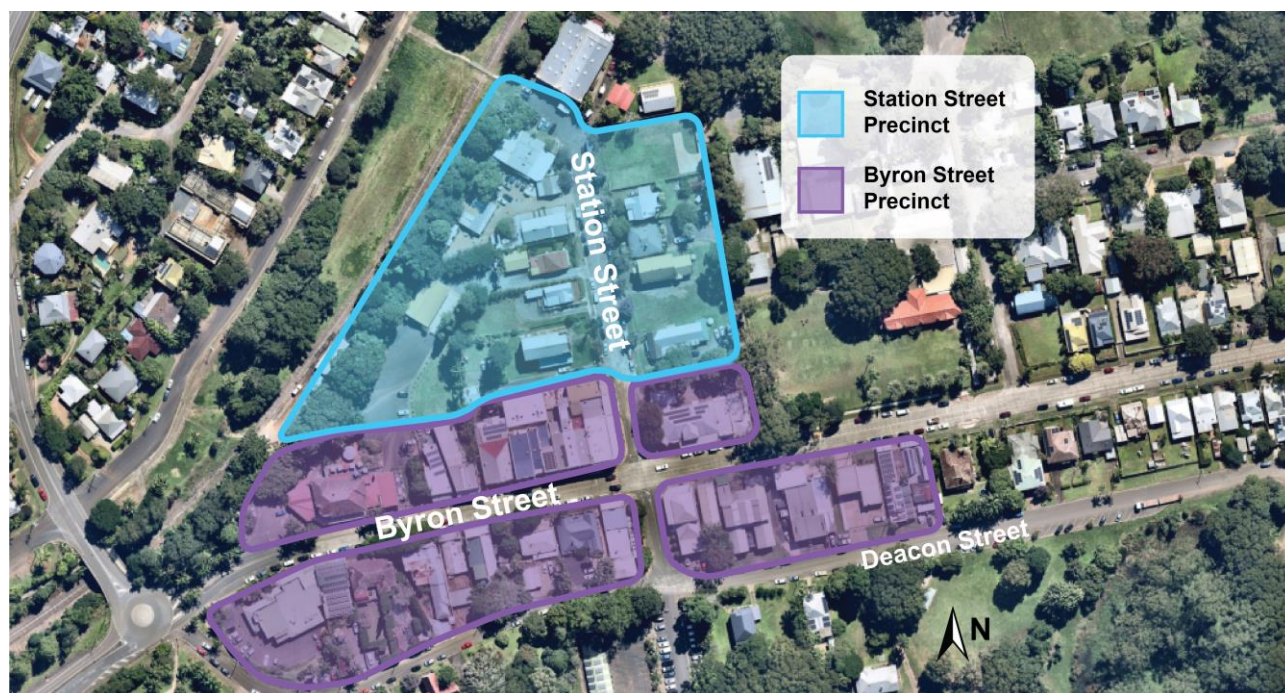
A rare, largely intact early 20th century village built in a picturesque setting of green hills and subtropical vegetation with a main street of high-quality public and commercial buildings grouped on both sides and an unusually steep sloping street. The village area has a high concentration of quality dwellings, public buildings, streets, back lanes, street trees and landscaping, which taken together illustrate an identifiable pattern of domestic, industrial and commercial settlement in Bangalow by early pioneering settlers, and a pattern of development of civic infrastructure.

### Form

The majority of houses are single or double fronted with hipped, or hipped and gabled, roofs with front verandahs. New developments should complement these hipped or gabled forms and roof pitches should remain in the 25-35 degree range.

### Materials

1. The predominant materials of existing older buildings are generally light painted weatherboard with galvanised iron roofs. The use of these materials is encouraged.
2. Conservation and replacements with 'like for like' materials is required. 'Like for like' timber and galvanised steel, or brick and tile is required for the conservation of traditional buildings and heritage items as appropriate.
3. Complementary modern materials such as cement profiled weatherboards and uncoloured metal Galvanised, Zincalume or light to mid grey colorbond roofing is acceptable for new infill.



**Figure C1.11 – Precincts in Bangalow Village Centre**

## Byron Street Precinct

For a small rural village, there is an unusual yet impressive scale to the commercial buildings in the main street. Most of the commercial buildings date from around the First World War, are of solid brick construction and have ornate parapets exhibiting later 'Federation' influences.

There remains a strong sense of originality and compatibility of design, with buildings dominating the street, effectively forming a street wall along the main street within the core area. There remains a pleasing architectural harmony about the buildings in scale, form, materials and colour.

Many original shopfronts remain on the northern side of Byron Street – characterised by expansive floor to ceiling heights, wood clad verandahs and leadlight highlights.

A dominant feature of the commercial buildings is the front parapet concealing the roof. These parapets are ornate, having applied decorative relief to approximately 25% of the face area in the form of mouldings, pilasters or recesses. They are generally in painted rendered brickwork. The tops of the parapets, particularly on the northern side of Byron Street, are well articulated with stepped, sloping or curved motifs. On the southern side, other than for the National Australia Bank, parapet tops are more regular.

The height of Bangalow's commercial buildings is impressive and derives from high floor to ceiling heights internally, the steepness of the hill and the high proportion of parapet area to wall area below.

The diverse collection of heritage buildings combined with a vibrant mix of use along the narrow shop fronts of Byron Street underpins the character of the precinct. There is a pleasing architectural harmony about the buildings in scale, form, materials and colour which provides a strong definition to the street edge. The verandahs over the footpath and landscape pockets provide for a pleasant pedestrian amenity.



**Table C1.2 – Performance Criteria and Prescriptive Measures for building elements Byron Street Precinct**

<b>Building Element</b>	<b>Performance Criteria</b>	<b>Prescriptive Measures</b>
<b>Parapets</b>	1. Existing parapets remain in place and new buildings avoid long, flat parapets and bland elevations with no relief.	1. The area of parapet face above the upper floor ceiling line is to be approximately 50% of the area of the wall below that line. 2. New development is to have a minimum 3m floor to ceiling height. Low parapets concealing flat roofs are not compatible.
<b>Building Height</b>	1. New development and additions and alterations reflect the general two storey height characteristics of Bangalow	1. Buildings to comply with the prescribed <b>building height</b> limit under Byron LEP 2014 of 9.0m. 2. The existing eave heights are to be maintained throughout the precinct 3.
<b>Verandahs</b>	1. New buildings are to incorporate verandahs, balconies and awnings into their design. 2. Where appropriate, older buildings which have had historical verandahs removed, re-incorporate such structures when carrying out major alterations and additions	1. Awnings and verandahs shall have a maximum width of 3.6m and a minimum of 3m, with a minimum height of 3m above footway allowing for under-awning signs. 2. All structures shall have a minimum clearance of 600mm from the face of kerb and 2m clear walking space at shopfront.
<b>Materials</b>	1. Building materials complement existing materials used on historical buildings in the Village Core Area 2. Brick or rendered masonry continues to be used, noting that virtually all the face brick buildings are on the southern side of Byron Street and the rendered and painted buildings are on the northern side.	3. Buildings to use either face brick or rendered brick, (Note: Face brick buildings dominate on the southern side of Byron Street and the rendered and painted buildings are on the northern side).
<b>Shop Fronts</b>	1. Existing original shopfronts are retained and conserved to original details. 2. New buildings incorporate a well-designed shopfront using	1. A minimum recessed entrance of 0.9 m to be provided to shopfronts. 2. Entranceways are to be designed to be accessible. This may require input from an access consultant.

Building Element	Performance Criteria	Prescriptive Measures
	<p>materials compatible with neighbouring shopfronts, with timber framed windows or bespoke fine metal framing the preferred material.</p> <p>3. Doors to shops must be recessed to create interest in the line of shopfronts and retain the existing pattern of built form.</p>	
<b>Colours</b>	1. Paint Colour Schemes are compatible with heritage colours	1. Colour Schemes for new and old buildings (including maintenance) to comply with C1.4.5.
<b>Signage</b>	<p>1. Signage is discrete and traditional in character and does not overpower the building in scale and location.</p> <p>2. Signage is compatible with historical nature of the building and complements adjoining development and the streetscape.</p>	<p>1. Any signage to comply with Chapter B10 of DCP 2014 (See Section B10.3.1).</p> <p>2. The following signage is not suitable for the Village Core:</p> <p>a) above awning signs unless the style of lettering, the location and size of the sign and the materials and colours are compatible with Bangalow's historical signage character.</p> <p>b) cantilevered, illuminated signs off the face of the building and signs propped up above the footpath</p> <p>c) corporate colour schemes and large scale or illuminated advertising signage</p>
<b>Access and parking</b>	<p>1. Development fosters the integration of the existing commercial and civic precincts with the surrounding pedestrian network and open spaces.</p> <p>2. Vehicle access to properties is designed to not conflict with the existing pedestrian networks.</p>	<p>1. Vehicle driveways across the footpath are generally not compatible unless existing.</p> <p>2. Access to be provided to the rear of properties for parking and deliveries</p> <p>3. Where onsite parking cannot be provided, Council will consider contributions.</p>
<b>Shop Top Housing</b>	1. Provides for a diversity of housing opportunities in Bangalow.	1. Shop top housing should primarily consist of 1 and 2 bedroom units and studio apartments.

Building Element	Performance Criteria	Prescriptive Measures
	2. Enable live and work opportunities for residents and workers in Bangalow.	2. Shop top housing to comply with Chapter D1 of DCP 2014 (See D1.10). 3. <b>Dual Key arrangements</b> to provide for larger households will be supported where appropriately designed to demonstrate each dwelling can comply with Chapter D1 of DCP 2012 and adequate car parking is provided on site for residents.
<b>Form</b>	1. Composition of existing buildings along Byron Street is retained and buildings continue to present as individual frontages through the use of appropriate materials, colour and detailing.	There are no Prescriptive Measures

## Station Street Precinct

On Station Street, buildings are generally of a smaller scale than the commercial zone of Byron Street, and exhibit landscaping and open spaces. There is a mix of residential, commercial and civic uses in the precinct. Two storey heritage buildings of note include the Masonic Hall, the A & I Hall and the Uniting Church Hall. These are characterised by their extensive curtilage. The A & I Hall is a landmark heritage building which anchors the end of the street dominates vista through the street.

Street-trees, leafy landscaping and timber and galvanised iron palette create a distinct character, different to Byron Street. Notably, there is also space between buildings, and a setback from the road.

Built form is predominantly single storey original weatherboard and iron traditional cottages which are contributory to the historic character of the precinct and are interspersed by one and two storeyed buildings. A domestic scale is retained by the single storey historic cottages in a landscaped setting.

This precinct contains the following building types:

1. single **storey** houses in weatherboard and galvanised iron; and
2. The A & I Hall in decorative metal cladding with galvanised iron roof.
3. Larger scale 'civic' buildings
4. Several Heritage Items and contributory items

New development should respect and conserve the transition to these Heritage Items and contributory items, and remain subservient to them. The A & I Hall in particular should remain the focal point of the precinct.



**Table C1.3 – Performance Criteria and Prescriptive Measures for building elements Station Street Precinct**

Building Element	Performance Criteria	Prescriptive Measures
<b>General</b>	<ol style="list-style-type: none"> <li>1. Development within the Station street precinct must be carefully designed to respect the significance, context, views and settings of existing heritage items and contributory buildings in terms of form materials, architectural detailing and scale and bulk of buildings</li> <li>2. Development adjacent to or in proximity to Heritage items should remain subservient to the item,</li> <li>3. New development is to comply with Byron DCP 2014 Chapter C1.5.1</li> <li>4. Building frontages must be suitably articulated and should visually separate buildings from adjacent neighbours.</li> </ol>	<ol style="list-style-type: none"> <li>1. Upper floor uses for mixed use buildings must have clearly defined and separate entrances from the street frontage. These separate entrances are not to occupy more than 20% of the street frontage.</li> </ol>
<b>Building Height</b>	<ol style="list-style-type: none"> <li>1. New development and additions and alterations reflect the general two storey height characteristics of Bangalow</li> <li>2.</li> </ol>	<ol style="list-style-type: none"> <li>1. Buildings are to comply with the prescribed <b>building height</b> limit under Byron LEP 2014 of 9.0m.</li> <li>2. Ground floors of all buildings must have a minimum floor to ceiling height of 3.0m in order to provide flexibility for future use.</li> <li>3. Above ground level, residential floors are to have a minimum floor to ceiling height of 2.7m.</li> </ol>
<b>Setbacks</b>	<ol style="list-style-type: none"> <li>1. New development should remain setback from the primary street frontage, and achieve subservience to any surrounding Heritage items.</li> </ol>	<ol style="list-style-type: none"> <li>1. Buildings are to be setback a minimum of 3.0m from Station Street and incorporate side setbacks where possible.</li> <li>2. The front setback should be landscaped to enhance the leafy character of the street.</li> </ol>

Building Element	Performance Criteria	Prescriptive Measures
<b>Materials</b>	<ol style="list-style-type: none"> <li>1. Building materials compliment existing materials used on historical buildings in Station Street precinct.</li> </ol>	<ol style="list-style-type: none"> <li>1. Development to use a palette of timber and tin or masonry in keeping with other buildings in the street.</li> <li>2. Lightweight materials preferred.</li> </ol>
<b>Access and parking</b>	<ol style="list-style-type: none"> <li>1. Development fosters the integration of the existing commercial and civic precincts with the surrounding pedestrian network and open spaces.</li> <li>2. Vehicle access to properties is designed to not conflict with the existing pedestrian networks.</li> </ol>	<ol style="list-style-type: none"> <li>1. Access to be provided to the rear of properties for parking and deliveries</li> <li>2. Where buildings have rear lane access, pedestrian access must be provided at this frontage.</li> <li>3. Service and access driveways are to occupy no more than 50% of an individual property's frontage to a rear lane.</li> <li>4. Parking Areas are provided at the rear of buildings or underground.</li> </ol>
<b>Shop Top Housing</b>	<ol style="list-style-type: none"> <li>1. Provides for a diversity of housing opportunities in Bangalow.</li> <li>2. Enable live and work opportunities for residents and workers in Bangalow.</li> </ol>	<ol style="list-style-type: none"> <li>1. Shop top housing should primarily consist of 1 and 2 bedroom units and studio apartments.</li> <li>2. Shop top housing to comply with Chapter D1 of DCP 2014 (See D1.10).</li> <li>3. <b>Dual Key arrangements</b> to provide for larger households will be supported where appropriately designed to demonstrate each dwelling can comply with Chapter D1 of DCP 2012 and adequate car parking is provided on site for residents.</li> </ol>
<b>Fencing and Landscaping</b>	<ol style="list-style-type: none"> <li>1. Early photographs indicate a general absence of fencing in the Business area and there is therefore no case for reinstatement.</li> <li>2. Development should be landscaped in a way that enhances Bangalow's green and leafy character, and is sympathetic to the</li> </ol>	<ol style="list-style-type: none"> <li>1. No fencing is provided in front boundary setback.</li> <li>2. Setback from street is to be suitably landscaped</li> <li>3. Landscaping is to be in ground – planter boxes are not typically characteristic of Bangalow.</li> </ol>

Building Element	Performance Criteria	Prescriptive Measures
	subtropical climate of the area.	

## C1.6.10 Mullumbimby Conservation Area

### Character and Description

‘Biggest Little Town’ character. Characteristics include:

1. Wide streets, rear lanes, wide verges.
2. No obtrusive kerbs and gutters.
3. Mixed traditional character.

### Statement of Significance

The township of Mullumbimby is unusual in having a uniform scale and character of traditional buildings laid out in an historic grid. The township exists in a very beautiful setting in the lee of the distinctive Mount Chincogan.

### Policy

1. Retain all attributes of the **Heritage Conservation Area** that demonstrate its heritage character and significance including its pattern of subdivision development, boundary setbacks, built form, landscape and vegetation and all original external fabric.
2. Encourage renewal of unsympathetic infill structures in the commercial area with ‘heritage-compatible’, high quality, sustainable developments that integrate with the traditional design values and character of the town.
3. In the residential precincts development must give special attention to the low set, horizontal emphasis of existing buildings.
4. Additions and new development must remain compatible in character, height and scale with the existing pattern of development.
5. In the commercial and civic precinct development must foster integration of the site with the surrounding pedestrian network and open spaces. On-site parking, underground parking and vehicle driveways across the footpath are not compatible in this precinct.
6. Two-storey developments outside the commercial zone must be designed sensitively to provide for integration with the surrounding, predominantly single-storey residential development.

## C1.6.11 New Development in Heritage Conservation Areas

### Objectives

1. To ensure that the siting of new development retains the integrity of the **Heritage Conservation Area**.

2. To ensure that any new development achieves a sympathetic relationship within the **Heritage Conservation Area** of which it is a part.
3. To ensure that new development respects the established streetscape, and the patterns of development, including setbacks, siting, landscape settings, car parking, height, dominant ridgelines and building envelopes within the **Heritage Conservation Area**.

### **Performance Criteria**

1. New development must respect or utilise the topography and existing vegetation within the **Heritage Conservation Area**.
2. New developments must maintain and/or complement, not compete with, the elements that contribute to the setting, uniqueness and **heritage significance** of the **Heritage Conservation Area**.
3. New development must respond to the established development patterns such as subdivision layout, setbacks, and spaces between buildings. The predominant setbacks in the street must be retained to ensure the visual uniformity of the **Heritage Conservation Area** is maintained.
4. New development can be contemporary in design, however the scale, form, bulk and detail of the proposal must not detract from the scale, form, unity, cohesion and predominant character of the **Heritage Conservation Area**. Incorporating basic design elements such as the characteristic roof form and massing, proportions of windows, doors and verandahs is encouraged.
5. The design of new development should be kept simple, and must not use a mixture of features from different eras or add heritage features to new buildings that are incompatible with the heritage context. Contemporary kit/project designs which purport to be “heritage homes” are often poorly integrated mixtures of design elements from different eras and do not fulfil the objectives for new development.
6. Proposals that include underground car parking must demonstrate that the proposed underground parking arrangements and ancillary facilities such as access and ventilation will be consistent with the Objectives, and will not adversely affect the heritage, aesthetic or pedestrian character of the **Heritage Conservation Area**, the site or nearby streets.
7. New development in **Heritage Conservation Areas** must be consistent with the statements of Character and Description, Statement of Significance and Policies described in the Sections C1.6.1 – C1.6.8 relevant to the particular **Heritage Conservation Area** in which the site is located.
8. Development applications for new development in a **Heritage Conservation Area** must be accompanied by a **Heritage Impact Statement**.
9. New development in the Bangalow Conservation Area must be consistent with Chapter E2 Bangalow.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## C1.6.12 Alterations and Additions in Heritage Conservation Areas

### Objectives

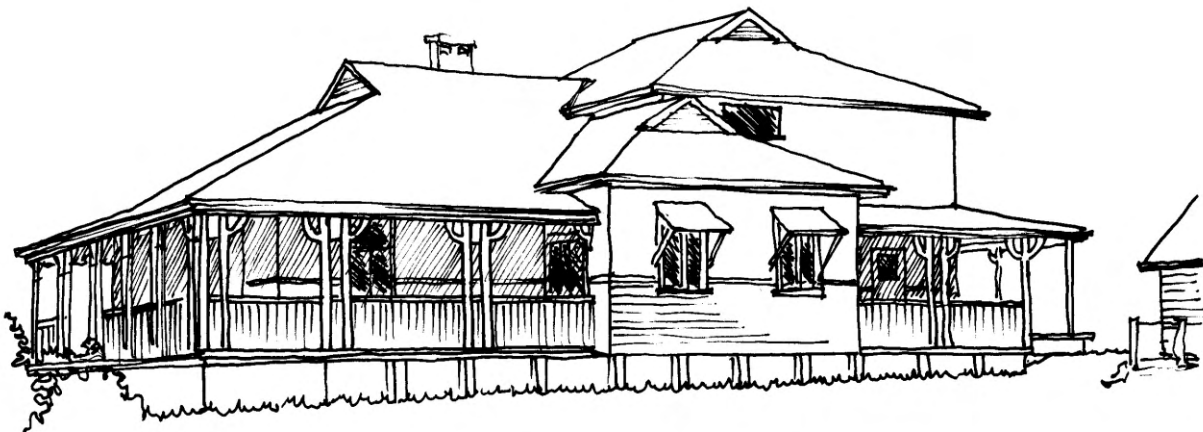
1. To ensure that redevelopment, alterations and additions in **Heritage Conservation Areas** contribute to the conservation and heritage values of those areas and do not detract from those values.

### Performance Criteria

1. Redevelopment, alterations and additions in **Heritage Conservation Areas** must be consistent with the statements of Character and Description, Statement of Significance and Policies described in Sections C1.6.1 – C1.6.8 relevant to the particular **Heritage Conservation Area** in which the site is located.
2. Redevelopment, alterations and additions in the Bangalow Conservation Area must be consistent with Chapter E2 Bangalow.
3. Development applications must be accompanied by a **Heritage Impact Statement** unless Council advises that the proposed development is of minor heritage or conservation significance.

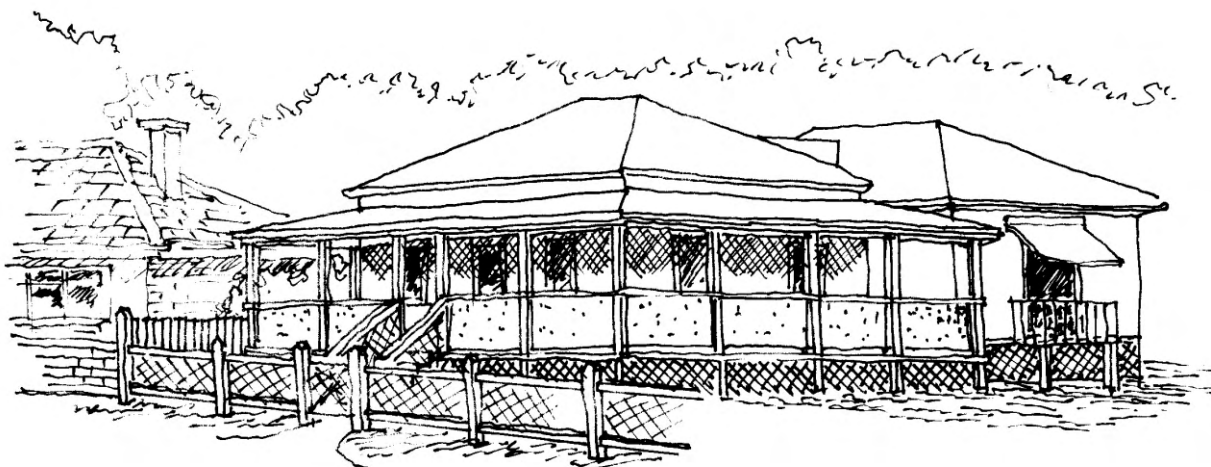
### Prescriptive Measures

There are no Prescriptive Measures.



**Figure C1.12 – Additions and Alterations – wrong approach**

*New additions to traditional buildings should be in scale and visually recessive. In this example an attempt has been made to hide a large extension at the rear, but the excessive size of the extension causes the original structure to appear overburdened and unbalanced.*



**Figure C1.13 – Additions and Alterations – right approach**

*New additions can be respectful and largely out of the public view without compromising the streetscape amenity or the quality of the new accommodation.*

## C1.6.13 Change of Use in Heritage Conservation Areas

### Objectives

1. To recognize that the form and character of **Heritage Conservation Areas** are influenced and affected by the use of individual sites within the **Heritage Conservation Area**.
2. To preserve the form, character and function of **Heritage Conservation Areas**.
3. To ensure that changes of use in **Heritage Conservation Areas** do not create incompatibility or conflicts with their heritage character or values.

### Performance Criteria

1. Proposals seeking consent for change of use within a **Heritage Conservation Area** must demonstrate that the proposed change is not likely to create incompatibility or discordance over time with the heritage character or heritage values of the **Heritage Conservation Area**, or with individual **Heritage items**.
2. The applicant's assessment of compatibility of the proposed development with the **Heritage Conservation Area** must include details of all proposed physical changes to the site and to existing development resulting from the proposed change of use, including but not limited to changes in vegetation, signage, colours, materials and the like.

### Prescriptive Measures

There are no Prescriptive Measures.



## Appendix C1.1 Checklist of Requirements for Heritage Impact Statements for Heritage items

### Checklist of Requirements for Heritage Impact Statements for Heritage Items

The Heritage Impact Statement contains two parts, a Heritage Assessment and a Heritage Impact Assessment of the proposal.

#### Part A - Heritage Assessment

##### 1. Historical Development of the Site

A concise history of the site based upon a full historical Title Search, Sands Directory Search and Council files. It should include:

- a) Development of the site over time, date of construction and additions/alterations.
- b) Original subdivision pattern in street and relationship of the building/item to adjoining and other buildings/items in the street.

##### 2. Site Assessment

- a) Description of the building/item and its setting such as garden, fencing and ancillary buildings.
- b) Measured drawings of the building/item, all floor plans and their condition
- c) An assessment of the architectural integrity of the building/item, extent of original finishes and their condition, and originality of the building/item's setting.
- d) Photographs of external elevations and rooms, where appropriate.

##### 3. Statement of Significance

Criteria for assessing the **heritage significance** of an item is to be in accordance with the guidelines set out in the document entitled Assessing Heritage Significance in the NSW Heritage Manual. A statement of significance is to be prepared with a succinct set of statements that answer the question "Why is this building/item significant?"

##### 4. Conservation Policy

The building/item condition, current zoning and statutory requirements and client requirements are constraints, which need to be considered in determining realistic policies to protect the **heritage significance**.

The policy needs to address the following:

- a) Protection of the existing significant fabric
- b) Appropriate location for alterations or new uses

- c) Appropriate scale for alterations and additions so that they do not detract from the **heritage significance**.

The Conservation Policy must be based on the Conservation Principles of the *Burra Charter*.

## **Part B - Heritage Impact Assessment**

### **1. Description of Scope of Works**

A clear and comprehensive account of the work to be carried out including structural alterations, roof form and shape, changes in finishes, colour schemes, internal subdivision etc.

### **2. Design Options**

Full consideration of viable options and discussion of reasons for selection of desired option.

### **3. Statement of Impact**

A statement of the impact the proposal has on the significance of the heritage item. This is to address:

- a) The interior, exterior and setting of the building/item
- b) How the proposal conforms to the conservation policy outlined in the Heritage Assessment and the conservation principles of the Burra Charter.
- c) The impact on the architectural integrity and originality of the building/item
- d) Measures to be undertaken to minimise any adverse effects from the proposal.



## Appendix C1.2 Checklist of Requirements for Heritage Impact Statements for Places within Heritage Conservation Areas

The Heritage Impact Statement contains two parts, the Heritage Assessment and the Heritage Impact Assessment of the proposal.

### Part A – Heritage Assessment

#### 1. Historical Development of the Site

A concise history of the site based upon full historical Title Search, Sands Directory Search and Council files. It should include:

- a) Development of the site over time, date of construction and additions /alterations.
- b) Original subdivision pattern in street and relationship of the building to adjoining and other buildings/items in the street.

#### 2. Site Assessment

- a) Description of the building/item and its setting such as garden, fencing and ancillary buildings.
- b) Measured drawings of the building/item, all floor plans and their condition
- c) An assessment of the architectural integrity of the building/item, extent of original finishes and their condition, and originality of the building/item's setting.
- d) Photographs of external elevations and rooms, where appropriate.

#### 3. Streetscape Assessment

Assessment of the building/item's streetscape contribution should include:

- a) Building form – height, scale, mass, setback
- b) Character- architectural style and period, details of any existing external modifications
- c) Assessment of contributory and non-contributory buildings/items in the streetscape and whether these contributory and non-contributory features are found in the building/item in question

#### 4. Statement of Significance

A concise statement of significance taking into account the historical development of the site/area, the site assessment and the street assessment.

## **Part B – Heritage Impact Assessment**

### **1. Description of Scope of Works**

A clear and comprehensive account of the work to be carried out including structural alterations, changes in finishes, colour schemes, internal subdivision etc.

### **2. Design Options**

What options were considered and reason for desired option.

### **3. Statement of Impact**

A statement of the impact the proposal has on the building/item (including its architectural integrity and its originality) and on the streetscape / **Heritage Conservation Area**. Measures to be undertaken to minimise any effects from the proposal are also to be indicated.

## Appendix C1.3 Maintenance colours, AS2700-2011

### Notes regarding use of the Table:

1. Heritage colours are the paint colours that were used commonly on traditional buildings prior to the 1950s when there was a substantial shift in taste and manufacturing that created wider availability and use of paint colours including strong new colours.
2. The colours listed in Table 1 are Australian Standard Colours selected from the AS2700—2011 Colour Standards for General Purposes. They include most of the more common traditional paint colours.
3. Group A colours are the wall body colours. They are predominantly natural earth tones (mineral or stone colours) that would be found in nature. On a typical weatherboard cottage these colours would be used on the weatherboards or body of the building.
4. Group B colours are lighter tones of the Group A colours. Group C colours are darker tones of the same. They are used on doors, windows and trim to contrast with the wall body colours. In a typical colour scheme the walls would be painted in a mid tone, the window and door frames would be lighter and the door and sashes darker. Or the frames might be darker and the window sashes lighter.
5. Group D colours are special use colours for elements such as cast iron railings, columns and friezes, which were most commonly painted in dark tones. They might be used also on special elements such as front doors.
6. Group E colours have specific uses. The light green tones are commonly used on the undersides of awnings and verandahs and sometimes on eaves soffits, being cool anti-glare colours. The cream and dark brown colours are used together on the AC sheet and timber battens of gables on buildings of the 1930s to 1950s.
7. Group F colours are high visibility and high contrast colours used for signage. They should not be used on a heritage building except as signage.

**Table 1 – Maintenance Colours, AS2700—2011**

<b>Group A – Wall Body Colours</b>	<b>Group B – Contrasting Trim Colours - Light</b>	<b>Group C – Contrasting Trim Colours - Dark</b>	<b>Group D - Contrasting Colours – Dark Elements</b>	<b>Group E – special use colours</b>	<b>Group F – Signage</b>
Y24 Straw  Y44 Sand	Y24 Straw  Y25 Deep Cream	Y61 Black Olive  Y66 Mudstone	X63 Ironbark  X64 Chocolate	Y25 Deep Cream  X63 Ironbark	Y35 Off White  R13Signal Red

<b>Group A – Wall Body Colours</b>	<b>Group B – Contrasting Trim Colours - Light</b>	<b>Group C – Contrasting Trim Colours - Dark</b>	<b>Group D - Contrasting Colours – Dark Elements</b>	<b>Group E – special use colours</b>	<b>Group F – Signage</b>
Y53 Sandstone	Y34 Cream	X54 Brown	R64 Deep Indian Red	G43 Surf Green	R14 Waratah
Y54 Oatmeal	Y43 Parchment	X61 Wombat	R65 Maroon	G44 Palm Green	R15 Crimson
Y55 Deep Stone	Y44 Sand	X62 Dark Earth	G11 Bottle Green	G55 Lichen	R52 Terra Cotta
Y62 Sugar Cane	Y45 Manilla	X63 Ironbark	G61 Dark Green		R55 Claret
Y63 Khaki	Y52 Chamois	X64 Chocolate	G12 Holly		B12 Royal Blue
X41 Buff	Y53 Sandstone	X65 Dark Brown	G15 Rainforest Green		B21 Ultramarine
X43 Beige	Y54 Oatmeal	R62 Venetian Red	G63 Deep Bronze Green		B51 Periwinkle
X45 Cinnamon	X31 Raffia	R63 Red Oxide	G67 Zucchini		B61 Coral Sea
X51 Tan	X32 Magnolia	R64 Deep Indian Red			B62 Midnight Blue
X52 Coffee	X34 Driftwood	G15 Rainforest Green			G67 Zucchini
X53 Golden Tan	X42 Biscuit	G67 Zucchini			N61 Black
X61 Wombat					



# Byron Shire Development Control Plan 2014

## Chapter C2 Areas Affected by Flood



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## Chapter C2 – Areas Affected by Flood

### Contents

<b>C2.1</b>	<b>Introduction .....</b>	<b>5</b>
C2.1.1	Purpose of this Chapter .....	5
C2.1.2	Objectives of this Chapter .....	5
C2.1.3	Application of this Chapter .....	5
C2.1.4	Planning Objectives and Development Controls .....	5
C2.1.5	Relationship to Byron LEP 2014 .....	6
C2.1.6	Climate Change and Flood Planning .....	6
C2.1.7	Relationship to other Chapters in this DCP .....	6
C2.1.8	Background Information .....	6
<b>C2.2</b>	<b>General Assessment Criteria .....</b>	<b>6</b>
<b>C2.3</b>	<b>Development Controls .....</b>	<b>7</b>
C2.3.1	Applicable Flood Study .....	7
C2.3.2	Minimum Floor Levels .....	11
C2.3.3	Flood Planning Matrix .....	11
C2.3.4	Flood Proofing .....	15
C2.3.5	Special Provisions .....	15

### Maps

Map C2.1 – Belongil Creek Flood Study Area Locality Plan .....	17
Map C2.2 – Brunswick River Flood Study Area Locality Plan .....	18
Map C2.3 – North Byron Coastal Creeks Flood Study Area Locality Plan .....	19
Map C2.4 – Marshalls Creek Flood Study Area Locality Plan .....	20
Map C2.5 – Tallow Creek Flood Study Area Locality Plan .....	21

### Figures

Figure C2.1 – Flow chart illustrating process for determining flood planning controls on land at or below the future Flood Planning Level .....	10
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### Tables

Table C2.1 – Flood Planning Matrix .....	13
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## C2.1 Introduction

### C2.1.1 Purpose of this Chapter

The purpose of this Section is to identify requirements relating to development on **flood liable land** that is appropriate to the degree of flood hazard on that land.

### C2.1.2 Objectives of this Chapter

The Objectives of this Chapter are to:

1. Support and implement the objectives and provisions of Byron LEP 2014 relating to development on land at or below the relevant **flood planning level**.
2. Provide a holistic approach to managing development on **flood liable lands**;
3. Ensure development maintains the existing flood regime and flow conveyance capacity;
4. Consider the future projected impacts of climate change on the floodplain in accordance with Council's adopted Climate Change Strategic Planning Policy;
5. Reduce the impact of flooding and flood liability on individual owners and occupiers;
6. Reduce public and private losses resulting from flooding;
7. Encourage the development of and use of land in a manner compatible with the flood hazard.

*An underlying principle of this Chapter is that any new development or modifications to existing development should always, as far as practical, result in an improvement to the existing flood risk and in no circumstances should the flood risk be made worse.*

### C2.1.3 Application of this Chapter

The planning provisions of this Chapter apply to all land at or below the **future flood planning level**. The **flood planning matrix** (Table C2.1) contains more specific information about the nature and types of development controlled by this DCP Chapter.

### C2.1.4 Planning Objectives and Development Controls

The provisions of this Chapter are based on a range of control measures in relation to particular development/building types. Development proposals must be consistent with the planning objectives for the Chapter. Such consistency is typically demonstrated by compliance with the identified development controls, although there may be circumstances where an alternative to the application of a development control is consistent with the planning objectives. Such alternatives will be considered with regard for risk management.



### **C2.1.5 Relationship to Byron LEP 2014**

This Chapter provides more detailed development controls to enable the effective implementation of the following clauses in Byron LEP 2014:

Clause 6.3 Flood planning

Clause 6.4 Floodplain risk management

### **C2.1.6 Climate Change and Flood Planning**

The Byron Shire Council Climate Change Strategic Planning Policy ('Policy') sets out Council's accepted climate change parameters to inform the decision making process for strategic, infrastructure and operational planning. The flood planning provisions in this Chapter have been developed having regard to the overall framework of that Policy.

### **C2.1.7 Relationship to other Chapters in this DCP**

This Chapter needs to be read in conjunction with Chapters D1 Residential Development in Urban and Special Purpose Zones, D2 Residential Accommodation and Ancillary Development in Rural Zones, D3 Tourist Accommodation, D4 Commercial and Retail Development, D5 Industrial Development and D6 Subdivision, for development on land at or below the **future flood planning level**. The provisions in this Chapter prevail over the provisions of other Chapters, unless otherwise specified, where there is an inconsistency.

### **C2.1.8 Background Information**

Council has carried out a number of Flood Studies, the latest of which are set out in section 2.3.1.

The studies for Belongil Creek, Marshalls Creek and Tallow Creek have all acknowledged climate change and Council's Climate Change Strategic Planning Policy, but have been based on different climate change parameters.

The above studies along with Council's Climate Change Strategic Planning Policy are the principal reference documents for implementing the provisions of this Chapter.

## **C2.2 General Assessment Criteria**

1. Council will not consent to any development on land at or below the **flood planning level** if there is sufficient suitable area on that land above the **flood planning level** on which to carry out the development.
2. Where the development is on land below the **flood planning level**, floor levels of any buildings must be constructed at or the above the **flood planning level**. Council will not support filling beneath the building footprint of the proposed development unless it is demonstrated that it will not adversely impact on the floodplain. Filling outside the



- building footprint generally will not be permitted, other than for driveways and/or pedestrian pathways immediately adjoining the walls of the building.
3. Where extensive additions are proposed to lightweight buildings (e.g. timber, fibro) the applicant should consider redesigning the whole building to comply with current flood planning controls.
  4. The adaptability of the development in the face of climate change will be considered as part of the development process. Adaptable developments have the ability to be designed to the **Projected 2050 Flood Planning Level** instead of the **Projected 2100 Flood Planning Level** in most instances.

## C2.3 Development Controls

The following steps should be taken to ascertain the flood planning controls relating to development on land at or below the **future flood planning level**:

- Step 1** Consider the applicable Flood Study for the catchment in which the land is situated, in relation to flood hazard and floor level requirements (Section C2.3.1).
- Step 2** Consider the specific Flood Planning provisions for the type of development and flood hazard as set out in the **flood planning matrix** (Table C2.1 below).
- Step 3** Consider any special requirements or standard designs for particular localities (Section C2.3.5).

Note: If no applicable study exists (Step 1 above), applicants shall refer to the relevant flood planning requirements set out in Council's Climate Change Strategic Planning Policy and in Section C2.3.2 and Section C2.3.5 below (as applicable); then return to Step 1 upon completion of a study.

A flow chart illustrating the process for determining flood planning controls on land at or below the **future flood planning level** is included at the end of Section C2.3.1 below (Figure C2.1).

### C2.3.1 Applicable Flood Study

The following catchment-based flood studies are relevant:

1. Belongil Creek Catchment
  - a) *Belongil Creek Flood Study (2009)*
    - i) includes Byron Bay township and industrial estate, West Byron and Sunrise estate. The extent of the Belongil Creek catchment is shown in Map C2.1.
  - b) *Belongil Creek Floodplain Risk Management Study & Plan* (in preparation)



**APPLICATION:**

Until such time as the *Belongil Creek Floodplain Risk Management Study & Plan* is adopted, the following climate change scenarios in the Belongil Creek Flood Study (2009) shall apply:

- 2050 Climate Change scenario shall be used for the 2050 Climate Change planning horizon.
- 2100 Climate Change scenario shall be used for the 2100 Climate Change planning horizon.

2. **Brunswick River Catchment**

a) *Brunswick River Flood Study (1986)*

- i) includes Mullumbimby and Brunswick Heads. The extent of the Brunswick River catchment is shown in Map C2.2.

Note: this document does not include a climate change assessment; refer to Council's *Climate Change Strategic Planning Policy* for **flood planning level** methodology and requirements.

b) *North Byron Coastal Creeks Flood Study (in preparation)*

- i) includes Mullumbimby, Brunswick Heads, Ocean Shores, New Brighton, South Golden Beach and Billinudgel.
- ii) the study area for the North Byron Coastal Creeks Flood Study combines the Brunswick River, Marshalls Creek and Simpsons Creek catchments. The extent of the North Byron Coastal Creeks catchment is shown in Map C2.3.

c) *North Byron Coastal Creeks Floodplain Risk Management Study & Plan (planned to commence in future)*

**APPLICATION:**

Until such time as the *North Byron Coastal Creeks Flood Study* is adopted, the **Projected 2050 Flood Planning Level** applies as follows:

- where the site of the development is at or below 4m AHD, an additional 0.4m shall be applied to the estimated 1 in 100 year flood level, in addition to the normal 0.5m freeboard.
- where the site of the development is above 4m AHD, the estimated 1 in 100 year flood level shall be used, together with the normal 0.5m freeboard .

3. **Marshalls Creek Catchment**

a) *Marshalls Creek Floodplain Management Plan (1997)*

b) *Tweed – Byron Coastal Creeks Flood Study (2010)*

c) *Tweed – Byron Coastal Creeks Flood Study BSC Climate Change Assessment (2010)*



- i) includes Ocean Shores, New Brighton, South Golden Beach and Billinudgel. The extent of the Marshalls Creek catchment is shown in Map C2.4.
- d) *North Byron Coastal Creeks Flood Study (in preparation)*
  - i) refer to Brunswick River catchment

**APPLICATION:**

Until such time as the *North Byron Coastal Creeks Flood Study* is adopted, the following climate change scenarios shall apply:

- 2050 Climate Change scenario shall be used for the 2050 Climate Change planning horizon.
- 2100 Climate Change scenario shall be used for the 2100 Climate Change planning horizon.

4. Tallow Creek Catchment

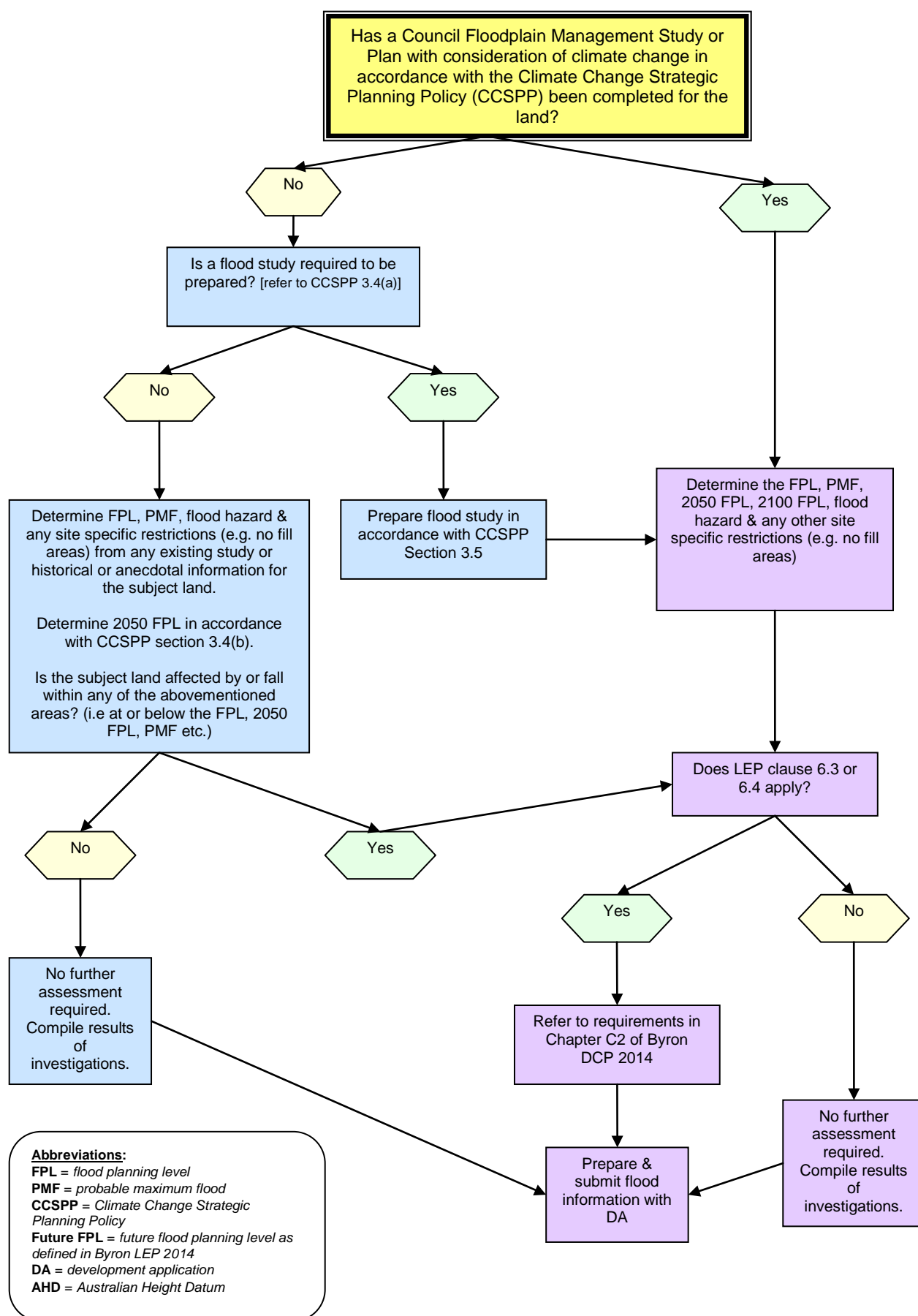
- a) *Tallow Creek Flood Study (2002)*
- b) *Tallow Creek Floodplain Risk Management Study and Plan (2009)*
  - i) includes Suffolk Park, and the estates of Byron Hills and Baywood Chase. The extent of the Tallow Creek catchment is shown in Map C2.5.
  - ii) applies until superseded by a more current flood study and management plan for this catchment:

**APPLICATION:**

In the absence of more updated flood mapping for this catchment, the following climate change scenarios in the *Tallow Creek Floodplain Risk Management Study and Plan* shall apply:

- 2050 Climate Change scenario shall be used for the 2050 Climate Change planning horizon.
- 2100 Climate Change scenario shall be used for the 2100 Climate Change planning horizon.

**Figure C2.1 – Flow chart illustrating process for determining flood planning controls on land at or below the future Flood Planning Level**



### C2.3.2 Minimum Floor Levels

1. The finished floor level of **habitable rooms** must be above the relevant level defined by the **flood planning matrix**. Analysis and certification by a suitably qualified structural engineer will be required where the finished floor level of enclosed 'non-habitable' rooms is more than 1.0 metre below the 1:100 year flood level.
2. Developments in **new release areas**, certain rezoning proposals, **critical facilities** and **special purpose facilities** requiring a longer flood planning horizon are generally required to achieve the **Projected 2100 Flood Planning Level**.
3. New dwellings in existing residential areas are generally required to achieve the **Projected 2050 Flood Planning Level**. Adaptable building design is encouraged so that dwellings on piers, posts, columns or piles can be raised in future to accommodate climate change. Where concrete slab on ground is necessary the slab level shall be finished at least 300mm above the surrounding ground, as well as achieve the **Projected 2050 Flood Planning Level**.
4. Commercial and Industrial floor levels are generally required to achieve the **Projected 2050 Flood Planning Level**. Where this cannot occur, Council will consider flood proofing and emergency storage above the **Projected 2050 Flood Planning Level** to minimise damage that may occur during flooding (refer to sections C2.3.4 Flood Proofing and C2.3.5 Special Provisions).

### C2.3.3 Flood Planning Matrix

The **flood planning matrix** below sets out general planning requirements for “low / intermediate” and “high” hazard flood categories. The flood affectation or hazard of a property or part of a property may change when considering climate change.

To satisfy the provisions of the LEP, developments must not only demonstrate compliance with the *Primary Constraints* in the **flood planning matrix** but must also demonstrate compliance with the *Additional Constraints*. The primary constraints relate to land to which LEP clause 6.3(3) applies (i.e. land at or below the **flood planning level**), while additional constraints relate to land to which LEP clause 6.3(4) applies (i.e. land at or below the **future flood planning level**).

The **flood planning matrix** will not prevail over any special provisions set out in Section C2.3.5.

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**Table C2.1 – Flood Planning Matrix**  
(continued overleaf)

CONTROLS	DEVELOPMENT / BUILDING TYPE	Primary Constraints <sup>1</sup> Existing Climate Flood Hazard Categories			Additional Constraints <sup>1</sup> Future/Extreme Event Flood Hazard Categories	
		No Hazard	Low/Intermediate Hazard	High Hazard	2100 Climate Change Planning Horizon - 100 Year Low/Intermediate Hazard	2100 Climate Change Planning Horizon - 100 Year High Hazard
<b>Land Use Suitability &amp; Fill Level</b>	Development in <b>New Release Areas</b> , unless separately defined below	N/A	SF2		SF2	SF2
	Development in all other areas unless separately defined below	N/A	SF1		SF1	SF1
	Non-Habitable Building or Room (e.g. shed, carport, garage, toilet, laundry, shelter, etc)	N/A	SF1	SF1	SF1	SF1
	Emergency Services <b>Critical Facilities</b> Site (Hospitals, etc.)	N/A	SF3a		SF3a	
	Other <b>Special Purpose Facilities</b> (School, etc.)	N/A	SF3b		SF3b	
<b>Floor Level</b>	Development in <b>New Release Areas</b> unless separately defined below	FL3	FL3		FL3	FL3
	Development in all other areas unless separately defined below	FL2	FL2		FL2	FL2
	Dwelling Additions, except in <b>New Release Areas</b>	N/A	FL4		FL4	FL4
	Non-Habitable Building or Room (e.g. shed, carport, garage, toilet, laundry, shelter, etc)	N/A	FL1		FL1	FL1
	New <b>Critical Facilities</b> (Hospitals, etc.) or <b>Special Purpose Facilities</b> (School, etc.)	FL3a	FL3a		FL3a	
<b>Building Components</b>	All	N/A	BC1		BC1	BC1
<b>Structural Soundness</b>	Ancillary Building (e.g. shed, carport)	N/A	SS1	SS1	SS1	SS1
	Other Building	N/A	SS1	SS2	SS1	SS1
<b>Flood Effect</b>	Development in <b>New Release Areas</b> , unless separately defined	N/A	FE2		FE2	FE2
	Development in all other areas unless separately defined below	N/A	FE2		FE1	FE2
	Alterations and Additions, Non-Habitable Building or Room (e.g. shed, carport, garage, toilet, laundry, shelter, etc)	N/A	FE1		FE1	FE1
	Other Developments (road raising, etc)	N/A	FE3	FE3	FE3	FE3
<b>Evacuation &amp; Access</b>	Development in all other areas unless separately defined below	N/A	EA1		EA1	EA1
	Development in <b>New Release Areas</b> , unless separately defined	N/A	EA2		EA2	EA2
	<b>Critical Facilities</b> (Hospitals, etc.)	N/A	EA3a		EA3a	
	Other <b>Special Purpose Facilities</b> (Schools, etc.)	N/A	EA3b		EA3b	

1. Refer to relevant flood study for definition of hazard categories

N/A	Controls Not Applicable
	Unsuitable Land Use - Not considered suitable for development

Table C2.1 – Flood Planning Matrix (continued from previous page)

CONTROL MEASURES	
	<b>LAND USE SUITABILITY &amp; MINIMUM FILL LEVEL</b>
SF1	Consider for development subject to the controls below. No minimum fill level required.
SF2	Consider for development subject to the controls below. For new residential, commercial and industrial release areas, the minimum fill level to be greater than or equal to the 1:100 ARI (average recurrent interval) flood event plus projected climate changes allowances for the year 2100
SF3a	Consider for development subject to the controls below. Where possible Emergency Services should be located on land currently flood free during the <b>PMF</b> event. Where practical the minimum fill level should be greater than or equal to the existing climate <b>PMF</b> flood level.
SF3b	Consider for development subject to the controls below. Council to give consideration on the benefits of using the development during and after a flood emergency. existing climate <b>PMF</b> flood level.
	<b>MINIMUM FLOOR LEVEL</b>
FL1	All floor levels to be greater than or equal to the 10 year flood level plus 0.3m.
FL2	All floor levels to be greater than or equal to the <b>Projected 2050 Flood Planning Level</b> (FPL2).
FL3	All floor levels to be greater than or equal to the <b>Projected 2100 Flood Planning Level</b> (FPL3).
FL3a	If practical, all floor levels to be greater than or equal to the <b>Projected 2100 Flood Planning Level</b> (FPL3), so that these buildings will be available for accommodation / storage during and after a flood emergency.
FL4	Floor levels to be as close to the <i>minimum floor level</i> above (FPL2) as practical and not less than the floor level of the existing building being extended if the existing floor level is less than or equal to the minimum floor level. If the extended weatherproof area exceeds 50% of the existing weatherproof area, the extension is treated as a new building. The extended weatherproof area is measured as the cumulative area of any previous extensions plus the proposed extension. If building is identified as being suitable for voluntary house raising scheme, Council to discuss potential house raising with owner.
	<b>BUILDING COMPONENTS</b>
BC1	Buildings to have <b>flood compatible material</b> below the relevant <b>flood planning level</b> according to development/building type. Refer to Flood Proofing Section.
	<b>STRUCTURAL SOUNDNESS</b>
SS1	No structural soundness requirements for the force of floodwater, debris & buoyancy. Must still comply with Building Code of Australia requirements.
SS2	Engineers report to prove that structures subject to a flood up to the 100 year event can withstand the force of floodwater, debris & buoyancy.
	<b>FLOOD EFFECT</b>
FE1	No action required
FE2	The flood impact of the development to be considered by Council, with Council having the right to request an engineer's report (see FE3 below)
FE3	Engineers report required to prove that the development will not result in adverse flood impact elsewhere
	<b>EVACUATION/ACCESS</b>
EA1	Council to provide information on flood evacuation strategy
EA2	Site specific Flood Evacuation Strategy be developed consistent with Council / SES overall Flood Evacuation Strategy.
EA3a	Emergency service site - should have good access up to the <b>PMF</b> and preferably not cut-off from the main residential area(s). Council to evaluate suitability of site in this respect.
EA3b	If site to be used during and after a flood emergency (see FL3a above), should have good access up to the <b>PMF</b> and preferably not cut-off from the main residential area(s).

## C2.3.4 Flood Proofing

### 1. Flood Compatible Material

Materials located below the relevant level defined by the **flood planning matrix** must be capable of resisting damage, deterioration, corrosion or decay taking into account the likely time the material would be in contact with flood water and the likely time it would take for the material to subsequently dry out.

### 2. Services

Services and related equipment, other than electricity meters, must not be located below the relevant flood planning level defined by the **flood planning matrix** unless they have been designed specifically to cope with flood water inundation. The location of electricity meters is regulated by the electricity supply authority.

Unless the electricity supply authority determines otherwise, electrical switches must be placed above the relevant level defined by the **flood planning matrix**. Electrical conduits and cables installed below the relevant level defined by the **flood planning matrix** must be waterproofed or placed in waterproof enclosures.

### 3. Enclosures

Any enclosure located below the relevant level defined by the **flood planning matrix** must have openings to allow for automatic entry and exit of floodwater for all floods up to the relevant level defined by the **flood planning matrix**.

## C2.3.5 Special Provisions

### 1. CBD infill development

For infill development in a commercial centre, change of use and additions to existing commercial premises, the current floor level (compatible with the footpath level) can be retained. However buildings must comply with section C2.3.4 Flood Proofing.

### 2. New Brighton, South Golden Beach and Billinudgel

Dwellings in this area are subject to frequent low level flooding.

Refer to Councils Marshalls Creek Floodplain Management Plan (1997) for land that cannot be filled. Preferable building type is on piers, with car parking located under, and with under floor area to remain clear of infill construction. The area shall not be used for storage, nor infilled at a later date.

### 3. Tallow Creek Flood Study Catchment (Map C2.5)

This study found that buildings / dwellings should be 0.5m above the 2100 Climate Change flood levels.

Refer to the Tallow Creek Floodplain Management Plan (2009) for land that cannot be filled. Preferable building type is on piers, with car parking located under, and with under floor area to remain clear of infill construction. The area shall not be used for storage, nor infilled at a later date.

#### 4. Bangalow

Council does not currently have any adopted flood studies or management plans for Bangalow. Where development is proposed on land that is or may be considered at or below the **flood planning level**, the applicant will be required to submit a report using local flood information to satisfy the provisions in the **flood planning matrix**. In some instances a professional Civil / Hydraulic Engineer (with qualifications suitable for admission as a corporate Member of Engineers Australia) will be required to prepare this report or a flood study (Refer to Section B3.2.3 of Chapter B3 Services for further guidance).

Local flood information could be anecdotal flood heights (i.e. highest recorded flood height) or flood studies carried out for previous rezoning or large development applications.

#### 5. Basement Car Parks

Any basement **car park** shall incorporate design elements (e.g. ramps etc) or automatic mechanisms (e.g. hydraulic barriers etc) to prevent the ingress of flood waters. The design elements or mechanisms are to comply with at a minimum the **Projected 2050 Flood Planning Level**. The basement shall also include facilities for the pumping of water in the event of failure, or larger flood events.

#### 6. Rural Areas

Council does not hold plans or records for flooding in most rural areas, other than in the defined catchments (refer to Section C2.3.1). In certain rural areas, floodplains may be steep and narrow, and are liable to rapid flood inundation with little warning.

In the absence of current flood information, persons proposing new developments in rural areas near rivers, streams and gullies that could be flood liable should seek out and use reliable local historical information. Catchment flood studies may be required to establish design flood levels, flow rates for structural design, and to assess the potential impact of the development on local flood behaviour. Refer to Section B3.2.3 of Chapter B3 Services for further guidance.

Where development is proposed on rural land that may be considered **flood liable land**, the applicant will be required to submit a report using local flood information, establishing the levels on the site equivalent to the **Projected 2050 Flood Planning Level** in relation to any dwelling, residential, tourist or commercial project. In some instances a professional Civil / Hydraulic Engineer (with qualifications suitable for admission as a corporate Member of Engineers Australia) will be required to prepare this report or a flood study.

The floor level of any **dwelling** shall be at or above the **Projected 2050 Flood Planning Level** while the floor level for other types of development will be determined on a case-by-case basis.



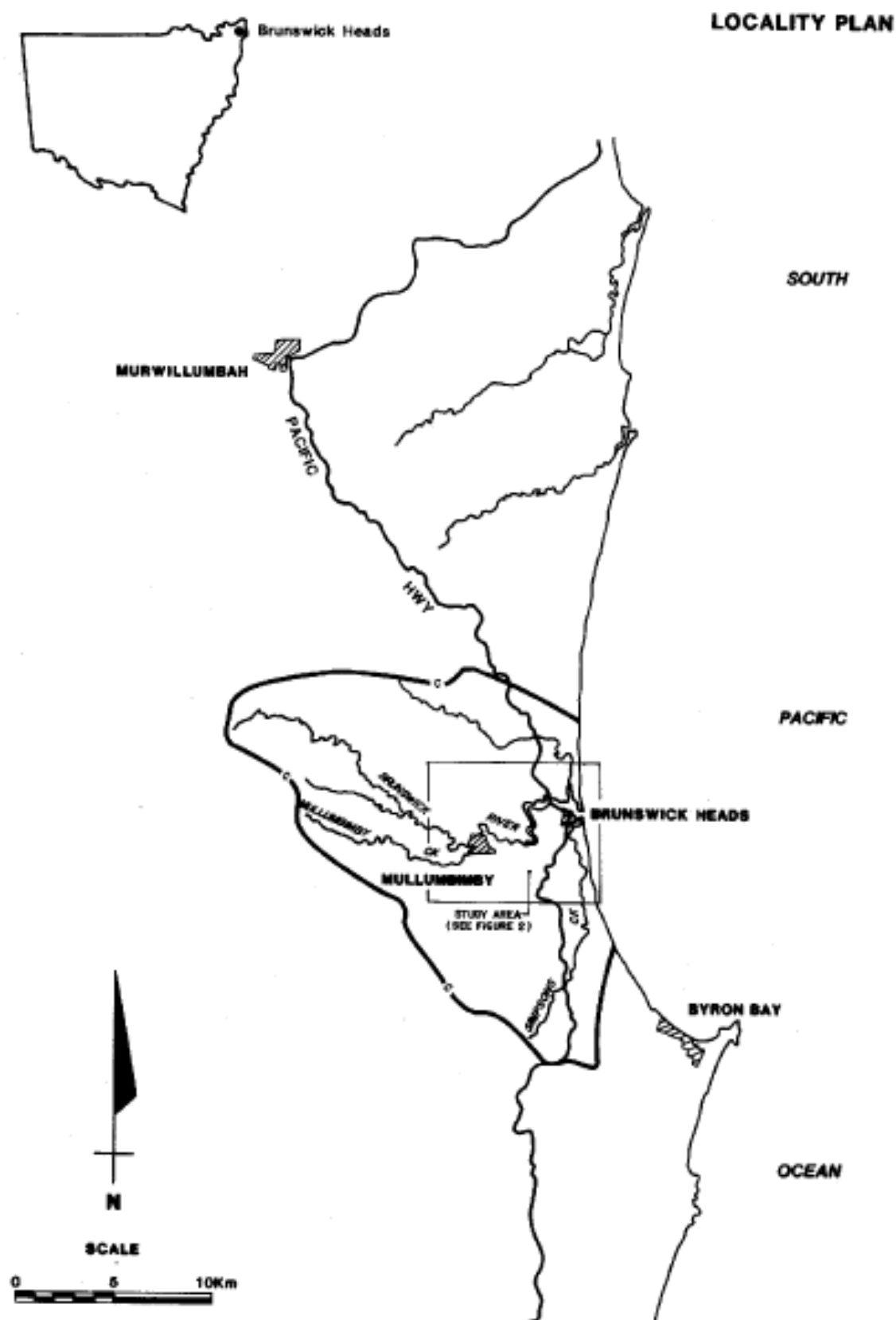
## Map C2.1 – Belongil Creek Flood Study Area Locality Plan



**Figure 1**  
**Locality Plan**

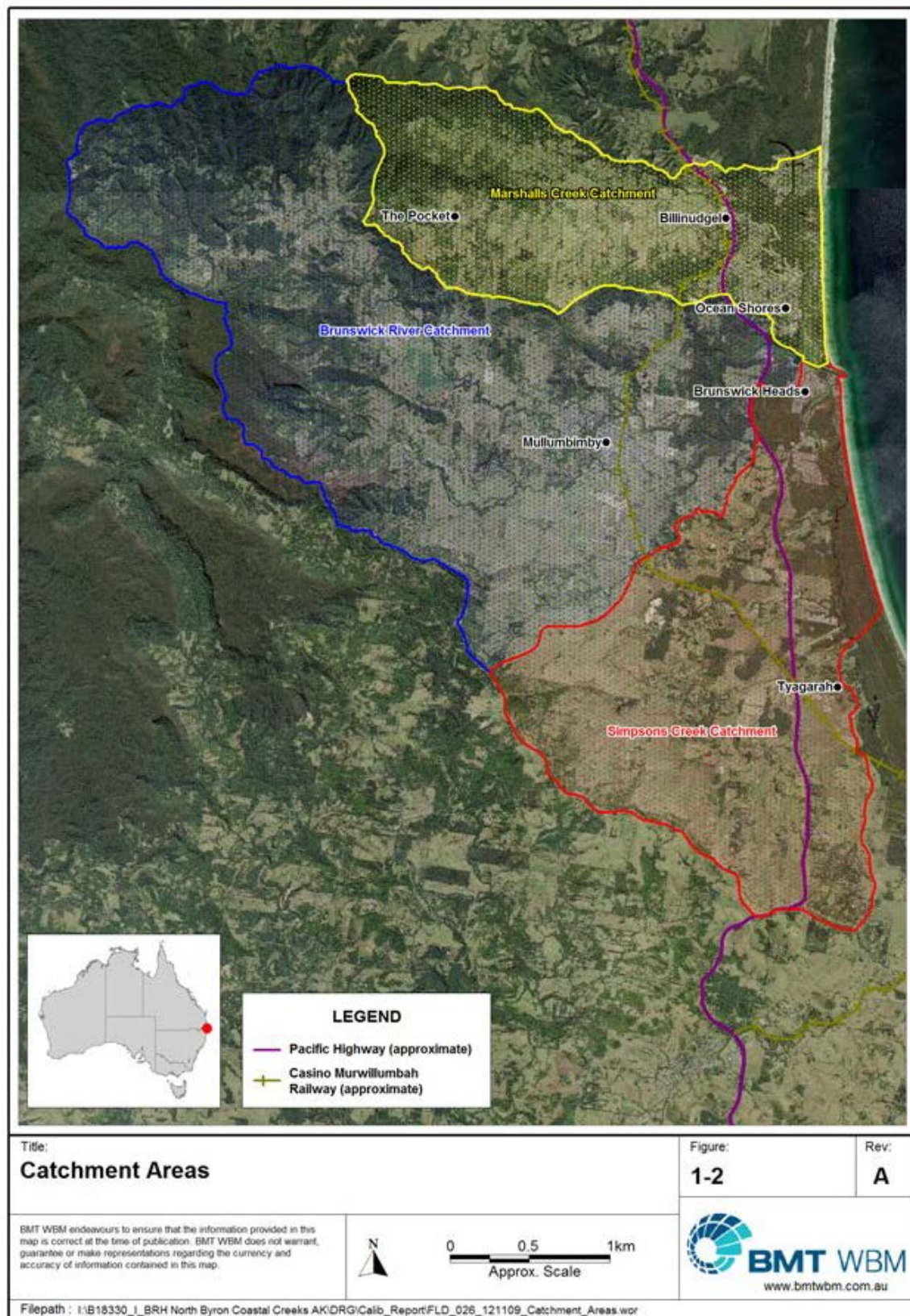
Source: Belongil Creek Flood Study (2009)

## Map C2.2 – Brunswick River Flood Study Area Locality Plan





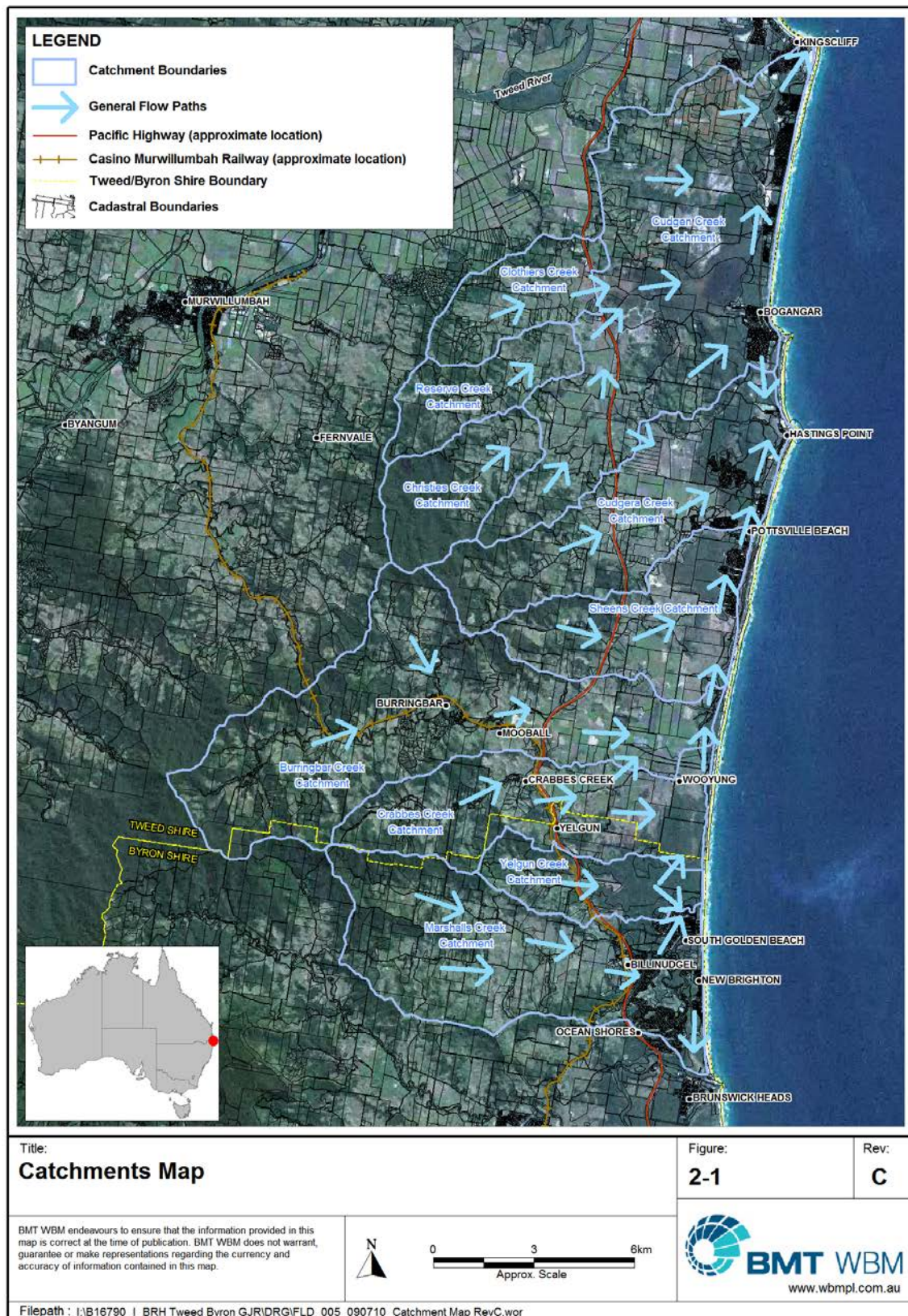
## Map C2.3 – North Byron Coastal Creeks Flood Study Area Locality Plan



Source: North Byron Coastal Creeks Flood Study - Model Calibration (2013)



## Map C2.4 – Marshalls Creek Flood Study Area Locality Plan



Source: Tweed – Byron Coastal Creeks Flood Study (2010)





## Map C2.5 – Tallow Creek Flood Study Area Locality Plan



**Figure 3-1: Tallow Creek Flood Risk Management Study - Study Area**

 Tallow Creek Catchment

Source: Tallow Creek Floodplain Risk Management Study and Plan (2009)



# Byron Shire Development Control Plan 2014

## Chapter C3 Visually Prominent Sites, Visually Prominent Development and View Sharing



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## Chapter C3 – Visually prominent sites, visually prominent development & view sharing

### Contents

<b>C3.1</b>	<b>Introduction.....</b>	<b>5</b>
C3.1.1	Aims of this Chapter .....	5
C3.1.2	Application of this Chapter .....	5
<b>C3.2</b>	<b>General Provisions.....</b>	<b>6</b>
C3.2.1	Visual Impact Assessment.....	6
C3.2.2	Assessment of Impacts on Views and View Sharing.....	7



**Document History**

Doc No.	Date Amended	Details (e.g. Resolution No.)
#E2013/81543	20 March 2014	Res 14-118 – Public exhibition version
#E2014/32515		Draft to 26 June 2014 Extraordinary Meeting - for adoption
#E2014/43019	26 June 2014	Adopted Version – Res 14-315



## C3.1 Introduction

The outstanding landscape character of Byron Shire is an important element of the Shire's visual quality and appeal for both residents and visitors. Council is committed to ensuring that the Shire's landscape character and visual quality are maintained and where possible enhanced in the development process.

Visual quality can be a subjective judgement depending on a person's aesthetic taste, preference for natural or built landscapes and whether the person is a visitor or a resident of the Shire. The visual quality of an area can be strongly influenced and affected by the treatment of visually prominent sites and locations. These include land in the coastal zone, ridgetops and nearby lands, escarpments, environmentally sensitive sites on sloping land and any site where development has the potential to degrade visual amenity.

### C3.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. to promote Byron Shire's natural features, vegetation and topography as key components of its visual character and appeal;
2. to control development including land use, earthworks, vegetation clearing, built form and civil works in order to preserve and enhance the visual, cultural, ecological and landscape values of visually prominent sites and locations;
3. to ensure that development blends into the natural surroundings and does not intrude on the skyline when viewed from public land;
4. to minimise the visual impact of development when viewed from adjacent land, public reserves, public areas and waterways;
5. to ensure that development is designed to respect and, where reasonable, to preserve and/ or share existing views and vistas;
6. to ensure that development does not occur on or near any ridgeline unless no other alternative location for the development is available on the land, and then only when design will ensure protection of visual amenity and scenic values.

### C3.1.2 Application of this Chapter

This Chapter applies to **visually prominent development** on a **visually prominent site** on land subject to Byron LEP 2014.



## C3.2 General Provisions

### C3.2.1 Visual Impact Assessment

#### Objectives

1. *To retain and enhance the unique character of Byron Shire and its towns, villages, rural, coastal and natural areas.*
2. *To ensure that development does not adversely impact on the Shire's scenic character and visual quality.*
3. *To ensure that where possible new development contributes to enhancement of the Shire's scenic character and visual quality.*
4. *To ensure adequate information is available to properly assess visual impact.*

#### Performance Criteria

There are no Performance Criteria for this item

#### Prescriptive Measures

Unless Council determines in a particular case that the proposed development is not likely to create adverse visual impacts, Development Applications seeking consent for **visually prominent development** must be accompanied by a Visual Impact Statement that includes, but is not necessarily limited to:

1. detailed description and photographs of the site and surrounds, including existing vegetation, topography, slope, surrounding development and other features that may affect visual impact;
2. description of the proposed development, including proposed earthworks, vegetation removal, built form, design, height, bulk, scale, roofline, materials, colour schemes, external surface finishes, fencing and landscape treatment;
3. a description of the measures proposed to ameliorate visual impacts;
4. provision of graphic evidence to illustrate the proposal, including models and/or photomontages where relevant;
5. description of the visual prominence of the site and visual impact of the development, including responses to the following questions:
  - a) can the site be viewed from public locations, including public reserves, waterways, beaches and roads?
  - b) is the site located on a high topographical location such as a hillside, ridgeline, knoll or crest?
  - c) can the site be viewed from the beach front?
  - d) is the site located on land that slopes at a grade of more than 20%?
  - e) would proposed development on the site visually disrupt the skyline when viewed from a public location by protruding above any ridgeline, or above adjacent buildings?
  - f) would proposed development on the site have the potential to obstruct views to and/ or from another visually prominent location?
  - g) would the development on the site have the potential to result in a loss of significant views from another property?





- h) would development on the site become visually prominent due to the removal of vegetation that would otherwise screen the development?
- i) how will the development be visually integrated with the surrounding natural landscape and built environment?
- j) how will the development incorporate measures to avoid reflection of sunlight from glazed surfaces?

## C3.2.2 Assessment of Impacts on Views and View Sharing

### Objectives

1. *To ensure that (where possible) new development does not impact unreasonably on the views of another property.*
2. *To encourage view sharing where possible.*

### Performance Criteria

There are no Performance Criteria for this item.

### Prescriptive Measures

Where any proposed development has potential to impact upon views from another property to a significant vista, landscape or to one or more **visually prominent sites** and locations, the supporting information must include the following:

1. An assessment of the **value of the view that may be affected**.

Regard should be given to past NSW Land and Environment Court Planning Principles including:

*Water views are valued more highly than land views*

*Iconic views (e.g. of the Cape Byron Lighthouse) are valued more highly than views without icons*

*Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured*

2. Consider from **what part of the property the views are obtained**.

*For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic*

3. Assessment of the **extent of the impact**.

*This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating*





4. Assessment of the **reasonableness of the proposal that is causing the impact.**

*A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

For more information regarding the background context of the above principles please refer to *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140.





# Byron Shire Development Control Plan 2014

## Chapter C4 Development in the Drinking Water Catchment



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## Chapter C4 – Development in the Drinking Water Catchment

### Contents

<b>C4.1</b>	<b>Introduction.....</b>	<b>5</b>
C4.1.1	Drinking Water Catchments in Byron Shire.....	5
C4.1.2	Aims of this Chapter .....	5
C4.1.3	Application of this Chapter .....	6
C4.1.4	Referral to Rous Water .....	6
<b>C4.2</b>	<b>General Provisions .....</b>	<b>6</b>
C4.2.1	On-Site Sewage Management and Potentially High Impact Land Uses .....	6
C4.2.2	Site Analysis and Constraints Mapping.....	7
C4.2.3	Catchment Impact Assessment .....	8
C4.2.4	Water Sensitive Urban Design.....	9
C4.2.5	Development involving new roads and driveways.....	11
C4.2.6	Subdivision Design and Lot Layout.....	12



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#E2014/5228	20 March 2014	Res 14-118 – Public exhibition version
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## C4.1 Introduction

### C4.1.1 Drinking Water Catchments in Byron Shire

Byron Shire obtains its reticulated drinking water supply from two sources:

1. Lavertys Gap Weir: Byron Shire Council manages the water supply for the township of Mullumbimby. This water is sourced from Wilsons Creek at the Lavertys Gap weir which draws its water from the upper reaches of the Wilsons River. Management of the Lavertys Gap water resource is guided by the Catchment Management Plan for the Lavertys Gap Weir Catchment.
2. Rous Water sources: Rous Water is the regional water supply authority that supplies reticulated water to the majority of Byron Shire (as described above Mullumbimby has a separate supply) and to other Northern Rivers Local Government areas. Rous Water manages surface water catchment areas and **groundwater** resources associated with the following existing water sources:
  - Rocky Creek Dam;
  - Woodburn Sands **aquifer**;
  - Alstonville Plateau groundwater source;
  - Wilsons River Source at Lismore;
  - Emigrant Creek Dam.

Council and Rous Water recognise that keeping the **drinking water catchment** healthy is the first step in protecting the quality of water supplied. The health of the **drinking water catchment** is highly sensitive to the land use activities that are carried out within the catchment.

### C4.1.2 Aims of this Chapter

The Aims of this Chapter are:

1. To facilitate and support the provisions of Byron LEP 2014 relating to development in a **drinking water catchment**.
2. To ensure that development and / or use of land within **drinking water catchments** does not adversely impact on the quality or quantity of the public water supply.
3. To require all developments in **drinking water catchments** to be adequately designed and assessed to prevent unacceptable risks to water quality, both individually and in terms of incremental and cumulative risk. This applies to surface water, **groundwater** and **aquifers**.
4. To identify catchment related design and assessment requirements for all development within **drinking water catchments**.



### C4.1.3 Application of this Chapter

This Chapter applies to all Development Applications on land identified as being within the **Drinking Water Catchment Map** contained in Byron LEP 2014. Development Applications on land identified as being within a **drinking water catchment** must demonstrate consistency with this Chapter.

This Chapter must be read in conjunction with other relevant provisions of the DCP, including Chapters B3 Services, B6 Buffers and Minimising Land Use Conflict and B9 Landscaping.

### C4.1.4 Referral to Rous Water

Where Council considers it appropriate certain development applications may be referred to Rous Water for advice related to catchment and water supply issues before determination by Council.

## C4.2 General Provisions

### C4.2.1 On-Site Sewage Management and Potentially High Impact Land Uses

#### Objectives

1. To protect the integrity of the **drinking water catchments** from risks arising from inadequate sewage management.
2. To protect the integrity of **drinking water catchments** from risks arising from potentially high impact land uses.

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

1. All Development Applications seeking consent for development that will include an **on-site sewage management system** must demonstrate consistency with the requirements of Chapter B3 Services and B6 Buffers and Minimising Land Use Conflict.
2. *High impact land uses* including **intensive livestock agriculture** (e.g. poultry sheds, piggeries, cattle feedlots), **animal boarding or training establishments**, **camping grounds**, **cemetery**, **crematorium**, **depots**, **extractive industry**, **garden centres**, **landscaping material supplies**, **plant nurseries**, **rural industries**, **rural supplies**, **transport depots**, **truck depots** and **warehouses** shall be set back not less than 100 metres from the top of the bank of any **watercourse**.



## C4.2.2 Site Analysis and Constraints Mapping

### Objectives

1. To ensure that the siting, design and management measures proposed for development in **drinking water catchments** are based on a competent analysis of the site and its characteristics.
2. To ensure that the siting and design of development in **drinking water catchments** achieve the Aims of this Chapter.

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

Where the above prescriptive measures in Section C4.2.1 cannot be complied with for the nominated land uses within the **drinking water catchment**, then any Development Application for those uses must include Site Analysis and constraints mapping as described below.

#### 1. Requirement for Site Analysis

The Site Analysis and constraints mapping, must be prepared by a person with relevant qualifications and experience. The development application must demonstrate that the Site Analysis and constraints mapping are based on comprehensive and competent desktop analysis and field investigation.

#### 2. Extent and level of detail required

The geographic extent and level of detail of the Site Analysis will depend on the nature, scale and potential impacts of the development. For example if a **dwelling house** is proposed on a relatively unconstrained 10 hectare rural lot it may be appropriate that the Site Analysis addresses only the property entry, driveway, **dwelling** site, bushfire asset protection zones, on-site sewage management areas and any areas proposed for land and/or vegetation disturbance or clearing. However if the development site has environmental constraints, or if a larger or more intensive development or subdivision is proposed, the Site Analysis may need to address the entire site, together with any associated **watercourses** within or outside the site. If development impacts are likely to extend beyond the site the Site Analysis will need to extend to all potentially affected areas. This should be discussed with Council early in the process.

#### 3. Analysis process and issues

The Site Analysis will usually involve a desktop assessment using existing available data sources followed by comprehensive site inspection and investigation by persons with relevant qualifications and experience. The information derived from the Site Analysis must be presented in the Development Application in both written form (including References citing information sources) and resultant constraints mapping at a relevant scale, illustrating the constraints to development defined for the site.

On sites with limited or no unconstrained land, or where overlapping constraints exist, it may be necessary to provide 'sieve' mapping, which involves mapping individual constraints on separate sheets or digitised 'layers', and combining these to provide a final constraints overlay.





## C4.2.3 Catchment Impact Assessment

### Objectives

1. To facilitate achievement of the provisions of Byron LEP 2014 relating to development in **drinking water catchments**.
2. To ensure that the siting and design of development achieve the Aims specified in Section C4.1.2.
3. To ensure that proposed development would not compromise the quality and quantity of raw water in **drinking water catchment**.
4. To specify criteria for assessment of the impacts of development on the quality and quantity of raw water in **drinking water catchments**.

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

A catchment impact assessment (as described below) will be required where:

1. any development proposes to locate an **on-site sewage management system** (OSMS):
  - a) less than 100 metres from the top of the bank of any **watercourse**; or
  - b) on land with a gradient more than 15%;

Note: the catchment impact assessment can be combined with the on-site sewage management report required in Chapter B3 Services.

or

2. any of the following *high impact land uses* are proposed: **intensive livestock agriculture** (e.g. poultry sheds, piggeries, cattle feedlots), **animal boarding or training establishments**, **camping grounds**, **cemetery**, **crematorium**, **depots**, **extractive industry**, **garden centres**, **landscaping material supplies**, **plant nurseries**, **rural industries**, **rural supplies**, **transport depots**, **truck depots**, or **warehouses**.
3. Where a Development Application includes a catchment impact assessment, it must address at a minimum the following matters:
  - a) the type, extent and risk of any likely or potential pollutants or contaminants. This must include consideration of chemicals such as fertilisers and pesticides, sediment, effluent, nutrients and microbial pathogens (including bacteria, protozoan parasites and viruses);
  - b) the volume and quality of stormwater runoff;
  - c) any resultant variation to water flows and/ or water quality in the catchment;
  - d) any resultant loss or embellishment of catchment vegetation;
  - e) access and infrastructure requirements;
  - f) the resultant hazard types (i.e. identify and list the potential hazards to the quality of surface water and **ground water**);



- g) any potential hazardous events (i.e. what hazardous event(s) could take place?) and the potential consequences (i.e. define the resulting consequence/impact on the quality of raw water, were the hazardous event to occur);
  - h) the potential and proposed mitigation measures identified (i.e. specify short and long-term solutions to either eliminate the hazard or reduce the risk to acceptable levels);
  - i) resultant cumulative and incremental effects on the environment, including consideration of existing and approved uses within the catchment;
  - j) any potential adverse impact, including incremental and cumulative impacts, on the water quality and quantity within the catchment;
  - k) whether safeguards or other measures proposed are adequate and appropriate to protect water quality;
  - l) whether the proposed development would be more suitably undertaken on an alternative site.
4. Where the proposed development includes land situated within 40 metres of the top of the bank of any **watercourse**, the assessment must additionally include an assessment of the impact of the development on:
- a) the water quality and flows within a **watercourse**;
  - b) the aquatic and riparian species, habitats and ecosystems;
  - c) the stability of the bed, shore and banks of a **watercourse**;
  - d) the free passage of fish and other aquatic organisms within or along the **watercourse**;
  - e) any future rehabilitation of the **watercourse** and riparian areas.
5. The catchment impact assessment associated with a proposed development must also demonstrate that:
- a) the proposed development is designed, sited and will be managed to avoid any significant adverse environmental impact; and
  - b) if any impact cannot be avoided the development is designed, sited and will be managed to minimise that impact;

## C4.2.4 Water Sensitive Urban Design

### Objectives

1. To facilitate achievement of the provisions of Byron LEP 2014 relating to development in **drinking water catchments**.
2. To ensure that the siting and design of development achieves the Aims specified in Section C4.1.2.
3. To ensure that proposed development is designed to minimise adverse impacts on the quality and quantity of surface water and **ground water** through application of **water sensitive urban design** principles.



## Performance Criteria

All Development Applications within **drinking water catchments** must demonstrate that the proposed development has been designed in accordance with the following seven **water sensitive urban design** principles:

### 1. Integrate the Design

All issues that affect the water cycle such as flooding, stream protection, stream flow, water supply, sewerage, drainage, water quality and the like must be managed in an integrated manner which allows them to be reconciled with other site planning issues such as biodiversity conservation, scenic and landscape quality and access driveways and roads. This requires a thorough understanding of the site, and will enable the designer to avoid adverse impacts and to utilise measures that achieve multiple objectives.

### 2. Accommodate Existing Soil and Water Management Measures

Development has the potential to result in the inappropriate modification of natural land and water features. To avoid this, development must be designed to recognise the site constraints, protect natural features and embrace opportunities to address existing land degradation. The development design must recognise successful existing soil and water management measures that may have been introduced on the site including erosion control works such as contour banks, flumes, sediment dams. Addressing existing land degradation and incorporation of functional existing soil and water management measures into the design can result in many benefits including:

- a) reduced risks from natural hazards;
- b) maintenance of biodiversity;
- c) aesthetic benefits;
- d) protection of water quality.

### 3. Erosion and Sediment Control

Development has the potential to increase erosion and sedimentation. This can occur through disruption to land surfaces, removal of vegetation and through the importation and stockpiling of materials for construction of roads, buildings and other impervious surfaces. During moderate rainfall events highly erosive water flows may be created following development, potentially leading to:

- a) sheet and rill erosion;
- b) gully erosion;
- c) increased bank and channel erosion;
- d) sediment deposition;
- e) loss of natural pool and riffle sequences within **watercourses**;
- f) degradation of aquatic habitats.

To counteract these impacts development must be designed to minimise the likelihood of erosive stormwater flows from the development. Design must take into consideration erosion risks and where possible must avoid disturbance in high risk areas which include steep slopes, erosive soils, and areas in close proximity to drainage depressions and **watercourses**. Design must incorporate the preparation of a sediment and erosion control plan for a proposed development.



#### 4. Control Stormwater Pollution

The development of land has the potential to introduce greater quantities and a broader variety of pollutants to the site. In addition, the replacement of natural ground surfaces and vegetation cover with roads, buildings and other impermeable surfaces may increase the volume of runoff from the site and the potential for pollutants to be transported off site during rainfall events. Stormwater generated by rainfall events must be controlled to minimise such adverse impacts by management measures incorporated into the design. Development Applications must demonstrate that stormwater and drainage discharge from the site will have a neutral or beneficial effect on surface water and **ground water** quality and quantity. Stormwater and drainage management measures and works must also comply with the requirements of Chapter B3 Services.

#### 5. Control Wastewater Pollution

Wastewater management is a major issue associated with rural development. Due to the relatively remote location of many rural subdivisions and **dwellings**, wastewater management will often be provided through **on-site sewage management systems**. Wastewater Management Systems must be designed to comply with the requirements of Section C4.2.1 and Chapter B3 Services and B6 Buffers and Minimising Land Use Conflict.

#### 6. Enhance Biodiversity

Development has the potential to degrade site biodiversity through the removal of vegetation and disturbance of habitat if the design does not reflect the site constraints. Design of development must seek to enhance biodiversity through the protection and management of vegetated areas and restoration of important areas on site. Where a proposed development impacts on any **watercourse** or **riparian lands**, the affected **watercourse** or natural system must be rehabilitated, revegetated and maintained in good condition consistent with **best management practice** for the protection and improvement of water quality.

#### 7. Ensure Long-Term Effectiveness of Management Measures

On-site soil and water management measures serve not only the immediate site, but provide benefits to the downstream catchment. Failure of these measures through lack of maintenance, or through accidental or deliberate action can lead to significant water quality problems. The development design process must ensure and demonstrate that the design integrity and effectiveness of on-site measures will be enduring.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

### **C4.2.5 Development involving new roads and driveways**

#### **Objectives**

1. *To minimise potential adverse impacts of road and driveway construction on **drinking water catchments**.*
2. *To define road and driveway construction criteria based on **water sensitive urban design** principles.*



**Performance Criteria**

To avoid undue disturbance to soil, roads should be located so as to minimise cut and fill, minimise vegetation clearing, and minimise the length of road and associated disturbance. When determining road configuration, the number of **watercourse** and drainage depression crossings should also be minimised.

Refer also to the requirements of Chapter B3 Services and to the Northern Rivers Development and Design Manual.

**Prescriptive Measures**

There are no Prescriptive Measures.

## **C4.2.6 Subdivision Design and Lot Layout**

**Objectives**

1. *To minimise water quality impacts through application of appropriate subdivision design criteria.*

**Performance Criteria**

There are no Performance Criteria.

**Prescriptive Measures**

Applications should be consistent with Chapter D6 Subdivision.





# Byron Shire Development Control Plan 2014

## Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones



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# Chapter D1 – Residential Accommodation in Urban, Village and Special Purpose Zones

## Contents

<b>D1.1</b>	<b>Introduction.....</b>	<b>7</b>
D1.1.1	Aims of this Chapter .....	7
D1.1.2	Application of this Chapter .....	7
<b>D1.2</b>	<b>General Provisions.....</b>	<b>8</b>
D1.2.1	Building Height Plane .....	8
D1.2.2	Setbacks from Boundaries.....	9
D1.2.3	Screening the Underfloor Space of Buildings.....	12
D1.2.4	Character & Visual Impact .....	13
D1.2.5	Fences.....	14
D1.2.6	Balconies.....	15
D1.2.7	Pedestrian and Cycle Access .....	16
D1.2.8	Garage to Habitable Space Conversions .....	16
D1.2.9	Energy Efficiency .....	17
<b>D1.3</b>	<b>Dwelling Houses.....</b>	<b>17</b>
D1.3.1	On-Site Car Parking.....	17
D1.3.2	Landscaping .....	18
D1.3.3	Expanded House .....	18
<b>D1.4</b>	<b>Secondary Dwellings.....</b>	<b>19</b>
D1.4.1	Private Open Space.....	19
D1.4.2	Access and Car Parking .....	20
D1.4.3	Siting, Design and Character .....	20
<b>D1.5</b>	<b>Dual Occupancy and Semi-Detached Dwellings .....</b>	<b>21</b>
D1.5.1	On-Site Car Parking.....	21
D1.5.2	Character.....	22
D1.5.3	Adjoining and Adjacent Development .....	23
D1.5.4	Private Open Space.....	23
D1.5.5	Landscaping .....	25
D1.5.6	Sound Proofing.....	25
<b>D1.6</b>	<b>Multi Dwelling Housing (including Manor Houses and Terraces), Residential Flat Buildings and Attached Dwellings.....</b>	<b>25</b>
D1.6.1	Private Open Space Courtyards .....	26
D1.6.2	Open Space Balcony .....	26
D1.6.3	Landscaping .....	27
D1.6.4	On-Site Car Parking.....	27
D1.6.5	Sound Proofing.....	27
D1.6.6	Clothes Drying Facilities .....	28
D1.6.7	Equity of Access and Mobility .....	28
D1.6.8	Pipes and Vents .....	29
D1.6.9	TV Antennae.....	29
D1.6.10	Character.....	29
<b>D1.7</b>	<b>Affordable Housing .....</b>	<b>30</b>
D1.7.1	Affordable Housing in R2, R3, B2 and B4 Zones .....	30
<b>D1.8</b>	<b>Boarding Houses.....</b>	<b>31</b>





<b>D1.9</b>	<b>Hostels .....</b>	<b>31</b>
<b>D1.10</b>	<b>Shop Top Housing.....</b>	<b>31</b>
D1.10.1	Density Control .....	31
D1.10.2	Accessibility .....	31
D1.10.3	Private Open Space.....	32
D1.10.4	Sound Proofing.....	32
D1.10.5	Clothes Drying Area.....	33
D1.10.6	Site Facilities .....	33
<b>D1.11</b>	<b>Ancillary Dwellings in Business Park and Industrial Zones.....</b>	<b>34</b>
D1.11.1	Ancillary Dwellings in Zones IN1, IN2 and B7 .....	34
<b>D1.12</b>	<b>Studios .....</b>	<b>35</b>
D1.12.1	Studios .....	35

## Figures

Figure D1.1 – Setbacks.....	11
-----------------------------	----

## Tables

Table D1.1 – Height of Fences .....	14
-------------------------------------	----



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## D1.1 Introduction

Byron Shire is one of the most desirable residential locations in New South Wales, as much for its unique natural environment as for its lifestyle and climate attractions. The form of the built environment and its relationship to the natural environment will remain crucial factors in determining the future character and attractiveness of the Shire.

Byron Shire Council recognises the need to plan for and control the form of residential development. Such development will need to be in harmony with its surroundings, both natural and constructed, and enhance the physical context valued by the local community and by the Shire's increasing number of visitors.

Council also recognises that there is a growing diversity in residential needs, reflecting changing household types and incomes, lifestyles and recreational pursuits. It is aware of the need to promote a higher quality of design within a more cost-efficient development framework.

This Chapter complements the provisions of Byron LEP 2014. The aim has been to develop controls that provide flexibility to promote innovative and imaginative building forms, whilst ensuring development outcomes are consistent with the character of the Shire and its urban and rural towns, villages, localities and precincts. Building forms need to be related to each other and to their surroundings by careful attention to design, orientation, forms, scale, materials and landscaping.

### D1.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To implement and expand on the provisions of Byron LEP 2014 relating to residential development.
2. To promote a high standard of design for residential development that is sensitive to and enhances the natural and physical environment and the social fabric particular to Byron Shire.
3. To accommodate a variety of residential forms and **dwelling** sizes to reflect the growing diversity of household types, sizes, incomes, lifestyles and needs.
4. To promote energy efficiency and consideration of the Shire's climatic characteristics in the design process.
5. Where possible, to limit potential for additional traffic on the road system and to reduce car dependence through facilitation of public transport, cycling and walking.

### D1.1.2 Application of this Chapter

This Chapter specifies the controls that apply to Development Applications seeking consent for various forms of **residential accommodation** development that is located in Residential, Village, Mixed Use, Business, Industrial and Special Purpose zones throughout the Shire, ie Zone Nos. R2, R3, R5, RU5, B1, B2, B4, B7, IN1, IN2, SP1, SP2 and SP3.



The types of residential development to which this Chapter applies include the following:

1. **Attached dwellings**
2. **Dual occupancies**
3. **Dwelling houses**
4. **Expanded houses**
5. **Multi dwelling housing**
6. **Residential flat buildings**
7. **Secondary dwellings**
8. **Semi-detached dwellings**
9. **Shop top housing**
10. **Studios**

The definitions of those various housing types are contained in the Byron LEP 2014 Dictionary, or in the Dictionary contained in Part A (Appendix A1) of this DCP. The provisions in this Chapter supplement those provisions of Byron LEP 2014 that apply to residential development.

This Chapter does not apply to **residential accommodation** development in Rural Zones, or to **tourist and visitor accommodation** – those forms of development are addressed in Chapters D2 Residential Accommodation and Ancillary Development in Rural Zones and D3 Tourist Accommodation, respectively.

## **D1.2 General Provisions**

### **D1.2.1 Building Height Plane**

#### **Objectives**

1. *To ensure that residential development is designed to minimise impacts on solar access and privacy on adjoining properties, and on the views from adjacent existing buildings.*
2. *To ensure that the occupants of the building or buildings will enjoy the optimum use of winter sunlight and summer shade.*

#### **Performance Criteria**

1. Developments must be set back progressively from the site boundaries as height increases so that they do not adversely affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy or obstructing views.
2. Developments must be designed so that they will promote energy efficiency and so that residents may enjoy optimum use of winter sunlight and summer shade.
3. Development applications must demonstrate that the windows of living areas (decks, living rooms, bedrooms, kitchens, etc.) of development on adjoining properties will, as a minimum, retain full solar access between the hours of 9.00am to 3.00pm on any day.



## Prescriptive Measures

1. The **building height plane** in combination with boundary **setbacks** prescribed in this DCP, and **building height** prescribed in the Byron LEP 2014, form the maximum building envelope for all residential development other than for **shop top housing** and ancillary **dwellings** in Zones IN1, IN2 and B7.
2. An exemption from the **building height plane** may be considered in relation to one or more boundaries in the following circumstances:
  - a) where the floor level is required to be above ground level to comply with Council's requirements for flood protection; or
  - b) for the zero lot line boundaries of **semi-detached dwellings** and **attached dwellings**; or
  - c) in circumstances referred to in Prescriptive Measure 2. of Section D1.2.2.

## D1.2.2 Setbacks from Boundaries

### Objectives

1. *To achieve varied and interesting streets that complement and harmonise with existing and planned streetscapes and development in the locality.*
2. *To achieve good orientation and spacing of residential developments that achieve high quality living environments relative to sunlight, shade, wind and weather protection, residential amenity and proximity of neighbouring development.*
3. *To achieve effective use of **allotments** to create useable and liveable private open space and courtyards.*
4. *To provide flexibility in siting and design of **dwelling house** development in urban residential areas.*
5. *To ensure that development in residential areas seeks to minimise any negative impacts on neighbours caused by siting.*

### Performance Criteria

1. **Setback** requirements may be flexible provided they are demonstrated to achieve the above Objectives and Performance Criteria.
2. The street façade of a building, and any open space between it and the street must contribute to the general attractiveness of the streetscape by means of good design, appropriate materials and effective landscaping. A reasonable degree of integration with the existing pattern of **setbacks** must be balanced with the need to provide variety in the streetscape.
3. Private open space and common landscaped areas of the site must be useable as part of the living environment available for the occupants of the development. Council will discourage the provision of bare spaces between buildings and the street which are unusable because they lack privacy, or because they are inappropriately planned or treated for climate control.
4. The **setback** from a street frontage for a building that is part of a residential development will be determined on its merits, having regard to:
  - a) the Objectives;
  - b) any provisions of this DCP applying to the specific location;



- c) the position of any existing buildings in the locality;
  - d) the size and shape of the **allotment**;
  - e) the effect on vehicular safety and visibility, particularly on corner sites;
  - f) the orientation of the **allotment** and the proposed **dwelling** with regard to the sun and prevailing winds;
  - g) the proposed location of any private open space, courtyard or landscaped areas;
  - h) the facade of the proposed building or buildings which will face the street and the proposed landscape treatment of that part of the **allotment** which is visible from the street;
  - i) the location and treatment of any car parking areas or car parking structures on the site.
5. Notwithstanding any of the above criteria, buildings must comply with the **building height plane** as detailed in Section D1.2.1.
  6. **Dwelling house** development may be permitted to encroach into the side **setback** and **building height plane** where it enhances the design of buildings, complements the streetscape and does not adversely affect privacy, solar access, microclimate, traffic safety or amenity of adjoining development.
  7. When considering applications for variations to minimum **setbacks** nominated below in the Prescriptive Measures, Council will have regard to:
    - a) the Objectives;
    - b) compliance with the Performance Criteria;
    - c) the visual impact of the variation on the streetscape;
    - d) the impact of the variation on the amenity, privacy, views and access of surrounding properties;
    - e) the existing and future status of the road;
    - f) potential traffic impacts and required sight lines as per AS2890; and
    - g) compliance with the Building Code of Australia.
  8. The Development must seek to minimize any impacts on neighbouring properties through considerate siting and design



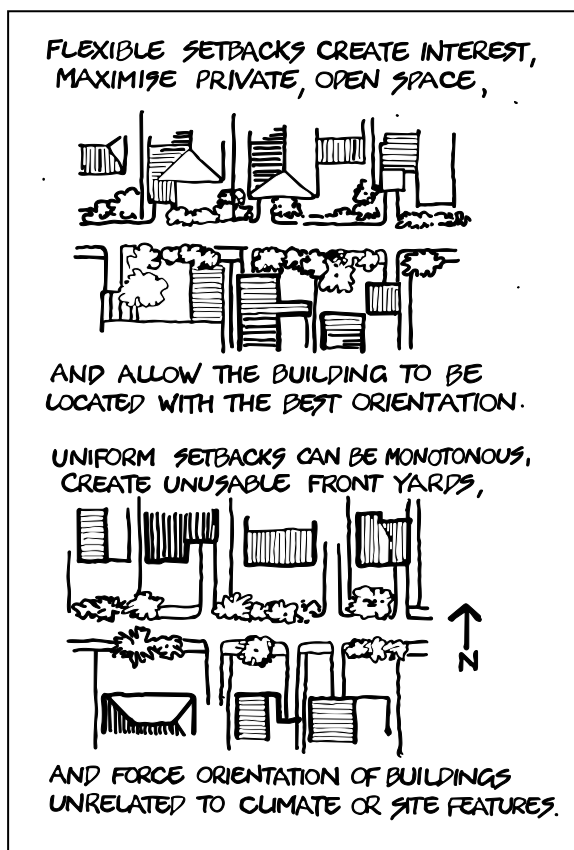


Figure D1.1 – Setbacks

### Prescriptive Measures

Strict compliance with the following minimum **setback** prescriptive measures will not necessarily be sufficient by itself to meet the Objectives.

#### 1. Minimum Street Frontage **Setbacks**

- a) Local Roads - A minimum **setback** of 4.5 metres must be maintained from the primary front boundary.
- b) **Classified roads**- A minimum **setback** of 9 metres applies to these roads from the primary front boundary. A variation to 6.5 metres may be sought for single storey **dwelling**s or single storey elements of two storey **dwelling**s. (NB. The provisions under SEPP Infrastructure 2007 apply to such developments)
- c) Garages and carports are to be set back 5.5m from the front boundary except from **classified roads** where the **setbacks** under (b) are to apply.
- d) Corner **allotments** on local or secondary roads - **setbacks** may be reduced to 3m on one frontage.
- e) Rear Lane or unformed roads - 3 metres, unless it is the primary frontage to the development (eg. Shirley Lane, Byron Bay) in which case a **setback** of 4.5 metres applies including to garages and carports. Consideration may be given to **setback** variations in **Heritage Conservation Areas** where strict compliance with these provisions would result in conflict with the Chapter and Section Objectives specified in Chapter C1 Non-Indigenous Heritage.

No development is permitted within the building **setbacks** other than garbage storage facilities, mail boxes, landscaping and driveways. Car parking must not be provided



within **setbacks**, other than informal parking within the driveway (i.e. parking not required by the DCP). Stacked car parking is not permitted within **setbacks**.

2. Minimum Side and Rear Boundary **Setbacks**

- a) Side and rear **setbacks** are to be a minimum 900mm, with all **dwellings** also complying with the requirements of the **building height plane**.
- b) In urban residential areas, Council may consent to the construction of one or more building walls set back less than 900mm from a side or rear boundary, such that the building/s cannot comply with the **building height plane**, where:
  - i) such wall or walls contain no openings; and
  - ii) it is demonstrated to Council's satisfaction that the development, if carried out, would improve the siting or orientation of the **dwelling/s** or the provision of private open space; and would not significantly:
    - increase the overshadowing of adjoining properties; or
    - reduce the level of privacy enjoyed by adjoining properties.
- c) Applications for zero lot line development will only be considered where the relevant lot or lots are part of an integrated design, and where all buildings set to a zero lot line are constructed prior to issue of a Subdivision Certificate.

3. Minimum **Setbacks** for **Dual Occupancies** and **Secondary Dwellings**

- a) Side and rear **setback** – 1.5 metres for single storey, and must comply with the **building height plane**

4. Minimum **Setbacks** for **Residential Flat Buildings** and **Multi-Dwelling Housing**

- b) Side and rear **setback** – 1.5 metres for single storey, otherwise governed by the **building height plane**.
- c) Between buildings on a site – 3 metres.

5. Minimum **Setbacks** for **Swimming Pools** and Spas

- a) The outer edge of the pool concourse or coping must be set back a minimum of one (1) metre from the side or rear boundaries, with the water line being a minimum of 1.5 metres from those boundaries.
- b) Pools should not be located within the street frontage **setback**, except on sites where private open space can be accommodated only in this location or other site attributes support this outcome.
- c) Pool pumps shall be located as far back from a side or rear boundary as practical and if closer than 3 m from either it shall be acoustically shielded.

## D1.2.3 Screening the Underfloor Space of Buildings

### Objectives

- 1. *To improve the external appearance of elevated buildings.*
- 2. *To provide for compatibility in appearance and character between buildings in the locality.*



### Performance Criteria

1. The underfloor space of elevated buildings must be provided with infill panelling, advanced landscaping or other forms of visual screening to improve the external appearance of the building and to ensure compatibility with other development in the locality.
2. In **flood liable land** the screening of the underfloor space of elevated buildings may not be appropriate. Screening below the **flood planning level** must have openings to allow for entry and exit of flood water and must be structurally adequate and not reduce the structural capacity of the building during a 1 in 100 year flood event.
3. Where buildings are proposed on **bush fire prone land**, underfloor screening may be required to comply with specific requirements prescribed by the Building Code of Australia and Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas.

### Prescriptive Measures

There are no Prescriptive Measures.

## D1.2.4 Character & Visual Impact

### Objectives

1. *To retain and enhance the unique character of Byron Shire and its distinctive landscapes, ecology, towns, villages, rural and natural areas.*
2. *To ensure that new development respects and complements those aspects of an area's natural and built environment that are important to its existing character.*

### Performance Criteria

1. Development should demonstrate how siting, design and character are consistent with the relevant Residential Character Narrative, as contained in the corresponding locality chapter in Part E of this DCP.
2. Site, building and landscaping design must address the climate;
3. The street face of a building, together with any open space between it and the street, must contribute to the general attractiveness of the streetscape by means of good design, appropriate materials and effective landscaping;
4. Development should be designed to minimise loss of privacy;
5. There must be a reasonable degree of integration with the existing built and natural environment, balanced with the desirability of providing for variety in streetscapes;
6. Long, straight wall areas will be discouraged and must be broken up visually by a combination of building materials and/or changes in the wall plane;
7. The provision of verandahs, balconies, pergolas and other protective outdoor elements will be encouraged for visual, climatic and energy efficiency reasons;
8. Well-designed overhanging eaves should be provided where feasible to protect against heavy rainfall and summer sun, while allowing winter sun penetration;
9. All building materials must be compatible in character with their surrounding environment. Any metal roof must have a colorbond or equivalent finish and no roof



may be highly reflective. White or light-coloured roofing may be approved where it is demonstrated that it is not likely to be visually intrusive. Details of building materials and surface colours must be submitted for assessment with a development application.

### Prescriptive Measures

There are no Prescriptive Measures.

## D1.2.5 Fences

### Objectives

1. *To enable residents to erect fences to provide for a sense of privacy, noise reduction and security.*
2. *To ensure that fences do not remove the sense of safety in the street that pedestrians gain from the casual observation by residents.*
3. *To ensure that fences do not unduly reduce opportunities for casual social interaction in the community.*
4. *To ensure that fences do not become a dominant built element in the streetscape.*
5. *To exclude unwanted light from vehicles in particular circumstances.*
6. *To ensure that the design and placement of fences do not adversely impact traffic or pedestrian safety.*
7. *To ensure provision for access by safety and emergency vehicles and personnel.*

### Performance Criteria

1. Fences must not:
  - a) impair driver or pedestrian visibility at road intersections;
  - b) prevent residents of a **dwelling** from casually observing the adjacent street;
  - c) detract from the streetscape in terms of fencing design, materials, scale or colours;
  - d) prevent emergency access by safety and emergency vehicles and personnel.
2. Gates or openings in fences must facilitate safe entry and exit conditions for vehicles to and from public roads. Fences must not create or contribute to unsafe sight distance restrictions for vehicles entering or exiting neighbouring properties.
3. Fencing of corner **allotments** must allow for reasonable enclosure of rear yard areas for privacy and security, while minimising the impact of the fence on the street scene, safe sight distance and traffic and pedestrian safety.

### Prescriptive Measures

1. Height of Fences
  - a) The height of fences should not exceed:

**Table D1.1 – Height of Fences**

Fence Location	Height
Front Fence	1.2 metres.
Side Fence	1.2 metres within the building line <b>setback</b> and 1.8 metres



	for the remainder.
Rear Fence	1.8 metres. Where the rear fence is the primary frontage front fence height provisions may apply.

**Note:** A front fence is any fence or like barrier erected forward of the building line setback, whether it is erected on the boundary or not.

- b) Front fences and side fences within the building line **setback** higher than 1.2 metres but not higher than 1.8 metres may be permitted for properties:
  - i) adjoining land used for business or commercial purposes, in cases where screening from the adjoining business activity is necessary to protect residential amenity;
  - ii) where it is demonstrated that traffic noise and light impacts from car headlights on a public road will create adverse impacts on residential amenity in the absence of the higher fence;
  - iii) necessary for safety, noise mitigation purposes or to enclose the primary open space area.
- c) Any front fence higher than 1.2 metres must be:
  - i) located not less than 50cm inside the front boundary with the area in front of the fence to be landscaped; or
  - ii) articulated with recessed sections of a minimum 0.9 x 0.9 metres at a maximum interval of 5 metres to allow planting of vegetation to reduce the impact of the fence.

## 2. Corner Allotments

Fencing of the secondary frontage will be allowed up to 1.8m high on the boundary, up to either of the following alignment **setbacks** from the primary street:

- a) the established building line **setback** to the street; or
- b) if the existing **dwelling** is forward of the established building line **setback**, in line with the existing **dwelling**.

Fencing forward of this alignment must comply with the front fence requirements.

## 3. Sight Lines at Intersections

Where a visually solid fence is proposed at the intersection of two public roads, satisfactory sight distance must be provided for traffic using the road. A minimum corner splay of 4m x 4m must be provided in the fence. Landscaping or planting in the splay area must not impede driver visibility and must contain low shrubs and ground covers and/or clear trunked canopy shade trees to maintain sight lines.

## D1.2.6 Balconies

### Objectives

1. To ensure that the visual character of **balconies** is consistent with and does not dominate the design of residential buildings.



### Performance Criteria

**Balconies** must not dominate the visual character of buildings or development. The design of **balconies** must be consistent in character with the building and development in terms of materials, colours, dimensions, bulk, scale and proportion.

### Prescriptive measures

There are no Prescriptive Measures.

## D1.2.7 Pedestrian and Cycle Access

### Objectives

1. *To reduce car dependence through the promotion of alternative forms of transport.*
2. *To assist in the delivery of Council's adopted bike plan where possible.*
3. *To provide an expansion of the existing pedestrian/ cycleways to improve connectivity throughout the Shire.*

### Performance Criteria

1. Development applications for **residential accommodation** of more than 3 **dwelling**s must demonstrate that the pedestrian/cycleway network detailed in Council's adopted **Byron Shire Bike Strategy and Action Plan** will be incorporated into new development.
2. Refer to Chapter B5 Providing for Cycling and Chapter B13 Access and Mobility.

### Prescriptive Measures

Refer to Chapter B5 Providing for Cycling and Chapter B13 Access and Mobility.

## D1.2.8 Garage to Habitable Space Conversions

### Objectives

1. *To ensure that adequate parking is provided when garages are converted to habitable space.*

### Performance Criteria

1. Development applications seeking to convert a garage to a habitable space must provide an alternate parking solution in accordance with Chapter B4 and Chapter D1.2.2.
2. Applicants at the head of a cul-de-sac should seek to retain garages and carparking and look for alternate solutions when siting a **secondary dwelling** or developing habitable space.

### Prescriptive Measures

There are no prescriptive measures.



## D1.2.9 Energy Efficiency

### Objectives

1. *To reduce greenhouse gas emissions created from residential development*
2. *To increase thermal comfort and efficiency for residential development*

### Performance Criteria

1. Buildings for habitable purposes should seek to incorporate measures to reduce energy consumption, reduce reticulated water consumptions and improve thermal comfort.
2. Where possible, development should seek to fit or retrofit energy efficient fixtures and fittings to reduce greenhouse gas emissions.

### Prescriptive Measures

1. Long term **residential accommodation** exempt from BASIX must incorporate measures to reduce energy consumption, reduce reticulated water consumption and improve thermal comfort. Details are to be provided on development application plans. Measures are to include but are not limited to:
  - a) Minimum R2.5 ceiling insulation when access is available.
  - b) Hot water system must not be an electric storage tank that is connected to mains power.
  - c) Minimum 3 stars taps and fixtures to be installed in all kitchen, laundry And bathrooms.
  - d) Minimum 4 star air conditioning (if proposed)
  - e) Minimum 5000 litre rainwater tank collecting at least 30% of the development's roof water. 1 garden tap connected to rainwater tank.

## D1.3 Dwelling Houses

This Section outlines the controls applicable specifically to **dwelling house** development. It must be read in conjunction with the general provisions set out in Sections D1.1 and D1.2.

In this Section, a reference to a **dwelling house** also includes a reference to an **expanded house**.

Character Narratives for each township are available in Part E of this DCP.

### D1.3.1 On-Site Car Parking

#### Objectives

1. *To provide adequate and visually compatible accommodation for vehicles.*



### Performance Criteria

1. Car parking must be provided on the site in a manner which is convenient in terms of access for residents of the **dwelling**; safe and accessible in terms of visibility, turning and manoeuvring capabilities; and visually compatible with the site and its locality.
2. Car parking structures, including garages and carports, which are visible from the street must be compatible with the **dwelling** in terms of design and materials, and may form part of the **dwelling** structure.

### Prescriptive Measures

1. Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding car parking and vehicle access.
2. Council may consent to the location of a carport such that it does not comply with the **building height plane** in relation to a boundary, having regard to the matters contained in Section D1.2.1 and to the adequacy and safety of vehicular access.

## D1.3.2 Landscaping

### Objectives

1. *To enhance the visual quality of residential areas and to improve the residential amenity of the Shire.*
2. *To limit stormwater runoff from residential areas.*

### Performance Criteria

To enhance the visual quality and improve the residential amenity of the Shire, Council encourages the landscaping of **dwelling house allotments** in accordance with the principles contained in Chapter B9 Landscaping.

### Prescriptive Measures

1. In cases where a **dwelling** is to be erected closer than 4.5 metres to the front boundary, Council will require, as a condition of approval, adequate landscaping to be provided to the street frontage of the lot prior to occupation of the **dwelling**. Landscaping must be consistent with the principles contained in Chapter B9 Landscaping.
2. At least 25% of the site must consist of **deep soil areas**. The **deep soil area** must not include any areas used for the management of on-site sewage effluent.

## D1.3.3 Expanded House

### Objectives

1. *To facilitate the provision of a **dwelling house** comprising a number of separate building components.*

### Performance Criteria

There are no Performance Criteria.





## Prescriptive Measures

The design and use of an **expanded house** must conform to the following criteria:

1. No **expanded house** habitable outbuilding is to be located more than 20m from the wall of the main building, measured from wall to wall at the closest point;
2. The main building must contain an identifiable living area including the kitchen;
3. A maximum of three outbuildings may be connected to the main building by paths with an all-weather surface;
4. No separate driveway, car parking area, garage or carport structure is to be provided to service any outbuilding;
5. One outbuilding must be limited to a maximum floor area of 45m<sup>2</sup> excluding decks, verandahs, patios, balconies and the like; and the others must be limited to a maximum 30m<sup>2</sup> floor area excluding decks, verandahs, patios, balconies and the like;
6. None of the outbuildings are to contain facilities (e.g. kitchen, sink or the like) that would enable the preparation of food;
7. Each separate outbuilding may incorporate a maximum of two bedrooms (including rooms with an ensuite or bathroom);
8. A maximum of only one laundry is permitted per **dwelling**.

## D1.4 Secondary Dwellings

Both Byron LEP 2014 and *State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPP) permit the erection of **secondary dwellings** in some zones to which this Chapter applies. **Secondary dwellings** may be complying development under certain circumstances.

Consistent with the hierarchy of environmental planning instruments if development for a secondary dwelling is proposed and can comply with SEPP (Affordable Rental Housing) then the application should be lodged pursuant to those provisions.

This Section nominates further standards (to support the provisions in SEPP (Affordable Rental Housing) 2009 and Byron LEP 2014) for development of **secondary dwellings** where permitted with consent.

### D1.4.1 Private Open Space

#### Objectives

1. To ensure that residents of **secondary dwellings** have access to useable private open space.

#### Performance Criteria

1. An open space courtyard (which may include decking) must be provided for a **secondary dwelling**, with dimensions to suit the projected requirements of the residents and to accommodate outdoor recreation needs.





2. The courtyard must be capable of enabling an extension of the living area of the **secondary dwelling**.
3. Location of courtyards must take account of outlook and natural features of the site without impacting on neighbouring buildings or open space.
4. Orientation and shading of courtyards must provide for maximum year round use in terms of sunlight.

#### Prescriptive Measures

1. **Secondary dwellings** must have access to an individual courtyard at ground level having a minimum area of 15m<sup>2</sup> and a minimum length and width each of 2.5 metres, not including any area used exclusively for the circulation or parking of vehicles. The courtyard should be designed to facilitate access to winter sunshine.
2. The private open space area must not include any areas required for the management of on-site sewage effluent.
3. Decks and verandahs for **secondary dwellings** not to exceed 20m<sup>2</sup> in area.

### D1.4.2 Access and Car Parking

#### Objectives

1. *To ensure that the provision of access to **secondary dwellings** does not adversely impact pedestrian, cycle and vehicle safety in urban streets, and is compatible with urban streetscape and character.*

#### Performance Criteria

1. Where feasible and where pedestrian and traffic safety will be improved, vehicular access to a **secondary dwelling** should be shared with the driveway access serving the principal **dwelling**. Driveways must be located and designed to minimise danger to pedestrians and cyclists using the street as a result of vehicles entering or leaving the driveway.
2. Consistent with the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, no additional parking is required for a **secondary dwelling**, over and above the requirements for the principal **dwelling**.
3. **Secondary dwellings** should not be sited so as to remove car parking servicing the principal **dwelling**.

#### Prescriptive Measures

There are no Prescriptive Measures.

### D1.4.3 Siting, Design and Character

#### Objectives

1. *To ensure that the siting and design of **secondary dwellings** do not detract from the streetscape and the residential character of urban areas.*



### Performance Criteria

The siting and design of development comprising a principal **dwelling** and a **secondary dwelling** must:

- a) ensure compatibility in character between the **dwelling**s on the site, the site itself and the surrounding urban environment;
- b) ensure visual and acoustic privacy between **dwelling**s on the site, and between the site and the adjoining neighbourhood;
- c) ensure that the development is suited to the site in terms of topography, slope, water flows and drainage;
- d) ensure that the development on the site will be visually compatible with the surrounding neighbourhood.
- e) ensure that the siting of the development does not externalize impacts of noise, overshadowing, or compromises to privacy onto neighbouring properties.
- f) demonstrate how siting, design and character are consistent with the relevant Residential Character Narrative, as contained in the corresponding locality chapter in Part E of this DCP.

### Prescriptive Measures

1. **Secondary dwellings** are not permitted on strata-titled lots
2. **Secondary dwellings** are to comply with the **Building Height Plane** requirements under Chapter D1.2.1 of Byron DCP 2014

## D1.5 Dual Occupancy and Semi-Detached Dwellings

Council recognises the role of **dual occupancy** development in contributing to infill development, making fuller use of existing services, adding to the stock of rental accommodation and widening the range of housing options. Council wishes to encourage **dual occupancy** and **semi-detached dwelling** developments which suit the differing needs of the community and which enhance the residential character of the Shire.

In addition to the controls in this Chapter applying to **dual occupancy** and **semi-detached dwelling** development, proposals which have rear lane access with one of the **dwelling**s fronting that lane are to comply with the provisions under Chapter D6 Subdivision (Section D6.4.3).

Dual occupancy and semi-detached dwellings should contribute to the character of the local area as identified in the corresponding locality chapter in Part E of this DCP.

### D1.5.1 On-Site Car Parking

#### Objective

1. *To provide adequate and visually compatible on-site accommodation of vehicles for residents and visitors.*



### Performance Criteria

1. On corner lots there may be an advantage in providing access to each **dwelling** from a different street frontage, paying particular attention to the need to make the best use of the site, to promote traffic safety and to orient buildings and landscaped areas to maximise climatic advantages.
2. In other cases, where feasible and where pedestrian and traffic safety will be improved, vehicular access to **dwelling**s should comprise a shared driveway.
3. Driveways must be located and designed to minimise danger to pedestrians and cyclists using the street as a result of vehicles reversing into or out of the driveway.

### Prescriptive Measures

1. Generally 2 car parking spaces will be required for a **dwelling** and 2 for each **dual occupancy**.
2. Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding car parking and vehicle access.

## D1.5.2 Character

### Objectives

1. *To ensure that **dual occupancy** and **semi-detached dwelling** development is compatible in character with development in the locality, provides adequate private open space and addresses slope and drainage issues.*

### Performance Criteria

1. In assessing any proposal for **dual occupancy** or **semi-detached dwelling** development, particular consideration will be given to the topography and slope of the site, the use of design to minimise loss of privacy, the visual impact of the proposal and the likely impact on water flows and drainage.
2. To encourage better visual quality and greater public acceptance, any **dual occupancy (attached)** or **semi-detached dwelling** development must be designed as far as possible to look like a **dwelling house**. Mirror-image **dwelling**s must be avoided.
3. Private open space must be specifically designed to be easily accessible to each **dwelling**.
4. **Dual occupancy** and **semi-detached dwellings** should demonstrate how siting, design and character are consistent with the relevant Residential Character Narrative, as contained in the corresponding locality chapter in Part E of this DCP.

### Prescriptive Measures

There are no Prescriptive Measures.



### D1.5.3 Adjoining and Adjacent Development

#### Objectives

1. *To ensure that new development is consistent with the character and amenity of existing development in the locality.*

#### Performance Criteria

1. Development must be compatible with the bulk, scale, height and character of adjoining and adjacent development. The site characteristics, including slope and aspect, must be taken into consideration in assessing the appropriate height and number of storeys.
2. Adequate provision must be made for solar access and privacy of the proposed **dwelling(s)** and any adjacent **dwelling**.

#### Prescriptive Measures

Council will only consider **dual occupancy** and **semi-detached dwelling** development in urban areas where, in its opinion, it has been demonstrated that the following objectives have been met:

1. Adequate provision for reasonable protection of existing views from neighbouring houses;
2. Adequate provision for privacy of the proposed **dwelling(s)** and any adjacent **dwelling(s)**;
3. Adequate provision for access to natural light and solar access for the proposed **dwelling(s)** and any adjacent **dwelling(s)**;
4. Maintenance of the character and neighbourhood amenity of the adjoining residential area.

### D1.5.4 Private Open Space

#### Objectives

1. *To ensure that adequate accessible and useable open space is provided to meet the recreational, gardening and landscape needs of residents.*

#### Performance Criteria

1. Private open space areas must be of dimensions to suit the projected requirements of the occupants and guests and to accommodate outdoor recreation needs, as well as providing space for service functions such as clothes drying and domestic storage.
2. Part of the private open space must be capable of enabling an extension of the function of the **dwelling** for relaxation, dining, entertainment, recreation and children's play, and be directly accessible from the **dwelling**. Provision must be made for space for private gardening such as vegetable gardens.



3. Location of private open space must take account of outlook, natural features of the site and neighbouring buildings or open space. Orientation of private open space must provide for maximum year round use in terms of sunlight.
4. Private recreational facilities must not adversely affect the amenity of adjacent properties.

### **Prescriptive Measures**

1. Each **dwelling** must have an area of private open space at ground level not located in the front **setback**, having a minimum area of 30m<sup>2</sup> and a minimum length and width each of 4m, excluding any area used for vehicle circulation or parking.
2. The private open space area must not include any areas used for the management of on-site sewage effluent.



## D1.5.5 Landscaping

### Objectives

1. *To provide attractive landscapes that reinforce the function of the street and enhance the amenity of **dwelling**s and the built environment.*

### Performance criteria

Refer to Chapter B9 Landscaping.

### Prescriptive Measures

Refer to Chapter B9 Landscaping.

## D1.5.6 Sound Proofing

### Objectives

1. *To ensure an acceptable acoustic environment for residents.*

### Performance Criteria

1. Division walls between separate occupancy areas of **dual occupancy (attached)** and **semi-detached dwelling** development must be of sound resisting construction to ensure acoustic privacy and amenity between rooms.
2. Development must be designed to minimise noise and vibration impacts upon occupants of surrounding **dwelling**s. Where practicable, sources of noise must be sited away from adjoining properties, and where necessary must be screened by acoustic treatments.

### Prescriptive Measures

There are no Prescriptive Measures.

## D1.6 Multi Dwelling Housing (including Manor Houses and Terraces), Residential Flat Buildings and Attached Dwellings

Council wishes to encourage variation in medium density housing development by providing simple, flexible controls that are intended to produce more attractive and innovative residential buildings, more imaginative use of outdoor spaces, more privacy and better access to sunlight and shade.

This Section applies to the following types of medium density housing development: **multi-dwelling housing** (including manor houses and terraces), **residential flat buildings** and **attached dwellings**. To facilitate good design a Context and Site Analysis Plan will be required as per Part A13.1.1.



## D1.6.1 Private Open Space Courtyards

### Objectives

1. *To ensure that residents have access to private, useable, landscaped open space.*

### Performance Criteria

1. Open space courtyards must be provided for each **dwelling**, with dimensions to suit the projected requirements of the residents and to accommodate outdoor recreation needs.
2. Courtyards must be capable of enabling an extension of the living area of the **dwelling**.
3. Location of courtyards must take account of outlook and natural features of the site without impacting on neighbouring buildings or open space.
4. Orientation and shading of courtyards must provide for maximum year round use in terms of sunlight.

### Prescriptive Measures

1. Each **dwelling** must have access to an individual courtyard at ground level having a minimum area of 30m<sup>2</sup> and a minimum length and width each of 4 metres, not including any area used exclusively for the circulation or parking of vehicles. The courtyard must be designed to facilitate access to winter sunshine and must be landscaped to Council's satisfaction.
2. The private open space area must not include any areas used for the management of on-site sewage effluent.

## D1.6.2 Open Space Balcony

### Objectives

1. *To ensure that residents of above-ground **dwelling**s have immediate access to outdoor private open space.*

### Performance Criteria

Where **dwelling**s are situated or have access entirely above the ground level of the development, Council may consent to the provision of private open space by means of a **balcony** which is of sufficient size and which is located so as to provide a usable private outdoor area to Council's satisfaction.

### Prescriptive Measures

1. This provision is only activated when it is not possible to allocate private open space at ground level.
2. A private open space **balcony** must have a minimum area of 15m<sup>2</sup> and a minimum length and width of 2.4 metres. A private open space **balcony** must be demonstrated to have appropriate orientation and adequate provision for winter sun and summer shade.
3. **Balconies** and/or eaves may overhang minimum length or width dimensions of private courtyards or other private open space **balconies**, subject to compliance with the **building height plane**, and provided that adequate access to winter sun and summer shade is demonstrated for all potentially shaded **balconies** and/or courtyards.



### D1.6.3 Landscaping

#### Objectives

1. *To provide attractive landscapes that reinforce the function of the street, enhance the amenity of dwellings and the built environment, and allow preservation of significant vegetation.*

#### Performance Criteria

Refer to Chapter B9 Landscaping.

#### Prescriptive Measures

Refer to Chapter B9 Landscaping.

### D1.6.4 On-Site Car Parking

#### Objectives

1. *To provide sufficient convenient car parking for residents and visitors.*
2. *To maintain the amenity of adjoining properties and the efficiency of the road network by providing for car parking on-site.*
3. *To ensure that vehicle access to and from development is safe, effective and enhances visual amenity.*

#### Performance Criteria

1. Driveway design must provide safe and efficient ingress/egress to and from the site.
2. Resident and visitor car parking must be provided according to projected needs.
3. The design of driveways and parking areas must minimise the visual impact of hard paved areas and long straights, eg by incorporating curves and landscaping.

#### Prescriptive measures

1. Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding vehicle access, numbers, dimensions and layout of car parking spaces.
2. Large areas of car parking must be broken up by variation in layout, pavement treatment, landscaping, mounding and/or other means to Council's satisfaction.

### D1.6.5 Sound Proofing

#### Objectives

1. *To ensure an adequate acoustic environment for residents.*





### Performance Criteria

1. Development must be designed to provide a reasonable acoustic environment within **dwelling**s and to minimise the potential for noise impact on the occupants of surrounding **dwelling**s.
2. Where practicable, sources of noise must be sited away from adjoining properties and where necessary must be screened by effective acoustic treatments.
3. Development must be designed to minimise noise and vibration impacts on occupants of surrounding **dwelling**s or buildings.

### Prescriptive measures

1. Division walls between **dwelling**s must be of sound-resisting construction to Council's satisfaction.
2. The floors in single storey **multi-dwelling housing**, **residential flat buildings** and **attached dwelling**s must be so constructed or treated as to minimise the conduct of sound between **dwelling**s.

## D1.6.6 Clothes Drying Facilities

### Objectives

1. *To ensure that adequate, effective space is provided and provision is made for clothes drying.*

### Performance Criteria

Outdoor clothes drying facilities must be provided to meet projected needs and located to facilitate privacy and sunlight access.

### Prescriptive measures

The minimum provision of clothes drying facilities must be at the rate of 7.5 metres of line per **dwelling**, located in suitably screened external drying areas.

## D1.6.7 Equity of Access and Mobility

### Objectives

1. *To ensure equity of access and mobility to all members of the community.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive measures

Provision for access and mobility must be made pursuant to Chapter B13 Access and Mobility.



## D1.6.8 Pipes and Vents

### Objectives

1. *To optimise the aesthetic appeal of development and to minimise visual impacts of external pipes and vents.*

### Performance Criteria

External pipes and vents must be concealed.

### Prescriptive measures

1. All service pipes and vents must be concealed within the walls of **residential flat buildings**, **multi-dwelling housing** and **attached dwellings**. Provision of recessed service pipes in external walls may be acceptable where it is demonstrated that the proposal is consistent with the Objectives.
2. Access to pipes and vents must be provided as required by relevant authorities.

## D1.6.9 TV Antennae

### Objectives

1. *To minimise adverse visual impacts of TV antennae and dishes, and to ensure the availability of television reception for all **dwellings**.*

### Performance Criteria

Common television antennae and/or dishes must be provided to meet the expected needs of residents.

### Prescriptive measures

Each development must be provided with a common television reception system designed to minimise adverse visual impacts whilst enabling high quality reception for each **dwelling**.

## D1.6.10 Character

### Objectives

1. *To ensure that medium density housing development, including **multi-dwelling housing** (including Manor Houses and Terraces), **residential flat buildings** and **attached dwellings** are compatible in character with development in the locality, provides adequate private open space and addresses slope and drainage issues.*

### Performance Criteria

1. In assessing any proposal for medium density housing development, particular consideration will be given to the topography and slope of the site, the use of design to minimise loss of privacy, the visual impact of the proposal and the likely impact on water flows and drainage.



2. Medium density housing development should demonstrate how they are consistent with the relevant Residential Character Narrative, as contained in the corresponding locality chapter in Part E of this DCP.

### Prescriptive measures

To facilitate good design a **Design Verification Statement** will be required. In demonstrating how the built form of the development contributes to the character of the local area, the statement should articulate how it is consistent with the relevant locality narrative as contained in the applicable locality chapter in Part E of this DCP.

## D1.7 Affordable Housing

### D1.7.1 Affordable Housing in R2, R3, B2 and B4 Zones

#### Objectives

1. *To provide guidance regarding the implementation clause 6.7 Affordable housing in residential and business zones of Byron LEP 2014.*
2. *To ensure the provision of a diverse range of **dwelling** types and sizes that meet the needs of a wide range of family and household types and provides greater availability of **affordable housing**.*

#### Performance Criteria

1. Council shall consider the matters listed in clause 6.7 Affordable housing in residential and business zones of LEP 2014 when considering development applications in Zones R2, R3, B2 or B4 for:
  - a) subdivision of 25 or more lots where a diversity of lot sizes can be provided;
  - b) **residential accommodation** of 25 or more **dwelling** types where a diversity of **dwelling** types can be provided;
  - c) redevelopment of existing housing where a reduced number of **dwelling** and/or a reduced diversity of **dwelling** types are proposed.
2. Council may consider applying a condition to the development consent for **affordable housing** requiring that the development not be used for the purposes of **tourist and visitor accommodation** including holiday letting.
3. Council may consider varying density controls for subdivision to allow additional lots to be created for dedication to a public housing provider.
4. The meaning of 'very low income household', 'low income household' and 'moderate income household' is the same as provided in clause 6 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

### Prescriptive measures

There are no Prescriptive Measures.



## D1.8 Boarding Houses

Division 3 (Boarding Houses) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* governs the provision of **boarding houses** in various Residential and Business Zones. Those provisions and standards will be applied to all **boarding house** development to which this Section applies.

## D1.9 Hostels

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* governs the provision of **hostels**. Those provisions and standards will be applied to all **hostel** development to which this Section applies.

## D1.10 Shop Top Housing

This Section applies to **shop top housing**, which includes **dwelling**s located above ground floor **retail premises** or **business premises**.

### D1.10.1 Density Control

#### Objectives

1. To provide affordable **shop top housing** accommodation close to transport, employment and services.

#### Performance Criteria

The siting, design and density of the **dwelling** component of the development must be consistent with the character of the surrounding area and must provide a mix of **dwelling** sizes to accommodate different family profiles.

#### Prescriptive Measures

1. The density of the **dwelling** component of the development must not be greater than one (1) **dwelling** per 150 square metres of **site area** where no **floor space ratio** restriction applies under Byron LEP 2014.
2. A minimum of 25% of the floor space of the entire development, not including car parking, must be set aside for commercial/ retail purposes. All ground floor space fronting the street must be devoted to **retail premises** and/or **business premises**.

### D1.10.2 Accessibility

#### Objectives

1. To ensure accessible and direct entrance to and exit from the residential component of a development.



### Performance Criteria

Development must be designed to ensure that adequate direct resident access is provided to the residential component of the development.

### Prescriptive Measures

Each **dwelling** must have direct access from the main street frontage of the premises (or side street where located on a corner). This may be by means of a separate, isolated passage or stairway connecting to the street frontage, which would allow unrestricted access to the **dwelling** without the need to pass through any associated **retail premises** or **business premises**. Alternatively, such an access arrangement may be shared with development on adjoining land with a similar residential component, provided suitable arrangements are made to ensure that legal access is available and guaranteed in perpetuity.

## D1.10.3 Private Open Space

### Objectives

1. *To ensure that the residential component of a development contains adequate, accessible and well designed private open space to meet the needs of occupants.*

### Performance Criteria

Each **dwelling** must be provided with an adequate area of private open space for sole use by the occupants of that **dwelling**. The private open space must be located to provide solar access and a sense of territory, privacy and safety for residents.

### Prescriptive Measures

1. Each **dwelling** must be provided with private open space for sole use by the occupants of that **dwelling**. Where the private open space cannot be provided at ground level the **dwelling** must be provided with a **balcony** or roof terrace.
2. The private open space, whether at ground level or not, must have a minimum area of 15m<sup>2</sup> and a minimum width of 2.5 metres. Part of the private open space must be a minimum of 10 square metres and directly accessible from a living area.
3. The private open space must have solar access to 50% of its area for at least 3 hours per day. Enclosure of **balconies** that provide private open space to a **dwelling** will not be permitted.
4. The private open space area must be located to maximise privacy for residents. If necessary the area must be screened by vegetation, a wall or fence, to ensure that the area is private.
5. The private open space must be located to ensure that residents are provided with an outlook to public areas rather than overlooking directly onto adjoining buildings, and must not diminish the commercial/retail character of the street frontage at ground level.

## D1.10.4 Sound Proofing

### Objectives

1. *To ensure that an adequate acoustic environment is provided for residents.*



### Performance Criteria

Development must be designed to minimise the potential for noise impact upon the occupants of the **dwelling**s, both from within the development and from adjoining developments, public areas and streets.

### Prescriptive Measures

1. Development must be designed to minimise external noise impacts on residents and to ensure that noise sensitive areas are screened from noise sources. This can be facilitated through the design process, eg by locating noise tolerable areas towards noise sources (e.g. kitchens, laundries etc located toward major frontages with sleeping areas screened from road frontages, garbage collection areas, accessways and parking areas). Noise transmission between **dwelling**s can be minimised by not locating living areas or garages adjacent to bedrooms of other **dwelling**s.
2. Walls or ceilings of **dwelling**s that are attached must have a sound transmission class (STC) of not less than that required by the Building Code of Australia.
3. Applicants must demonstrate to Council's satisfaction that the design of **dwelling**s in **shop top housing** adequately addresses the issue of sound proofing. A specialist acoustic report may be required to demonstrate that the development adequately achieves acceptable sound proofing for residential amenity.

## D1.10.5 Clothes Drying Area

### Objectives

1. *To ensure that adequate, effective space is provided for clothes drying.*

### Performance Criteria

1. Where feasible, outdoor clothes drying facilities must be provided to meet projected needs and located to facilitate privacy and sunlight access. The clothes drying area must be screened from view from the street.
2. **Dwelling**s without private open space at ground level must provide internal laundry facilities in each unit and must provide either a clothes drying area on site, or a space for a clothes dryer in each unit.

### Prescriptive Measures

There are no Prescriptive Measures.

## D1.10.6 Site Facilities

### Objectives

1. *To ensure that adequate site facilities are provided for the development and its residents.*
2. *To ensure that sediment and nutrient laden car wash runoff does not impact on the water quality of the Shire's waterways.*

### Performance Criteria

There are no Performance Criteria.



## Prescriptive Measures

1. Mailboxes must be provided for each **dwelling**, located to ensure convenient access for residents and Australia Post. The street number must be clearly displayed and all mailboxes must be clearly identified with the unit number. Where an Owners' Corporation or equivalent has been created an additional mailbox must be provided for Corporation correspondence.
2. All **dwellings** must be wholly independent of the commercial portion of the building in respect of such amenities and facilities as toilets, laundries, kitchens, bathrooms and the like.
3. Common television antennae and/or dishes must be provided to meet the expected needs of residents.
4. A separate water meter must be provided for each **dwelling**.
5. A lockable storage facility of 8 cubic metres for each **dwelling** must be provided. This may form part of a carport or garage.
6. A car washing area must be provided at a general rate of 1 per every 10 **dwelling** units, with a minimum of one wash area being provided for each multi-unit housing development containing more than 10 residential units. The car wash area must have minimum dimensions of 7.6m x 3m. This may be part of a visitor car space, driveway or turning area where it can be shown that it will not cause undue conflict of use. This area must have water and electricity available and must be drained by on site disposal. Where there are separate internal driveway systems within a site, each must have a car washing area.

## D1.11 Ancillary Dwellings in Business Park and Industrial Zones

This Section applies to the development of ancillary **dwellings** in Industrial zones and the B7 Business Park Zone. The only **dwellings** permitted in Zones IN1, IN2 and B7 are **dwellings** that are ancillary to other development that is permissible in those zones and which is situated on the same site as that other development. Other types of **residential accommodation** are not permitted in these zones. Such residential development must be designed and constructed to provide the resident with a suitable level of amenity having regards to the industrial and business activities on surrounding properties. As an example, this could include late night/ early morning noise from loading and unloading of vehicles, odours and fumes from a manufacturer, noise from refrigeration plant and equipment, dust from a landscape garden supplier. In some instances an ancillary **dwelling** may not be suitable due to the business and industrial activities on surrounding properties.

### D1.11.1 Ancillary Dwellings in Zones IN1, IN2 and B7

#### Objectives

1. *To ensure that residential development remains subordinate to industrial development in industrial zones, and other development in the Business Park Zone.*
2. *To ensure that an adequate level of amenity is provided for residents of ancillary **dwellings**.*





## Performance Criteria

There are no Performance Criteria.

## Prescriptive Measures

1. Applications seeking consent for establishment of an ancillary **dwelling** in Zones IN1, IN2 and B7 must demonstrate that the **dwelling** will be used in conjunction with other development that is permissible in those zones on the same site, and that the **dwelling** will be ancillary to that other development.
2. The ancillary **dwelling** component of a development must not be greater than one (1) **dwelling** for each **allotment**, whether or not that **allotment** is created via Torrens Title, Strata or Community Title.
3. The total floor area of an ancillary **dwelling** must not exceed 60m<sup>2</sup>.
4. An ancillary **dwelling** must not have street frontage when located at ground level.
5. Ancillary **dwellings** must be designed to minimise external noise, dust, fumes and odour impacts on residents. A specialist acoustic report may be required to demonstrate that the development adequately achieves acceptable sound proofing for residential amenity.

## D1.12 Studios

**Studios** are meant for activities which may not be suitable in the **dwelling house**. This could include for example painting, pottery, playing music, writing, other artistic pursuits or an office space for a home office. The **studio** is not meant to be used as a separate bedroom, nor is it meant to be a **secondary dwelling** or granny flat.

### D1.12.1 Studios

#### Objective

1. *To enable construction and use of a detached building that is ancillary to and compatible in character with a **dwelling** where, because of its nature or space requirements the proposed use of the building is not practical within the confines of the principal **dwelling**.*

#### Performance Criteria

1. The proponent must demonstrate that the **studio** is required for a purpose that, because of its nature or space requirements is not practical to undertake within the confines of the principal **dwelling**.
2. The **studio** must not be used for separate habitation.
3. The **studio** must be situated on the same lot and located close to the **dwelling** and be compatible in design and character with the **dwelling** and its environment.
4. The **studio** must not require additional clearing of native vegetation, additional vehicle access or the provision of additional public services infrastructure over and above that required by the **dwelling**.





### Prescriptive Measures

Only one **studio** is permitted for each **dwelling**. The **studio** must:

- a) be situated on the same lot as the **dwelling**;
- b) not exceed 60m<sup>2</sup> **gross floor area**;
- c) not contain internal partitions other than those necessary for ablution facilities or demonstrably required for the use of the **studio** (eg photography darkroom);
- d) not contain facilities (e.g. kitchen, sink or the like) that would enable the preparation of food;
- e) not be used for separate habitation;
- f) be located not more than 40 metres from the main building of the **dwelling**.





# Byron Shire Development Control Plan 2014

## Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones



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## Chapter D2 – Residential Accommodation and Ancillary Development in Rural Zones

### Contents

<b>D2.1</b>	<b>Introduction.....</b>	<b>5</b>
D2.1.1	Aims of this Chapter .....	5
D2.1.2	Application of this Chapter .....	5
<b>D2.2</b>	<b>General Provisions.....</b>	<b>6</b>
D2.2.1	Location and Siting of Residential Accommodation and other Buildings .....	6
D2.2.2	Setbacks from Boundaries.....	7
D2.2.3	Character and Visual Impact.....	8
<b>D2.3</b>	<b>Dwelling Houses.....</b>	<b>9</b>
D2.3.1	On-Site Car Parking and Vehicle Access.....	9
D2.3.2	Recycling and Waste Management and On-site Sewage Management.....	10
D2.3.3	Expanded House .....	10
<b>D2.4</b>	<b>Rural Worker’s Dwellings.....</b>	<b>11</b>
D2.4.1	Rural Worker’s Dwellings.....	11
<b>D2.5</b>	<b>Dual Occupancies and Secondary Dwellings.....</b>	<b>12</b>
D2.5.1	On-Site Car Parking.....	13
D2.5.2	Character and Siting of Dwellings .....	13
D2.5.3	Sound Proofing.....	14
D2.5.4	Private Open Space.....	15
D2.5.5	Adjoining and Nearby Development.....	15
<b>D2.6</b>	<b>Multiple Occupancy Development.....</b>	<b>16</b>
D2.6.1	Multiple Occupancy Development of Rural Land .....	16
<b>D2.7</b>	<b>Studios and Farm Buildings .....</b>	<b>23</b>
D2.7.1	Studios .....	23
D2.7.2	Farm Buildings, Sheds and other Structures.....	24
D2.8	Community Title Development of Rural Land.....	25

### Tables

Table D2.1 - Tree Spacing Numbers / Hectare (Ha) .....	22
Table D2.2 - Tree Spacing Numbers / Hectare (Ha) .....	26



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## D2.1 Introduction

Byron Shire Council recognises the need to plan for and control the form of residential accommodation and other forms of development in the Shire's rural zones. Such development will need to be in harmony with its surroundings, both natural and constructed, and enhance the physical context valued by the local community and by the Shire's increasing number of visitors.

This Section complements the provisions of Byron LEP 2014. The aim has been to develop controls that provide flexibility to promote innovative and imaginative building forms, whilst ensuring development outcomes consistent with the character of the Shire and its rural lands. Building forms need to be related to each other and to their surroundings by careful attention to design, orientation, forms, scale, materials and landscaping.

### D2.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To promote a high standard of design for development in rural lands that is sensitive to and enhances the natural and physical environment and the social fabric particular to Byron Shire.
2. To accommodate a variety of residential forms and **dwelling** sizes to reflect the growing diversity of household types, sizes, incomes, lifestyles and needs.
3. To promote energy efficiency and consideration of the Shire's climatic characteristics in the design process.
4. To promote sustainable food and agriculture production.
5. To minimise conflict between developments, including conflict with agricultural activities in farming lands.
6. Where possible to limit potential for additional traffic on the road system and to reduce car dependence through facilitation of public transport, cycling and walking.

### D2.1.2 Application of this Chapter

This Chapter applies to development applications seeking consent for various forms of residential accommodation and associated development in rural zoned lands, namely Zones RU1 and RU2. The types of development to which this Chapter applies include the following:

- **Dual occupancies (attached and detached)**
- **Dwelling houses**
- **Expanded houses**
- **Farm buildings**
- **Rural worker's dwellings**
- **Secondary dwellings**
- **Studios**



The definitions of various residential and associated development types are contained in the Byron LEP 2014 Dictionary, or in the Dictionary to this DCP. The provisions in this Chapter supplement those provisions of Byron LEP 2014.

## **D2.2 General Provisions**

### **D2.2.1 Location and Siting of Residential Accommodation and other Buildings**

#### **Objectives**

1. *To implement the relevant Aims, Guiding Principles and provisions of the Byron Rural Settlement Strategy 1998.*
2. *To ensure that decisions relating to siting of development are consistent with the objectives and provisions of Chapter B6 Buffers and Minimising Land Use Conflict.*

#### **Performance Criteria**

1. All development to which this Section applies must be consistent with the relevant Aims, Guiding Principles, Best Practice Guidelines and Performance Standards contained in the Byron Rural Settlement Strategy 1998 (the Strategy). The Strategy's relevant Aims are:
  - i) *To ensure that ecological, social and economic considerations are successfully integrated into the decision-making process for all future rural settlement in Byron Shire.*
  - ii) *...*
  - iii) *To ensure future rural settlement is directly linked to the repair, enhancement and protection of the natural environment, thereby increasing the shire's natural capital.*

The Strategy's relevant Guiding Principles are:

- i) *overriding principle* -- all new rural settlement must meet the needs of Byron's residents today while conserving the shire's ecosystems, agricultural viability, lifestyles, heritage and culture for the benefit of future generations;
- ii) *sustainability* -- development meets the needs of today without compromising the ability of future generations (long timeframes) to meet their own needs and enjoy a quality life resulting from clean air, water and soils;
- iii) *planning* -- shire wide planning identifies potential rural settlement areas integrated with catchment-based (geographical, water and social) planning;
- iv) *consultation* -- there is full community consultation and participation with the local community prior to decision-making, and support for participatory settlement planning;
- v) *environment* -- existing habitat areas are identified, protected and enhanced, environmental repair is undertaken and corridors of native vegetation linking habitat areas are provided;
- vi) *water quality* -- natural watercourses and the riparian lands, wetlands and groundwater systems are protected from sources of pollution and the water quality is maintained and improved;



- vii) *identity* -- Byron Shire's unique image, diverse lifestyle and local character are maintained;
- viii) *facilities* -- adequate community facilities to meet the needs of rural settlement areas are provided; *and*
- ix) *land use* -- existing and potential agricultural and horticultural land uses and extractive resources on-site are protected; and off-site, on adjacent and nearby areas, their landuses and resources are not adversely impacted by rural settlement.

The relevant Best Practice Guidelines and Performance Standards are contained in Chapters 6 and 8 respectively of the Strategy.

Determination of siting, extent and nature of development must be consistent with the provisions of Chapter B6 Buffers and Minimising Land Use Conflict.

### Prescriptive Measures

There are no Prescriptive Measures.

## D2.2.2 Setbacks from Boundaries

### Objectives

1. *To achieve varied and interesting landscapes that preserve and complement the rural and scenic character and amenity of the Shire's rural and environmental protection areas.*
2. *To achieve good orientation and spacing of developments in rural and environmental protection areas that achieve high quality living environments relative to privacy, sunlight, shade, wind and weather protection, and proximity of neighbouring development.*
3. *To minimise potential for land use conflict between rural land uses and activities.*

### Performance Criteria

1. **Setback** requirements may be flexible provided they are demonstrated to achieve the Objectives and Performance Criteria. Determination of **setbacks** will also depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
2. The **setbacks** and design of **dwellings** and other buildings must contribute to the locality's rural character and attractiveness by means of siting, good design, appropriate materials and effective landscaping.
3. The **setback** from a road frontage or side boundaries for **dwellings** and other buildings will be determined on its merits, having regard to:
  - a) the Objectives;
  - b) any provisions of this development control plan applying to the specific location;
  - c) consistency with the rural and scenic character of the locality;
  - d) the position and **setback** of any existing buildings in the locality;
  - e) the siting and nature of nearby rural landuses and potential for creation of conflict with those uses;





- f) the siting and nature of nearby **residential accommodation** buildings or other development and the potential for intrusion on privacy, amenity, solar access or climate characteristics of those buildings.
- g) the effect on vehicular safety and visibility on a public road;
- h) the orientation of the **allotment** and the proposed **dwelling** with regard to the sun and prevailing winds;
- i) the location and treatment of any car parking areas and car parking structures on the site.

### Prescriptive Measures

1. Minimum Road Frontage **Setbacks**: 55 metres from the boundary of a **classified road** and 15 metres from the boundary of other roads. (Note. The provisions of SEPP Infrastructure 2007 apply to development with frontage to a **classified road**). The “Byron Shire Roads Hierarchy” maps are available on Council’s website and show **classified roads** such as the Pacific Highway and other main roads.

No development is permitted within the building **setback** other than garbage storage facilities, mail boxes, landscaping, driveways and car parking spaces.

2. Minimum Side and Rear Boundary **Setbacks**: Based on consistency with the Objectives and Performance Criteria. Must comply with the requirements of the Building Code of Australia.

Determination of **setbacks** will also depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.

## D2.2.3 Character and Visual Impact

### Objectives

1. *To retain and enhance the unique character of Byron Shire and its distinctive landscapes, ecology, rural and natural areas.*
2. *To ensure that new development contributes to the character of its locality by respecting and complementing the natural and built environment.*

### Performance Criteria

The following principles shall be applied to all development:

- a) site, building and landscaping design must address the climate;
- b) where a building is visible from a public road, it must contribute to the rural and scenic character of the locality by means of good design, appropriate materials and effective landscaping;
- c) there must be a reasonable degree of integration with the existing built, rural and natural environment, balanced with the desirability of providing for variety in the landscape;
- d) the provision of verandahs, **balconies**, pergolas and other protective outdoor elements will be encouraged for visual, climatic and energy efficiency reasons;
- e) well-designed overhanging eaves should be provided where feasible to protect against heavy rainfall and summer sun, while allowing winter sun penetration;



- f) no roof may have a highly reflective surface. Any metal roof must have a colorbond or equivalent finish in a colour approved by council. White or light-coloured roofing will not be approved where likely to be visually intrusive or would result in significant glare for neighbouring properties;
- g) details of building materials and surface colours must be submitted for assessment with a development application. All building materials must be compatible in character with their surrounding environment;
- h) consistent with the NSW Coastal Council's February 2003 publication 'Coastal Design Guidelines for NSW', namely the recommended design principles for buildings and development located in various categories of coastal and inland settlements, and for isolated coastal **dwelling**s.
- i) rural character and rural environment is not adversely affected by over development

### Prescriptive Measures

1. The total number of residential buildings per property in RU1 and RU2 zones, including **dwelling house**, **expanded house**, **dual occupancies** and **secondary dwellings** is not to exceed six (6). This excludes multiple occupancy, community title, **farm buildings**, sheds and other structures meant for rural activities.

## D2.3 Dwelling Houses

This Section outlines the controls applicable specifically to single **dwelling houses** in rural lands. It must be read in conjunction with the general provisions set out in Sections D2.1 and D2.2 of this Chapter.

In this Section, a reference to a **dwelling house** also includes a reference to an **expanded house**.

### D2.3.1 On-Site Car Parking and Vehicle Access

#### Objectives

1. *To provide adequate and visually compatible accommodation for vehicles.*

#### Performance Criteria

1. Car parking must be provided on the site in a manner that provides convenient access for residents of the **dwelling**; safe and accessible in terms of visibility, turning and manoeuvring capabilities; and visually compatible with the site and its locality.
2. Car parking structures, including garages and carports, which are visible from the road must be compatible with the **dwelling** in terms of design and materials, and may form part of the **dwelling** structure.

#### Prescriptive Measures

Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding car parking and vehicle access.



## D2.3.2 Recycling and Waste Management and On-site Sewage Management

### Objectives

1. *To facilitate the storage and collection of garbage and recyclable products.*
2. *To ensure responsible management of sewage on the site.*

### Performance Criteria

1. Garbage and recyclable storage and collection facilities must be provided to meet residents' needs and collections service requirements where roadside collection is available.
2. On-site sewage management is to comply with Chapter B3 Services.

### Prescriptive Measures

There are no Prescriptive Measures.

## D2.3.3 Expanded House

### Objectives

1. *To facilitate the provision of a **dwelling house** comprising a number of separate building components.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

The design and use of the **expanded house** must conform to the following criteria:

- a) No **expanded house** habitable outbuilding is to be located more than 20m from the wall of the main building, measured from wall to wall at the closest point;
- b) the main building must contain an identifiable living area including the kitchen;
- c) a maximum of three outbuildings may be connected to the main building by paths with an all-weather surface;
- d) outbuildings are to be connected to the main building by paths with an all weather surface;
- e) no separate driveway, car parking area, garage or carport structure is to be provided to service any outbuilding;
- f) one outbuilding must be limited to a maximum floor area of 45m<sup>2</sup> excluding decks, verandahs, patios, **balconies** and the like; and the others must be limited to a maximum 30m<sup>2</sup> floor area excluding decks, verandahs, patios, **balconies** and the like;
- g) none of the outbuildings is to contain facilities (e.g. kitchen, sink or the like) that would enable the preparation of food or beverages;
- h) each separate outbuilding may incorporate a maximum of two bedrooms (including rooms with an ensuite or bathroom);



- i) a maximum of one laundry per **dwelling**.

## D2.4 Rural Worker's Dwellings

### D2.4.1 Rural Worker's Dwellings

#### Objectives

1. *To meet the genuine long term needs of viable agricultural enterprises for housing for workers on the land.*
2. *To ensure that **rural worker's dwellings** are located to avoid potential for conflicts with agricultural activities on adjoining land, to avoid adversely affecting the sustainability of the land for agriculture, and to ensure compatibility with the rural character of the locality and the shire.*
3. *To specify the evaluation criteria and development requirements that apply to establishment of **rural worker's dwellings**.*

Note: Pursuant to the statutory definition in Byron LEP 2014, a **rural worker's dwelling** means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.

#### Performance Criteria

1. Development applications must demonstrate that there is a genuine need and justification for a rural worker to live on the land, based on an existing/established legitimate agricultural activity.
2. The **rural worker's dwelling** must be located so that it does not create potential for conflict with adjoining land uses. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
3. **Rural worker's dwellings** must be located and retained on the same legal title as the principal **dwelling house** on the farm property, and may not be excised by subdivision.
4. The **rural worker's dwelling** to be commensurate in size, area and number of bedrooms to accommodate the rural worker(s) and immediate family.

#### Prescriptive Measures

1. The property must have at least the minimum land area specified for that land by the **lot size map**.
2. The **rural worker's dwelling** must be erected within 160m of the existing principal **dwelling house** on the site, and must share the same vehicular access to the adjoining public road.
3. A development application must be accompanied by the following information that demonstrates:
  - a) property details, including legal description, area, zoning, existing use of all parts of the site;



- b) property plan showing existing and proposed infrastructure (including buildings, sheds, services, etc) and land use;
- c) labour requirements, including the number of persons required to conduct the farming operation, the times that labour is required (e.g. seasonal, daily), a description of the work to be undertaken by all personnel, and the critical components of the operation that require an on-site residence and rural worker/s;
- d) potential conflicts, including the distance from the proposed **rural worker's dwelling** to adjoining land holdings and potentially conflicting landuses (e.g. intensive horticulture, pesticide use, intensive livestock activities and the like).
- e) access and site details, including a plan showing the location of the principal **dwelling** and the proposed **rural worker's dwelling**; and proposed access arrangements from the public road to the principal **dwelling** on the site and the proposed **rural worker's dwelling**.
- f) justification demonstrating why it is not feasible to accommodate the rural worker offsite, e.g. in a nearby village, rural property or urban area.

Note: Council may impose a condition requiring that the dwelling must not be occupied as a dwelling other than by a rural worker employed for the purpose of agriculture or rural industry on the land.

## D2.5 Dual Occupancies and Secondary Dwellings

This Section outlines requirements for the provision of **dual occupancies (attached and detached)** and **secondary dwellings** in rural areas where permitted under the provisions of Byron LEP 2014.

### Objectives

1. To ensure that **dual occupancies** and **secondary dwellings** in rural areas are located to avoid potential for conflicts with agricultural activities on adjoining land, to avoid adversely affecting the sustainability of the land for agriculture, and to ensure compatibility with the rural character of the locality and the shire.
2. To specify the evaluation criteria and development requirements that apply to establishment of **dual occupancies** and **secondary dwellings** in rural areas.

### Performance Criteria

1. **Dual occupancy** and **secondary dwelling** development in rural areas must be located so that it does not create potential for conflict with adjoining land uses. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
2. **Dual occupancies** and **secondary dwellings** in rural areas must be located and retained on the same legal title as the principal **dwelling house** on the property, and may not be excised by subdivision.

### Prescriptive Measures

A development application must be accompanied by information that demonstrates:



- a) property details, including legal description, area, zoning, existing use of all parts of the site;
- b) property plan showing existing and proposed infrastructure (including buildings, sheds, services, onsite wastewater disposal, etc) and land use;
- c) potential conflicts, including the distance from the proposed **dual occupancy** and **secondary dwelling** to adjoining land holdings and potentially conflicting landuses (e.g. intensive horticulture, pesticide use, intensive livestock activities, rural industry and the like).
- d) access and site details, including a plan showing the location of the principal dwelling and the proposed **dual occupancy** and **secondary dwelling**; and proposed access arrangements from the public road to the principal dwelling on the site and the proposed **dual occupancy** and **secondary dwelling**.

## D2.5.1 On-Site Car Parking

### Objective

1. *To provide adequate and visually compatible on-site accommodation of vehicles for residents and visitors.*

### Performance Criteria

Vehicular access to a **dual occupancy** and **secondary dwelling** development should comprise a shared driveway. Driveways must be located and designed to minimise danger to pedestrians and cyclists using the public road and to ensure that vehicles do not need to reverse into or out of the driveway.

### Prescriptive Measures

1. Car parking shall satisfy the requirements for on-site car parking for **dual occupancy** development as set out in Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.
2. There is no car parking requirement for **secondary dwellings**.

## D2.5.2 Character and Siting of Dwellings

### Objectives

1. *To ensure that **dual occupancy** and **secondary dwelling** development is compatible in character with development in the locality, provides adequate private open space and addresses environmental, slope and drainage issues.*
2. *To minimise the footprint of **dual occupancy** and **secondary dwelling** development through location of **dwellings** and the use of shared services and common areas.*

### Performance Criteria

1. In assessing any proposal for **dual occupancy** and **secondary dwelling** development, particular consideration will be given to the topography and slope of the site, design to minimise loss of privacy, bushfire and environmental constraints, the visual impact of the proposal and the likely impact on water flows and drainage.





2. To encourage better visual quality and greater public acceptance, **dual occupancy** and **secondary dwelling** development must be designed to be responsive to its location. It could look like a single **dwelling** or be sited in a clustered arrangement with other **farm buildings**, garages, car ports or farm sheds.
3. Separate private open space must be provided for each **dwelling** in accordance with Section D2.5.4, and must be designed to be easily accessible to the **dwelling** it serves.
4. The applicant must demonstrate that the design of the development and the siting of the two **dwellings** will not generate additional adverse environmental impacts through excessive vegetation removal for bushfire protection or detract from the visual amenity of the locality.

### Prescriptive Measures

1. **Dual occupancy (attached) dwellings** are to be attached to each other by a common dividing wall, this may include garage walls. The **dwellings** must be serviced by a common vehicle access.
2. **Dual occupancy (detached) dwellings** shall be located not more than 100 metres apart between the closest points. The **dwellings** must be serviced by a common vehicle access.
3. **Secondary dwellings** can be either attached to or detached from the principle dwelling as per the controls for **dual occupancy (attached and detached)** above.

Note: Clause 4.6 of Byron LEP 2014 (Exceptions to Development Standards) allows for flexibility in applying certain LEP 2014 development standards if it is justified in the circumstances. A merit case for development standards (except the floor space of a **secondary dwelling**) can be submitted to Council where it can be demonstrated to achieve better development outcomes.

## D2.5.3 Sound Proofing

### Objectives

1. *To ensure an acceptable acoustic environment for residents.*

### Performance Criteria

1. Where the **dual occupancy (attached)** is separated by a common dividing wall, that wall must be designed and constructed to resist sound and to ensure acoustic privacy and amenity between rooms.
2. Development must be designed to minimise noise and vibration impacts upon occupants of nearby **dwellings**. Where practicable, sources of noise must be sited away from adjoining properties, and where necessary must be screened by acoustic treatments.

### Prescriptive Measures

There are no Prescriptive Measures.



## D2.5.4 Private Open Space

### Objectives

1. *To ensure that adequate accessible and useable open space is provided to meet the recreational, gardening and landscape needs of residents.*

### Performance Criteria

1. Private open space areas must be of dimensions to suit the projected requirements of the occupants and guests and to accommodate outdoor recreation needs, as well as providing space for service functions such as clothes drying and domestic storage.
2. Part of the private open space must be capable of enabling an extension of the function of the **dwelling** for relaxation, dining, entertainment, recreation and children's play, and be directly accessible from the **dwelling**. Provision must be made for space for private gardening such as vegetable gardens.
3. Location of private open space must take account of outlook, natural features of the site and neighbouring buildings or open space. Orientation of private open space must provide for maximum year round use in terms of sunlight.
4. Private recreational facilities must not adversely affect the amenity of adjacent properties.

### Prescriptive Measures

1. Each **dwelling** must have a minimum landscaped area of private open space at ground level, not located in the front **setback**. The minimum private open space area will be 30m<sup>2</sup> and will have a minimum length and width each of 4m, excluding any area used for vehicle circulation or parking.
2. The private open space area must not include any areas used for the management of on-site sewage effluent.

## D2.5.5 Adjoining and Nearby Development

### Objective

1. *To ensure that rural **dual occupancies** and **secondary dwellings** are located to avoid potential for conflicts with agricultural activities on adjoining land, and to ensure compatibility with the rural character and scenic amenity of the locality and the shire.*
1. **Dual occupancy** and **secondary dwelling** development must be located so that it does not create potential conflict with adjoining agricultural activities or other legitimate land uses. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
2. **Dual occupancies** and **secondary dwellings** must be compatible with the bulk, scale, height and character of the locality and nearby development. The site characteristics, including slope and aspect, must be taken into consideration in assessing the appropriate height and number of storeys.
3. **Dual occupancies** and **secondary dwellings** must be compatible with the scenic amenity of the locality.





4. Adequate provision must be made for:
  - a) solar access and privacy of the proposed **dwelling(s)** and any adjacent **dwelling(s)**;
  - b) reasonable protection of existing views and privacy from neighbouring houses;
  - c) access to natural light and solar access for the proposed **dwelling(s)** and any adjacent **dwelling(s)**.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

## **D2.6 Multiple Occupancy Development**

Multiple Occupancy has historically been a preferred way of living in the rural areas of Byron Shire. The following controls have been prepared to implement the Aims, Guiding Principles, Best Practice Guidelines and Performance Standards of the *Byron Rural Settlement Strategy 1998* relating to Multiple Occupancy Development.

### **D2.6.1 Multiple Occupancy Development of Rural Land**

#### **Objectives**

1. *To reflect the objectives and provisions of Byron LEP 2014 relating to Multiple Occupancy Development.*
2. *To enable:*
  - a) *people to collectively own a single property and use it as their principal place of residence, and*
  - b) *the erection of multiple **dwelling(s)** on the lot and the sharing of facilities and resources, and*
  - c) *the collective environmental repair and management of the lot, and*
  - d) *the pooling of resources to economically develop a wide range of communal rural living opportunities.*
3. *To facilitate closer rural settlement in a clustered style in a manner that:*
  - a) *protects the environment, and*
  - b) *does not create an unreasonable demand for the provision of services or a demand for the uneconomic provision of services, and*
  - c) *does not involve subdivision under Community Title, Torrens Title or Strata Title, or any other form of separate land title, and*
  - d) *to implement the aims, guiding principles, guidelines and performance standards for rural settlement in the Byron Rural Settlement Strategy 1998, available from the office of the council.*

#### **Performance Criteria**

1. The location of **dwelling houses**, including any existing **dwelling house(s)**, are to be sited in a clustered style to facilitate social interaction between residents, to limit the cost of construction for residents in terms of the provision of services and access



- roads, and minimising environmental impacts from unnecessary earthworks and vegetation removal.
2. The siting of **dwelling houses** shall have regard to the physical characteristics of the land, including topography, drainage lines, existing vegetation, bushfire constraints and other hazards and accessibility by vehicle.
  3. Suitable detail, reports and management plans to be submitted with the application demonstrating:
    - a) the proposal will have a positive impact upon the environment through environmental repair and enhancement;
    - b) measures for the management of the land by various landowners setting out rights and responsibilities, dispute resolution and collective use of resources;
    - c) how effluent will be disposed of on site, water will be managed and hazards such as bushfire mitigated.

## **Prescriptive Measures**

### **1. Siting and Clustering of House Sites**

- a) **Dwelling houses** must be clustered in three (3) or more houses or future house sites. Separate clustering must demonstrate that the environmental and social impact or impacts of a number of **dwelling houses** and building clusters is less than a single clustering of **dwelling houses** and buildings. Clustering is defined to be **dwelling houses**, community buildings, garages, farm sheds and any other buildings located within close proximity and easy walking distance to each other. The distances apart must average 80 metres in a cluster but not exceeding 160 metres between any two **dwelling houses** in a cluster.
- b) The Council shall not grant consent where the proposed development is in a dispersed style. A dispersed style is a style in which the **dwelling houses** are located throughout the developable land resulting in longer than necessary road access arrangements or longer than necessary power supply arrangements or adverse social or environmental impacts.
- c) All **dwelling houses**, or sites for future **dwelling houses** to be located with floor levels above the **flood planning level** of any natural waterbody, watercourse, river, creek or wetland.
- d) No building or future **dwelling house** site envelope to be within 55 m of a **classified road**.
- e) **Dwelling houses**, future house sites, farm sheds and other structures to be sited in accordance with the requirements of Chapter C3 Visually Prominent Sites, Visually Prominent Development & View Sharing.

### **2. Environmental Impact Assessment Report**

An Environmental Impact Assessment Report should be prepared to Council's satisfaction to determine the area and location of developable land. It should address the following matters:

- a) A full description of the development and the existing environment likely to be affected, including a concept plan and land capability and suitability report which identifies the following:
  - i) lands subject to bushfire hazards (Vegetation Category 1 and 2), flooding (land affected by 1:100 ARI flood event) and slopes greater than 20 percent;
  - ii) prime agricultural lands, (classes 1, 2 and 3);



- iii) **High environmental value vegetation and habitats** and existing habitat areas for flora, fauna or ecological communities listed under the *Threatened Species and Conservation Act 1995* and associated buffers;
- iv) areas identified for environmental repair, weeding and plantings;
- v) watercourses, natural drainage lines, permanent creeks, streams, wetlands and associated buffers;
- vi) areas of visual significance as seen from public roads, parks and elsewhere in the general public domain;
- vii) land slip areas and soil erosion areas;
- viii) adjoining or surrounding land uses, including **intensive livestock agriculture**, extensive agricultural activities, **intensive plant agriculture** and **extractive industries** (including potential areas of extractive resources) which may produce a conflict with the proposed multiple occupancy having regard to the buffers needed to protect future residential amenity;
- ix) any contaminated sites such as dip sites, sawmills, quarries or chemical storage dumps and associated buffers;
- x) directions, distances and standard of roads to local shops, halls, schools, parks and community facilities;
- xi) school bus services and capacity to meet any likely increase in demand;
- xii) internal access roads both existing and proposed;
- xiii) indicative footprints of all proposed and existing **dwelling houses** and other building sites including community buildings, sheds and any other farm structures.

Note: Any required buffers to be calculated in accordance with Chapter B6 Buffers and Minimising Land Use Conflict.

- b) As a result of the above, an assessment is to be made to calculate the area and location of developable land which is relatively unconstrained and potentially suitable for the location of **dwelling houses**, community buildings and other buildings. It is this developable land area where Council will expect to see the proposed **dwelling**s clustered.

The decision as to whether or not land is unsuitable for development must take into account the combined effect of each of the matters described in Prescriptive Measure 2(a)(i) to (ix) above on all parts of the property, together with any proposed management or impact amelioration measures.

### 3. Rural Landsharing Management Plan

A Rural Landsharing Management Plan should be prepared to Council's satisfaction and clearly address the following issues:

- a) the degree of recognition and understanding among the community regarding collective land ownership and use of resources;
- b) the designated theme for the respective Multiple Occupancy Community;
- c) the aims and objectives of the respective Multiple Occupancy Community;
- d) any intentions of the respective Multiple Occupancy Community in terms of social cohesion, development of community, cooperation and sharing, development of rural living opportunities, the construction of buildings, the use of land, and any



economic or business development or other activities which are intended to take place on the land;

- e) how ownership 'shares' or an individuals entitlements are to be allocated including the means proposed for establishing land ownership, **dwelling house** occupancy rights, environmental and community management and the internal enforcement provisions of the Rural Landsharing Management Plan are deemed by the Council to be adequate and workable;
- f) how shareholders or owners in the Multiple Occupancy Development are to reach decisions on matters affecting the Multiple Occupancy Community;
- g) how shareholders or owners can dispose of their interest in the Multiple Occupancy Community;
- h) provisions for mediation and dispute resolution provisions;
- i) the type of behaviour which is permissible on the Multiple Occupancy Community in terms of what is acceptable regarding:
  - i) use of the land for housing, commercial agriculture, domestic food production and other purposes;
  - ii) visitors and tourists;
  - iii) noise;
  - iv) use of chemicals;
  - v) keeping of cats, dogs and other animals;
  - vi) lifestyle;
  - vii) Landcare;
  - viii) disposal of sewage;
  - ix) disposal of domestic waste and recycling;
  - x) environmental repair; and
  - xi) any other appropriate matters.

#### 4. Access roads

All internal access roads

- a) must have a minimum width of 4.0m;
- b) gradients in excess of 12% are to be bitumen or concrete sealed;
- c) must be constructed and drained to provide all-weather access for two wheel drive vehicles; and
- d) in bushfire prone areas must be designed and constructed to comply with the requirements of the Rural Fire Service (for further detail see Planning for Bushfire Protection 2006).

#### 5. Bushfire Management

In areas mapped as **bushfire prone land** a detailed Bushfire Assessment Report, prepared by a suitably qualified professional to be submitted with the development application. The report is to include as a minimum the following details:

- a) a description (including the address) of the property on which the development the subject of the application is proposed to be carried out;



- b) a classification of the vegetation on and surrounding the property (out to a distance of 140 metres from the boundaries of the property) in accordance with the system for classification of vegetation contained in Planning for Bush Fire Protection;
- c) an assessment of the slope of the land on and surrounding the property (out to a distance of 100 metres from the boundaries of the property);
- d) identification of any significant environmental features on the property;
- e) the details of any threatened species, population or ecological community identified under the *Threatened Species Conservation Act 1995* that is known to the applicant to exist on the property;
- f) the details and location of any Aboriginal object (within the meaning of the *National Parks and Wildlife Act 1974*) or Aboriginal place (within the meaning of that Act) that is known to the applicant to be situated on the property;
- g) a bush fire assessment for the proposed development (including the methodology used in the assessment) that addresses the following matters:
  - i) the extent to which the development is to provide for setbacks, including asset protection zones for each **dwelling house** or future house site within the multiple occupancy;
  - ii) the siting and adequacy of water supplies for fire fighting;
  - iii) the capacity of public roads in the vicinity to handle increased volumes of traffic in the event of a bush fire emergency, and any upgrading that may be required;
  - iv) whether or not public roads in the vicinity that link with the fire trail network have two-way access;
  - v) the adequacy of proposed arrangements for access to and egress from the Multiple Occupancy for the purposes of an emergency response;
  - vi) the adequacy of bush fire maintenance plans and fire emergency procedures for the multiple occupancy;
  - vii) the construction standards to be used for building elements in the development, including details on any upgrading of existing buildings in terms of the Australian Standard 3959 – 2009 Construction of Buildings in Bushfire Prone Areas, or construction standards for new buildings;
  - viii) the adequacy of sprinkler systems and other fire protection measures to be incorporated into the development;
- h) an assessment of the extent to which the proposed development conforms with or deviates from the standards, specific objectives and performance criteria set out in Planning for Bush Fire Protection 2006 or as amended.

## 6. Vegetation Management Plan

- a) Multiple Occupancy development is to include an element of environmental repair and enhancement based on 900 trees per **dwelling house**. Such repair is to be focused on the expansion of wildlife corridors, restoring and reconnecting vegetation remnants, and enhancing riparian areas and habitat for threatened species and endangered plant communities. Other measures as appropriate may be recommended by Council in lieu of this.
- b) Where properties are significantly infested by woody weeds (e.g. camphor laurel, lantana etc) Council will consider requests to undertake environmental repair and enhancement activities based on weed control and assisted natural regeneration and a lesser number of trees to be planted where it can be demonstrated that the



proposal will have a similar positive environmental impact to planting 900 trees per dwelling house.

- c) Council will also consider requests to undertake environmental repair and enhancement activities on other rural sites within the Shire (instead of on the land the subject of the application) where it can be demonstrated that the subject land:
- i) contains adequate native vegetation cover not threatened by competitive/inhibiting weed or noxious plant invasion and requires no further environmental repair and enhancement activities; or
  - ii) contains existing reforestation works undertaken as part of a long term program and where such works can be substantiated to Council's satisfaction; or
  - iii) notwithstanding the vegetation attributes of the land, the applicant identifies a higher priority location in the same local catchment area requiring urgent environmental repair and enhancement and that Council agrees to such a location.

Note: Where an applicant seeks to carry out environmental repair and enhancement work on another rural property, the consent from the land owner is to be submitted with the Development Application.

- d) Applications for Multiple Occupancy Development are to include a **vegetation management plan** detailing the revegetation and/or restoration program to be carried out over a period of at least five (5) years, with ongoing maintenance, protection and management in perpetuity thereafter.

The **vegetation management plan (VMP)** must detail where 900 local native trees per dwelling or share are to be planted as environmental repair and enhancement for development. **VMP's** must be prepared by a qualified and experienced bush regenerator (Certificate 4 in Natural Area Restoration/Conservation and Land Management) or ecologist with specific knowledge and experience in Restoration Ecology and in accordance with the *Guidelines for VMP/Biodiversity Conservation Management Plan (BCMP)/Environmental Enhancement Management Plan (EEMP)*, available on Council's website. Baseline monitoring and permanent monitoring points must be included with the **VMP** and restored or planted areas will have conditions imposed that the BMP area must be retained in perpetuity.

Equivalent ecological restoration may be provided where existing native vegetation occurs on site. It is preferred that remnant vegetation on site is restored to a local native plant community type before additional planting is undertaken. Weed control should prioritise invasive species and weeds of national significance (WONS). The area of restoration to be completed in place of planting is to be calculated as follows.

- i) Calculate the area required to plant 900 trees per residence/share using the appropriate plant spacings for the vegetation community to be established. For example, rainforest species are generally planted 2 to 3m apart, thus 900 trees would occupy an area of some 0.56ha at spacings of 2.5m (using the table below); while koala habitat restoration or eucalypt/sclerophyll plant communities naturally have spacings between 4m and 6m apart so that 900 trees would occupy an area of 1.44ha.





**Table D2.1 - Tree Spacing Numbers / Hectare (Ha)**

No of Trees per Ha	Spacing
10,000	@ 1.0metre spacing
4,444	@ 1.5metre spacing
2,500	@ 2.0metre spacing
1,600	@ 2.5metre spacing
1,111	@ 3.0metre spacing
816	@ 3.5metre spacing
625	@ 4.0metre spacing
400	5 metre spacings
25	20 metre spacings
16	25 metre spacings
11	30 metre spacings
4	50 metre spacings

- ii) For areas that are clearly dominated by weed species (greater than 50% cover over all stratus), the total restoration area is double that calculated in point a) above. For areas that are weedy, but not weed-dominated (less than 50% cover all stratus), the restoration area worked is four times that calculated above. These calculations ensure that equivalent effort is expended whether planting or restoring existing plant communities.

## 7. Water Management Plan

- a) A Water Management Plan to be submitted with the development application addressing the following:
- i) location, source and capacity of water supply for domestic, agricultural and fire prevention uses;
  - ii) how the layout of the multiple occupancy and location of **dwelling houses** and future house sites, will protect drainage lines and water courses;
  - iii) where a reliable dam supply is necessary to satisfy irrigation and stock requirements, that a quantifiable criteria of water catchment area has been established based on rainfall data, runoff data, expected consumption and a connecting formulae;
  - iv) minimum water tank storage for domestic use is 40,000 litres per dwelling house plus any additional requirements of the Rural Fire Service for fire fighting purposes; and
  - v) adequate water conservation measures (dual flush toilets, aerated shower roses and bathroom taps, water reuse, etc.) to be implemented as part of the development.
- b) An assessment of the impact on groundwater and surface water according to the NSW State Groundwater Policy and Framework Document 1997.
- c) Multiple use of dams and pumps to supply water for any purpose must be authorised under the provisions of the *Water Management Act 2000* or the *Water Act 1912*

## 8. Effluent Disposal



Details to be submitted with the development application by a suitably qualified professional that effluent can be disposed of on site in accordance with Council requirements for rural dwelling houses. The report is to be prepared in accordance with the requirements of Chapter B3 Services.

#### 9. Dwelling houses

- a) Individual **dwelling houses** to comply with the relevant provisions contained within this Chapter for single **dwelling houses**, including D2.2 and D2.3.
- b) **Dual occupancies** and **secondary dwellings** are not permitted unless otherwise specified in the multiple occupancy approval or in Schedule 1 of Byron LEP 2014.

## D2.7 Studios and Farm Buildings

Studios are meant for activities which may not be suitable in the **dwelling house**. This could include for example painting, pottery, playing music, writing, other artistic pursuits or an office space for a home office. The **studio** is not meant to be used a separate bedroom, nor is meant to be a **secondary dwelling** or for other habitable purposes.

Farm buildings, sheds and other structures are meant for rural activities such as a farm workshop, and the storage of farm equipment, stock, feed, and the like. Like **studios** they are not meant to be used for separate habitable purposes.

### D2.7.1 Studios

#### Objectives

1. *To enable construction and use of a detached building that is ancillary to and compatible in character with a **dwelling** where, because of its nature or space requirements the proposed use of the building is not practical within the confines of the **dwelling**.*
2. *To limit the number of **studios** allowed per property.*

#### Performance Criteria

1. The proponent must demonstrate that the **studio** is required for a purpose that, because of its nature or space requirements is not practical to undertake within the confines of the **dwelling**.
2. The **studio** must not be used for separate habitation and be compatible in design and character with the **dwelling** and its environment.

#### Prescriptive Measures

Studios are limited to one per property, or in the case of multiple occupancy and community title, one per **dwelling**. The **studio** must:

- a) be situated on the same site as the **dwelling**;
- b) not exceed 60m<sup>2</sup> **gross floor area**;
- c) not contain internal partitions other than those necessary for ablution facilities or demonstrably required for the use of the studio (e.g. photography darkroom);
- d) not contain a kitchen;





- e) not be used for separate habitation;
- f) the **studio** to be contained in a circle with a diameter no greater than 100 metres around the **dwelling house**;
- g) not require additional clearing of native vegetation, or the provision of additional public services infrastructure over and above that required by the dwelling.

## D2.7.2 Farm Buildings, Sheds and other Structures

### Objectives

1. To specify criteria for establishment of **farm buildings**.
2. To maintain the character and amenity of the Shire's Rural Zones.
3. To minimise conflicts between developments in Rural Zones.

### Performance Criteria

1. **Farm buildings** must observe the road and boundary **setback** requirements specified in Section D2.2.2 and the character and visual impact requirements specified in Section D2.2.3.
2. Determination of siting, extent and nature of development must be consistent with the provisions of Chapter B6 Buffers and Minimising Land Use Conflict.
3. Fencing, particularly adjoining E-zones, should aim to reduce negative impacts on native wildlife by complying with the Wildlife Friendly Fencing guidelines.
4. Fencing in flood prone areas should aim to meet the guidelines set out in the "Riparian Fences Guides".
5. Dwelling house to shed conversions should include at a minimum the removal of the kitchen cooking and washing facilities to facilitate use for agricultural needs which may include the addition of a roller door. This should include the removal of any non-structural internal partitions.
6. Sheds should be open, have minimal dividing walls and plumbing and be suitable for machinery and vehicle storage. Plans of decommissioning should be included with Development Applications seeking to change the use of the building from a dwelling to a shed.

### Prescriptive Measures

There are no Prescriptive Measures.



## D2.8 Community Title Development of Rural Land

### Objectives

1. To reflect the objectives and provisions of Byron LEP 2014 relating to Rural Community Title Development.
2. To maintain the character and amenity of the Shire's Rural Zones
3. To specify development requirements that apply to the establishment of **dwelling**s in Rural Community Title Developments.

### Performance Criteria

There are no Performance Criteria

### Prescriptive Measures

1. Individual **dwelling houses** are to comply with the relevant provisions contained within this Chapter for single **dwelling houses**, including D2.2 and D2.3.
2. **Dual occupancies** and **secondary dwellings** are not permitted unless otherwise specified in the community title approval or in Schedule 1 of Byron LEP 2014.
3. Vegetation Management Plan
  - a) Rural Community Title Development is to include an element of environmental repair and enhancement based on 900 trees per **dwelling house**. Such repair is to be focused on the expansion of wildlife corridors, restoring and reconnecting vegetation remnants, and enhancing riparian areas and habitat for threatened species and endangered plant communities. Other measures as appropriate may be recommended by Council in lieu of this.
  - b) Where properties are significantly infested by woody weeds (e.g. camphor laurel, lantana etc) Council will consider requests to undertake environmental repair and enhancement activities based on weed control and assisted natural regeneration and a lesser number of trees to be planted where it can be demonstrated that the proposal will have a similar positive environmental impact to planting 900 trees per dwelling house.
  - c) Council will also consider requests to undertake environmental repair and enhancement activities on other rural sites within the Shire (instead of on the land the subject of the application) where it can be demonstrated that the subject land:
    - iv) contains adequate native vegetation cover not threatened by competitive/ inhibiting weed or noxious plant invasion and requires no further environmental repair and enhancement activities; or
    - v) contains existing reforestation works undertaken as part of a long term program and where such works can be substantiated to Council's satisfaction; or
    - vi) notwithstanding the vegetation attributes of the land, the applicant identifies a higher priority location in the same local catchment area requiring urgent environmental repair and enhancement and that Council agrees to such a location.

Note: Where an applicant seeks to carry out environmental repair and enhancement work on another rural property, the consent from the land owner is to be submitted with the Development Application.



- d) Applications for Rural Community Title Developments are to include a **vegetation management plan** detailing the revegetation and/or restoration program to be carried out over a period of at least five (5) years, with ongoing maintenance, protection and management in perpetuity thereafter.

The **vegetation management plan (VMP)** must detail where 900 local native trees per dwelling or share are to be planted as environmental repair and enhancement for development.

**VMP's** must be prepared by a qualified and experienced bush regenerator (Certificate 4 in Natural Area Restoration/Conservation and Land Management) or ecologist with specific knowledge and experience in Restoration Ecology and in accordance with the *Guidelines for VMP/Biodiversity Conservation Management Plan (BCMP)/Environmental Enhancement Management Plan (EEMP)*, available on Council's website.

Baseline monitoring and permanent monitoring points must be included with the **VMP** and restored or planted areas will have conditions imposed that the BMP area must be retained in perpetuity.

Equivalent ecological restoration may be provided where existing native vegetation occurs on site. It is preferred that remnant vegetation on site is restored to a local native plant community type before additional planting is undertaken. Weed control should prioritise invasive species and weeds of national significance (WONS). The area of restoration to be completed in place of planting is to be calculated as follows.

- i) Calculate the area required to plant 900 trees per residence/share using the appropriate plant spacings for the vegetation community to be established. For example, rainforest species are generally planted 2 to 3m apart, thus 900 trees would occupy an area of some 0.56ha at spacings of 2.5m (using the table below); while koala habitat restoration or eucalypt/sclerophyll plant communities naturally have spacings between 4m and 6m apart so that 900 trees would occupy an area of 1.44ha.

**Table D2.2 - Tree Spacing Numbers / Hectare (Ha)**

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400	5 metre spacings
25	20 metre spacings
16	25 metre spacings
11	30 metre spacings
4	50 metre spacings

- ii) For areas that are clearly dominated by weed species (greater than 50% cover over all stratus), the total restoration area is double that calculated in point a) above. For areas that are weedy, but not weed-dominated (less than 50% cover all stratus), the restoration area worked is four times that



calculated above. These calculations ensure that equivalent effort is expended whether planting or restoring existing plant communities.





# Byron Shire Development Control Plan 2014

## Chapter D3 Tourist Accommodation



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## Chapter D3 – Tourist Accommodation

### Contents

<b>D3.1</b>	<b>Introduction.....</b>	<b>5</b>
D3.1.1	Aims of this Chapter .....	5
D3.1.2	Application of this Chapter .....	5
D3.1.3	Byron LEP 2014 Provisions relating to Tourist Accommodation.....	6
<b>D3.2</b>	<b>General Provisions .....</b>	<b>6</b>
D3.2.1	Location and Siting .....	6
D3.2.2	Character and Design in Residential, Village and Tourist Zones.....	6
D3.2.3	Character and Design in Rural Zones .....	7
D3.2.4	Character and Design in Business and Mixed Use Zones.....	8
D3.2.5	Character and Design in Recreation Zones .....	9
<b>D3.3</b>	<b>Specific Provisions.....</b>	<b>9</b>
D3.3.1	Backpackers' Accommodation .....	9
D3.3.2	Bed and Breakfast Accommodation .....	10
D3.3.3	Caravan Parks and Camping Grounds .....	11
D3.3.4	Rural Tourist Accommodation and Farm Stay Accommodation .....	12
D3.3.5	Eco-Tourist Facility .....	15
D3.3.6	Hotel or Motel Accommodation .....	18
D3.3.7	Serviced Apartments .....	18

### Tables

Table D3.1 – Density of Rural Tourist Accommodation.....	13
Table D3.2 - Tree Spacing Numbers / Hectare (Ha) .....	15
Table D3.3 – Density of Ecotourism Accommodation .....	16
Table D3.4 - Tree Spacing Numbers / Hectare (Ha) .....	17



**Document History**

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## D3.1 Introduction

Council is committed to a sustainable future for the Shire that involves balancing the protection and enhancement of its sensitive natural environment and improving social and economic outcomes for both residents and visitors. Byron Shire, with its scenic landscapes, attractive climate and relaxed but cosmopolitan lifestyle is a widely recognised domestic and international tourist destination. Tourism is an important contributor to the Shire's economy and to the lifestyle and wellbeing of its residents.

In September 2009 Council adopted the Byron Shire Tourism Management Plan 2008 to 2018 (Tourism Management Plan). The Tourism Management Plan provides a strategic and integrated framework to guide the management, development and marketing of tourism for Byron Shire during its 10 year life span.

This Chapter provides development guidelines and controls for **tourist accommodation** in the Shire. It aims to supplement the statutory provisions of Byron LEP 2014; to support the council's commitment to a sustainable natural, built and economic environment; and to implement those strategies and actions of the Tourism Management Plan that can be achieved through the development process.

### D3.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To provide development guidelines and controls for various forms of sustainable **tourist accommodation** development across the Shire.
2. To promote a high standard of environmentally sustainable and responsive design for **tourist accommodation** development that is sensitive to and enhances the natural and physical environment and the social fabric particular to Byron Shire.
3. To promote energy efficiency and to ensure consideration of the Shire's ecological characteristics and sub-tropical climate in the design process.
4. To minimise conflict arising from development, including conflict with the amenity of local residents and residential precincts, commercial areas and agricultural activities on farming lands.
5. To give effect to the objectives of the 'Byron Shire Tourism Management Plan 2008 to 2018' through the development process.

### D3.1.2 Application of this Chapter

This Chapter specifies the controls that apply to development applications seeking consent for **tourist accommodation** in Zones RU1, RU2, RU5, R2, R3, R5, B1, B2, B4, SP3 and RE1.



### D3.1.3 Byron LEP 2014 Provisions relating to Tourist Accommodation

Byron LEP 2014 applies specific development standards to **bed and breakfast accommodation**, **farm stay accommodation** and **eco-tourist facilities**. Clause 6.8 Rural and nature based tourism development also applies to tourism development in rural areas.

## D3.2 General Provisions

### D3.2.1 Location and Siting

#### Objectives

1. *To ensure that the siting and design of **tourist accommodation** does not conflict with important ecological characteristics or conservation values of the site or the Shire, and respects the natural systems and values of its location and surrounds.*
2. *To ensure that decisions relating to siting of development are consistent with the Objectives and provisions of Chapter B6 Buffers and Minimising Land Use Conflict.*

#### Performance Criteria

1. The siting, design and operation of **tourist accommodation** and associated development must not adversely affect important conservation values, ecological systems or characteristics of the site or the Shire. Development must respect and contribute to the natural environmental systems and values of its location and surrounds.
2. Development applications for proposals located in or near ecologically sensitive areas, areas of high environmental values and/ or important natural features or sites must include a full description of those ecological, conservation and natural values and systems, together with a comprehensive, professional assessment of the impact of the proposed development thereon. The impact assessment must include an evaluation of the effectiveness and sustainability of any proposed amelioration and management measures.
3. Determination of the siting, extent and nature of development must be consistent with the provisions of Chapter B6 Buffers and Minimising Land Use Conflict.

#### Prescriptive Measures

There are no Prescriptive Measures.

### D3.2.2 Character and Design in Residential, Village and Tourist Zones

#### Objectives

1. *To ensure that **tourist accommodation** in Residential, Village and Tourist Zones is compatible with the character and amenity of development in the locality.*



### Performance Criteria

1. **Tourist accommodation** in Zones RU5, R2, R3, R5, and SP3 must be compatible in character and amenity with development in the locality.
2. The provisions of the following Sections in Chapter D1 Residential Development in Urban and Special Purpose Zones apply to all **tourist accommodation** development in zones RU5, R2, R3, R5, and SP3 in the same way they apply to **residential accommodation** in Urban, Village and Special Purpose Zones:
  - a) Section D1.2.1 – Building Height Plane;
  - b) Section D1.2.2 – Setbacks from Boundaries;
  - c) Section D1.2.3 – Screening the Underfloor Space of Buildings;
  - d) Section D1.2.4 – Character and Visual Impact;
  - e) Section D1.2.5 – Fences;
  - f) Section D1.2.6 – Balconies;
  - g) Section D1.2.7 – Pedestrian and Cycle Access.
3. All service pipes and vents must be concealed within the walls of developments, with provision for access as required by relevant authorities. Recessed service pipes in external walls may be acceptable subject to individual assessment.
4. Where televisions are provided common television reception facilities must be included in the development.

### Prescriptive Measures

There are no Prescriptive Measures.

## D3.2.3 Character and Design in Rural Zones

### Objectives

1. To ensure that **tourist accommodation** in Rural Zones is compatible with the surrounding landscape and with the character and amenity of development in the locality.
2. To implement the relevant Aims, Guiding Principles and provisions of the Byron Rural Settlement Strategy 1998.

### Performance Criteria

1. **Tourist accommodation** development in Zones RU1 and RU2 must be compatible in character and amenity with the surrounding rural and natural landscape, and with development in the locality.
2. The provisions of Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones apply to all **tourist accommodation** development in zones RU1 and RU2 in the same way they apply to residential accommodation in Rural Zones.
3. All development to which this Chapter applies in Rural Zones must be **low scale** consistent with the relevant Aims, Guiding Principles, Best Practice Guidelines and Performance Standards contained in the Byron Rural Settlement Strategy 1998 ('the Strategy') as follows:

a) The Strategy's relevant aims are:

- i) *To ensure that ecological, social and economic considerations are successfully integrated into the decision-making process for all future rural settlement in Byron Shire.*
- ii) *.....*
- iii) *To ensure future rural settlement is directly linked to the repair, enhancement and protection of the natural environment, thereby increasing the Shire's natural capital.*

b) The Strategy's relevant Guiding Principles are:

- i) *overriding principle -- all new rural settlement must meet the needs of Byron's residents today while conserving the Shire's ecosystems, agricultural viability, lifestyles, heritage and culture for the benefit of future generations;*
- ii) *sustainability -- development meets the needs of today without compromising the ability of future generations (long timeframes) to meet their own needs and enjoy a quality life resulting from clean air, water and soils;*
- iii) *planning -- Shire wide planning identifies potential rural settlement areas integrated with catchment-based (geographical, water and social) planning;*
- iv) *consultation -- there is full community consultation and participation with the local community prior to decision-making, and support for participatory settlement planning;*
- v) *environment -- existing habitat areas are identified, protected and enhanced, environmental repair is undertaken and corridors of native vegetation linking habitat areas are provided;*
- vi) *water quality -- natural watercourses and the riparian lands, wetlands and groundwater systems are protected from sources of pollution and the water quality is maintained and improved;*
- vii) *identity -- Byron Shire's unique image, diverse lifestyle and local character are maintained;*
- viii) *facilities -- adequate community facilities to meet the needs of rural settlement areas are provided; and*
- ix) *land use -- existing and potential agricultural and horticultural land uses and extractive resources on site are protected; and off-site, on adjacent and nearby areas, their landuses and resources are not adversely impacted by rural settlement.*

c) The relevant Best Practice guidelines are contained in Chapter 7 of the Strategy.

d) The relevant Performance Standards are contained in Chapter 8 of the Strategy.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **D3.2.4 Character and Design in Business and Mixed Use Zones**

### **Objectives**

1. *To ensure that **tourist accommodation** in Business and Mixed Use Zones is compatible with the character and amenity of development in the locality.*



### Performance Criteria

**Tourist accommodation** in Zones B1, B2 and B4 must be compatible in character and amenity with development in the locality. The provisions of the following Sections in Chapter D4 Commercial and Retail Development apply to all **tourist accommodation** development in Zones B1, B2 and B4 in the same way they apply to commercial and retail development in Business and Mixed Use zones:

- a) Section D4.2.1 – Design Character of Retail and Business Areas.
- b) Section D4.2.2 – Design Detail and Appearance.

### Prescriptive Measures

There are no Prescriptive Measures.

## D3.2.5 Character and Design in Recreation Zones

### Objectives

1. To ensure that **caravan parks** and **camping grounds** in Zone RE1 Public Recreation are compatible with the surrounding landscape and land uses, and with the character and amenity of development in the locality.

### Performance Criteria

**Caravan parks** and **camping grounds** in Zone RE1 must be compatible in character and amenity with the character, landscape and land uses within the zone. The development must not create adverse environmental impacts in the surrounding landscape, or on development in the locality.

### Prescriptive Measures

There are no Prescriptive Measures.

## D3.3 Specific Provisions

### D3.3.1 Backpackers' Accommodation

### Objectives

1. To ensure that **backpackers' accommodation** development is compatible with the character and amenity of development in the locality.
2. To ensure that establishment and operation of **backpackers' accommodation** development does not adversely affect the social and economic robustness, diversity and vitality of retail, business and community areas.

### Performance Criteria

1. The design and operation of **backpackers' accommodation** must be compatible with the streetscape and character of development in the locality.
2. Development applications must demonstrate that the proposed development will be consistent with the requirements of Chapter B11 Planning for Crime Prevention.
3. Development applications may need to be accompanied by a Social Impact Assessment prepared pursuant to Chapter B12 Social Impact Assessment, where

applicable. The Social Impact Assessment must identify and take into account cumulative impacts of the proposed development, having regard to the scale, location and operation of other development, including other **backpackers' accommodation**.

4. Accommodation areas must have access to an outdoor sitting area adequate for the proposed number of occupants, which must be adjacent to the general living or kitchen area and which must provide adequate access to winter sun and summer shade. The outdoor area may comprise part of a common access balcony.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **D3.3.2 Bed and Breakfast Accommodation**

### **Objectives**

1. *To ensure that the design and operation of **bed and breakfast accommodation** is compatible with the character of development in the locality.*

### **Performance Criteria**

1. The design and operation of **bed and breakfast accommodation** must be compatible with the streetscape and character of development in the locality.
2. The design and operation of **bed and breakfast accommodation** must not adversely affect the amenity of the precinct in which it is located.
3. The following additional criteria apply to **bed and breakfast accommodation** in Zones RU1 and RU2:
  - a) The development must be located and operated so that it does not adversely affect the conduct and productivity of agricultural operations on the site, or create potential for conflict with adjoining land uses. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
  - b) Development for the purpose of **bed and breakfast accommodation** must be designed and located to be compatible with the surrounding rural and natural landscape.

### **Prescriptive Measures**

**Bed and breakfast accommodation** must:

- a) contain no more than 5 bedrooms for the accommodation of guests;
- b) accommodate no more than 10 guests;
- c) require the owner and/or operator to be a permanent resident on the site;
- d) offer at least breakfast for guests;
- e) provide meals for residents and guests only;
- f) contain no facilities (e.g. kitchen, sink and the like) in the rooms for preparation of food by guests;
- g) be consistent with Council's requirements in relation to kitchen facilities, fire protection, acoustic control and the like;



- h) provide car parking in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access;
- i) in urban areas, incorporate and maintain landscaping provided in accordance with the requirements of Chapter B9 Landscaping;
- j) be designed to ensure consistency with Chapter B6 Buffers and Minimising Land Use Conflict;
- k) be designed to ensure consistency with Chapter B13 Access and Mobility and the relevant disabled access and sanitary/ bathroom facility requirements of the Building Code of Australia.

### D3.3.3 Caravan Parks and Camping Grounds

#### Objectives

1. *To ensure that the design and operation of **caravan parks** and **camping grounds** will meet the needs of users and will be compatible with the character of existing development in the locality.*

#### Performance Criteria

1. The design of **caravan parks** and **camping grounds** must be compatible with the existing streetscape and character of the precinct in which they are located.
2. **Caravan parks** and **camping grounds** should be designed to avoid adverse effects on the amenity of the precinct in which they are located.
3. The proposed site must be suitable for the development of the **caravan park** or **camping ground**, having particular regard to the following principles:
  - a) steep slopes must be avoided because of drainage, slip and bushfire problems and potential damage to the environment;
  - b) parks must not disturb water courses and must not be located in low-lying areas with poor drainage, or on flood liable land;
  - c) existing vegetation and areas with ecological and conservation values must be protected;
  - d) sites which are difficult to landscape and integrate into the visual environment are unsuitable;
  - e) site layout and landscaping must break up or conceal the repetitive image of caravans and movable dwellings;
  - f) climatically and visually exposed sites such as headlands and ridges are unsuitable;
  - g) location adjacent to incompatible land uses is unacceptable;
  - h) sites must not form a barrier to adjacent public lands (e.g. foreshore areas);
  - i) sites that accommodate or are to accommodate long-term residents must have good access to appropriate services and facilities.
4. A minimum 10% of the total area of the **caravan park** or **camping ground** must be developed for recreation and communal activities. The recreation and communal activities area must not include any caravan site, campsite, roadway or land designated for any other purpose, but may be grassed and landscaped with trees and/ or other

plants. A maximum 10% of the recreation area may be used as the site of a building devoted to recreation or communal activities that are appropriate to the proposed mix of occupants and users of the **caravan park**. Any such building must be integrated with the landscape and aesthetic characteristics of the site and the recreation area.

5. Development applications must demonstrate that the proposed development will be consistent with the requirements of Chapters B6 Buffers and Minimising Land Use Conflict, B9 Landscaping, B11 Planning for Crime Prevention and B13 Access and Mobility.
6. Development applications may need to be accompanied by a Social Impact Assessment prepared pursuant to Chapter B12 Social Impact Assessment, where applicable.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

### **D3.3.4 Rural Tourist Accommodation and Farm Stay Accommodation**

#### **Objectives**

1. *To ensure that **rural tourist accommodation** does not detract from the rural and natural character of its locality.*
2. *To ensure that **rural tourist accommodation** does not adversely affect the conduct and productivity of agricultural operations on the site or nearby lands.*
3. *To facilitate and support the establishment of **low scale** farm tourism as a secondary business to primary production, where **farm stay accommodation** is proposed.*

#### **Performance Criteria**

1. The development must be located and operated so that it does not:
  - a) adversely affect the conduct and productivity of agricultural operations on the site;
  - b) create potential for conflict with adjoining land uses;
  - c) disrupt environmental enhancement projects on the land; and
  - d) impact on the ecological or environmental values of the land; and
  - e) conflict with buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
2. **Rural tourist accommodation** must be designed and located to be compatible with the surrounding rural and natural landscape. Where new buildings are proposed to be constructed for the purpose of **rural tourist accommodation** such buildings are to be clustered and located in proximity to the primary **dwelling house** on the lot.
3. The development is to be **low scale** and designed and located to be compatible with the surrounding rural environment and of minimal environmental impact.
4. Car parking for guests must be provided in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.



5. Provision of recycling and **waste** management facilities must be in accordance with Chapter B8 Waste Minimisation and Management.
6. The development must observe the road and boundary **setback** requirements specified in Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones (D2.2.2) and the character and visual impact requirements (D2.2.3).
7. **Rural tourist accommodation** to be suitably sited in accordance with the requirements of Chapter C3 Visually Prominent Sites, Visually Prominent Development & View Sharing.
8. Environmental reparations are required as a part of any Rural Tourist Development. Such repairs are to be focused on the expansion of wildlife corridors, repairing and reconnecting vegetation remnants and enhancing riparian areas and habitat for threatened species and endangered plant communities.

### Prescriptive Measures

1. **Rural tourist accommodation** can incorporate up to 12 bedrooms collectively and accommodate a maximum of 2 persons per bedroom, with overall accommodation densities in accordance with Table D3.1 below:

**Table D3.1 – Density of Rural Tourist Accommodation**

Land Size	Max Number of Bedrooms
0 – 3 ha	3
1 additional bedroom for every 1.5 ha to a maximum of 12 bedrooms	
20 ha or greater	12

2. **Rural tourist accommodation** is to be designed with the following features.
  - a) Each **rural tourist accommodation** structure is to have a **gross floor area** not more than 60 m<sup>2</sup> comprising a maximum of two (2) bedrooms, a kitchenette and bathroom/ toilet amenities. **Rural tourist accommodation** is to open up onto outdoor recreation/living areas with access to winter sun and summer shade, and where possible orientated to take advantage of views of the surrounding hinterland, rural landscapes, the Pacific Ocean and/or other natural features.
  - b) All weather car parking must be provided on-site in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access. The paving of car parking areas is not encouraged (except where roads need to be on more steeply sloping lands), rather these areas should be a pervious surface such as hailstone or gravel or other forms of permeable paving to an all-weather standard to ameliorate stormwater runoff.
  - c) Provide external pedestrian access between buildings and facilities associated with the development, including car parking. The access must comprise connecting pathways or access **balconies** with an all-weather surface and must be integrated with the overall landscape plan for the development. Where feasible, access pathways between buildings and parking areas should be covered to provide weather protection.
  - d) Be designed and constructed to minimise noise and vibration impacts on occupants of adjoining or nearby dwellings or buildings.
  - e) A landscape plan to be submitted with the application in accordance with Chapter B9 Landscaping. The plan to incorporate adequate landscaping and screen

plantings when viewed from a public road or a **dwelling** on other land in the locality, and for privacy between **rural tourist accommodation** structures.

- f) Be located so that it may benefit from existing road and physical infrastructure.
  - g) One of the bedrooms within the **rural tourist accommodation** structure must have disabled access.
  - h) The siting of **rural tourist accommodation** must be such that:
    - i) adequate separation distances are incorporated to minimise the potential for land use conflict between the proposed rural tourist facility and existing or potential conflicting land uses such as intensive agriculture, quarries, animal establishments, on adjoining or adjacent land in accordance with Chapter B6 Buffers and Minimising Land Use Conflict;
    - ii) all **rural tourist accommodation** is to be located on land having either a North, Northwest, /Northeast or Easterly aspect to maximise solar energy collection and minimise energy use;
    - iii) **rural tourist accommodation** is to be arranged in a 'cluster' pattern and located on average no further than 80 metres apart with adequate vegetation screening between for privacy and amenity purposes;
    - iv) on-site sewage management to be designed in accordance with Chapter B3 Services;
    - v) it is located and operated so that it does not adversely affect the conduct and productivity of agricultural operations on the site. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
3. A **vegetation management plan (VMP)** is to be submitted with each Rural Tourist Accommodation Development Application detailing where 900 local native trees per cabin or rural tourist residence are to be planted as environmental repair and enhancement for development. **VMP's** must be prepared by a qualified and experienced bush regenerator (Certificate 4 in Natural Area Restoration / Conservation and Land Management) or ecologist with specific knowledge and experience in Restoration Ecology and in accordance with the *Guidelines for VMP/Biodiversity Conservation Management Plan (BCMP)/ Environmental Enhancement Management Plan (EEMPs)*, available on Council's website.

Baseline monitoring and permanent monitoring points must be included with the **VMP** and restored or planted areas will have conditions imposed that the **VMP** area must be retained in perpetuity.

Equivalent ecological restoration may be provided where existing native vegetation occurs on site. It is preferred that remnant vegetation on site is restored to a local native plant community type before additional planting is undertaken. Weed control should prioritise invasive species and weeds of national significance (WONS). The area of restoration to be completed in place of planting is to be calculated as follows:

- a. Calculate the area required to plant 900 trees per cabin or rural tourist residence using the appropriate plant spacings for the vegetation community to be established. For example, rainforest species are generally planted 2 to 3m apart, thus 900 trees would occupy an area of some 0.56ha at spacings of 2.5m (using the table below); while koala habitat restoration or eucalypt/sclerophyll plant communities naturally have spacings between 4m and 6m apart so that 900 trees would occupy an area of 1.44 ha.

**Table D3.2 - Tree Spacing Numbers / Hectare (Ha)**

No of Trees per Ha	Spacing
10,000	@ 1.0metre spacing
4,444	@ 1.5metre spacing
2,500	@ 2.0metre spacing
1,600	@ 2.5metre spacing
1,111	@ 3.0metre spacing
816	@ 3.5metre spacing
625	@ 4.0metre spacing
400	5 metre spacings
25	20 metre spacings
16	25 metre spacings
11	30 metre spacings
4	50 metre spacings

- b. For areas that are clearly dominated by weed species (greater than 50% cover over all stratus), the total restoration area is double that calculated in point a) above. For areas that are weedy, but not weed-dominated (less than 50% cover over all stratus), the restoration area worked is four times that calculated above. These calculations ensure that equivalent effort is expended whether planting or restoring existing plant communities.
4. All development applications for **farm stay accommodation** to include suitable details demonstrating that the accommodation is secondary to farming activity on the land.
5. Night time lighting for outdoor recreational facilities such as tennis courts or sporting facilities is prohibited. All other external lighting should be limited to protect the dark night sky and the rural atmosphere of the locality (e.g. lighting located around pool areas).

### D3.3.5 Eco-Tourist Facility

#### Objectives

1. To facilitate and support the establishment of **low scale** nature based tourism.
2. To ensure that the size and scale of **eco-tourist facilities** are consistent with the goal of protecting and enhancing the natural environment or scenic amenity of the locality.
3. To ensure that **eco-tourist facilities** are sympathetically designed and sited such that the development does not impinge on the amenity or agricultural productivity of adjoining properties.

#### Performance Criteria

1. The development must be located and operated so that it does not:
  - a) adversely affect the conduct and productivity of agricultural operations on the site;
  - b) create potential for conflict with adjoining land uses;
  - c) disrupt environmental enhancement projects on the land;

- d) impact on the ecological or environmental values of the land;
  - e) impact upon the scenic qualities of the landscape;
  - f) conflict with buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
2. The development is to be **low scale** and designed and located to be compatible with the surrounding rural environment and of minimal environmental impact.
  3. Car parking for guests must be provided in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access. Provision of recycling and **waste** management facilities must be in accordance with Chapter B8 Waste Minimisation and Management.
  4. The development must observe the road and boundary **setback** requirements specified in Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones (D2.2.2) and the character and visual impact requirements (D2.2.3).
  5. The development is to be suitably sited in accordance with the requirements of Chapter C3 Visually Prominent Sites, Visually Prominent Development & View Sharing.

### Prescriptive Measures

1. To ensure the development respects the environmental values of the land and is sensitively located, the density of accommodation to be provided is as follows:

**Table D3.3 – Density of Ecotourism Accommodation**

Land Size	Max Number of Bedrooms
0 – 3 ha	3
1 additional bedroom for every 1.5 ha to a maximum of 12 bedrooms	
20 ha or greater	12

2. In the event that free standing buildings or structures are proposed, the prescriptive measures for **rural tourist accommodation** in Section D3.3.4 (Prescriptive Measure 2) apply.
3. In the event that camping sites are proposed the performance criteria in Section D3.3.3 for **caravan parks** and **camping grounds** apply.
4. In the event that a purpose-built building is constructed or an existing building is converted into guest accommodation, such a building is to have a gross floor area not exceeding 40 m<sup>2</sup> per bedroom.
5. A plan for the environmental repair and enhancement of the property (i.e. a **vegetation management plan** or **biodiversity conservation management plan**) should be submitted with any application. Works can incorporate a mixture of weed removal and/or tree planting dependant upon the environmental and ecological qualities and features of the property.
6. A water management plan shall be submitted with the development application demonstrating how rain water is to be harvested from the roofs of buildings or other sources and stored in tanks for use. Potable Water is to be stored and distributed in accordance with the Private Water Supply Guidelines prepared by NSW Health.
7. Where possible, power shall be provided by renewable sources including wind and solar generators. Details to be submitted with the application.

8. A waste management plan shall be submitted with the development application which sets out as a minimum, measures to separate and dispose of green waste, paper and cardboard, glass bottles, metal cans, plastics, and putrescible waste.
9. A demonstrated connection between the development and the ecological, environmental, or cultural values of the site or area must include that the site or area is not more than 1km from the development and that it is accessible to visitors so they can experience it in a tangible way.
10. A **vegetation management plan (VMP)** is to be submitted with each Eco Tourist Facility Development Application detailing where 900 local native trees per cabin or eco-tourist facility are to be planted as environmental repair and enhancement for development. **VMP's** must be prepared by a qualified and experienced bush regenerator (Certificate 4 in Natural Area Restoration / Conservation and Land Management) or ecologist with specific knowledge and experience in Restoration Ecology and in accordance with the *Guidelines for VMP/Biodiversity Conservation Management Plan (BCMP)/ Environmental Enhancement Management Plan (EEMPs)*, available on Council's website.

Baseline monitoring and permanent monitoring points must be included with the **VMP** and restored or planted areas will have conditions imposed that the **VMP** area must be retained in perpetuity.

Equivalent ecological restoration may be provided where existing native vegetation occurs on site. It is preferred that remnant vegetation on site is restored to a local native plant community type before additional planting is undertaken. Weed control should prioritise invasive species and weeds of national significance (WONS). The area of restoration to be completed in place of planting is to be calculated as follows:

- a. Calculate the area required to plant 900 trees per cabin or rural tourist residence using the appropriate plant spacings for the vegetation community to be established. For example, rainforest species are generally planted 2 to 3m apart, thus 900 trees would occupy an area of some 0.56ha at spacings of 2.5m (using the table below); while koala habitat restoration or eucalypt/sclerophyll plant communities naturally have spacings between 4m and 6m apart so that 900 trees would occupy an area of 1.44 ha.

**Table D3.4 - Tree Spacing Numbers / Hectare (Ha)**

No of Trees per Ha	Spacing
10,000	@ 1.0metre spacing
4,444	@ 1.5metre spacing
2,500	@ 2.0metre spacing
1,600	@ 2.5metre spacing
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625	@ 4.0metre spacing
400	5 metre spacings
25	20 metre spacings
16	25 metre spacings
11	30 metre spacings
4	50 metre spacings

- b. For areas that are clearly dominated by weed species (greater than 50% cover over all strata), the total restoration area is double that calculated in point a) above. For areas that are weedy, but not weed-dominated (less than 50% cover

over all strata), the restoration area worked is four times that calculated above. These calculations ensure that equivalent effort is expended whether planting or restoring existing plant communities.

### D3.3.6 Hotel or Motel Accommodation

#### Objectives

1. To ensure that **hotel or motel accommodation** development is compatible with the character and amenity of development in the locality.
2. To ensure that establishment of **hotel or motel accommodation** development does not adversely affect the social and economic robustness, diversity and vitality of retail, business and community areas and precincts.

#### Performance Criteria

1. The design and operation of **hotel or motel accommodation** must be compatible with the streetscape and character of development in the locality.
2. Development applications must demonstrate that the proposed development will be appropriately designed and landscaped consistent with the requirements of Chapters B11 Planning for Crime Prevention and B9 Landscaping.
3. **Hotel or motel accommodation** development must not adversely affect the amenity of the precinct in which it is located. Development applications may need to be accompanied by a Social Impact Assessment prepared pursuant to Chapter B12 Social Impact Assessment, where applicable.
4. External pedestrian access must be provided between accommodation units and other facilities associated with the development, including car parking. The access must comprise covered connecting pathways or access **balconies** with an all-weather surface and must be integrated with the overall landscape plan for the development.
5. Motels must incorporate eating and living areas and facilities, together with outdoor recreation/ living areas with access to winter sun and summer shade. They may also include self-contained cooking facilities.
6. Development must be designed and constructed to minimise noise and vibration impacts on occupants of adjoining or nearby **dwellings** or buildings.

#### Prescriptive Measures

There are no Prescriptive Measures.

### D3.3.7 Serviced Apartments

#### Objectives

1. To ensure that **serviced apartment** development is compatible with the character and amenity of development in the locality.
2. To ensure that establishment of **serviced apartment** development does not adversely affect the social and economic robustness, diversity and vitality of retail, business and community areas and precincts.



### **Performance Criteria**

1. The design and operation of **serviced apartments** must be compatible with the streetscape and character of development in the locality.
2. Development applications must demonstrate that the proposed development is designed and landscaped consistent with the requirements of Chapters B11 Planning for Crime Prevention and B9 Landscaping.
3. **Serviced apartments** must not adversely affect the amenity of the precinct in which it is located.
4. **Serviced apartments** must comply with the requirements of Chapter D1 Residential Development in Urban and Special Purpose Zones, Section D1.6.

### **Prescriptive Measures**

There are no Prescriptive Measures.



# Byron Shire Development Control Plan 2014

## Chapter D4 Commercial and Retail Development



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## Chapter D4 – Commercial and Retail Development

### Contents

<b>D4.1</b>	<b>Introduction.....</b>	<b>5</b>
D4.1.1	Purpose of this Chapter .....	5
D4.1.2	Aims of this Chapter .....	5
D4.1.3	Development Controlled by this Chapter.....	5
D4.1.4	Relevant Byron LEP 2014 Provisions .....	6
<b>D4.2</b>	<b>Development Controls.....</b>	<b>6</b>
D4.2.1	Design and Character of Retail and Business Areas.....	6
D4.2.2	Design Detail and Appearance .....	7
D4.2.3	Vehicle Access and Parking .....	8
D4.2.4	Loading Docks.....	9
D4.2.5	Street Setbacks .....	9
D4.2.6	Plumbing .....	10
D4.2.7	Arcades .....	10
D4.2.8	Development within the Road Reserve .....	11
D4.2.9	Restaurants/ Cafes in Rural Areas.....	12
D4.2.10	Restaurants, Cafes, Small bars, Pubs Registered Clubs, Function Centres and other Licensed Premises in the Urban Areas of Byron Shire.....	13
D4.2.11	Building forms (south eastern end of Jonson Street only, refer to Map D4.1).....	16
D4.2.12	Street Trees (south eastern end of Jonson Street only, refer to Map D4.1).....	18
D4.2.13	Footpath Construction (Byron CBD) .....	19

### Maps

Map D4.1 - South eastern end of Jonson Street Byron Bay.....	20
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### Figures

Figure D4.1 - South Jonson Street – Setbacks relating to Building Forms .....	17
Figure D4.2 - South Jonson Street – Setbacks to Street Frontage .....	18

### Appendices

Appendix D4.1 Footpath Construction Type Byron Bay CBD.....	21
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***Document History***

Doc No.	Date Amended	Details (e.g. Resolution No.)
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#E2014/32924		Draft to 26 June 2014 Extraordinary Meeting - for adoption
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## **D4.1 Introduction**

### **D4.1.1 Purpose of this Chapter**

This purpose of this Chapter is to specify the controls that apply to development applications seeking consent for development for business, commercial, retail and associated purposes, other than certain development excluded in Section D4.1.3 below.

### **D4.1.2 Aims of this Chapter**

1. To ensure that the bulk, scale, character and operation of business, commercial, retail and associated development are compatible with the character and amenity of development in the locality and in the Shire.
2. To encourage safe, diverse, multi-functional centres that promote a compatible range of commercial, recreational and community activities appropriate to the Shire's climate, environment, social fabric and scenic character.
3. To ensure that establishment and operation of business, commercial, retail and associated development does not adversely affect the social and economic robustness, diversity and vitality of retail, business and other urban areas and precincts.
4. To encourage commercial development that will enhance the appearance and functions of commercial and retail areas within the Shire, and reinforce a natural, subtropical tourist image.
5. To provide a high standard of innovative architectural and landscape design consistent with and sensitive to the context of the surrounding locality, including adjoining residential, community or open space areas.
6. To encourage the creation of effective and attractive malls, arcades, outdoor dining and pedestrian areas.
7. To promote reduction in motor vehicle trips, and to encourage pedestrian and bicycle access, usage and mobility.
8. To encourage compatible and sustainable economic development and the creation of employment opportunities.

### **D4.1.3 Development Controlled by this Chapter**

The types of development to which this Section applies includes:

1. **Amusement centres**
2. **Commercial premises**
3. **Entertainment facilities**
4. **Function centres**
5. **Health service facilities**



6. **Registered clubs**
7. **Restricted premises**
8. **Service stations**
9. **Vehicle sales or hire premises**
10. **Veterinary hospitals**
11. **Warehouses or distribution centres**
12. Other development used or intended to be used, primarily for business, commercial or retail purposes, other than development addressed specifically by other Chapters of this DCP.

This Chapter does not apply to development for **residential accommodation**, **tourist accommodation**, **industry** or **sex services premises** – those forms of development are addressed in Chapters D1 Residential Development in Urban and Special Purpose Zones, D2 Residential Accommodation and Ancillary Development in Rural Zones, D3 Tourist Accommodation, D5 Industrial Development and D7 Sex Services Premises respectively.

#### **D4.1.4 Relevant Byron LEP 2014 Provisions**

The Land-Use Table within Byron LEP 2014 specifies certain types of business, commercial and retail development that is permissible without consent, permissible with consent and prohibited in various zones across the Shire, and also stipulates certain exempt and complying development under Schedule 2 and 3.

The definitions of various terms used and certain types of business, commercial and retail development are contained in the Byron LEP 2014 Dictionary, or in the Dictionary to this DCP. The provisions in this Chapter supplement those provisions of Byron LEP 2014 that apply to business, commercial and retail development.

## **D4.2 Development Controls**

### **D4.2.1 Design and Character of Retail and Business Areas**

#### **Objectives**

1. *To promote pedestrian and cycle usage, together with reduced vehicle dependency in the Shire's business, commercial and retail areas.*
2. *To encourage safety, accessibility and human scale in the Shire's business, commercial and retail areas.*
3. *To encourage diverse, multi-functional business, commercial and retail centres that provide a compatible range of commercial, recreational and community activities appropriate to the Shire's climate, environment, social fabric and scenic character.*
4. *To ensure that development reinforces the role of centres within the Shire's commercial centres hierarchy.*

5. *To ensure that establishment and operation of new development contributes to and does not detract from the social and economic robustness, diversity and vitality of retail, business and community areas and precincts.*

### **Performance Criteria**

1. Business, commercial and retail development must be designed to promote and encourage safe, convenient pedestrian and cycle access to and from the development itself and the surrounding precinct. Development must be designed to integrate well with the locality's pedestrian and cycle network and to contribute to the aesthetics, landscape design and usage of adjoining streets.
2. The design of development must be compatible with the diversity and multi-functional character of its locality. In retail areas development must be designed to promote visual interest, to maximise shopfront window access, and to minimise blank walls along street frontages.
3. Design of development must respect the Shire's subtropical climatic conditions and must make provision for winter sunlight, summer shade and weather protection in adjoining streets and pedestrian areas.
4. Development must be compatible with and reinforce the role of the centre in the commercial centres hierarchy. Development within coastal centres must reflect a low-scale, tourist-beach image. Development in rural centres or localities must be compatible with the atmosphere and character of the centre or locality.
5. Pedestrian areas, community spaces, vehicle parking and manoeuvring areas must be paved, furnished and landscaped in accordance with the provisions of Chapter B9 Landscaping, and with any landscape and streetscape themes adopted by Council for the locality.
6. Development applications must demonstrate that the establishment and operation of the proposed development will not adversely affect:
  - a) The social and economic robustness, diversity and vitality of retail, business and community areas and precincts.
  - b) The social amenity of the precinct in which it is located.
7. Development applications must demonstrate that the proposed development will be consistent with the requirements of this DCP, including (but not limited to) Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access, B8 Waste Minimisation and Management, B10 Signage and B11 Planning for Crime Prevention.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **D4.2.2 Design Detail and Appearance**

### **Objectives**

1. *To ensure that development is compatible with the design and amenity of development in the locality.*

### **Performance Criteria**

1. The design of new buildings must reflect and enhance the existing character of the precinct. The design, scale, bulk, design and operation of business, commercial and



- retail development must be compatible with the streetscape and with the aesthetics, function and amenity of development in the locality.
2. Building design, roof profile, detailing, colours, materials and the like that are visible from the street and from adjoining properties must be compatible with any dominant design themes in the surrounding locality.
  3. The pattern of windows in retail areas must provide visual interest and variation and must relate to those of adjacent buildings. Building materials must relate to the context of buildings within the area to achieve continuity and harmony. Contrasting materials may be used to provide diversity, however materials and colour must not be used so that they dominate the streetscape.
  4. Special emphasis must be given to the design of corner buildings, including consideration of:
    - a) How the building addresses neighbouring buildings, its dual frontage and its turning of the corner.
    - b) Stepping up at the corner and creating a perceived height greater than neighbouring buildings.
    - c) Incorporation of distinctive features to enhance the streetscape, e.g. stepped parapet, turrets, towers, clocks or the like.
    - d) Creating a splayed or recessed treatment of the corner in a way that gives form to the intersection and provides more circulation space for pedestrians.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

### **D4.2.3 Vehicle Access and Parking**

#### **Objectives**

1. *To provide for safe and effective vehicle access, manoeuvring and parking in association with business, commercial and retail development.*

#### **Performance Criteria**

1. Vehicular driveways, parking and loading areas must be designed to minimise disturbances to the free flow of pedestrians on or adjoining the site, while providing convenience and safety to customers, staff and service vehicles.
2. Where vehicular access is proposed across pedestrian areas or footpaths, the design must give priority to pedestrian amenity, accessibility and safety whilst ensuring that contemporary vehicle and traffic safety criteria are achieved.
3. Underground **car parks** must be designed to exclude the entry of stormwater and/or **groundwater** to the basement in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

#### **Prescriptive Measures**

Vehicle access and parking arrangements must be consistent with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

## D4.2.4 Loading Docks

### Objectives

1. *To ensure that loading docks are designed and located so that they will not adversely affect the streetscape or visual character of the area when viewed from roads, public places or nearby properties.*

### Performance Criteria

Loading docks, bays and service areas (e.g. garbage and bin storage areas) must not be visible from any public place and must be screened from adjacent properties. Screening may be achieved by locating such areas behind the buildings, by fencing, landscaping, mounding or a combination of these, or by other means that demonstrate compliance with the Objective.

### Prescriptive Measures

Loading docks to comply with the relevant provisions of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access and Chapter B8 Waste Minimisation and Management.

## D4.2.5 Street Setbacks

### Objectives

1. *To provide for **setbacks** that complement and enhance the streetscape and the character of the centre.*

### Performance Criteria

1. Street **setbacks** are not usually appropriate in retail shopping areas unless they maintain visual and physical continuity of interest and diversity along the street, and provide public facilities such as seating, recreation areas or outdoor dining areas.
2. Street **setbacks** are encouraged for other commercial development in circumstances where the provision of **setbacks** would improve the amenity, interest and visual appeal of the precinct by:
  - a) Providing a softer, more open feeling to the streetscape of town areas;
  - b) Encouraging interest, diversity and a relaxed atmosphere;
  - c) Enabling street furniture and landscaping to become an integral part of the town's commercial precinct;
  - d) Ensuring that development is conducive to effective pedestrian movement and access;
  - e) Providing for alfresco dining in the front setback rather than on the public footpath to minimise pedestrian conflicts.
3. Commercial/ retail type premises in the RU5 and R2, R3 and R5 Zones to have regards to the setbacks of adjoining and surrounding development.

### Prescriptive Measures

While no general **setback** applies to the erection of commercial buildings in the traditional central business districts of Byron Bay, Mullumbimby, Bangalow or Brunswick Heads, the following specific requirements apply:





- a) Where car parking or goods loading areas are adjacent to a street frontage other than a service lane, a minimum setback of 3 metres must be provided to allow for effective landscaping.
- b) A **setback** up to 5 metres may be required for reasons of traffic safety, amenity or streetscape improvements. In such cases, development will not be permitted within a **setback** area, other than the use of the land for landscaping, public access, outdoor seating and alfresco dining, utility installations, roadways for access, or the erection of signage identifying the occupants of the site.
- c) Upper **storey** levels to be set back from the street frontage to achieve a degree of vertical articulation. Any upper **storey setback** can be utilised for **balcony**/ open space purposes.
- d) Underground/ basement car parking spaces need to have regard to the provisions relating to landscaping under Chapter B9 Landscaping, and may need to be set back from boundaries to achieve suitable soil depth for planting purposes,
- e) Variable **setbacks** are prescribed for the South Jonson Street Precinct as delineated by the thick black line on Map D4.1. For details see Section D4.2.11 below.
- f) **Bulky goods premises, warehouses or distribution centres** and other commercial/retail type uses proposed for the B7 Business Park Zone and the Industrial Zones (IN1, IN2) to comply with the **setback** provisions contained in Chapter D5 Industrial Development.

## D4.2.6 Plumbing

### Objectives

1. *To ensure that adequate provision is made for plumbing for water supply and sewer services to commercial development.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. Development to comply with Chapter B3 Services in relation to necessary services. Certain developments (normally businesses such as restaurants, cafes and other operators that generate liquid waste) will require the installation of a **liquid trade waste** pre treatment system. Such systems will require an approval under section 68 of the *Local Government Act 1993*. Applicants are encouraged to contact Council prior to lodging the development application to ascertain specific requirements.
2. All plumbing works and **liquid trade waste** pre-treatment systems must be installed in accordance the relevant Local Government Regulations, AS3500, current Codes of Practice for Plumbing and drainage and any other best practice guidelines.

## D4.2.7 Arcades

### Objectives

1. *To facilitate the provision of arcades that provide a high degree of user amenity and that are designed to suit the climate of Byron Shire.*



## Performance Criteria

1. Arcades, particularly those incorporating outdoor seating and landscaping that contribute to the amenity of the precinct, can provide an economic advantage for adjacent commercial development as well as contributing to the diversity, interest and utility of the commercial area. Development applications must demonstrate that the proposed arcade will enhance the amenity, interest and visual appeal of the precinct.
2. Arcades must be designed to suit the areas subtropical climate. The design must make provision for adequate natural light, solar access and weather protection.

## Prescriptive Measures

There are no Prescriptive Measures.

## D4.2.8 Development within the Road Reserve

### Objectives

1. *To ensure that the public domain remains available primarily for the public benefit and public purposes.*
2. *To facilitate certain development on or over a road reserve only where this would promote the public interest.*
3. *To ensure that any development undertaken on public land provides a commercial return to the community.*
4. *To minimise conflict with pedestrian traffic, commercial use of the footpath is not to dominate the streetscape.*

## Performance Criteria

There are no Performance Criteria.

## Prescriptive Measures

1. Footpath Dining must be adjacent to and used in conjunction with an existing premise for which consent has been granted.
2. The footpath dining area to comply with Councils Footpath Dining Policy 5.54. Occupation on both sides of the footpath not permitted, however Council will consider variations in areas determined to have low pedestrian activity levels (existing and future) provided the minimum 2m wide pedestrian thoroughfare can be maintained.
3. Other business or retail uses of the public footpath to comply with the Exempt and Complying Development provisions of Byron LEP 2014 or another applicable Environmental Planning Instrument.
4. Awnings over footpaths adjoining development to which this Section applies require prior development consent unless otherwise permissible in accordance with the Exempt and Complying Development provisions of Byron LEP 2014 or another applicable Environmental Planning Instrument. Where consent is required development applications must demonstrate that the proposed awning will provide direct public benefit, including but not necessarily limited to providing weather protection for pedestrians, maintaining shopfront design continuity and/ or achieving improved urban design outcomes.
5. Upper **storey balconies** and decks extending over a public road or public footpath will be permitted, where it can be demonstrated that the **balcony** or deck will enhance the streetscape, will not detract from the public use of the road or footpath, and will not



adversely affect parking or traffic movement in the road reserve. Applicants to discuss such proposals with Council prior to lodging the development application and to obtain owners consent to enable the development application to be lawfully submitted.

6. Where the property benefiting from development in the road reserve is a **heritage item** or within a **Heritage Conservation Area**, the development application shall also include a **heritage impact statement** consistent with Chapter C1 Non-Indigenous Heritage that demonstrates as a minimum that the proposed **balcony** or deck will be an integral component of a **heritage item** or a building located in a **Heritage Conservation Area**, and will be consistent with and enhance the heritage character of the **heritage item** or **Heritage Conservation Area** and its surrounds;
7. Any proposal for commercial use of a public road will require approval under the *Roads Act, 1993* and will be subject to contractual requirements relating to the payment of commercial rent to Council.

## D4.2.9 Restaurants/ Cafes in Rural Areas

### Objectives

1. To enable **restaurant or café** development that preserves the rural amenity, character and environment of the locality;
2. To mitigate and manage any land use conflicts;
3. To limit the impacts of a **restaurant or café** on the broader environment; and
4. To provide an avenue for supplementary income on rural holdings.

### Performance Criteria

1. Development for the purpose of a **restaurant or café** must be designed and located to be compatible with the surrounding rural & natural landscape. Where new buildings are proposed to be constructed for the purpose of a **restaurant or café**, such buildings are to be clustered and located in proximity to farm sheds and or the primary farm **dwelling house** on the lot.
2. The development is to be low scale and able to be generally managed and operated by the principle owners(s)/ manager living on the property.
3. The **restaurant or café** shall be complementary to the principal agricultural or environmental activities on the land in the RU1 or RU2 Zone and where possible, value add to produce either harvested or manufactured on the property or from the local region to reduce food miles and to limit the carbon footprint of the development.

### Prescriptive Measures

A restaurant in a rural area refers to a **restaurant or café** that is permissible with consent in the RU1, RU2 and RU5 Zones. **Restaurants or cafes** in rural areas shall only be approved provided they can demonstrate the following:

- a) The **restaurant or café** to have a seating capacity for a maximum of 60 patrons including any outdoor garden seating. Where proposals incorporate food production, and harvesting onsite for use in the restaurant, combined with other specialised activities to value add to rural produce sold locally, including exhibition of farming activities for patrons, (e.g. cheese making, coffee roasting, dairying, farm tours etc), Council will consider a larger seating capacity, provided adequate arrangements can be made for parking and **on-site sewage management**. Details to be submitted with the development application.



- b) The development to be located so that it may benefit from existing road and physical infrastructure. (Note. **Restaurants or cafes** on no through roads have an increased potential to generate undesirable traffic noise which could disrupt the local amenity. Such roads if unsealed or narrow may need to be upgraded if increased traffic volumes generated by the development creates a nexus for such works to be carried out at the applicants expense);
- c) The development should be designed and located where possible to take advantage of views of the surrounding hinterland, rural landscapes, the Pacific Ocean, or other natural features;
- d) Applications that propose to open during the evening hours (6 pm onwards) to be accompanied by a detailed noise assessment report prepared by a suitably qualified and experienced acoustic engineer. The report shall assess whether the proposed development is capable of complying with the requirements of the NSW Industrial Noise Policy (NSW Environment Protection Authority, 2000). The generation of 'offensive noise' as defined under the *Protection of the Environment Operations Act 1997* is prohibited.
- e) All weather car-parking should be provided on site in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access. Council may consider some on-street parking in lieu of on-site parking in the RU5 Village Zone and in other suitable rural areas where it can be demonstrated:
  - that there is or will be adequate car parking in the public domain;
  - the parking will not disrupt the amenity of the neighbourhood; and
  - the parking within the public domain or street will not impact on the capacity of the local road network to operate safely and efficiently.

Where an applicant is proposing to utilise on-street parking, Council may require an upgrade to the road including road widening, and or reconfiguration of parking from parallel to nose in to enable the above matters to be suitably addressed. Applicants are requested to contact Council to discuss requirements prior to lodgement of development applications proposing on-street parking.
- f) A landscape plan to be submitted with the application in accordance with Chapter B9 Landscaping. The plan to primarily provide adequate landscaping and screen plantings when viewed from a public road or a **dwelling** on other land in the locality.
- g) Details are to be submitted with the development application as to how liquid trade waste will be managed and how effluent will be disposed of via an **on-site sewage management system**. Such systems need to be designed to cater for increased water usage associated with the restaurant including multiple sittings throughout the day and peak loads and may require a separate Liquid Trade Waste approval pursuant to Section 68 of the *Local Government Act, 1993*.

#### **D4.2.10 Restaurants, Cafes, Small bars, Pubs Registered Clubs, Function Centres and other Licensed Premises in the Urban Areas of Byron Shire**

Byron Shire is known for its vibrant restaurants, cafes and nightlife catering for not only residents but also visitors to the region. The following controls are aimed at allowing such



development to proceed in a manner that respects the rights of landowners, residents and applicants while not creating deleterious amenity impacts.

## Objectives

1. To ensure **restaurants or cafes, pubs, small bars, registered clubs, function centres** and other licensed premises or venues (e.g. **entertainment facility**,) operating in the urban areas of Byron Shire do not adversely impact upon the amenity of the area.
2. To ensure venues operate in a manner that does not generate offensive noise or create anti social behaviour.
3. To prevent the proliferation of poorly managed late night premises.

## Performance Criteria

1. The hours of operation of **restaurants or cafes, small bars, pubs, registered clubs and function centres** and other licensed premises or venues are not to affect the amenity of the neighbourhood or surrounding properties.
2. **Restaurants or cafes, small bars, pubs, registered clubs and function centres** and other licensed premises or venues are to be suitably located in relation to residential properties, **shop top housing** and other development that may be sensitive to offensive noise.
3. Development applications are to be submitted with sufficient information detailing how the development will be managed in relation to noise, patron behaviour, staffing, crime prevention measures and other operational requirements.

## Prescriptive Measures

1. Hours of operation

Hours of operation are to be nominated within the Statement of Environmental Effects and submitted with the development application.

The maximum hours of operation for licensed premises are as follows:

Friday and Saturday	10 am to 2 am the following morning
Sunday (and public holidays)	10 am to 12 midnight
Good Friday and ANZAC Day	12 noon to 12 midnight
New Years Eve	10 am to 3 am the following morning
Any other day	10 am to 1 am the following morning

Premises proposing to operate without a liquor license or outside of the liquor license (when alcohol is not available for sale) are able to propose earlier opening times to cater for breakfast or morning functions (e.g. **restaurants or cafés**).

Note: Council may vary or limit hours of operation, or issues consents on a trial period;

- When impacts on the amenity of the neighbourhood cannot be adequately managed;
- Where there other concerns in relation to safety, security and antisocial behaviour cant be appropriately mitigated; and or
- Where there are major objections or issues raised by Emergency Service Providers and the NSW Police Service that have not been suitably addressed.

## 2. Noise Reports

Premises (licensed and unlicensed) that are proposed to open during the evening hours (6 pm onwards) will need to be accompanied by a detailed noise assessment report prepared by a suitably qualified and experienced acoustic engineer. The report shall assess whether the proposed development is capable of complying with the requirements of the NSW Industrial Noise Policy (NSW Environment Protection Authority, 2000), having regard to any live or recorded entertainment provided, noise from guests entering and leaving the premises and the hours of operation proposed. No 'offensive noise', as defined under the *Protection of the Environment Operations Act 1997*, is permitted to be generated.

## 3. Liquor License

Applicants are required to nominate whether the premises will be licensed for the sale of alcohol. Licensed premises are to be sited generally in accordance with the BSC Liquor Licensing and Approval Policy. Such proposals are to address the Planning for Crime Prevention measures under Chapter B11 Planning for Crime Prevention.

## 4. Management Plan

Where premises are proposed to be open past 10.00 pm, applications are to include a Management Plan addressing the following matters as a minimum:

- a) Detail how complaints can be made to the premises by the general public, neighbouring landowners and surrounding residents about the operation of the premises (e.g. A complaints register and phone number, email address etc for such complaints by the general public to be made);
- b) Detail how complaints will be dealt with and action to be taken in relation to offensive noise, anti social behaviour and alcohol related violence and any other complaint about the operation of the premises. (e.g. consultations with residents, discussions with Council Officers, liaison with Police, public access to Plans of Management, review of existing Plan of Management etc).
- c) Describe measures that will be taken to minimise internal and external noise impacts on adjoining properties and how such measures will be implemented upon receipt of any complaint;
- d) Provide details of type and number of staff that will be employed on the premises at any one time;
- e) Security Management – describe any arrangements that have been made for on-site security (if relevant). This is to include specific information on the number of licensed security staff including details of any electronic surveillance systems within the premises;
- f) Describe any methods for controlling and managing crowds within and outside the premises; describe measures will be taken to manage large groups of people during peak trading periods or managing patrons outside so that they are not congregating on the footpath waiting to get into premises or loitering after closing hours;
- g) Responsible Service of Alcohol - Provide a copy of the proposed house policy that describes the measures to minimise harm associated with alcohol consumption to ensure the responsible service of alcohol;
- h) Describe any methods for the transport of patrons to and from the premises;



- i) Describe any steps that will be taken to manage patron behaviour when leaving the premises late at night;
- j) Describe the measures for monitoring of intoxicated patrons when evicted from premises to ensure they are not placed at serious risk of harm or injury;
- k) State the maximum capacity of the premises and the maximum number of patrons that will be standing and/or sitting at any one time;
- l) State the operating and/or trading hours of the premises;
- m) State whether the premises are proposing to enter into a liquor accord and the details of that accord;
- n) Outline the procedures for minimising and managing waste that is generated on site and how and when waste will be collected (e.g. disposal of bottles, waste removal etc – collection of bins with glass bottles early in the morning may generate offensive or undesirable noise). Outline procedures and time frames for deliveries of stock and equipment
- o) Describe when and how the site will be cleaned and generally serviced.

#### **D4.2.11 Building forms (south eastern end of Jonson Street only, refer to Map D4.1)**

##### **Objectives**

1. *To provide a low scale business area that creates a suitable transition from Commercial to residential land uses.*

##### **Performance Criteria**

Building forms on land delineated by the thick black line in Map D4.1 should:

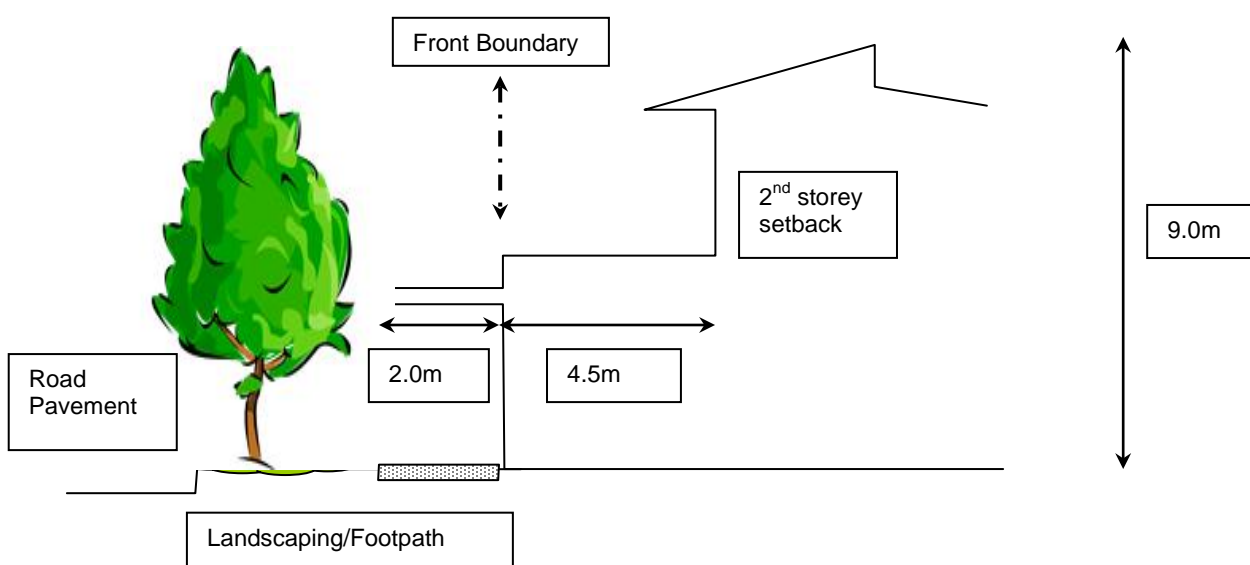
- a) ensure new development is limited in height to reflect transition from Commercial to Residential zones;
- b) relate well to the sub tropical climatic conditions of the area;
- c) make a positive contribution to the streetscape;
- d) be compatible with local heritage values;
- e) ensure front **setbacks** and road frontages provide for a shady attractive environment having regard to the South Jonson Street Precinct's general orientation to the west;
- f) incorporate frontages that are suitably articulated and in larger developments where lots are consolidated, incorporate a number of visually integrated but separate building elements to break up the massing of development.

##### **Prescriptive Measures**

The following provisions relate to setbacks and building forms for development on land identified in Map D4.1. (For further details see figures D4.1 and D4.2 below)

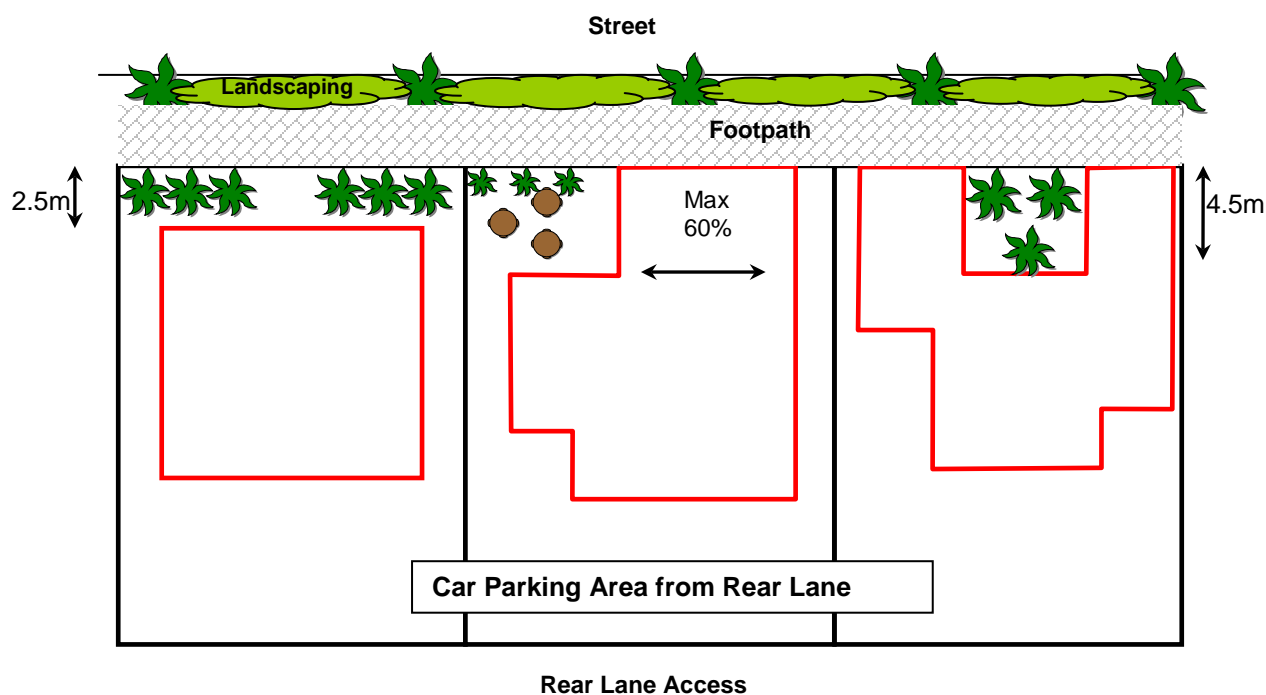
1. **Setbacks** are as follows
  - a) A general **setback** of two and half (2.5) metres to the road frontage to apply;

- b) **Setbacks** down to a zero building line will be considered for a maximum of 60% of the street frontage where by the remainder of the development to be set back a minimum of four and half (4.5) metres from the street boundary
  - c) Upper levels to be set back a minimum of four and half (4.5) metres from the road frontage to assist with vertically articulating the development.
  - d) Alfresco/ outdoor dining permissible within the front **setback**, but footpath dining on the road reserve will not be approved.
  - e) Where buildings are set back from the road frontage, the **setback** areas to be appropriately landscaped with **locally indigenous** plants including grasses and groundcovers to the area. Plans for development to include a landscape plan prepared in accordance with Chapter B9 Landscaping showing how the area set back from the street will be appropriately landscaped.
2. Where upper levels are set back from the road frontage, the roof over any ground floor can be used as a deck/ **balcony** outdoor areas. Such decks or **balconies** to incorporate landscape bays by way of suitable planter boxes to support a mixture of shrubs, ground covers, vines or other suitable plants. The planter box is to be designed to support the appropriate soil depth and plant section. As a minimum the following will be required:
    - a) For ground covers the planter box to have a minimum depth of 300 – 450 mm and a minimum width of 500 mm.
    - b) For shrubs the planter box to have a minimum depth of 500 – 600 mm and a minimum width of 500 mm.
  3. Where buildings have a zero line **setback** awnings over the footpath will be considered. The awnings shall not project further than the outer edge of the formed footpath to allow suitable area for tree planting and landscaping in the front verge. Where a number of properties are consolidated to form a large commercial holding, large monolithic buildings with unrelieved street frontages that fail to interact with the public domain and pedestrian traffic are not appropriate. In this instance, the street frontage to be broken up into a number of individual shop, restaurant or office frontages.



**Figure D4.1 - South Jonson Street – Setbacks relating to Building Forms**  
(Not to Scale)





**Figure D4.2 - South Jonson Street – Setbacks to Street Frontage**  
(Not to Scale)

## **D4.2.12 Street Trees (south eastern end of Jonson Street only, refer to Map D4.1)**

### **Objectives**

1. To provide shade and contribute to the amenity of the streetscape.

### **Performance Criteria**

1. Development for the purpose of commercial land use in land delineated by the thick black line in Map D4.1 is to incorporate appropriate street tree planting. The plantings are to provide shade for pedestrians, serve as urban habitat trees and enhance the amenity of the streetscape.
2. Developers are to have regard to the location of any overhead power lines, sight distances, Chapter B9 Landscaping and Council Policy 4.16 Planting and Landscaping of Footpaths and Nature Strips within Road Reserves and Drainage Easements.

### **Prescriptive Measures**

A minimum of one tree is to be planted in the road reserve for each 8 metres of street frontage in association with commercial development on land delineated by the thick black line in Map D1. Species selected are to be in accordance with Chapter B9 Landscaping and Council Policy 4.16 Planting and Landscaping of Footpaths and Nature Strips within Road Reserves and Drainage Easements. Proposals are to have regard to any overhead power lines, underground services and vehicle sight distances. Suitable species include (but are not limited to):

- Eumundi quandong *Elaeocarpus eumundi*
- Blueberry Ash *Elaeocarpus reticulatus*
- Water Gum *Tristaniopsis laurina*

- Weeping Lilly Pilly *Waterhousia floribunda*
- Firewheel *Stenocarpus sinuatus*
- Hollywood *Pittosporum rhombifolium*
- Coolamon *Syzygium moorei*
- Tuckeroo *Cupaniopsis anacardioides*

For further detail on species see Chapter B9 Landscaping.

## D4.2.13 Footpath Construction (Byron CBD)

### Objectives

1. *To encourage walking and cycling by providing safe and convenient movement networks to points of attraction within and beyond the development.*

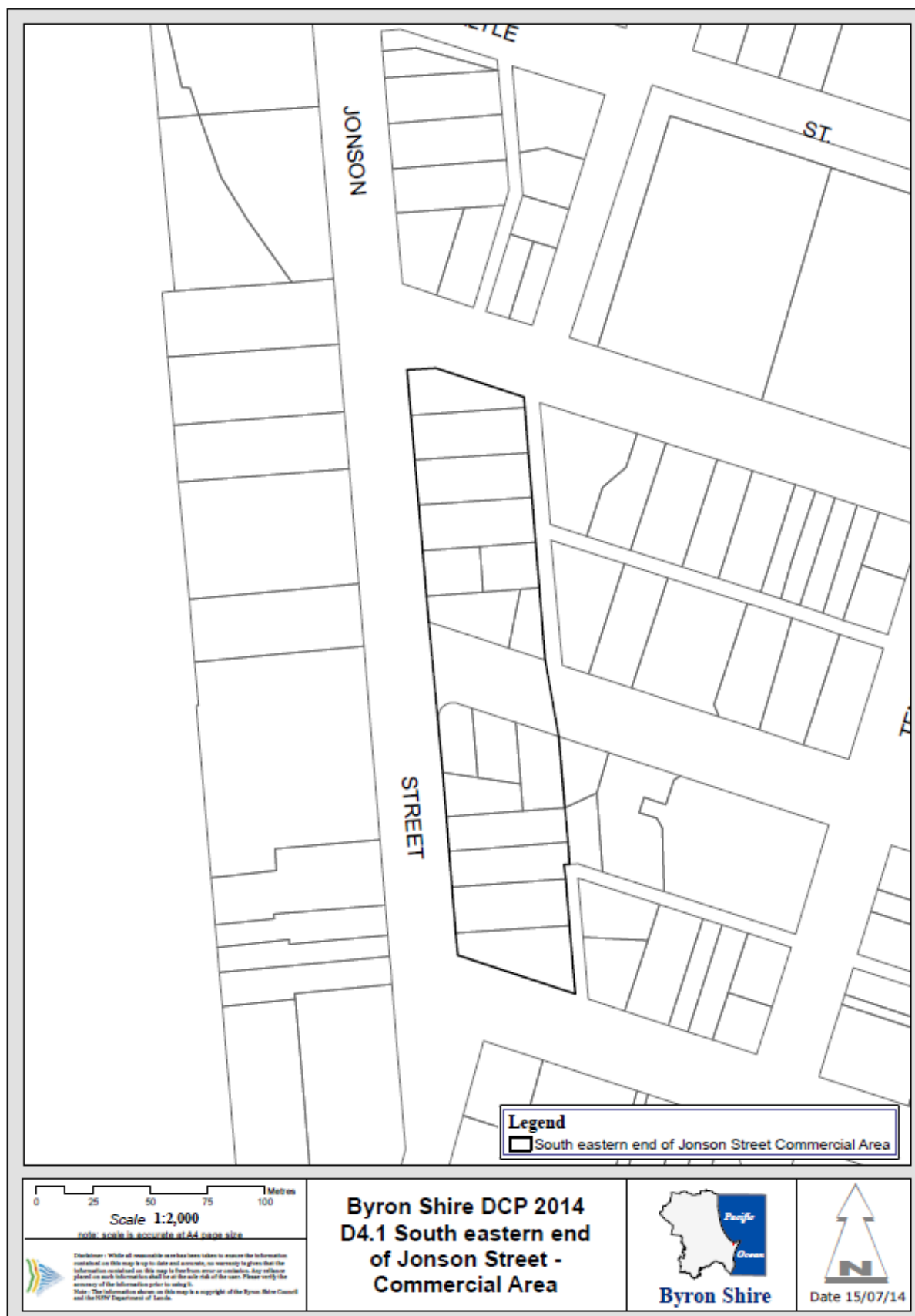
### Performance Criteria

Footpaths are to be designed and constructed, at the developers cost, of appropriate width, longitudinal gradient and sight distance to cater for the number of projected pedestrians and cyclists and other users (e.g. the aged, the very young, people with prams and people with disabilities). The footpath is to provide a stable surface for projected users which is easily maintained and enhances the streetscape.

### Prescriptive Measures

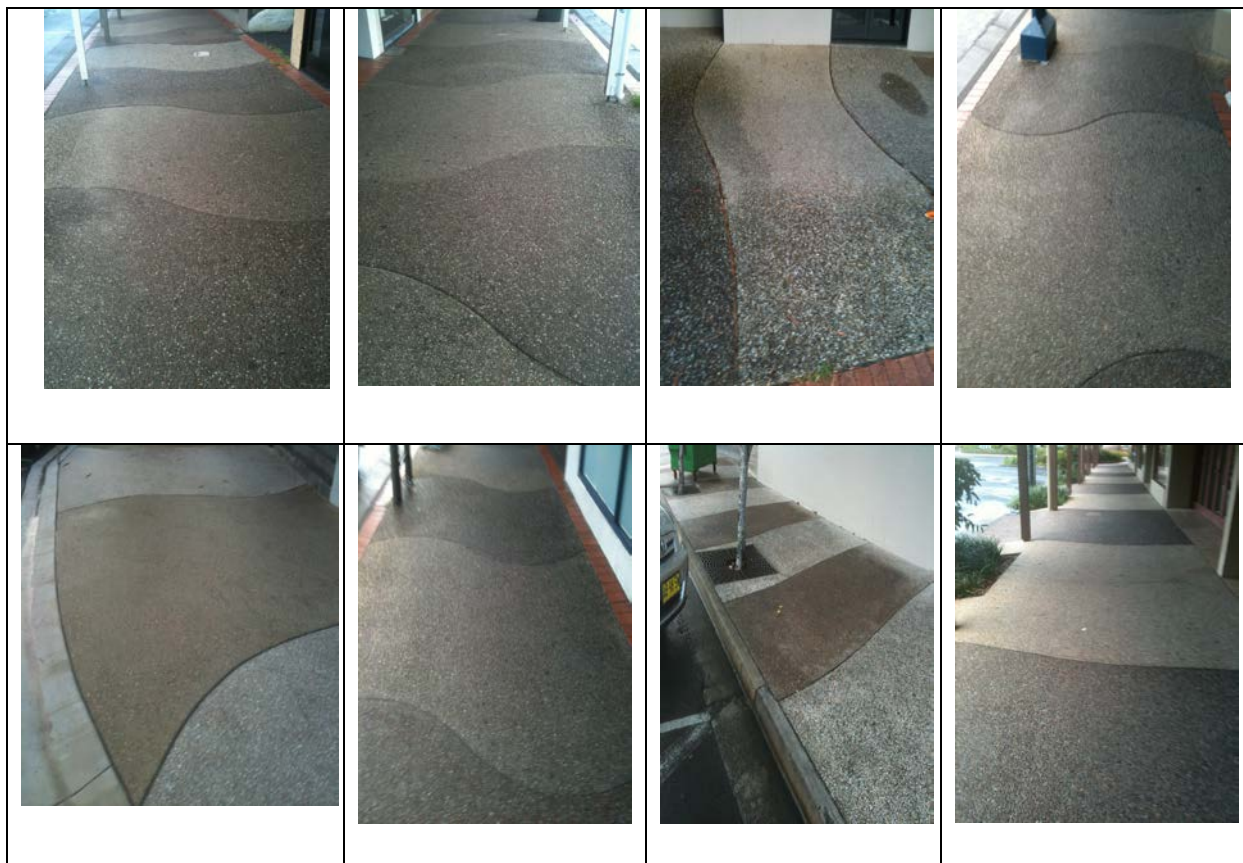
1. At the southeastern end of Jonson Street (Map D4.1), the width of the footpath, the materials used, laybacks and tactile indicators are to be in accordance with AS 1428.4. The minimum footpath width is to be 2.0m, located adjacent to the property boundary and parallel to the kerb. The linear area between the kerb and footpath is to be deep soil generally covered by turf and used for street tree plantings. For details refer to Figures D4.1 and D4.2 above.
2. For remainder of Byron Bay CBD the width of the footpath, the materials used, laybacks and tactile indicators are to be in accordance with AS 1428.4.
3. Footpaths are to be designed and constructed at the developer's cost. The wave patterned exposed aggregate is to be used in accordance with Council drawing Footpath Construction Type Byron Bay CBD (see Appendix D4.1).

**Map D4.1 - South eastern end of Jonson Street Byron Bay**



## Appendix D4.1

## Footpath Construction Type Byron Bay CBD



## **1. BYRON CBD – WAVE PATTERN SPECIFICATION**

### **1.1 Description**

This specification covers the requirements for the construction of footpath pavements including all subsurface treatment and finishes, to the alignment, dimensions, cross sections and levels shown on the drawings or as directed by Council.

### **1.2 Inspection**

The Contractor is to give 3 days notice to the Council so that they may inspect the following stages of work:

- Set-out & excavation complete
- Base course and formwork installed
- Work Completed.

### **1.3 Qualification**

All work shall be carried out by an approved specialist company employing skilled tradespeople under the direction of experienced foreman or supervisors.

### **1.4 Conformity with Drawings**

All surfaces shall be finished in conformity with the lines, grades, thicknesses and cross sections shown on the drawings or specified or directed by the Council within the following limits:

- a) The deviation of the finished work from line or level shall not exceed 20mm in 10m or 5mm between adjacent blocks. Except on curves or in shaped areas, the deviation of the finished work from a 3m straightedge shall not exceed 15mm at any point.
- b) Footpaths and surfacing shall be shaped to match existing features egg pit covers, edgings and driveways, within 5 mm.
- c) Alignment of the paving shall not differ from the specified line by more than  $\pm 50$  mm, provided that the minimum pavement width is achieved at all points throughout the construction.
- d) Unless otherwise specified or directed finished surfaces shall be shaped to shed surface water from the entire area in the direction of natural slope or towards constructed surface drains.

### **1.5 Road and Footpath Closure**

The applicant is required to obtain approval from Council under the Roads Act 1993 for closure of any part of the road or footpath. Application forms and details of fees are available from Council offices.

Plans and specifications of the proposed work need to include:

- a) Traffic Management Plan for pedestrian and vehicular traffic (bicycles) in accordance with RTA guidelines.
- b) Public Safety Management Plan with provision for barriers and hoardings to allow access to existing business.
- c) Compliance with Council requirements.

## **1.6 Occupational Health and Safety**

The principal contractor is responsible for all aspects of Occupational Health & Safety and is to advise Council of any issues relevant to Council staff working in the Byron CBD.

## **2. BYRON CBD – WAVE PATTERN CONSTRUCTION**

### **2.1 Excavation And Bedding Preparation**

All soft, wet or unsuitable material shall be removed to a depth of not less than 75 mm below the design level of the underside of the bedding and the resulting space filled with bedding material, moistened and compacted to form a stable foundation.

A minimum 50 mm compacted thickness of bedding material consisting of 20 mm class 2 fine crushed rock shall be provided under the full width of the paving and And compacted with a vibrating footpath roller of equivalent weight to four (4) tonnes or other by suitable mechanical equipment to the satisfaction of the Council.

### **2.2 Footpath Construction**

Footpaths and driveways shall be constructed to the following specifications;

- a) Footpaths – Concrete 20Mpa, 100mm thick with F62 mesh.
- b) Driveway (light) – Concrete 20Mpa, 125mm thick F72 mesh
- c) Driveway (Heavy) – Concrete 20Mpa, 150mm thick, F82 mesh

### **2.3 Exposed Gravel Specifications**

The following gravels shall be exposed in the surface finish of the slab in alternating sections.

- a) Belongil white
- b) Woody Head Brown (Coomera)

### **2.4 Pattern Design Specifications**

The wave pattern design shall be achieved by forming opposing arcs in a wave pattern as shown in the attached drawings and photographs.

The wave pattern shall be formed to provide a symmetrical pattern dependant upon footpath width and length. See Figures 1 & 2.

### **2.5 Grades And Levels**

The requirements of AS 1428 Access and Facilities for disabled persons shall generally apply. Access ramps to commercial premises shall be constructed within private property.

The slope at any point on the footpath surface shall be not less than 1% and not exceeding 2.5%.

For Kerbs, ramps and driveway design see Standard Drawings R-04 & R-05.

### **2.6 Sealing**

Council requires an initial seal with two coats of pure Tung Oil. To protect the surface subsequent coats should be carried out at 12 month intervals.

Attention to requirements of the Tung Oil material safety data sheet is required.



## **2.7 Slip Resistance**

In-situ testing of the nominated aggregates has not been undertaken; generally clean aggregate finishes provide the highest level of slip protection (CCA).

## **3. ENVIRONMENTAL PROTECTION**

### **3.1 Penalties For Pollution**

Under no circumstances should soil, materials or other chemical be placed in a position where it is likely to enter any drainage system or natural waterway.

Substantial penalties apply for individuals and companies where appropriate “on the spot fines” will be issued.

### **3.2 Washing To Expose Aggregate**

The process of exposing the aggregate in fresh concrete can generate wash-off water that has a high cement content.

All wash water must be recovered and disposed of in an environmentally responsible manner.

### **3.3 Sediment Control**

Erosion and sediment control needs to be considered early in the development planning process.

- a) Minimise site disturbance and thereby minimise erosion and sediment pollution.
- b) Install erosion and sediment control measures to protect all stormwater drains.
- c) Ensure construction activities and sediment control are jointly planned and implemented

### **3.4 Sealers**

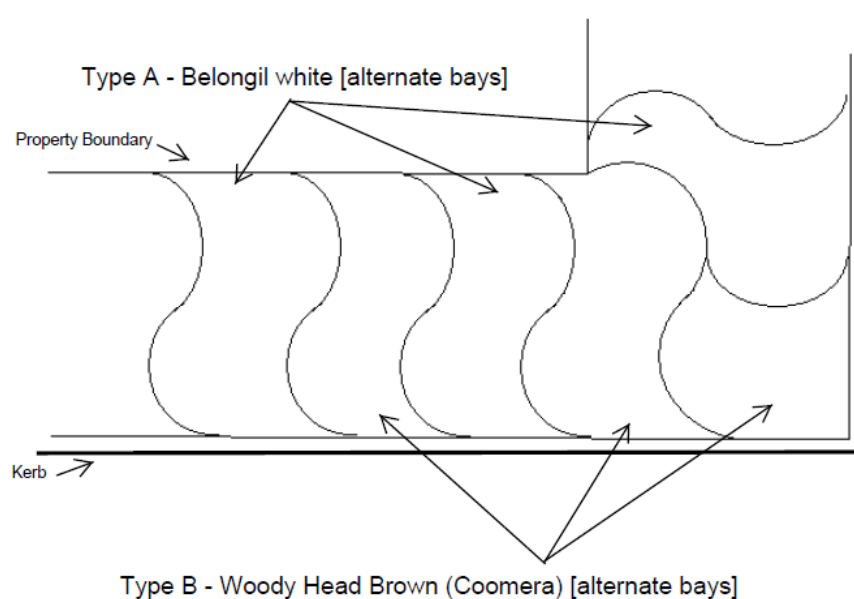
Sealers such as Tung Oil are poisonous to aquatic life and must not be allowed to wash off into adjoining waterways.

All requirements of the material safety data sheet should be implemented.



FIGURE 1

## WAVE PATTERN FOOTPATH

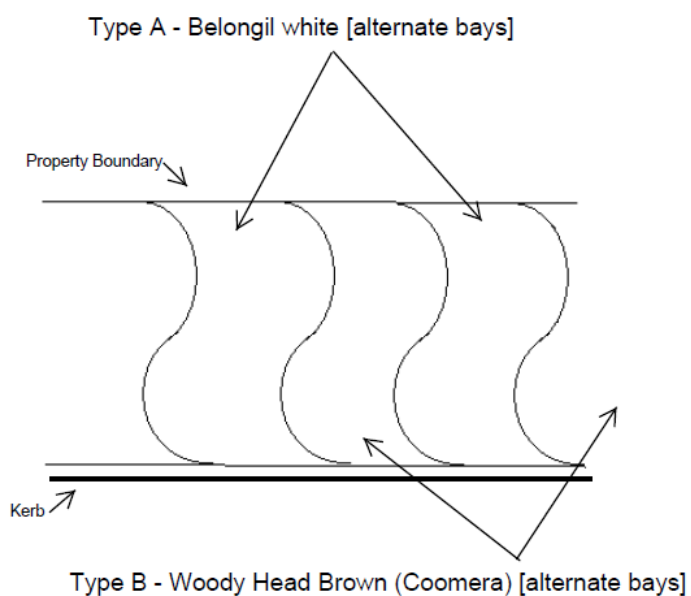


## CORNER TREATMENT - TYPICAL



FIGURE 2

## WAVE PATTERN FOOTPATH



## STANDARD TREATMENT - TYPICAL

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Cement and Concrete Association of Australia, Data Sheet “Tolerances for Concrete Surfaces” September 2005.



# Byron Shire Development Control Plan 2014

## Chapter D5 Industrial Development



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## Chapter D5 – Industrial Development

### Contents

<b>D5.1</b>	<b>Introduction.....</b>	<b>5</b>
D5.1.1	Aims of this Chapter .....	5
D5.1.2	Application of this Chapter .....	5
<b>D5.2</b>	<b>General Provisions .....</b>	<b>5</b>
D5.2.1	Building Lines .....	5
D5.2.2	Building Criteria .....	6
D5.2.3	Water and Sewer Services .....	7
D5.2.4	Energy Efficient Industrial Development .....	7
D5.2.5	Water Sensitive Urban Design and Industrial Development .....	8
D5.2.6	Car Parking and Access .....	9
D5.2.7	Landscaping and Screening .....	9
D5.2.8	Signage .....	9
D5.2.9	Fencing.....	10
D5.2.10	Outdoor Storage Areas.....	10
D5.2.11	Dwellings in Association with Industry .....	11

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## D5.1 Introduction

### D5.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To encourage sustainable economic development and the creation of employment opportunities.
2. To encourage industrial development that will enhance the appearance and function of the industrial areas within the Shire.
3. To provide industrial development in a form that provides for pleasant, safe, secure and healthy working and living environments.
4. To encourage a mixture of building facades and forms that contribute to the subtropical character of Byron Shire.
5. To promote reduction in motor vehicle trips, and to encourage pedestrian and bicycle access, usage and mobility.
6. To limit potential conflicts between residents and industrial activities.
7. To prevent the proliferation of residential development in Industrial zones to an extent that it inhibits the economic and practical viability of industrial development.

### D5.1.2 Application of this Chapter

This Chapter applies to development in all Zones for the purpose of **industries, industrial retail outlets** and **industrial training facilities** and other land uses permitted with development consent in the IN1, IN2 and B7 Zones.

The definitions of various terms are contained in the Byron LEP 2014 Dictionary, or in the Dictionary to this DCP. The provisions in this Chapter supplement those provisions of Byron LEP 2014 that apply to industrial and related development.

## D5.2 General Provisions

### D5.2.1 Building Lines

#### Objectives

1. *To establish minimum building **setbacks** in industrial areas to enhance streetscape and provide suitable commercial exposure.*
2. *To encourage a stepped front elevation to provide variation in the front facade and building form.*

### Performance Criteria

1. Building **setbacks** must be designed to ensure that the aesthetics and character of industrial development will be compatible with development in the locality and with the existing and desired future character of the precinct.
2. Development may be permitted to encroach into the **setback** area where a development application demonstrates that:
  - a) The proposed **setback** enhances the design of the building and complements the streetscape; and
  - b) The proposed development does not adversely affect adjoining development, nor conflict with other requirements of this Chapter.

### Prescriptive Measures

1. For the purposes of this Section:
  - a) "Primary Building Line" is defined as 10 metres from the front boundary of the allotment.
  - b) "Secondary Building Line" is defined as 6 metres from the front boundary of the allotment.
2. All buildings must be set back to the primary building line. However, buildings may encroach forward of the primary building line to the secondary building line to achieve a "stepped" front elevation. This encroachment must not exceed more than half of the width of the building at the primary building line.
3. Sites with dual frontage or with frontage to a road and a service lane must have a minimum **setback** of 2 metres from the second road frontage.

## D5.2.2 Building Criteria

### Objectives

1. *To encourage a high standard of industrial building which is functional, compatible with the existing and desired future character of the precinct and does not detract from appearance of other buildings or development in the locality.*
2. *To minimise the risk of threats and damage to industrial development from flood.*
3. *To ensure that provision is made for employee facilities.*

### Performance Criteria

Building design and materials must be compatible with adjoining and nearby development, and with the character of the precinct. The development and associated buildings must be designed to comply with Council's flood criteria where relevant, to be functional, to provide adequate employee facilities and to complement the character of existing development within the locality.

### Prescriptive Measures

1. Front elevations of industrial buildings may be constructed of glass or brick, or clad in concrete block masonry (including tilt-up slabs), which must be coloured in a manner compatible with development in the locality. Frontage materials must extend a minimum of 3 metres along the side elevations adjoining the front elevation. Details of



proposed materials, colours, textures and treatments must be submitted with the development application.

2. White pebblecrete or similar finishes for walls are not suitable because of their propensity to discolour through the effects of rain and algal/mould growth.
3. Development and floor levels must be constructed in accordance with the requirements of Chapter C2 Areas Affected by Flood.
4. Industrial Developments must include provision for a weatherproof employee luncheon area on site.

### D5.2.3 Water and Sewer Services

#### Objectives

1. *To ensure adequate provision of water and sewer services and infrastructure to cater for industrial development.*
2. *To prohibit the discharge of hazardous substances into the sewer.*

#### Performance Criteria

All development must be consistent with the provisions of Chapter B3 Services.

#### Prescriptive Measures

1. All development must be serviced by reticulated water supply.
2. All development must discharge wastewater to mains sewer.
3. A Trade Waste Agreement is required prior to industrial users connecting to sewer. The agreement must detail the necessary pre-treatment of waste.

### D5.2.4 Energy Efficient Industrial Development

#### Objectives

1. *Maximise environmental sustainability and energy efficiency in industrial buildings and urban design.*
2. *Ensure that industrial development provides for convenient and safe movement of people between areas and facilities by walking, cycling and public transport use.*

#### Performance Criteria

1. Building forms shall be designed for adaptability through the provision of flexible spaces and regular building form designed to accommodate future conversion or dividing for alternate uses.
2. A building and its openings are to be configured to maximise passive solar energy and minimise energy use in artificial lighting. This may include the use of skylights to capture natural light through the roof.
3. A building and its openings are to be orientated to utilise prevailing winds to enhance the opportunity for cross ventilation.
4. The use of energy efficient appliances and equipment are encouraged to minimise energy usage and greenhouse gas generation.

5. Safe and convenient bicycle parking is to be provided on site in accordance with the requirements of Chapter B5 Providing for Cycling.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

Note: Applicants should make themselves aware of the energy efficiency requirements under the Building Code of Australia and how they may apply to industrial development.

### **D5.2.5 Water Sensitive Urban Design and Industrial Development**

#### **Objectives**

1. *Ensure that developments achieve acceptable levels of stormwater run-off quality and quantity by applying **water sensitive urban design** principles in development proposals to maintain and/or enhance the environmental values of the shire's waterways and catchments.*

#### **Performance Criteria**

1. All development shall be consistent with the provisions of Chapter B3 Services.
2. Development must include an efficient and cost effective stormwater run-off management system (i.e. a drainage network and detention/retention storage that adequately protects people and the natural and built environments);
3. Stormwater run-off originating from development must be of a quality that will protect or enhance the environmental quality of receiving water;
4. Development shall integrate and allow for **water sensitive urban design** (WSUD) measures to be implemented into lot layouts and drainage systems. This can be incorporated through:
  - a) storage rather than conveyance of stormwater;
  - b) maintenance and enhancement of water quality;
  - c) permeable surfaces, soakwells and landscaped swales in site layout to increase onsite infiltration and treatment;
  - d) water conserving landscaping;
  - e) localised water supply for irrigation; and
  - f) use of rainwater tanks for stormwater re-use.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

## D5.2.6 Car Parking and Access

### Objectives

1. *Ensure that traffic and parking associated with industrial uses does not cause excessive nuisance or adversely impact on the safety of road users and residents.*
2. *Ensure that industrial development is designed to provide for efficient servicing of industrial land uses by vehicles.*

### Performance Criteria

Access and parking provided in association with **industry** or on land within Industrial zones must comply with the requirements of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

### Prescriptive Measures

There are no Prescriptive Measures.

## D5.2.7 Landscaping and Screening

### Objectives

1. *Ensure landscape features are provided on industrial sites to create a quality industrial estate setting.*
2. *Provide for the design of landscaping to assist in energy conservation in buildings, control microclimatic conditions and provide shade.*
3. *Encourage the use of landscape plantings to assist in screening storage, service and waste disposal areas and the integration of landscaping with stormwater management.*

### Performance Criteria

Landscaping provided in association with **industry** or on land within Industrial zones must comply with the requirements of Chapter B9 Landscaping.

### Prescriptive Measures

There are no Prescriptive Measures.

## D5.2.8 Signage

### Objectives

1. *Signs shall be designed to complement the character of the area in which they are to be located.*
2. *Signs shall be informative, orderly in appearance and clearly relate to activities or services provided from the site on which they are erected.*

### **Performance Criteria**

**Signage** in association with **industry** or on land within Industrial zones must comply with the requirements of Chapter B10 Signage.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **D5.2.9 Fencing**

### **Objectives**

- To provide for the security of the premises and outdoor storage areas.*
- To ensure that fencing does not detract from the streetscape of the industrial area.*

### **Performance Criteria**

- Fencing must not impair driver and pedestrian visibility.
- Fencing shall not detract from the streetscape in terms of design, materials, scale or colours.

### **Prescriptive Measures**

Fencing is generally not permitted forward of the “primary building line” as defined in Section D5.2.1 and shall be sited behind any side or rear landscape buffers required pursuant to Chapter B9 Landscaping.

## **D5.2.10 Outdoor Storage Areas**

### **Objectives**

- To ensure that the manner in which goods are stored outside the building does not adversely impact upon water quality or air quality.*
- To ensure that storage areas are adequately landscaped and maintained and do not detract from the aesthetic character of the locality.*

### **Performance Criteria**

There are no Performance Criteria.

### **Prescriptive Measures**

- Outdoor storage areas must be sealed, drained and designed to minimise dust generation and to avoid adverse visual impacts on the locality. Drainage of outdoor storage areas must comply with the requirements of Chapter B3 Services.
- Outdoor storage areas must be designed and landscaped to ensure that when used for storage purposes they will not adversely impact on the character and appearance of the site or the surrounding locality. Details of the types of goods or materials to be stored, manner of storage (e.g. stockpiling), maximum storage height, methods of protection of stored goods or materials and proposals to screen the stockpiles from view from public areas must be submitted with the development application.

## D5.2.11 Dwellings in Association with Industry

### Objectives

1. *To ensure that the scale of **dwellings** within industrial development are compatible with the character of the locality.*
2. *To ensure that **dwellings** are ancillary to the industrial use of the site and do not inhibit the economic viability of industrial development.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

**Dwellings** provided in association with **industry** or on land within Industrial zones must comply with the requirements of Chapter D1 Residential Development in Urban and Special Purpose Zones.



# Byron Shire Development Control Plan 2014

## Chapter D6 Subdivision



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## Chapter D6 – Subdivision

### Contents

<b>D6.1</b>	<b>Introduction.....</b>	<b>5</b>
D6.1.1	Purpose of this Chapter .....	5
D6.1.2	Aims of this Chapter .....	5
D6.1.3	Application of this Chapter .....	5
<b>D6.2</b>	<b>Development Controls .....</b>	<b>6</b>
D6.2.1	Subdivision Design Guidelines .....	6
<b>D6.3</b>	<b>Rural Subdivision .....</b>	<b>15</b>
D6.3.1	Lot Size, Shape and Configuration .....	15
D6.3.2	Stormwater Management.....	17
D6.3.3	Road Design and Construction .....	17
D6.3.4	Sewage Management.....	18
D6.3.5	Rural Community Title Subdivision .....	18
D6.3.6	Subdivision Design and Lot Layout on Rural land within the Drinking Water Catchment .....	20
<b>D6.4</b>	<b>Urban Residential Subdivision .....</b>	<b>21</b>
D6.4.1	Lot Size and shape .....	21
D6.4.2	Access Design.....	22
D6.4.3	Infill Subdivision with Rear Lane Access.....	23
<b>D6.5</b>	<b>Industrial and Commercial Subdivision.....</b>	<b>24</b>
D6.5.1	Lot Size and Shape (Industrial).....	24
D6.5.2	Lot Size and Shape (Commercial) .....	25
D6.5.3	Subdivision design (Industrial and Commercial Development).....	25

### Figures

Figure D6.1 – Shelterbelt.....	7
Figure D6.2 – Orientation and Aspect.....	7
Figure D6.3 – Preferred subdivision layout on east-west or north-south axis.....	8
Figure D6.4 – Lots with a NW-SE axis.....	8
Figure D6.5 – Example of preferred subdivision design along a watercourse .....	21
Figure D6.6 – Pre Development (existing) Subdivision Pattern.....	24
Figure D6.7 – Post Development Subdivision Pattern .....	24





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## **D6.1 Introduction**

### **D6.1.1 Purpose of this Chapter**

The subdivision of land establishes the basis on which future development is built. Therefore the Council seeks to ensure that the environment, the nature of future development and the aspirations of the community are given due consideration in all subdivision proposals.

The primary purpose of this Chapter is to provide guidelines, controls and standards for subdivision in Byron Shire.

### **D6.1.2 Aims of this Chapter**

The Aims of this Chapter are to:

1. To promote subdivision development which is of a high design standard and which minimises impact on the environment.
2. To provide for a variety of housing and other forms of development reflecting the growing diversity of the community and its household types, incomes and lifestyles.
3. To encourage the use of innovative design and engineering principles which enhance the physical environment and the social fabric.
4. To optimise the provision of infrastructure services in the most efficient and effective manner.
5. To ensure the continued supply of agriculturally viable land.

### **D6.1.3 Application of this Chapter**

This Chapter of the DCP applies to all forms of subdivision, including Torrens, Strata, Stratum and Community Title subdivision. The provisions in this Chapter supplement those provisions of Byron LEP 2014 that apply to subdivision development.

Applicants must familiarise themselves with the matters contained in other Chapters of this DCP, since good subdivision design cannot be achieved without proper consideration of the way in which the land will be developed and used later. Additionally applicants may refer to the following publications for further guidance on subdivision design: NSW Department of Planning's 'Coastal Design Guidelines for NSW (2003)'; the Byron Rural Settlement Strategy 1998; The NSW Rural Fire Service 'Planning for Bushfire Protection'; and, the Northern Rivers Development and Design Manual and, other engineering criteria including relevant Australian Standards.

## D6.2 Development Controls

### D6.2.1 Subdivision Design Guidelines

#### Objectives

1. *To specify development controls, design guidelines and criteria that apply generally to subdivisions.*
2. *To ensure that subdivision proposals deliver contemporary construction and services standards and result in development that is consistent with the particular needs, character and environment of Byron Shire.*

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

Development applications for subdivision must address the following Design Guidelines:

1. Site Design
  - a) The following natural environment factors must be addressed in the overall site design of any proposed subdivision:
    - i) Climate control (wind and sun)
    - ii) Landform
    - iii) Aspect and views
    - iv) Geology and soils
    - v) Drainage and groundwater
    - vi) Vegetation.
  - b) Site design must integrate these factors with consideration of the existing and proposed human-made environment with which the subdivision interacts. This will include consideration of the effects of, and the impacts on the following human-made factors:
    - i) Accessibility to urban centres
    - ii) Accessibility to community and recreational facilities
    - iii) Road and transport networks
    - iv) Site access
    - v) Physical and human services
    - vi) Built environment in the vicinity
    - vii) Existing buildings and improvements on the site.
  - c) Development applications for subdivision (except for applications for boundary adjustment subdivision in accordance with Byron LEP 2014 or strata subdivision of a lawfully erected building) must include a Site and Context Analysis Plan complying with the requirements of Section A13.1 – Context and Site Analysis. The Context and Site Analysis Plan must also demonstrate how the above-mentioned natural and man-made environmental factors have been considered and addressed.

## 2. Climate Control and Aspect

Design of the proposed subdivision must aim to gain the most advantage of cooling breezes in summer and reduce the impact of adverse winds in winter by effective site layout and use of landscaping. Significant topographical features such as valleys and ridges can serve to channel or block prevailing winds.

Similarly, the selection of vegetation types and location of vegetation buffers and shelterbelts can be used to advantage in climate control on the site.

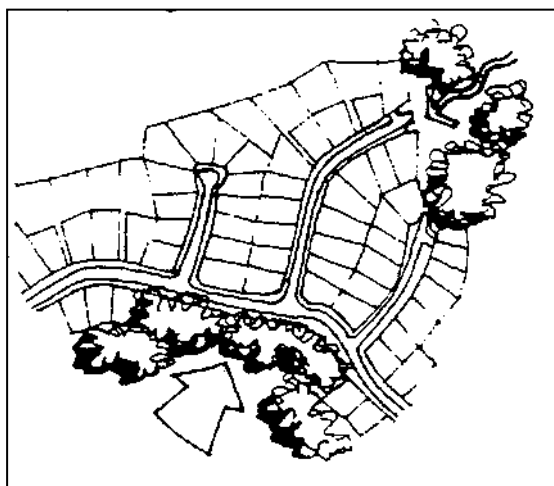
The design of site layout and landscaping should be structured to avoid funnelling unfavourable winds and encourage cooling summer breezes.

Aspect is an important factor in designing the subdivision layout in regard to optimising solar access. The following principles are a basic guide.

Solar access is maximised where:

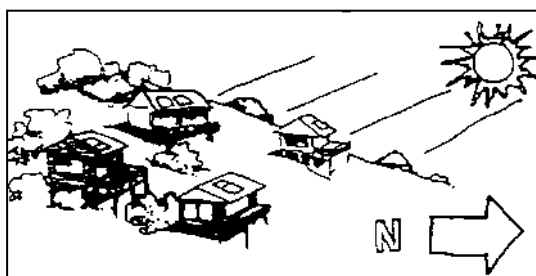
- a) Buildings can be sited so that the main living areas are oriented north.
- b) Overshadowing of, or by other buildings is minimised.

Shadows are small on a north-facing slope so **dwelling** sites can be closer together. On a south-facing slope, shadow length is increased so **dwelling** sites should be further apart. On east or west-facing slopes, **dwelling**s need to be stepped back to maintain solar access.

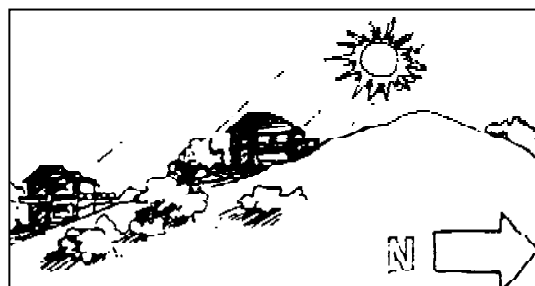


**Figure D6.1 – Shelterbelt**

**Note:** Shelterbelt of trees protects subdivision from cold southerly winds



**Note:** Subdivision orientated to the north for maximum solar access – limited shadow impacts



**Note:** Subdivision orientated on southern side of hill. Restricted solar access and increased shadow impacts

## Figure D6.2 – Orientation and Aspect

Lots with a main north-south axis (from 20°W to 30°E) give the most flexibility in the siting of **dwelling**s and reduce problems of overshadowing. Lots with a main east-west axis may need to be wider than normal.

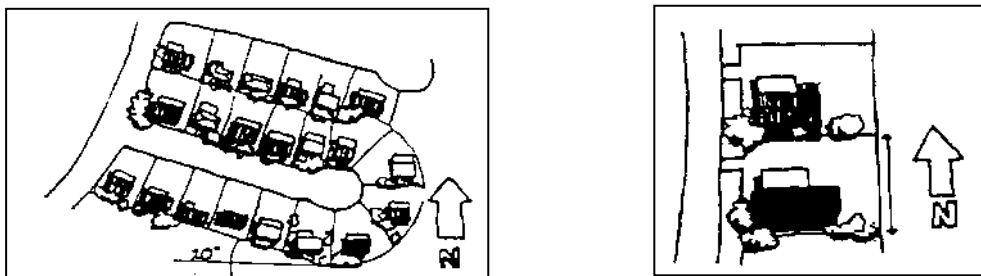


Figure D6.3 – Preferred subdivision layout on east-west or north-south axis

Lots with a NW-SE or NE-SW axis are less favourable and may need to be specially designed or larger than normal to allow the siting of a house that is not parallel to the boundaries (see Figure D6.4 below).

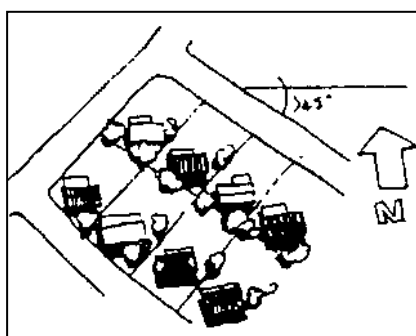


Figure D6.4 – Lots with a NW-SE axis

These guidelines must be considered together with the particular topography and vegetation of the site to achieve a layout that optimises solar access and site characteristics. A regular grid of N-S and E-W streets is unlikely to result in an attractive living environment or offer the flexibility for different housing needs.

### 3. Hazards

Hazard constraints potentially affecting land must be identified and addressed in preparing an application for subdivision. The following list identifies some hazards that may affect the potential for subdivision or influence subdivision design:

- Flooding.
- Bushfire.
- Landslip and subsidence.
- Land contamination and the need to address the requirements under State Environmental Planning Policy No.55 – Remediation of Land.
- Acid sulfate soils.**

f) **Coastal hazards.**

Development applications must identify and address all potential hazards of the site in accordance with the requirements of Byron LEP 2014, this DCP and other relevant Council and State Government policies, guidelines and legislation.

4. Vegetation removal

Subdivision road layout must be designed around significant stands of trees. These may be located within reserves or accommodated within the subdivision layout such that **dwelling** construction may be achieved without causing any undue interference with existing trees.

The environmental buffer distances in chapter B6 Buffers and Minimising Land Use Conflict should be incorporated into the subdivision design. Where urban subdivision adjoins bushland, Council may impose particular consent conditions relating to the ongoing management of the interface between the subdivision and the bushland.

Proposals that require the removal of vegetation for bushfire protection purposes (e.g. asset protection zone) may need to include a Flora and Fauna Assessment and, where native vegetation is to be removed, may need to prepare a **Vegetation Management Plan**.

Vegetation to be removed must be located within the subject land unless an agreement has been reached to provide the necessary asset protection zone on the neighbouring property. Evidence of any agreement with the neighbouring land owner, together with that owners' written consent to lodgement of the DA must be submitted with the development application. The agreement must be in the form of a proposed Section 88B Instrument under the *Conveyancing Act 1919*, consistent with the requirements of the NSW Rural Fire Service. For specific details on subdivision on bushfire prone land, applicants are referred to the NSW RFS document 'Planning for Bushfire Protection'.

Any trees proposed to be removed as a result of a subdivision proposal must be identified in accordance with the provisions of B2.2.1 (Chapter B2 Preservation of Trees and Other Vegetation) or a Site and Context Analysis Plan (as required by Part A13) and be marked clearly to facilitate identification at the time of site inspection.

5. Riparian Buffers and land fronting watercourses

Subdivision design must encourage the retention of **riparian vegetation** and should incorporate riparian buffers. The retention of existing vegetation and landforms assists in infiltrating, detaining and treating stormwater, as well as maintaining water balance and aesthetics. The retention of vegetation along **watercourses** also assists in habitat connectivity, which is critical to maintaining biodiversity.

**Riparian corridors** must be left undisturbed. Their natural and ecological values must be enhanced where possible. Street and lot layout must be planned so that riparian habitat is retained and where possible connected to remnant habitat in adjoining areas. Where land proposed for subdivision fronts a **watercourse**, it is preferable that the subdivision be designed to limit direct access to the water.

Vegetation and topography must be retained along the site's natural drainage lines. This vegetation will play a key part in providing habitat connectivity and maintaining biodiversity.

The retention or reinstatement of vegetation and provision of habitat connectivity must utilise **locally indigenous species** and be incorporated in the design of public areas and facilities such as parks, detention/ infiltration basins, or water treatment areas.



**Allotments** having frontage to a **watercourse** are to comply with the minimum requirements for buffers under Chapter B6 Buffers and Minimising Land Use Conflict (where relevant).

## 6. Landscaping

The effective use of landscaping can make a significant contribution to climate control, ecological characteristics, the overall appearance of the subdivision and the residential environment which is ultimately created.

Generally, one street tree per 15 metres of residential lot street frontage with a maximum canopy diameter of 8 metres at maturity is to be provided for new subdivisions.

Applicants must comply with the landscaping design and maintenance requirements in Chapter B9 Landscaping.

## 7. Roads

Roads are to be designed to provide a pronounced road hierarchy in which the size, width and appearance matches its function. Streets at the lower end of the hierarchy must not become through-routes for unrelated traffic and proper provision must be made for buses and service and delivery vehicles.

Depending on the overall size and layout of a subdivision, a typical road hierarchy could include:

- a) Arterial or sub-arterial roads – roads giving access to the subdivision but not part of it.
- b) Collector street - a main link through the subdivision, connecting directly with arterial roads.
- c) Local access road - a loop road or cul-de-sac serving more than 15 lots.
- d) Minor road - a cul-de-sac, minor loop or minor access street, serving less than 15 lots.

Where cul-de-sacs are proposed, consideration is to be given to providing pedestrian and cycling traffic through to the next street with regards to the CPTED principles in Chapter B11 Planning for Crime Prevention.

Roads (including footpaths, cycleways, and watercourse crossings) are to be designed in accordance with the requirements specified in the Northern Rivers Development and Design Manual as amended from time to time. Council will consider variations to these requirements on merit where compliance is proven to be onerous and having regards to the scale, location and density of the development.

Where an **allotment** to be subdivided has access via an unsealed, unconstructed or partly constructed road, the applicant must provide constructed road access from the nearest constructed road to all **allotments** involved in the subdivision to facilitate ultimate design road capacity.

The applicant must supply and erect street signs in accordance with Councils requirements.

Subdivision development must provide footpath and nature strip treatment that reflects the particular road function and provides a safe and pleasant people-oriented environment for pedestrians and cyclists. New roads are to be appropriately landscaped with street trees in accordance with Chapter B9 Landscaping and retain significant existing vegetation to complement the subdivision.



Other street furniture such as bus stops to be provided as required.

All development applications for subdivision to incorporate preliminary engineering drawings of the work to be carried out as required under the regulations.

## 8. Street Lighting

Council will require energy efficient street lighting to be provided and installed in conjunction with any subdivision located in an area where street lighting is required.

New street lighting to be installed as part of a subdivision is to incorporate energy efficient technology to reduce power consumption and carbon footprint with a wattage of 55 watts or less, and may include:

- a) Compact fluorescent
- b) T5 linear fluorescent
- c) Metal halide
- d) White LED
- e) Low Pressure Sodium lamps of 55W or less
- f) High Pressure Sodium lamps of 55w or less

Council will consider alternate street lighting arrangements powered from solar or wind turbines with back up mains power for subdivisions comprising 25 lots or more. Details to be submitted with the development application including maintenance/ cleaning regime, suppliers/ installers warranties/ guarantees, accessibility to replacement parts, battery, panel and turbine life, useability in high wind situations for wind turbines and any noise issues.

Street lighting to comply with AS1158 or AS3771 and any requirements for disability access and mobility. Written evidence that satisfactory arrangements have been made with the Energy Provider will be required prior to the release of a Subdivision Certificate

## 9. Public open space and public reserves

The value to the public of public open space is determined by how easy it is to get to, how well it is used, it's potential for active or passive uses, it's environmental value and how pleasant it is to be there.

Public open space within a subdivision should form part of a pedestrian/cycleway network that connects residential areas and other facilities. Where appropriate, landscaping of open space must be integrated with street and private landscaping to bring the whole landscape environment together. Some Key Principles include:

- a) There must be a functional hierarchy of open space to ensure leisure activities for a wide variety of people.
- b) Open space must be safe to use for access or leisure.
- c) It must enhance the function and appearance of the subdivision.
- d) It must act as a landscape-linking element.

Only land which is in a suitable location and which is able to be used for active or passive recreation will be considered to meet the requirements for public open space. Public open space areas must be functional, well-located and distributed appropriately throughout the subdivision to maximise accessibility and provide for passive and active recreational opportunities.





Applicants proposing urban subdivisions of 25 lots or more are encouraged to contact Council for the requirements for the provision of open space or local parks as part of the subdivision prior to the preparation and lodgement of the development application.

Land which is primarily used for drainage purposes may not be considered as open space if predominantly unusable. Specific requirements under the chapters for the Shire's towns and villages may also apply in relation to open space.

Dedication and embellishment of land used for open space may be offset against the S94 contributions for open space. Applicants should consider the requirements of Council's section 94 contributions plan and the site specific chapters for urban release areas as these documents contain the site specific requirements for the provision of open space. Council's section 94 plan sets out the requirements for undertaking works in kind or the dedication of land in lieu of payment of monetary contributions. It is at the discretion of Council to accept land as open space.

Local parks when provided to be generally in accordance with the following criteria:

- a) Contain a minimum usable park area of 2000m<sup>2</sup>;
- b) Be designed and located so as to maximise street frontage and encourage natural surveillance from surrounding residents;
- c) Be generally level with gradients not exceeding 5%;
- d) Be equipped with play equipment and/or park furniture;
- e) Provide shade cover over all play equipment;
- f) Include soft-fall under all play equipment in accordance with the relevant Australian Standards;
- g) Be situated so that **dwelling**s in the development and surrounding area are generally within a 500m lineal distance of a local park;
- h) Be situated on land that is readily accessible to the surrounding **dwelling**s and be physically connected to the pathway network;
- g) Be cleared of weed species and have a bush regeneration plan if required;
- h) Be cleared of surface rock and be suitable for mowing / maintenance.

## 10. Stormwater Management

Management of stormwater is an integral part of subdividing land and a means to control flooding and other amenity impacts. The following minimum provisions apply.

- a) Development applications must demonstrate compliance with Chapter B3 Services, the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards.
- b) Each new **allotment** must be capable of discharging stormwater runoff from impervious areas to a **lawful point of discharge**. A **lawful point of discharge** (d) may be a natural **watercourse** or drainage path to which the site drains naturally, or a location where any discharge will not cause any actionable nuisance. Where a **lawful point of discharge** does not exist on the **allotment**



- (d), constructed drainage and any necessary easements must be provided to a **lawful point of discharge**.
- c) The applicant must construct all necessary drainage works and must provide all necessary drainage easements and/or drainage reserves including on adjoining or downstream properties to the lawful point of discharge. Where easements are proposed over downstream properties for drainage purposes, a letter of consent from the owner(s) of the downstream properties must be submitted with the development application. Deferred commencement consent may be issued subject to the registration of the easement in these circumstances.
  - d) An appropriate stormwater flow management system must be established to reduce the velocity and peak flow of stormwater discharge (i.e. the provision of an on-site stormwater detention system).
  - e) For small lot subdivision where onsite stormwater detention is required, the construction may be deferred until the **dwelling** construction stage. In this regard a Restriction as to User must be created on the plan of subdivision pursuant to the provisions of S.88E of the Conveyancing Act 1919, stating:

*“No building or development shall be erected on the lots burdened unless the proprietor has first constructed or has made provision for construction of an on-site stormwater detention system (which expression shall include all ancillary gutters, pipes, drains, walls, curves, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater) (here in after called “the system”). The design, construction and/or provision of the system shall be to the requirements and satisfaction of Byron Shire Council.”*
  - f) Lands identified as containing or directly adjoining **watercourses** or trunk drainage lines may be subject to partial inundation during the 1 in 100 year **ARI** storm event. A hydrology study must be submitted to identify the 1 in 100 year **ARI** flow level where the land is traversed by or adjacent to a **watercourse** or trunk drainage system. Development applications must demonstrate that the proposal complies with the requirements of the Northern Rivers Development and Design Manual and Chapters B3 Services and C2 Areas Affected by Flood.

## 11. Utility Services

Utility Services, including power and telephone, are to be provided in accordance with Chapter B3 Services.

The siting and design of proposed utilities must be illustrated on the subdivision plan submitted with the development application.

Written evidence of satisfactory arrangements with a telecommunications and electricity provider must be submitted prior to release of a Subdivision Certificate. Provision must be made for the placement of telephone and electricity underground in visually sensitive locations. A renewable energy system may be approved for the subdivision where development applications demonstrate that the proposed system is sustainable, will provide adequate levels of service to future residents, and minimises the need to remove vegetation for service corridors.

Where possible, subdivision design must provide for common trenching of services to reduce the number of trenches and the amount of land required, and to reduce costs and disruption due to maintenance. Trenching must meet the standards detailed within the Streets Opening Conference current Guide to Codes and Practices for Streets opening.



## 12. Provision of Potable Water Supply

Development applications must demonstrate that an adequate water supply will be available to meet the needs of future residents and occupants, either through the provision of reticulated water supply or rainwater tanks if reticulation is not available in accordance with the provisions of Chapter B3 Services, and the Northern Rivers Development and Design Manual.

## 13. Sewer

Sewer must be provided to all lots within urban zones. Satisfactory arrangements for provision of sewer services must be made with Council in accordance with Chapter B3 Services.

## 14. Geotechnical Report

- a) Development applications for vacant lot subdivision must include a report and certificate from a NATA - accredited practising civil engineer confirming that all proposed **allotments** contain a building envelope of adequate size and shape (i.e. a rectangle with dimensions at least 15m x 12m) that is geotechnically capable of accommodating a **dwelling house** and is not subject to slip or subsidence. The certified building envelopes must be identified on the DA drawings.
- b) The report must address the matters listed in AS1726 (as amended from time to time).
- c) Engineer specialising in geophysical sciences and preparing reports for the consideration of Council must provide written evidence of their holding an insurance policy to the value of at least \$10m indemnifying him/her against professional negligence.

## 15. Strata Title, Community Title and Stratum Subdivision

The minimum areas specified by the Byron LEP 2014 **lot size map** apply to Stratum subdivision in all zones. The LEP sets out minimum lot sizes for Strata and Community Title subdivision in certain zones. For those zones where there is no prescribed minimum area for strata or community title subdivision, minimum lot sizes will be based on the **development footprint**.

The terms of the development consent will be subject to the relevant provisions of the LEP and this DCP, depending on the location, zoning, characterisation and nature of the development proposed. Generally, approved Strata or Community Title Lots must include sufficient area to accommodate the approved development unit, together with any ancillary area, development or structure related exclusively to that unit, unless those facilities are provided in an approved Community Lot or Common Property.

Council will not grant consent to a development application seeking consent for Strata or Stratum Title subdivision unless either that consent or a previous consent identifies and approves one or more buildings that will be erected on or in each of the new Strata or **stratum lots**.

Where vacant lots (Stratum, Strata and Community Title) are proposed all relevant services, infrastructure and access provisions are to be constructed, and any necessary contributions to be paid, prior to the issue of the subdivision/ strata certificate.

Other than for **dual occupancy** development, vacant Strata lots must be created as "development lots" in accordance with Part 5 of the *Strata Schemes Development Act 2015*.



Strata subdivision of **dual occupancies** may create a vacant strata lot subject to:

- a) One of the **dwellings** having been constructed and a final occupation certificate issued for that **dwelling**.
- b) All relevant services, infrastructure and access provisions are to be constructed and any necessary contributions to be paid, prior to the issue of the subdivision / strata certificate.
- c) Relocation of all services to facilitate construction of the development on the vacant lot without affecting service provision to existing development.
- d) Creation of a restriction on use that prohibits the construction of a **dwelling** on the vacant Strata lot other than in accordance with the development consent for the **dual occupancy** building.

Applications for Stratum Subdivision must provide the following:

- a) Draft Plan of Subdivision showing the parcel at ground level and subsequent sheets for each level within the building
- b) A draft Building Management Statement as per Schedule 8A of the *Conveyancing Act 1919*.
- c) Details on easements including easements for support and shelter, vehicular personal access, services and any other easements.

For further details on Stratum Subdivision applicants are referred to *Part 23 - Division 3B Provisions relating to Stratum Lots of the Conveyancing Act 1919* and the *Land and Property Information Registrar Generals Directions on Stratum Subdivisions*.

## D6.3 Rural Subdivision

The following provides planning controls for land in rural and rural residential areas including the RU1, RU2 and R5 Zones. R5 is an urban zone however the most appropriate subdivision controls are those which apply to rural lots.

### D6.3.1 Lot Size, Shape and Configuration

#### Objectives

1. *To ensure that lot sizes and shapes facilitate the orderly and economic use and development of land.*
2. *To ensure that the configuration of the subdivision and the size and shape of lots facilitates the use and management of the resultant land parcels for agricultural and other rural purposes.*
3. *To ensure that adequate access is available to hatchet-shaped lots.*

## Performance Criteria

1. Land suitable for agriculture is both a limited resource and an important part of the Shire's economy. Rural subdivisions must be designed to avoid conflicts between neighbouring land uses and consequently must demonstrate compliance with Chapter B6 Buffers and Minimising Land Use Conflict. Where a subdivision is proposed near an area where land is used or has potential for agriculture, Council will give particular consideration to the likely social, economic and environmental consequences of the proposal and to the following principles:
  - a) New lots must have **dwelling** sites protected from noise, dust, odours, spraying, etc, considering wind direction and topography in relation to nearby agricultural uses.
  - b) Ridgelines, vegetation and distance can provide effective buffers.
2. Lots intended to accommodate a **dwelling** in rural areas must have an identified **dwelling** site that:
  - a) has access by two wheel drive vehicle to a constructed public road;
  - b) is not affected by significant environmental constraints;
  - c) is not at or below the **flood planning level**;
  - d) complies with bushfire provisions under the requirements of Planning for Bushfire Protection as in force at the time of the proposed development;
  - e) has adequate solar access;
  - f) will not create conflicts with or adverse impacts on nearby farming or rural activities;
  - g) is not subject to slip or subsidence.

## Prescriptive Measures

1. Lot sizes must not be less than the minimum area specified in Byron LEP 2014 on the **lot size map**.
2. Battle-axe or hatchet-shaped lots may be permitted in rural zones and the R5 Zone provided the access handle is of sufficient width to accommodate an access driveway, associated drainage, services and landscaping that conforms to the existing landform. The minimum road frontage of each **allotment** must be 7 metres. This may translate as 3.5 metres frontage each if reciprocal rights of carriageway provide shared access to two or more adjoining lots. Pavement widths are to be in accordance with Northern Rivers Development and Design Manual.
3. Applications for rural subdivision for primary production purposes in accordance with Clause 4.2 of Byron LEP 2014 are to include written information from either the Department of Primary Industries (or its successor) or an accredited expert in the field of agriculture confirming that the proposed lot(s) is suited for viable agricultural activity of the type proposed. Splays of 4 m x 4 m should generally be provided on corner lots, except in site specific circumstances where increased sight lines are required.
4. Splayed corners must be provided and dedicated to Council at existing and new road intersections in accordance with the following schedule:
  - a) At the junction of a local road with a main road. (note Main Road has the same meaning as Main Road under the *Roads Act 1993*)



## D6.3.2 Stormwater Management

### Objectives

1. *To facilitate effective water and drainage management and to preserve existing natural drainage systems.*

### Performance Criteria

1. Development applications must demonstrate that the proposed development will incorporate water management and drainage provisions consistent with the requirements of Chapter B3 Services and the other stormwater provisions in Section D6.2.1.
2. Stormwater runoff from each new **allotment** must not create significant detrimental effects on downstream properties or the environment. Natural **watercourses** and existing drainage paths must be retained. Subdivision works must not impede natural drainage paths or significantly increase existing flow velocity or quantity.
3. Small rural and rural residential lots may have to provide an inter-**allotment** drainage system constructed in accordance with the Northern Rivers Development and Design Manual.

### Prescriptive Measures

**Dwelling** sites must not be located within the 1 in 100 year **ARI** flow path of any existing **watercourses** or drainage paths.

## D6.3.3 Road Design and Construction

### Objectives

1. *To ensure access and drainage provision to new lots.*
2. *To enable flexibility in design of new rural roads.*
3. *To ensure that adequate sight distance is provided at intersections.*
4. *To ensure that constructed access is provided to new lots.*

### Performance Criteria

All roads required to service existing and proposed new lots must be designed and constructed to comply with the Northern Rivers Development and Design Manual and Chapter B3 Services. The Council may consider alternative designs in particular instances where the development application demonstrates that:

- a) Safety requirements are not compromised.
- b) The proposed road will not carry more than 60 vehicle movements per day.
- c) Visibility is not impaired from start to finish of the road along its centre-lines.
- d) The grassed verge of the proposed road will not be damaged by traffic movements along the road.
- e) An adequate manoeuvring area is provided to accommodate the turning of a standard (8.8m) service vehicle at the end of a road or in a location approved by Council.



- f) Any proposed narrow pavement will be no longer than 120 metres in length.

### Prescriptive Measures

1. The design of such works must comply with the Northern Rivers Development and Design Manual. Construction must be carried out in accordance with those requirements.
2. Additional standards may apply in bushfire prone areas as per the requirements of the NSW Rural Fire Service.

## D6.3.4 Sewage Management

### Objectives

1. *To ensure that sustainable sewage management facilities are available to new lots in Rural areas.*
2. *To ensure that **on-site sewage management systems** comply with the requirements of Chapter B3 Services and will remain economically viable in terms of ongoing management and maintenance.*

### Performance Criteria

There are no performance criteria.

### Prescriptive Measures

1. Where Council deems that reticulated sewer service is available and feasible, each **allotment** created must be connected to Council's sewerage reticulation system.
2. In all other cases development applications must demonstrate that an **on-site sewage management system** complying with the requirements of Chapter B3 Services can be provided to service each lot. Where lots are constrained and specialised **on-site sewage management systems** are proposed or required, Council may specify as a condition of consent a restriction to be placed on the title advising new land owners of the type of system to be installed in the future.

## D6.3.5 Rural Community Title Subdivision

### Objectives

1. *The objective of this Section is to provide guidelines for rural Community title subdivision including the conversion of existing approved multiple occupancies to community title under the Community Land Development Act 1989.*

### Performance Criteria

1. Rural community title subdivision under the *Community Land Development Act 1989*, should demonstrate compliance with the relevant guidelines and performance standards contained in Sections 6.2, 6.3 and Sections 8.1 – 8.6 of the Byron Rural Settlement Strategy 1998.
2. The conversion of existing approved multiple occupancies to rural community title subdivision under the *Community Land Development Act 1989* should demonstrate

compliance with the objectives contained in Sections 6.2, 6.3 and Sections 8.1 – 8.6 of the Byron Rural Settlement Strategy 1998.

### Prescriptive Measures

1. The maximum number of lots resulting from the Community Title subdivision of rural land (including the conversion of existing approved multiple occupancies to rural community title subdivision) must not exceed the number of approved house sites (excluding the neighbourhood lot/common land) identified in the multiple occupancy approval in relation to the land concerned, or the number of lots identified under the Byron LEP 2014.
2. Consent must not be granted to a development application for rural Community Title subdivision under clause 4.1AA of Byron LEP 2014 unless the Council has considered the following information in relation to the proposed development:
  - a) a water management plan;
  - b) an **on-site sewage management plan** in accordance with the requirements of Chapter B3 Services;
  - c) a waste management plan;
  - d) a **vegetation management plan** and planting requirements;
  - e) a bushfire management plan;
  - f) measures to address the unauthorised/ unapproved illegal construction and occupation of **dwelling houses**. Where such **dwelling**s are to remain as part of the development and not be demolished, a detailed engineers report and certification is to be submitted with the development application demonstrating the **dwelling** is structurally sound, how it meets the relevant provisions of the Building Code of Australia, and/or what works are proposed to upgrade the building to a safe standard. Such works are to be completed prior to the issue of a subdivision certificate for the Community Title Development;
  - g) a draft neighbourhood management statement consistent with the *Community Land Development Act 1989*, including but not limited to the following:
    - i) provision for bushfire management;
    - ii) a prohibition on domestic cats and dogs or provisions providing for their management;
    - iii) provision for environmental repair and enhancement;
    - iv) provision for waste management;
    - v) provision for water management;
    - vi) provision for on-site sewage management;
    - vii) provision for design and construction of any new **dwelling**s;
    - viii) provision for safe vehicular access and driveways in accordance with Northern Rivers Development and Design Manual.
3. Where vegetation management works have been completed previously as part of a development application, credit will be given against those works. Details are to be submitted with the development application demonstrating that the aims and objectives of the previously completed vegetation management works have been achieved.
4. In this Section, Community Title Subdivision means subdivision in accordance with the *Community Land Development Act 1989*.



## D6.3.6 Subdivision Design and Lot Layout on Rural land within the Drinking Water Catchment

### Objectives

1. *To minimise water quality impacts through application of appropriate subdivision design criteria.*
2. *To provide appropriate planning controls for the subdivision of rural land within the drinking water catchment as identified under Byron LEP 2014.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. Lot layout must be designed around building envelopes that have been identified taking into consideration the location and characteristics of roads, **watercourses** and other constraints identified in the site analysis and constraints mapping prepared under Chapter C4 Development in a Drinking Water Catchment. Lot boundaries must be located to minimise impacts on existing vegetation and sensitive areas such as steep land or highly erosive soils. Section 88E restrictive covenants may be required to restrict fencing, and reinforce riparian management practices.
2. When **watercourses** and drainage depressions exist on the site, the following design criteria apply:
  - a) A **watercourse** should not form the boundary between two **allotments**, as this can create conflict over who is responsible for **watercourse** maintenance.
  - b) A solution is to design the lots that are adjacent to a **watercourse** to each include a minimum buffer of 10m to the watercourse while incorporating the watercourse into the adjacent lots (see Figure D6.5). If required, water for the stock on lots to the north can be provided through offline watering infrastructure and a suitable easement to ensure water supply. Consideration of buffers in B6 Buffers and Minimising Land Use Conflict must be taken into account.
3. For Community Title developments, **watercourses** and **riparian land** are to be managed collectively within the Community lot.

The purpose of this is to enable appropriate management of the watercourse without a boundary (e.g. a fence) located in the middle of the watercourse, or 'give and take' fencing with numerous **watercourse** crossings. As a result the boundary will be easier to fence off, it is less likely that the fence will be washed away, and consistent management of the watercourse can be achieved. Such an approach can also reduce land management conflicts between both sides of the creek.

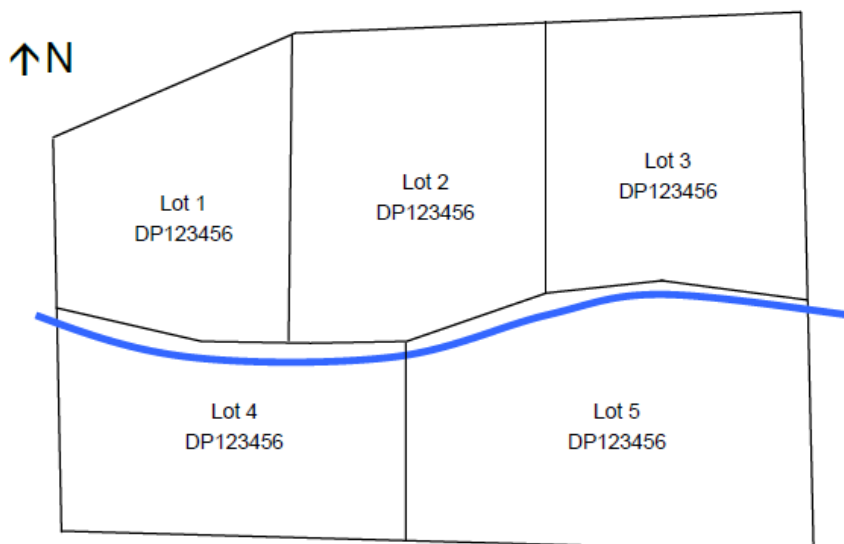


Figure D6.5 – Example of preferred subdivision design along a watercourse

## D6.4 Urban Residential Subdivision

The following provides planning controls for subdivision of land in residential areas including the R2, R3 and RU5 Zones. RU5 is a rural zone however the most appropriate subdivision controls are those which apply to urban lots.

### D6.4.1 Lot Size and shape

#### Objectives

1. To provide lots of sufficient size to satisfy the needs of future residents, and which will accommodate well designed and innovative development;
2. To encourage diversity in lot size and opportunities for a variety of housing choice;
3. To ensure that lot design takes into account the natural features of the site and locality.

#### Performance Criteria

1. Lots must be of sufficient area to allow for the siting of a **dwelling** and ancillary buildings, including provisions for private open space, solar access, vehicle access and parking. Lots must provide sufficient effluent disposal areas where required.
2. Lot sizes must enable **dwelling**s and driveways to be sited to protect natural or cultural features, and must respond to site constraints including topography, bushland, soil erosion, drainage, and bushfire risk.
3. To provide useable areas, lot sizes may need to be increased where sites are steep or contain significant constraints or landscape features including **watercourses** and easements.
4. Lot design must enable the construction of a built form that is sympathetic to the established character of the area.

### Prescriptive Measures

1. Lot sizes must not be less than the minimum area specified in Byron LEP 2014 on the **lot size map**.
2. Proposed lots containing existing **dwelling**s must not result in that lot having a floor space ratio lower than that specified on the **floor space ratio map**.
3. Lots must provide an appropriate shape and area to accommodate an unconstrained building envelope with minimum dimensions of 12 metres by 15 metres.
4. Each Torrens title lot must have a minimum road frontage of 6 metres (i.e. 3 metre driveway and provision for services, landscaping etc). This may translate as 3 metres frontage each if reciprocal rights of carriageway provide shared access to 2 or more adjoining lots. Consideration will be given to a further reduction in lot width for four or more lots where the pavement widths comply with the Northern Rivers Development and Design Manual. Lots relying on rights of carriageway with no road frontage will not be supported
5. The access handle of hatchet-shaped lots must be landscaped in accordance with the requirements of Chapter B9 Landscaping. A landscaping plan must be submitted with the development application for subdivision. Such details could incorporate, for example a meandering driveway with landscaping elements, passing bays, different pavement treatments and kerb blisters incorporating landscaping beds.
6. Hatchet shaped lots (excluding the access handle) should meet the minimum lot sizes as set out in **lot size map** (BLEP 2014). The area of battle-axe handles is not to be included in determining minimum lot sizes.
7. Splays of 4m X 4m should generally be provided on corner lots, except in site specific circumstances where increased sight lines are required.

## D6.4.2 Access Design

### Objectives

1. *To ensure provision of safe and effective access to properties.*

### Performance Criteria

1. Driveways and access must form an integral part of the overall design of the subdivision.
2. Driveway and access design is to provide a safe and efficient entrance/exit to individual lots.

### Prescriptive Measures

1. Applications must demonstrate that vehicle access can be provided to each lot created by the subdivision in accordance with Chapter B3 Services. In certain circumstances, due to topography and other constraints, the driveway will need to be designed and constructed at the subdivision stage.
2. Additional standards may apply in bushfire prone areas as per the requirements of the NSW Rural Fire Service.

### D6.4.3 Infill Subdivision with Rear Lane Access

#### Objectives

1. *To ensure infill development occurs in a co-ordinated manner.*
2. *To ensure vehicle and pedestrian safety and residential amenity is maintained.*

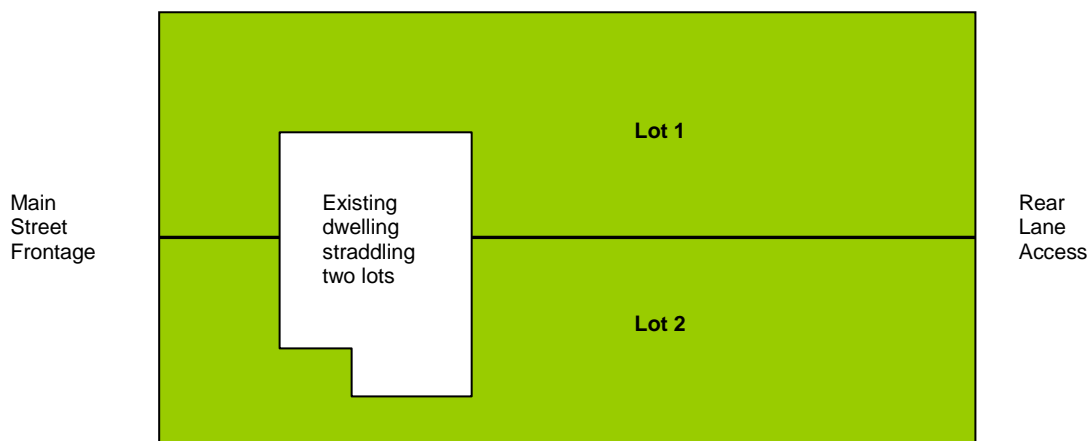
#### Performance Criteria

There are no Performance Criteria.

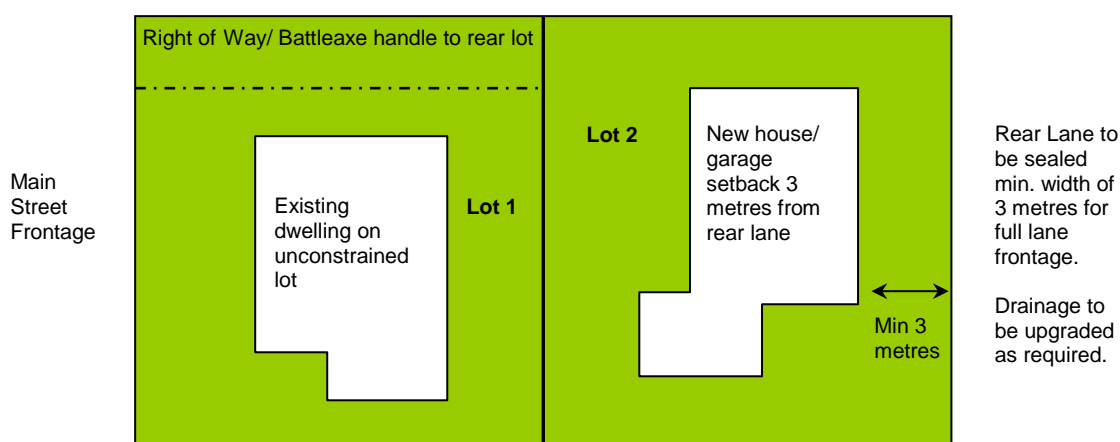
#### Prescriptive Measures

The re-subdivision of existing residential lots which rely on or propose rear lane access will necessitate an upgrade of the rear lane. The following minimum standards are to apply for Strata, Community and Torrens Title subdivision: (See Figures D6.6 and D6.7 for detail)

- a) Construction of the laneway to provide a nominal minimum width of 3 metres bitumen seal with controlled drainage for the full laneway frontage of the property. Where required Council may require sealing to be extended to finalise a laneway or to connect with the nearest cross street.
- b) Driveways are to be installed, and, where crossing of an existing table drain is proposed, installation of appropriate sized concrete pipe and headwalls may be required.
- c) Fencing and access to comply with B4.2.4.
- d) Legal pedestrian access is to be provided back to the main street frontage by way of a Right of footway, common property or battleaxe subdivision design. This can also be used for the provision of services (water, sewer, power and telecommunications) to the rear **dwelling house** / lot and enable garbage and postal services to be collected from the street as opposed to the laneway. Where it is to be used for pedestrian purposes only, the handle to be a minimum 1.2 metres wide to facilitate easy access and manoeuvring of a garbage bin, whilst also providing a main street frontage for visitors and delivery services. Where infrastructure services are also sited in the handle, this may need to be increased to a width of three (3) metres. The access handle should be appropriately fenced for privacy purposes, but must not restrict sight distances to adjoining driveways.
- e) Applicants are to demonstrate that each lot can accommodate an unconstrained building envelope of 12 x 15 metres. **Dwelling houses** and garages are to be set back a minimum of 3 metres from the laneway boundary.
- f) No gates or doors are to open out onto the public road reserve including the laneway.
- g) Landscaping is to comply with the requirements of Chapter B9 Landscaping.



**Figure D6.6 – Pre Development (existing) Subdivision Pattern**



**Figure D6.7 – Post Development Subdivision Pattern**

- h) For development incorporating more than two lots, or development for the purpose of two or more **dwelling**s (not including any **secondary dwelling**), Council may require a higher standard of laneway upgrade in terms of width of seal and drainage infrastructure.

## D6.5 Industrial and Commercial Subdivision

The following provides planning controls for the subdivision of land in the Business and Industrial Zones.

### D6.5.1 Lot Size and Shape (Industrial)

#### Objectives

1. To provide lots of sufficient size and design to satisfy the needs of future industry and to accommodate well designed development.
2. To ensure that adequate access is available to allotments

#### Performance Criteria

Lots must be of sufficient size to allow for the siting of industrial units/ buildings and ancillary facilities including vehicular access, parking, loading and unloading of goods, storage, waste management and landscaping.

### **Prescriptive Measures**

1. Lots to comply with the **lot size map** under Byron LEP 2014. Minimum width and frontage is 25 metres.
2. Battle-axe **allotments** should be avoided where possible, however where there is no alternative, development applications must demonstrate that the layout can provide for effective vehicular circulation, (including entry and exit in a forward direction) parking and loading, storage, waste management and landscaping. The battleaxe handle is to be a minimum of 8 metres.
3. Splays of 4m X 4m should generally be provided on corner lots, except in site specific circumstances where increased sight lines are required.

## **D6.5.2 Lot Size and Shape (Commercial)**

### **Objectives**

1. *To provide lots of sufficient size to satisfy the needs of future business/commercial development and the multi-functional character of Business Zones.*
2. *To ensure that new Lots are capable of accommodating well designed business, commercial and other development.*
3. *To ensure that adequate access is available to allotments.*

### **Performance Criteria**

1. Lots must be of sufficient size to allow for the siting of commercial and ancillary development, including vehicular access, parking, loading and unloading of goods, waste management and landscaping.
2. For developments incorporating a mixture of residential and commercial developments, lots must be of a sufficient size to incorporate ancillary residential development including private open space, landscaping, storage areas, clothes drying areas and the like.

### **Prescriptive Measures**

1. Lots to comply with the **lot size map** under Byron LEP 2014.
2. Battle-axe **allotments** should be avoided where possible, however where there is no alternative development applications must demonstrate that the layout can provide for effective vehicular circulation, (including entry and exit in a forward direction) parking and loading, storage, waste management and landscaping. The battleaxe handle is to be a minimum of 8 metres.
3. Splays of 4m X 4m should generally be provided on corner lots, except in site specific circumstances where increased sight lines are required.

## **D6.5.3 Subdivision design (Industrial and Commercial Development)**

### **Objectives**



1. *To ensure that industrial subdivisions are designed to facilitate the provision of efficient and functional industrial development.*
2. *To ensure that subdivision development is compatible with nearby development and with the existing and desired future character of the locality.*

### **Performance Criteria**

1. Lot sizes and configurations must create an efficient **allotment** layout and facilitate future industrial development on that land.
2. Development applications must demonstrate that the subdivision design identifies and addresses all natural constraints and landscape elements, and mitigates adverse environmental impacts. The design must address and respect natural constraints including topography, drainage, soil landscapes, flora, fauna and bushfire hazard.
3. Development applications must demonstrate that lots are configured to provide for adequate vehicular parking, circulation, storage, waste management and loading and unloading of goods.
4. Lot layout and pedestrian networks must be configured to enhance personal safety and minimise potential for crime, vandalism and potential for crime.

### **Prescriptive Measures**

1. Subdivision design must be consistent with the requirements of Chapter B11 Planning for Crime Prevention. Subdivision design must maximise the opportunities for observation of buildings, spaces and activities by occupants, passing motorists and pedestrians.
2. Development applications for subdivision must identify, address and respect all environmental constraints that affect the site and surrounds. Where lands contain or adjoin bushland or adjoin lands containing endangered flora and/or fauna species, development proposals must be accompanied by a flora and fauna assessment.
3. Lands identified as containing or directly adjoining **watercourses** or trunk drainage lines may be subject to partial inundation during the 1 in 100 year **ARI** storm event. Development applications must demonstrate that the proposal complies with the requirements of the Northern Rivers Development and Design Manual and Chapter B3 Services and C2 Areas Affected by Flood.
4. Lots must be designed to allow the construction of a building or carriageway with a maximum **excavation** or **fill** in accordance with the requirements of Chapter B14 Excavation and Fill, whilst not impeding the flow of waters.



# Byron Shire Development Control Plan 2014

## Chapter D7 Sex Services Premises



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## Chapter D7 – Sex Services Premises

### Contents

<b>D7.1</b>	<b>Introduction.....</b>	<b>5</b>
D7.1.1	Aims of this Chapter .....	5
D7.1.2	Application of this Chapter .....	5
<b>D7.2</b>	<b>General Provisions.....</b>	<b>5</b>
D7.2.1	Sex Services Premises.....	5

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## D7.1 Introduction

This Chapter specifies the controls that apply to **sex services premises**.

### D7.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To identify **sex services premises** as a legal land use that benefits some sections of the community but offends others.
2. To give effect to NSW Land and Environment Court Planning Principles relating to the location of brothels.

### D7.1.2 Application of this Chapter

This Chapter applies to the development or use of land for the purpose of **sex services premises** on land to which Byron LEP 2014 applies.

## D7.2 General Provisions

### D7.2.1 Sex Services Premises

#### Objectives

1. *To ensure that development comprising the use of land or a building for the purpose of sex services is not likely to create significant adverse social impacts in the locality.*
2. *To ensure that the design and character of development or buildings used for the purpose of **sex services premises** are compatible with nearby development and with the existing character of the locality.*

#### Performance Criteria

1. In considering Development Applications seeking consent for **sex services premises**, Council will consider and apply each of the matters contained in the Planning Principle established by the NSW Land and Environment Court in the matter of Martyn v Hornsby Shire Council [2004] NSWLEC 614. Development Applications must address each of the matters contained in the Planning Principle, as follows:
  - a) brothels are a legal land use that benefits some sections of the community but offends others. Most people believe that the exposure of impressionable groups like children and adolescents to the existence of brothels is undesirable. The aim should therefore be to locate brothels where they are least likely to offend. However, criteria for locating brothels should not be so onerous as to exclude them from all areas of a municipality;

- b) brothels should be located to minimise adverse physical impact, such as noise disturbance and overlooking. In this aspect they are no different from other land uses;
  - c) there is no evidence that brothels in general are associated with crime or drug use. Where crime or drugs are in contention in relation to a particular brothel application, this should be supported by evidence;
  - d) brothels should not adjoin areas that are zoned residential, or be clearly visible from them. Visibility is sometimes a function of distance, but not always;
  - e) brothels should not adjoin, or be clearly visible from schools, educational institutions for young people or places where children and adolescents regularly gather. This does not mean, however, that brothels should be excluded from every street on which children may walk;
  - f) the relationship of brothels to places of worship (which are likely to attract people who are offended by brothels) is a sensitive one. The existence of a brothel should not be clearly visible from places where worshippers regularly gather;
  - g) there is no need to exclude brothels from every stop on a public transport route. However, it would not be appropriate to locate a brothel next to a bus stop regularly used by school buses;
  - h) where a brothel is proposed in proximity to several others, it should be considered in the context that a concentration is likely to change the character of the street or area. In some cases this may be consistent with the desired future character, in others not;
  - i) the access to brothels should be discreet and discourage clients gathering or waiting on the street. Apart from areas where brothels, sex shop and strip clubs predominate, signage should be restricted to the address and telephone number.
2. Development Applications seeking consent for **sex services premises** must demonstrate that the proposed development is not likely to create adverse social impacts because of:
- a) its proximity to any place of **public worship, community facility, educational establishment, child care centre, medical centre, public reserve, recreation area**, residential development or like place where children and young people are likely to gather or pass by;
  - b) disturbance in the neighbourhood when taking into account other **sex services premises** operating in the neighbourhood or other land uses within the neighbourhood involving similar hours of operation;
  - c) disturbance in the neighbourhood because of its size or operating hours, or the number of people working in it;
  - d) lack of a suitable waiting area provided in the premises;
  - e) potential for clients to loiter outside the premises.
3. The design and external appearance of the development and any associated structure must be compatible with nearby development and with the existing character of the locality.

### **Prescriptive Measures**

1. **Sex services premises** shall not be located within the following distances to the stipulated land use:
  - a) **residential accommodation** – 20m
  - b) **education establishments** – 300m
  - c) **childcare centres** – 300m
  - d) **place of public worship** – 200m
  - e) **community facility** – 200m
2. Any associated **signage** will be need to comply with Chapter B10 Signage.



# Byron Shire Development Control Plan 2014

## Chapter D8 Public Art



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## Chapter D8 – Public Art

### Contents

<b>D8.1</b>	<b>Introduction.....</b>	<b>5</b>
D8.1.1	Aims of this Chapter .....	5
D8.1.2	Application of this Chapter .....	6
<b>D8.2</b>	<b>General Provisions .....</b>	<b>7</b>
D8.2.1	Provision of Public Art.....	7
D8.2.2	Requirements for a development application for the provision of public art.....	8
<b>D8.3</b>	<b>Provision of Murals .....</b>	<b>9</b>
<b>Appendix D8.1</b>	<b>Assessment Pathways.....</b>	<b>11</b>



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#E2019/65267	August 2019	Adopted 15 August 2019 Effective 11 September 2019 – Res 19-358



## D8.1 Introduction

Public Art is defined in the broadest sense as artistic works or activities accessible to the public. The work is of a permanent nature, located in or part of a public space or facility provided by both the public and private sector. Public art also includes the conceptual contribution of an artist to the design of public spaces and facilities.

Council supports Public Art as outlined in the:

- Public Art Policy
- Public Art Strategy
- Public Art Guidelines and Criteria

A Public Art Panel is appointed to provide appropriate specialist advice and recommendations to Council and to oversee the acquisition of public artworks according to the Policy, Strategy and Guidelines and Criteria. The Panel is made up of invited members and community members with specialist expertise and experience in the arena of public art. More about Public Art can be found on Council's website

<https://www.byron.nsw.gov.au/Community/Arts-and-culture/Public-Art>

### D8.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To implement relevant Strategic Actions and provisions of the Byron Shire Council Cultural Plan and Council's Public Art Policy where they apply to the development process.
2. To recognise the importance of artistic expression to community well-being.
3. To cultivate a climate in which innovative and creative design and **public Art** contribute to the cultural life, liveability and amenity of Byron Shire.
4. To encourage **public art** that is:
  - a) Integral to social and cultural development as outlined in the Byron Shire Community Strategic Plan.
  - b) Developed and managed by appropriate procedures and processes
  - c) Created considering standards of excellence, in a professional manner
  - d) Adequately planned with relevant stakeholders throughout the project duration, with partnerships and collaboration encouraged
  - e) Meaningful, aesthetically stimulating and site specific
  - f) Aimed to provide a cultural outcome
  - g) Supportive of local creative industries
5. To facilitate the provision of **public art** through the development process that:
  - a) Encourages innovative, original work with high artistic merit



- b) Is reflective and responsive to local culture, including the local Aboriginal context, if relevant
  - c) Adds life, texture and interest to the site
  - d) Encourages the use of innovative materials including environmentally sustainable and eco-friendly material
  - e) Is durable, robust, and of quality, low-maintenance materials, and if applicable, be treated with anti-graffiti coating
  - f) Comply with all relevant Australian Standards and Building Codes and Regulations with regard to public safety
  - g) Enhance existing public art assets of the Shire.
6. To specify considerations for the assessment of murals.
  7. To enable equivalent financial contributions in lieu of providing **public art**.
  8. To specify documents to be provided with a development application for the provision of **public art**.

## D8.1.2 Application of this Chapter

1. This Chapter applies to Development Applications for projects that:
  - a) have an estimated cost greater than \$1,000,000 (calculated in accordance with the *Environmental Planning & Assessment Regulation*); and
  - b) are located on land (partly or wholly) within zones RU2, RU5, B1, B2, B3, B4, B7, SP3 or W2; and
  - c) include development for one or more of the following purposes:
    - i) **business premises**
    - ii) **entertainment facility**
    - iii) **function centres**
    - iv) **marina**
    - v) **office premises**
    - vi) **recreation area**
    - vii) **recreation facility** (**indoor**, **major** and/ or **outdoor**)
    - viii) **registered club**
    - ix) **retail premises**
    - x) **tourist and visitor accommodation**.
2. This chapter applies to residential subdivision of land within zones R1, R2 and R3 resulting in 20 lots or greater, with an estimated project cost greater than \$1,000,000 (calculated in accordance with the *Environmental Planning & Assessment Regulation*)
3. This chapter applies to the provision of murals requiring development consent under *Byron LEP 2014, Part 5.10 – Heritage Conservation*.



**Note:**

Unsolicited offers of permanent **public art** works to which this chapter does not apply, both existing and proposed, will be referred to the Public Art Panel for approval. The panel will consider the art work in the context of Council's:

- Public Art Policy
- Public Art Strategy
- Public Art Guidelines and Criteria

The recommendations of the Public Art Panel will be presented to Council as required. **Public art** not approved via the Public Art Panel will be subject to removal.

Unsolicited offers of permanent **public art** to be located on Council owned or managed land are to be managed in accordance with Council's Public Art Guidelines & Criteria.

## **D8.2 General Provisions**

### **D8.2.1 Provision of Public Art**

This section enables 2 assessment pathways for the provision of **public art**. A flow chart is provided in Appendix D8.1 that provides an overview of the assessment pathway options

#### **Objectives**

1. *To facilitate the provision of **public art** through the development process.*

#### **Performance Criteria**

1. In lieu of providing **public art**, the applicant could enter into a Voluntary Planning Agreement with Council to provide an equivalent financial contribution for the installation of **public art** in a suitable location.
2. **Public art** may be located on public land in any of the towns and villages in Byron Shire at the discretion of Council and the Public Art Panel. Council is to be consulted prior to lodgement of a development application for installations on public land.

**Note:**

Preparation of a Voluntary Planning Agreement (VPA) is to be coordinated with Council's Section 7.11 Officer.

#### **Prescriptive Measures**

1. Development to which this Section applies must include the provision of **public art** to the value of at least 2.5% of development costs (calculated in accordance with the *Environmental Planning & Assessment Regulation*) up to \$2 million, and 1% of further development costs exceeding \$2 million. Where development costs exceed \$5 million, the provision of **public art** may be negotiated at a value no less than \$80,000.



2. A Public Art Plan is to be prepared that provides details of the proposed **public art** and must be submitted as part of the Development Application documentation. Council is to be consulted prior to lodgement of a development application. The Public Art Plan must include the following details to the satisfaction of Council and the Public Art Panel:
  - a) A statement that explains the rationale behind the artwork and demonstrates how it will relate to the proposed development and site.
  - b) Details of the nature, materials and form of the proposed **public art**.
  - c) Define and illustrate the intended location and approximate size of the artwork
  - d) Provide a program for documentation, fabrication and installation, and integration with the construction program for the development.
  - e) Deaccessioning agreements in accordance with Council's Public Art Guidelines & Criteria.
  - f) Evidence of partnerships and/or collaboration and funding sources for the **public art** project where applicable.
  - g) Evidence of Public Liability Insurance to cover construction and installation of the work.
  - h) Expenditure for the **public art** and a budget for ongoing maintenance.
3. The Public Art Plan must also demonstrate how the proposed **public art** meets the following Design Selection Criteria:
  - a) The artwork demonstrates artistic excellence and demonstrates local and cultural appropriateness.
  - b) The **public art** must be permanent and durable, with consideration given to maintenance requirements and potential for vandalism.
  - c) The design is consistent with the themes outlined in the Public Art Policy and Public Art Strategy.
  - d) **Public art** must be provided in a location that allows users of the public domain an unobstructed view of the artwork and the ability to freely access and interact with the artwork. **Public art** will not be considered inside buildings, except for public buildings.
  - e) Meets relevant building and safety standards.

## **D8.2.2 Requirements for a development application for the provision of public art**

### **1. Development applications for the provision of **public art** are to include the following two documents:**

- a) Public Art Plan to be submitted by the applicant at the development application stage.

The Public Art Plan must address the Prescriptive Measures outlined in D8.2.1 and demonstrate how the proposed work will accord with this DCP chapter.



Once submitted, the Public Art Plan will be referred by Council assessment officers to the Public Art Panel for review.

- b) Public Art Report to be submitted by the applicant at the Occupation Certificate Stage.

The Public Art Report is to satisfy Council that the public art has been delivered and the public art commitments have been fulfilled. This will enable the Occupation Certificate to be released. The Public Art Report should provide information about the artworks and artist, the fabrication and installation of the work, the documentation and engineers' drawings, the maintenance requirements, any additional relevant information regarding ownership, and copyright of the work. The Public Art Report is a condition of Occupation Certificate.

**2. Where the development application for Public art is associated with a staged development, the following three documents are required:**

- a) Preliminary Public Art Plan to be submitted with the Master Plan for Master Plan sites or with the Stage 1 development application.

The Preliminary Public Art Plan should include an analysis of the locational context, planning requirements and any studies pertinent to the public art objectives. It should identify public art opportunities, propose a methodology for the selection and commissioning of artists and provide an estimated budget and program for the inclusion of artists. Once submitted, the Preliminary Public Art Plan will be referred to the Public Art Panel for review.

- b) Public Art Plan to be submitted by the applicant at the DA Stage of a Master Plan site or with the Stage 2 development application

The Public Art Plan must address the Prescriptive Measures outlined in D8.2.1 and demonstrate how the proposed work will accord with this DCP chapter.

Once submitted, the Public Art Plan will be referred by Council assessment officers to the Public Art Panel for review.

- c) Public Art Report to be submitted at Occupation Certificate Stage

The Public Art Report is to satisfy the Council that the public art has been delivered and the public art commitments have been fulfilled. This will enable the Occupation Certificate to be released. The Public Art Report should provide information about the artworks and artist, the fabrication and installation of the work, the documentation and engineers' drawings, the maintenance requirements, any additional relevant information regarding ownership, and copyright of the work. The Public Art Report is a condition of Occupation Certificate.

## **D8.3 Provision of Murals**

This Subchapter applies to the provision of murals requiring development consent under *Byron LEP 2014, Part 5.10 – Heritage Conservation*. This may include murals that impact on a heritage item or are located within a heritage conservation area, or may include murals that impact on an Aboriginal object or Aboriginal place of heritage significance.



## Objectives

1. To conserve the environmental heritage of Byron Shire.
2. To facilitate the provision of **murals** that are appropriate for the location and the community.

## Performance Criteria

1. The following considerations are to be addressed in a development application for a **mural** requiring development consent under *Byron LEP 2014, Part 5.10 – Heritage Conservation*:
  - a) Is the artwork suited to a diverse audience?
  - b) Does the **mural** add to the character and integrity of the location?
  - c) Is the artwork a **mural** as defined in this DCP or does it meet the definition of **signage**?
2. Consideration is to be given to the use of mediums that will not affect the original fabric of the heritage item (e.g. **mural** may be painted on removable ply boards).
3. Development applications must include a heritage impact statement in accordance with *Byron LEP 2014, Part 5.10(4)*.
4. Where the **mural** is considered to be of minor impact, applicants are to consult with Council prior to lodgement of a development application to determine if *Byron LEP 2014, Part 5.10(10)* is applicable.

## Prescriptive Measures

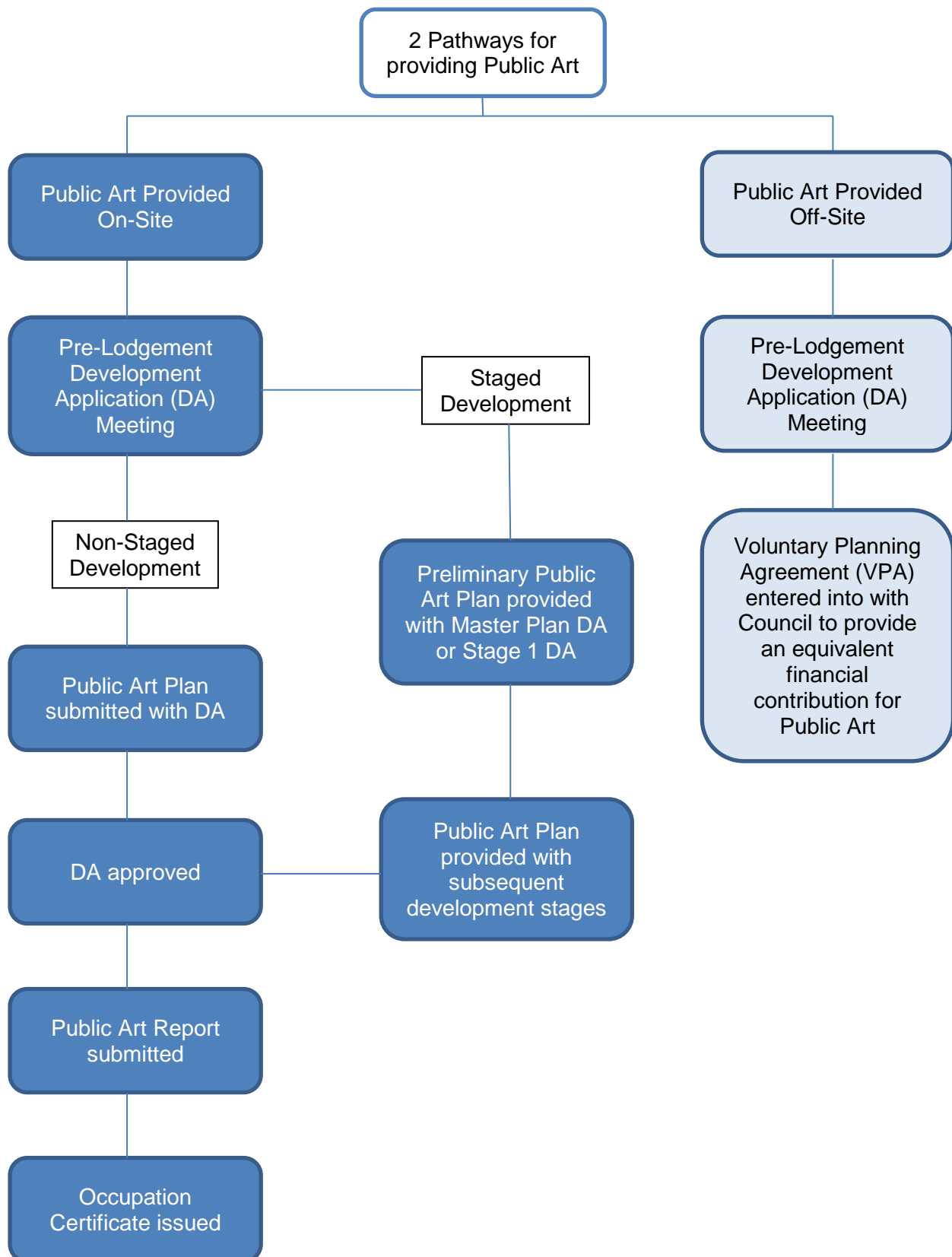
There are no prescriptive measures.

Note:

**Murals** that do not require development consent under *Byron LEP 2014, Part 5.10 – Heritage Conservation* do not require a development application. Where development consent is not required, developers and artists are encouraged to submit their concept to the Public Art Panel for review.



## Appendix D8.1 Assessment Pathways





# Byron Shire Development Control Plan 2014

## Chapter D9 Rural Function Centres



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## Contents

D9.1	Introduction .....	5
D9.2	Aim of this Chapter.....	5
D9.3	Application of this Chapter .....	5
D9.4	Provisions .....	5
D9.4.1	Site Suitability .....	5
D9.4.2	Management of Functions and Events.....	6

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#E2020/2381	January 2020	Draft Public Exhibition version in relation to amended Planning Proposal 26.2016.4.1
#E2020/57691	7 August 2020	Final version effective on gazettal of LEP 2014 Amendment 20 (Res 20-205)



## D9.1 Introduction

Clause 6.11 of Byron Local Environmental Plan 2014 provides for the temporary use of land in Zone RU2 for the purpose of a **function centre**.

The provisions of Clause 6.11 specify that development consent may be granted for a maximum period of 3 years from the date of consent, and outlines a range of provisions to be considered by a consent authority in granting such consent.

In particular, the clause specifies that an approved **function centre** cannot be used for the purpose of a convention centre, exhibition centre or for music festivals.

## D9.2 Aim of this Chapter

The aim of this Chapter is to manage weddings and events of a similar scale held in the Byron hinterland, to address a history of disturbance to neighbours associated with these unregulated events.

The provisions of this Chapter address the suitability of potential sites and establish minimum standards for the management of events on those sites.

## D9.3 Application of this Chapter

This Chapter applies to development applications for the temporary use of land in Zone RU2 for the purpose of a **function centre**, as outlined in Clause 6.11 of the Byron Local Environmental Plan 2014.

## D9.4 Provisions

### D9.4.1 Site Suitability

#### Objective

1. *To ensure that rural functions and/ or events are held on sites that are suitable to such activities, particularly in relation to the ability to avoid or manage disturbance to the amenity of the neighbourhood.*

#### Performance Criteria

1. Use of the property for functions and/ or events will not result in offensive or intrusive noise at neighbouring residences.
2. The local road network has the capacity to accept the additional traffic associated with function and/ or event use at the site without compromise to safety or efficiency.
3. Functions or events at the site will not result in land use conflicts with neighbours, particularly in respect of local farming activities.

#### Prescriptive Measures

Development consent must not be granted for a **function centre** unless the consent authority is satisfied that:

1. the proposal is supported by a site specific acoustic assessment, prepared by a suitably qualified person, quantifying existing background noise levels and noise levels predicted for functions and/ or events in relation to all nearby dwellings, and demonstrating that the use of the property for functions and/ or events will not result in



the generation of offensive noise, as defined in the *Protection of the Environment Operations Act 1997*;

2. a Traffic Impact Assessment has been prepared, addressing traffic numbers, impact on local roads, access and on-site parking, demonstrating that the use of the site for a **function centre** will not result in unacceptable adverse impacts on the safety or efficiency of local traffic or the amenity of the neighbourhood;
3. a Land Use Conflict Risk Assessment has been prepared demonstrating that the use of the site for a **function centre** will not result in any land use conflict in relation to adjoining or nearby farming activities or preclude future farming activities;
4. no clearing of native vegetation is required for the development;
5. the **function centre** is not located in or immediately adjacent to areas of high Aboriginal cultural heritage significance.

## D9.4.2 Management of Functions and Events

### Objective

1. *To ensure that functions and events held on approved sites do not disturb the amenity of the neighbourhood.*

### Performance Criteria

1. Use of the property for functions and/ or events will not result in offensive or intrusive noise at neighbouring residences.
2. Functions and/ or events at the site will not result in land use conflicts with neighbours, particularly in respect of local farming activities.

### Prescriptive Measures

Applications for development consent for a temporary use of land for a **function centre** must include an Events Management Plan, which contains (as a minimum) provisions that:

1. provide for all function/ event guests (other than the bridal party) to be transported to and from the site by bus, suitable to the road network to be utilised for transportation to the site; and
2. ensure that all amplified music will cease no later than 10:00pm; and
3. ensure that all attendees will be off-site no later than 11:00pm, other than those staying overnight on the premises; and
4. outline measures that will be in place to ensure predicted noise levels are not exceeded at nearby dwellings; and
5. provide for the monitoring of noise generated at functions and/ or events and annual compliance reporting to Council; and
6. provide for the notification of nearby residents, including contact details for an appropriate management person who must be on-site and contactable during each function and/ or event and provision of a sign, located so that it can be viewed from a public space outside of the property notifying the name and contact phone number of the management person; and
7. ensure that adequate arrangements are in place to manage wastewater and general waste for each function and/ or event; and
8. manage the potential noise/ amenity impacts associated with any persons staying overnight at the site at the conclusion of the function/ event; and

9. prohibit the use of fireworks, helicopters and/or other comparable activities known to cause disturbance to livestock and/or farming activities.

In deciding whether to grant consent for a temporary **function centre**, the consent authority must consider:

1. the maximum number of functions and/ or events permitted in any calendar year; and
2. the potential loss of farming on the property, particularly where part or all of the site is mapped as State and / or Regionally Significant Farmland; and
3. the potential impact on areas of environmental value, whether on the property the subject of the **function centre** or on adjacent and nearby land, including koala habitat; and
4. whether a trial period is appropriate; and
5. the need for a biosecurity management plan.

A condition of approval will be applied for all development consents for a **function centre** in Zone RU2 specifying that development consent would cease if three substantiated complaints were received in relation to functions and/ or events at the site within a twelve-month period.





# Byron Shire Development Control Plan 2014

## Chapter E1 Suffolk Park



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## Chapter E1 – Suffolk Park

### Contents

<b>E1.1</b>	<b>Introduction.....</b>	<b>5</b>
E1.1.1	Application of this Chapter .....	5
E1.1.2	Aims of this Chapter .....	5
<b>E1.2</b>	<b>Suffolk Park Residential Character Narrative .....</b>	<b>6</b>
<b>E1.3</b>	<b>General Provisions .....</b>	<b>8</b>
E1.3.1	Character, Bulk and Scale of Development .....	8
E1.3.2	Development in or near the B1 Neighbourhood Centre Zone.....	8
E1.3.3	Development in the Vicinity of Tallow Creek .....	9
E1.3.4	Development in the Native Cypress Pine community .....	10
E1.3.5	Vehicular Access to Broken Head Road .....	10
E1.3.6	Pedestrian and Cycle Access .....	11
E1.3.7	Development in SP3 Tourist Zone .....	11
E1.3.8	Development in RE2 Private Recreation Zone.....	12
E1.3.9	Development and servicing of land affected by predicted coastal hazards.....	13

### Figures

Figure 1	Suffolk Park residential character areas .....	7
----------	--	---

### Maps

Map E1.1 – Suffolk Park Urban Area Map .....	14
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#E2020/66606	August 2020	Public exhibition version
E2020/66606	September 2020	Adopted 17 September 2020 Res 20-473

## E1.1 Introduction

### E1.1.1 Application of this Chapter

This Chapter applies to all development on certain land at Suffolk Park, which is known as the **Suffolk Park Urban Area**. The land to which this Chapter applies falls within various zones pursuant to Byron LEP 2014 and is illustrated on the **Suffolk Park Urban Area Map**.

The provisions of other Chapters of this DCP also apply to development to which this Chapter applies. However in the event of any inconsistency between this Chapter and other Chapters, the provisions of this Chapter shall prevail.

### E1.1.2 Aims of this Chapter

The primary purpose of this Chapter is to provide criteria and standards for the future development of the **Suffolk Park Urban Area**. To assist in that regard, the aims of this Chapter are:

1. To facilitate and provide guidelines for the development of the **Suffolk Park Urban Area** consistent with the provisions of Byron LEP 2014, the draft Byron Shire Residential Strategy 'residential character narratives', the **Tallow Creek Floodplain Risk Management Study and Plan** and other relevant Chapters of this DCP.
2. To inform the content of any **Design Verification Statement** and site analysis required by the *Low Rise Housing Diversity Design Guides (for Complying development and Development Applications)*.
3. To promote compatible, innovative urban development of a high design quality that reflects and reinforces the low rise, coastal residential character and scale of Suffolk Park.
4. To facilitate the provision of community, recreational and commercial facilities to serve existing and future residents of Suffolk Park and its surrounding locality.
5. To preserve areas of significant habitat and vegetation value, to promote their active regeneration and to protect them from the impacts of development and domestic animals.
6. To preserve the important scenic backdrop of the escarpment land to the west of Broken Head Road.
7. To control development in a way that ensures that the integrity of Tallow Creek and its riparian and wetlands systems are maintained and enhanced.
8. To identify land in the **Suffolk Park Urban Area** that may be affected by future coastal hazards and to apply development controls proportionate to the hazards affecting that land.

## E1.2 Suffolk Park Residential Character Narrative

*This section provides the residential character context and principles for development within the Suffolk Park residential areas. The narrative statements draw on the unique qualities of this locality and provide an important direction for the development controls and built form guidelines. The statements divide the residential areas into pockets based on context including topography, setting, heritage, streetscape, land uses and built form. Accompanying the narrative is a figure showing a tiered approach to possible character change to signal how new residential development should respond to the streetscape and/or neighbourhood character within different parts of this locality.*

*The statements have been established via the Residential Strategy through consultation with the community and other key stakeholders. They build on the existing structure and important elements contributing to the residential neighbourhood character of Suffolk Park.*



**Pocket D1 Suffolk Park east** of Broken Head Road is accessed via Clifford Street with the adjacent local shops a popular community meeting place. The area is a mix of traditional grid subdivision, a modified grid layout introducing cul-de-sac, battle-axe lots, mixed lot sizes and a number of gated enclaves of detached and attached housing. A number of the original brick and tile houses, duplex and small unit developments having been renovated or replaced with larger more architectural designed dwellings. The leafy streets have wide grassy nature strips some bordered

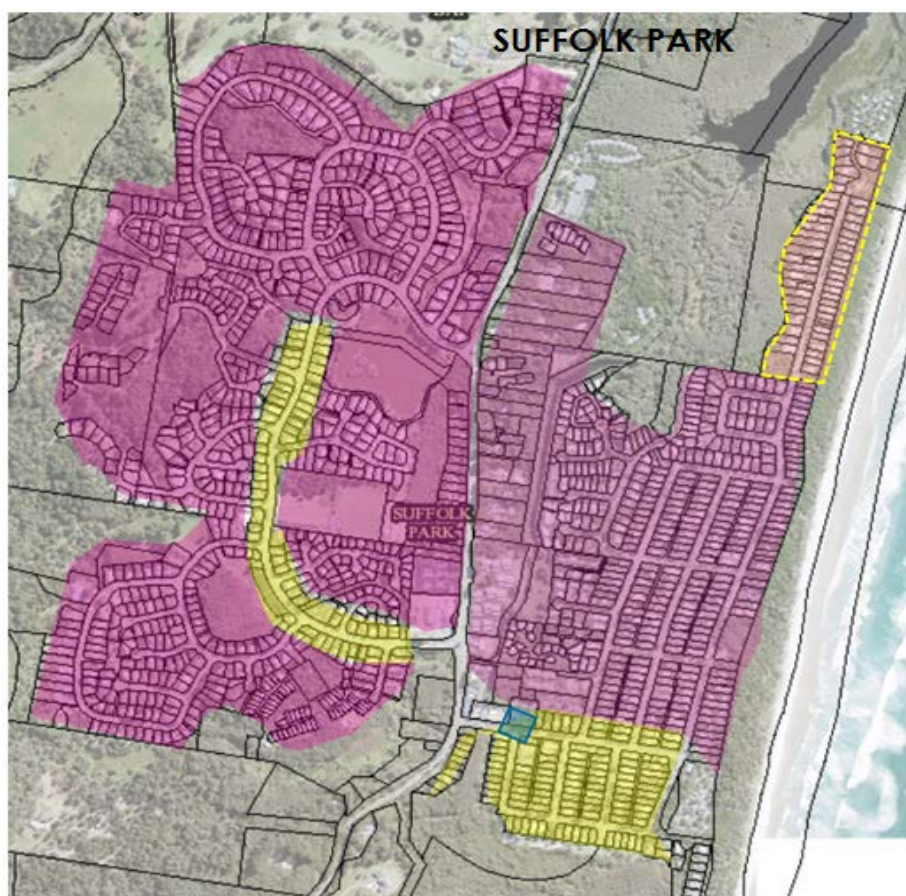
by kerb and channel. This area's low density coastal residential character is accentuated by landscape qualities (low dunes, waterways, wildlife, green spaces), continuity of landscapes and predominantly flat topography, rather than housing design.

**Pocket D2 Suffolk Park west** (Baywood Chase and Byron Hills) is a more recent residential area, master planned in the 1990s to provide a residential suburb with its own neighbourhood shopping centre. Original homes are typically brick and tile homes well set back from the street with relatively large lots and lawn areas. The built form is contained at two storeys. Newer homes and renovations responding to solar passive design and demands for greater housing choice display greater variation in size, height, materials, architectural styles and orientation. Outdoor activity spaces are oriented toward the backyard, with the front yard serving primarily an aesthetic landscape function and containing diverse range of fencing types. Enclaves of detached and attached housing and unit development are clustered around the southern end of Beech Drive, while dual occupancies and secondary dwellings are more widely dispersed throughout. The area's coastal

and hinterland views, hilly topography and abundance of subtropical vegetation, along with a wide array of wildlife, give it a distinctly natural feel. These attributes combine with the substantial presence of well-tended yards, gardens and leafy streetscapes to form the pocket's overall residential character.

lesser extent) on suitable sites. It is important that future infill development respects the limitations of steep terrain, flooding and the coastal habitat and complements the low scale character and natural landscape qualities of this pocket.

Future housing in Suffolk Park will occur through infill residential development — mainly in the form of secondary dwellings, dual occupancies and townhouses (to a



#### **Character categories**

- **Subtle:** *small clusters of low rise medium density complementing the existing form – likely to be incremental with many of existing elements remaining*
- **Transitional:** *earmarking an area for change incorporating pockets of low rise medium density homes that match the amenity of traditional free standing homes, while introducing contemporary dwelling forms for old and young singles and families – retaining attributes that are valued by the community. How the area will look and feel in the future is likely to evolve, and in some cases notably*
- ◆ **Urban Village:** *an opportunity to expand on the creative/business start-up culture and vibrancy of centres*

**Figure 1 Suffolk Park residential character areas**



## E1.3 General Provisions

### E1.3.1 Character, Bulk and Scale of Development

#### Objectives

1. *To ensure that development is consistent with and will enhance the low rise, coastal residential character and scale of Suffolk Park.*
2. *To preserve the important scenic backdrop of the escarpment land to the west of the **Suffolk Park Urban Area**.*
3. *To ensure that all development takes into account climate change and/ or coastal hazard considerations.*

#### Performance Criteria

Development applications must demonstrate that:

- a) the character, bulk, scale and density of proposed development will be compatible with and will enhance the low rise, coastal residential character and scale of Suffolk Park, its built environment and its surrounds; and
- b) within a 'Coastal Erosion Hazard Area' on the **Suffolk Park Urban Area Map** (Map E1.1) that proposed development shall be compatible with the design requirements in E1.2.9.

#### Prescriptive Measures

There are no Prescriptive Measures.

### E1.3.2 Development in or near the B1 Neighbourhood Centre Zone

#### Objectives

1. *To ensure that progressive development of the land within Zone B1 results in the short and long term provision of an integrated local commercial and community centre to serve the business and community needs of the Suffolk Park residents and surrounding areas.*
2. *To ensure that development in the immediate locality does not jeopardise the continued operation of the Neighbourhood Centre on land within Zone B1.*
3. *To ensure that the scale, character and likely impacts of development on land within Zone B1 will be compatible with development in the locality and with the low rise, coastal residential character and scale of Suffolk Park.*

#### Performance Criteria

Development applications on or near land within Zone B1 as identified on Map E1.1 as a 'Neighbourhood Centre Area' must demonstrate that the proposed development will achieve the Objectives above.



## Prescriptive Measures

1. **Dwelling(s)** may be permitted within Zone B1 only if demonstrated to be directly associated with and subsidiary to retail, business, community or associated development within Zone B1. **Shop top housing** is Council's preferred form of residential development within Zone B1.
2. Development applications for development on land within Zone B1 must comply with Chapter D4 Commercial and Retail Development.
3. Development applications seeking consent for development on any part of the land within Zone B1 must include a concept plan for the entire area within Zone B1, demonstrating that the proposed development will form an integral and interconnected part of the existing and future Neighbourhood Centre in terms of:
  - a) provision of an integrated Neighbourhood Centre to serve the business and community needs of Suffolk Park and surrounding areas;
  - b) compatibility in bulk, scale, character, colours and materials consistent with the context of a local business and community focal point/ meeting area;
  - c) provision of outdoor landscaping, paving, shade, weather protection and community meeting space;
  - d) integrated vehicle and bicycle facilities, access and parking.
4. Development applications for development on land that adjoins Zone B1 must demonstrate that the proposed development does not jeopardise the continued operation of the Neighbourhood Centre.

## E1.3.3 Development in the Vicinity of Tallow Creek

### Objectives

1. *To protect the integrity of Tallow Creek as a natural riparian system.*
2. *To maintain and enhance the drainage, open space, recreational and ecological functions of Tallow Creek and its **riparian corridor**.*
3. *To provide for a public open space corridor along Tallow Creek.*

### Performance Criteria

Any development of land adjoining Tallow Creek must demonstrate how it will maintain and enhance the riparian, ecological, bank stability, landscape, connectivity and natural functions of the waterway and its surrounds.

### Prescriptive Measures

1. Development applications seeking consent to development of land located in, adjoining or near Tallow Creek as identified on Map E1.1 must demonstrate that:
  - a) the proposed development will not adversely affect the natural functions of Tallow Creek in terms of water quality, maintenance of pre-development stormwater flow and velocity, bank stability, erosion and sedimentation, aquatic and terrestrial habitat values, aesthetic and public recreation values;
  - b) a public open space corridor will be provided and dedicated or transferred to Council as Public Reserve for a minimum distance of 10 metres each side of the



- centreline of Tallow Creek, together with any necessary measures to ensure that Council can legally access that area for maintenance and management purposes;
- c) proposed buildings, parking areas, driveways or other works other than landscaping and/ or environmental repair works will be located at least 10 metres from the bank of Tallow Creek, or further if warranted by bank stability considerations;
  - d) landscaping and environmental repair works will be undertaken in association with the proposed development to enhance the **riparian corridor** functions of Tallow Creek. A minimum vegetation buffer of 5 metres is to be provided on the western side of the creek from inside the rear property boundary consisting of species endemic to Tallow Creek.
  - e) The proposed development will comply with the requirements of other relevant Chapters of this DCP, including but not limited to Chapter B2 Preservation of Trees and Other Vegetation, B3 Services, B6 Buffers and Minimising Land Use Conflict and B9 Landscaping.
  - f) Where relevant, the proposed development will be consistent with the provisions of Chapter C2 Areas Affected by Flood.

### E1.3.4 Development in the Native Cypress Pine community

#### Objectives

1. *To protect and enhance the integrity and viability of the remaining native cypress pine (*Callitrus Columellaris*) forest in the Suffolk Park locality.*

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

Development applications on land where native cypress pine (*Callitrus Columellaris*) is present, must include a survey and ecological evaluation of the extent, density and condition of native cypress pine forest on the site. Where native cypress pine is present, development applications must:

- a) include a **vegetation management plan** that identifies the proposed means of protecting and enhancing the integrity and viability of the native cypress pine community on the site;
- b) demonstrate that the design and operation of the proposed development will ensure the protection and enhancement of the native cypress pine community on the site and in the locality.

### E1.3.5 Vehicular Access to Broken Head Road

#### Objectives

1. *To preserve the traffic capacity and functions of Broken Head Road as an important arterial road.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. Development applications should minimise the creation of additional vehicular access points onto Broken Head Road.
2. Development applications that propose to upgrade or relocate an existing vehicular access onto Broken Head Road must:
  - a) be accompanied by a Traffic Impact Assessment consistent with the requirements of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access
  - b) demonstrate that the proposed design and means of access to Broken Head Road will not increase traffic hazards or adversely affect the traffic capacity of Broken Head Road and will comply with the requirements of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

## E1.3.6 Pedestrian and Cycle Access

### Objectives

1. *To assist in the delivery of Council's adopted bike plan where possible.*
2. *To provide an expansion of the existing pedestrian/cycleway network to improve connectivity throughout Suffolk Park.*

### Performance Criteria

1. Development applications must demonstrate that the existing or future footpath/ cycleway network illustrated on Map E1.1 and detailed in Council's adopted **Byron Shire Bike Strategy and Action Plan**, will be incorporated into new developments.
2. Any proposed internal pathway network must be integrated with the existing or future footpath/ cycleway network illustrated on Map E1.1, and in accordance with Chapter B5 Providing for Cycling.

### Prescriptive Measures

There are no Prescriptive Measures.

## E1.3.7 Development in SP3 Tourist Zone

### Objectives

1. *To ensure that development within the SP3 Tourist Zone in the Suffolk Park Urban Area is compatible with and does not adversely impact on the vegetation, scenic, landscape and biodiversity values or bush fire risk of the site and its surrounds.*
2. *To recognise established tourist and camping sites and facilities in the Suffolk Park Urban Area as important economic and tourist resources for the Shire, and to preserve their function for the future well being of the local community and visitors.*

### Performance Criteria

Development applications on land within Zone SP3 identified on Map E1.1 as a 'Tourist Area' must demonstrate that the proposed development:

- a) will not create adverse impacts on ecological or biodiversity values of the site or its surrounds;
- b) will not create or contribute to bush fire risk;
- c) will not detract from the scenic values of the site and its surrounds;
- d) will not diminish but contribute to the established vegetation screening and scenic landscape character of the north eastern part of Suffolk Park;
- e) will not reduce the number of camping and/ or caravan sites, or **tourist and visitor accommodation** beds available on the site.

### Prescriptive Measures

There are no Prescriptive Measures.

## E1.3.8 Development in RE2 Private Recreation Zone

### Objectives

1. *To ensure that development within the Zone RE2 in Suffolk Park Urban Area is compatible with landscape character and biodiversity values of the site and its surrounds.*
2. *To recognise the established golf course as an important recreational, landscape, tourism and economic resource for the Shire and preserve these functions for the future well being of the community and visitors.*

### Performance Criteria

Development applications on land within Zone RE2 and identified on Map E1.1 as a 'Private Recreation Area' must demonstrate that the proposed development:

- a) will not create adverse impacts on ecological or biodiversity values of the site or its surrounds;
- b) will not detract from the scenic values of the site and its surrounds;
- c) will contribute to the landscape and vegetation characteristics of the site and its surrounds;
- d) will not adversely affect the ongoing operation or efficient functioning of the established golf course on the site.

### Prescriptive Measures

There are no Prescriptive Measures.

### E1.3.9 Development and servicing of land affected by predicted coastal hazards

#### Objectives

1. To define how public utility services may be provided to development which is potentially threatened by **coastal hazards**.
2. To ensure the impact of **coastal hazards** on potential development is minimised by ensuring any development ceases as the **erosion escarpment** approaches the development.

#### Performance Criteria

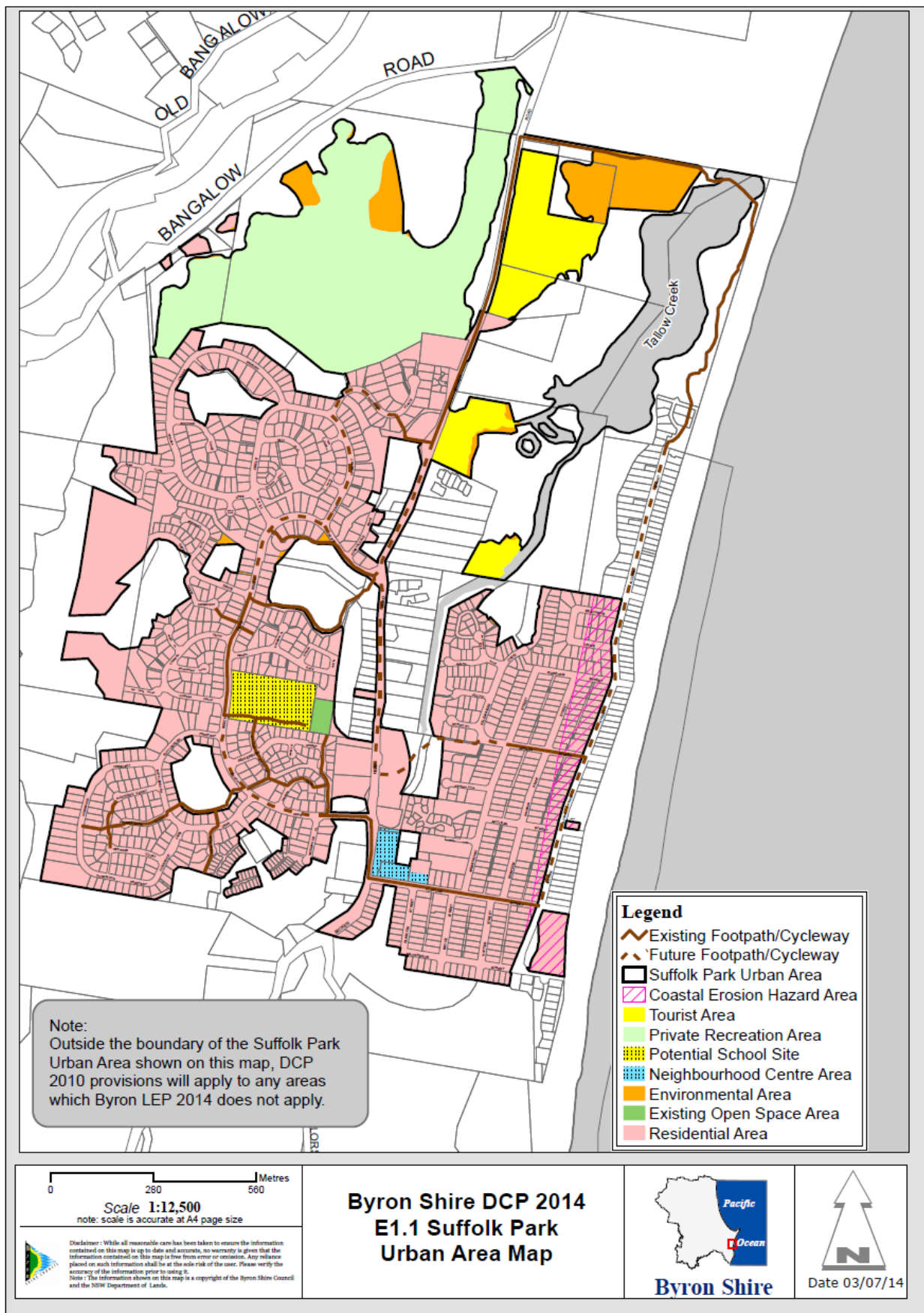
1. Vehicular access, water, sewerage, electricity, telephone and other services must be located so as to minimise the impact from actual or predicted **coastal hazards**.
2. Development on land identified as 'Coastal Erosion Hazard Area' on the **Suffolk Park Urban Area Map** (Map E1.1) must be designed to be relocated or demolished, or to cease operation, should the **erosion escarpment** come within 50 metres.

#### Prescriptive measures

1. All services must be provided from the landward side of the development such that the building is between the services and the **erosion escarpment**.
2. Development within the 'Coastal Erosion Hazard Area' will be considered on the understanding that any consent granted will be subject to the proviso that should the **erosion escarpment** come within 50 metres of any building then the development consent will cease.
3. If the development consent does cease then the owner of the land will be responsible for the removal of all buildings.
4. The option of demolition as the means of removal will be available to all buildings.
5. Prior to the issue of a Construction Certificate a restriction as to user must be placed on the title pursuant to the provisions of Section 88E of the Conveyancing Act 1919, stating:

*"The subject land and any improvements erected thereon must not be used for the purpose of (land use) in the event that the erosion escarpment as defined by the Works and Services Director of the Council of the Shire of Byron from time to time comes to within 50 metres of any buildings or any part thereof at any time erected on the said land".*

## Map E1.1 – Suffolk Park Urban Area Map







# Byron Shire Development Control Plan 2014

## Chapter E2 Bangalow



TRADITIONAL HOME OF  
THE BUNDJALUNG PEOPLE

ALL COMMUNICATIONS TO BE  
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## Contents

E2.1	Introduction .....	4
E2.1.1	Where this Chapter Applies .....	4
E2.1.2	Objectives of this Chapter .....	4
E2.2	Character .....	5
E2.2.1	Existing Village Character and Context .....	5
E2.2.2	Existing Character .....	6
E2.2.3	Place Character Statements .....	7
E2.3	General Provisions .....	14
E2.3.1	Character, Bulk and Scale of Development .....	14
E2.3.2	Infill Development .....	14
E2.4	Development within the Bangalow Heritage Conservation Area .....	15
E2.4.1	General Urban Design .....	15
E2.4.2	Development in B2 Local Centre Zone .....	15
E2.4.3	Active street frontages .....	16
E2.4.4	Connectivity and Permeability .....	17



**Document History**

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#E2021/137244		Adopted 4 November 2021 Effective 25 November 2021 (Res 21-479)

## E2.1 Introduction

### E2.1.1 Where this Chapter Applies

This Chapter applies to land within the Village of Bangalow, within the **Bangalow Urban Area DCP Map**, identified in Map E2.1.

Where there is an inconsistency between this Chapter and other Chapters, the provisions of this Chapter shall prevail.

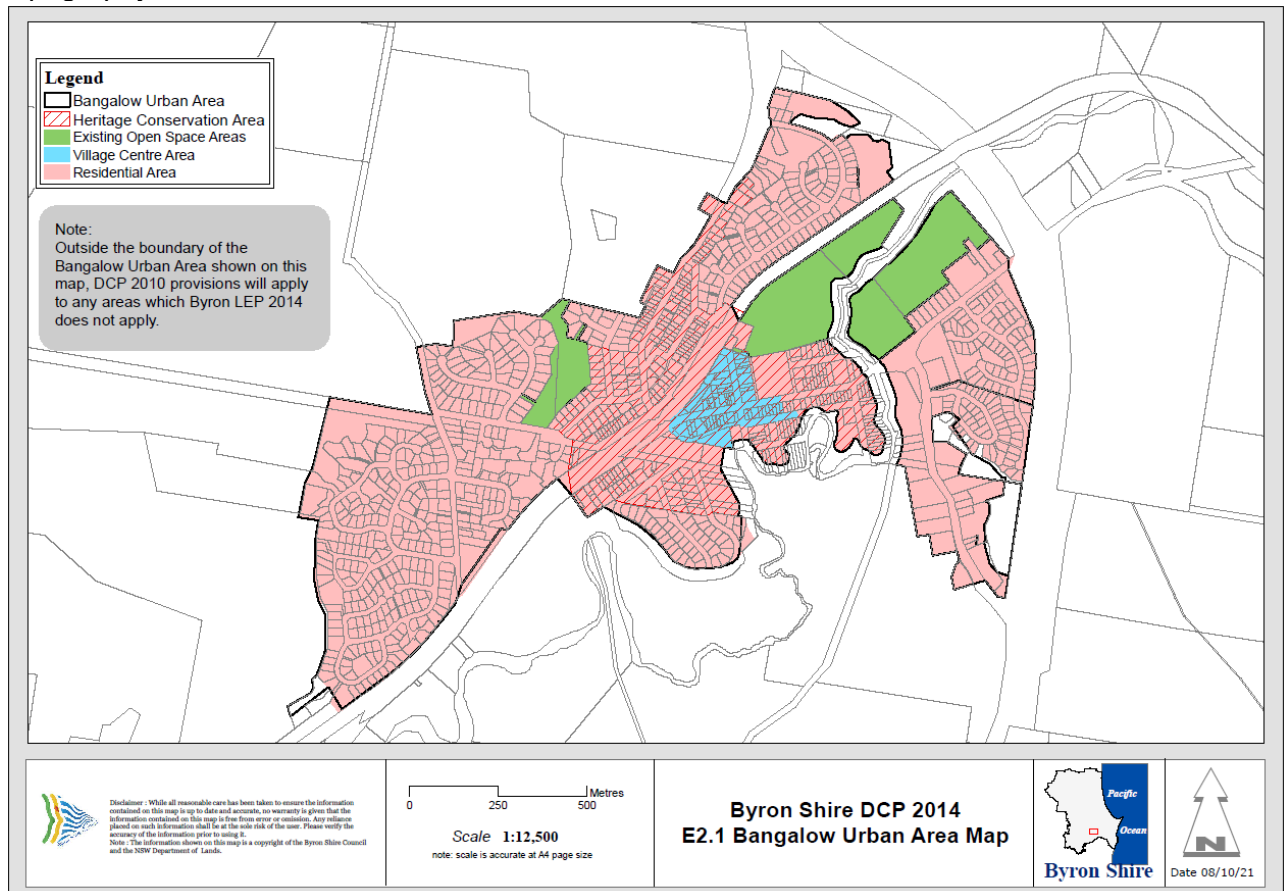
### E2.1.2 Objectives of this Chapter

The primary purpose of this Chapter is to provide locally relevant planning provisions for the assessment of development within the **Bangalow Urban Area**.

The objectives of this Chapter are:

1. To set out a desired future character for Bangalow that respects and builds on the history of the village, its rural context and the existing village character.
2. To provide guidelines for development within the village that will assist in achieving the desired future character.
3. To provide for a variety of residential development forms and densities, including innovative multi dwelling housing and other medium density forms, which best utilise the town's

topography and maximise the use of services.



**Map E2.1 Bangalow Urban Area DCP Map**

**\*NB Please refer to Byron Local Environmental Plan 2014 for most up-to-date information for zoning and heritage.**

## E2.2 Character

### E2.2.1 Existing Village Character and Context

Bangalow is a rarity; a largely intact early twentieth century village that has transformed into a thriving 21st century village without losing its rural charm or its sense of close, cohesive community.

It is a low-rise village with a strong historic character. Reinforcing the connection with the past is a major aim of this Chapter.

A substantial part of the **Bangalow Urban Area** has significant heritage values and consequently is defined as a **Heritage Conservation Area** pursuant to Byron LEP 2014. Outside the Bangalow Heritage Conservation Area, the LEP also identifies many individual sites in Bangalow as heritage items.

Generally, there is an absence of inappropriate “intrusive” buildings; either in the commercial or residential areas. Consequently, there remains a pleasing architectural harmony about the buildings in scale, form, materials and colour.

The relationship of Bangalow’s buildings to its undulating topography contributes much to its character, particularly evident in the stepping of buildings down the steep main street.

New Development must compliment existing character as detailed in the Character Narratives in E2.3.

## E2.2.2 Existing Character

Located on traditional lands of the people of the Bundjalung nation, the Bundjalung of Byron Bay (Arakwal) people have occupied these lands for generations. They continue to live on, and care for Country today.

Bangalow sits in a valley of State significant farmland. The topography of the village is mixed, with mainly gentle slopes and some steep hills and low-lying flood prone land skirting Byron Creek. A wildlife corridor defines the northwest edge of the village. These features have and continue to influence the pattern of development.

Bangalow’s character derives from a range of elements, including topography and landscape, which create much of the charm and visual attraction of the village. From all approaches to the village, and from within, vistas end against green rolling hills.



## E2.2.3 Place Character Statements

This section provides the character context and principles for development within the residential areas of Bangalow. The narrative statements below draw on the unique qualities of this locality and provide an important direction for the development controls and built form guidelines.

The statements have been established via the Residential Strategy, through consultation with the community and other key stakeholders. They build on the existing structure and important elements contributing to the residential neighbourhood character of Bangalow.

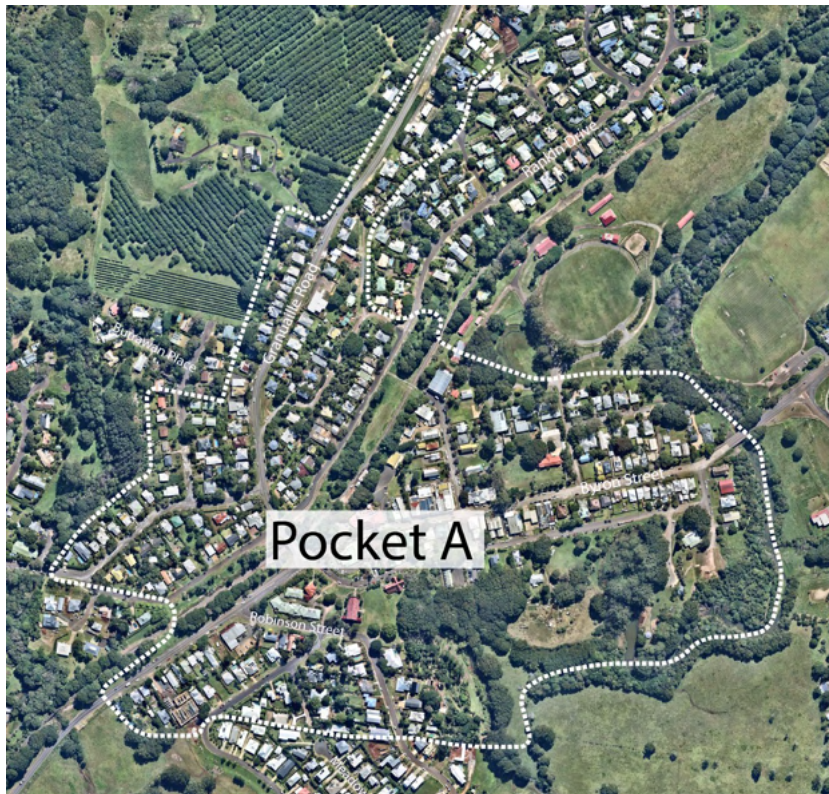
The statements divide the residential areas into pockets based on context, including topography, setting, heritage, streetscape, land uses and built form.



**Figure E2.2.1: Overview of Character Narrative ‘Pockets’ in Bangalow**

### **Pocket A**





**Figure E2.2.2**

Dating from around the First World War, Pocket A surrounds Bangalow's heart - the village centre, and covers the Bangalow Heritage Conservation Area (for the exact area, refer to Byron Local Environmental Plan 2014). It is characterised by small lot sizes (400-500m<sup>2</sup>) on a traditional grid layout. The predominant building materials are locally-produced weatherboards and some red brick bungalows of North Coast Federation style that sit close to the street. The buildings feature an eclectic mix of late nineteenth and early twentieth century characterful features including gables and parapets, gable roof pitches, mixed fenestration styles, traditional building layouts, various architectural period and boundary fences.

This area, in particular along Byron Street and Granuaille Road, is currently undergoing significant land use transition. The area supports a mix of low-scale low-intensity residential dwellings, home businesses and businesses within the original shell of the residential building.

From this heritage centre additional residential areas have grown, yet the footprint of the village has remained contained, defined by an attractive curtilage that clearly identifies the edge between urban village and rural countryside. The retention of mature trees is encouraged, with both indigenous and exotic species contributing to the streetscape and heritage. Throughout the area Basalt retaining walls are a recurring heritage feature.

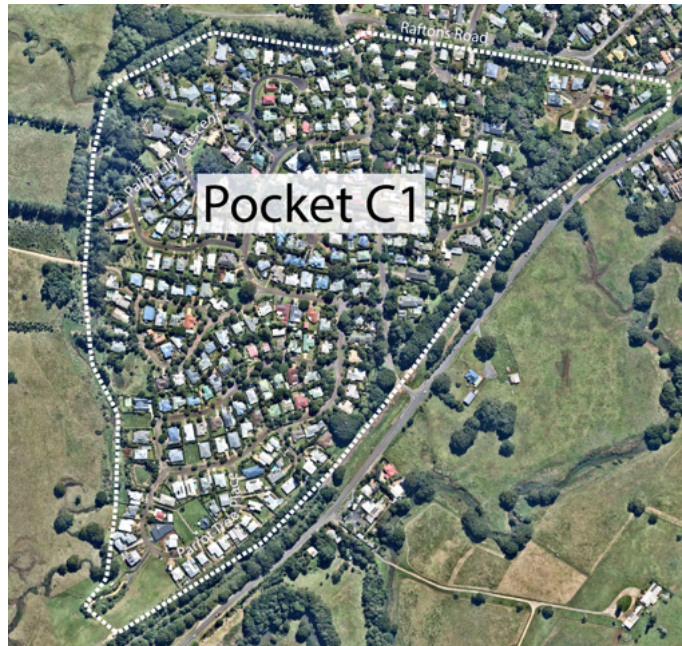
### Pocket B



**Figure E2.2.3**

Pocket B, Raftons Road, was the second development wave. This is a suburban garden area where the streets are set out on a modified grid layout introducing cul-de-sac, battle-axe lots. The area generally has lots 800-1,000m<sup>2</sup> sizes with free-standing, typically single storey brick and tile houses set well back from the street. Outdoor activity spaces are mostly oriented toward the backyard, with the front yard serving primarily an aesthetic landscape function and containing very few front fences. The area is also defined by wide roads that support its late 20<sup>th</sup> century suburban aesthetic.

### Pockets C1 –



**Figure E2.2.4**

Pocket C1, Rankin Drive, is a more recent residential area. Lot sizes average 600m<sup>2</sup> with free-standing dwellings of mixed design and materials, including contemporary, faux Queensland Federation, and relocated Queenslanders. Elevated houses provide an opportunity to create understory secondary dwellings. Larger lots on through streets utilise dual occupancy strata titles to deliver one and two storey medium density homes with all the amenity of a traditional freestanding home in a well-designed and compact form. Playgrounds and small pockets of green space are scattered throughout the newer residential subdivisions.



### Pocket C2



**Figure E2.2.5**

Pocket C2 is particularly elevated, with view out across the township. This topography dictates the street layout and means that development in this area can also be seen from further afield. Lot sizes average 600m<sup>2</sup> with free-standing dwellings of mixed design and materials, including contemporary, faux Queensland Federation, and relocated Queenslanders. Elevated houses provide an opportunity to create understory secondary dwellings.

### Pocket C3



**Figure E2.2.6**

Pocket C3, The Meadows estate, is one of the newer areas in Bangalow, characterised by relocated Queenslanders, generally two-storeys set high on sloping sites with many architectural features that have a commonality with the Heritage conservation area directly adjoining. These include the use of verandahs, a tin and timber material palette and hipped and gabled roofs. Landscaping is fairly sparse and of modern design, contrasting to the leafy and verdant landscapes of the older heritage areas, with much of the entertaining space for houses focussed at the rear of blocks. This area also delivers more medium density options, including dual occupancies and multi-dwelling housing with the amenity of private outdoor spaces and articulated street frontages.

## Pocket D



**Figure E2.2.7**

Ballina Road and Clover Hill, is the most recent area undergoing development for housing. Containing smaller pockets of R3 Medium Density zoned land, this area has capacity to improve housing diversity in Bangalow. A number of low rise medium density residential developments are currently underway on land to the east of Ballina Road. The area also contains investigation areas identified for affordable housing contributions.

In all areas front fences and walls do not dominate the public domain instead they respond to and complement the context and character of the street or lane.

## E2.3 General Provisions

### E2.3.1 Character, Bulk and Scale of Development

#### Objectives

1. To ensure that development is consistent with and will enhance the low rise, heritage character and scale of Bangalow.
2. To ensure that development remains harmonious with existing architectural styles and Heritage Items.

#### Performance Criteria

1. Proposed development is consistent with the low rise, heritage character and scale of Bangalow.
2. The character, bulk, scale, density and landscape treatment of proposed development will be compatible with and will enhance the low rise, historical character and scale of Bangalow, its built environment and its surrounds; and
3. Building materials, textures, finishes and colours will be compatible with and will enhance the low rise, historical character and scale of Bangalow.
4. Reflective colours or surfaces are to be avoided unless required for heritage reasons e.g use of galvanised steel for re-roofing.

Note: **heritage items** identified on LEP 2014 **heritage map** relating to Bangalow must comply with the requirements listed in Chapter C1 Non-Indigenous Heritage.

### E2.3.2 Infill Development

Development in established urban areas of Bangalow must demonstrate consistency with Section E2.2 and E2.3. The design of new buildings must be compatible with adjacent and nearby buildings that contribute to the existing character of Bangalow.

Infill development refers to the densification of existing urban areas, often through the construction of dual occupancies, secondary dwellings and multi-dwelling housing.

The effective use of landscaping and tree planting in developments is required to improve the living and visual amenity of the locality and to assist in micro-climate control.

#### Performance Criteria

1. Faux Heritage or Heritage replicas are not considered appropriate.
2. Infill development should be low set, and **fine grain**, complementary to the older areas of Bangalow.
3. Infill development should integrate with the existing scale and streetscape of the area, minimising excessive bulk.

4. Landscaping must be designed to complement the leafy character of Bangalow and must comply with the requirements of Chapter B9 Landscaping.

## E2.4 Development within the Bangalow Heritage Conservation Area

### E2.4.1 General Urban Design

#### Objectives

1. To promote design that reinforces the existing low-rise historical village feel of Bangalow.
2. To retain the **fine grain** pattern of development in Bangalow.
3. To reinforce the significance of Heritage Items in Bangalow.

#### Performance Criteria

1. New development within the Bangalow Heritage Conservation Area results in an environment of well balanced and harmonious buildings, that blend together through their form, scale and materials.
2. New development does not produce 'fake' copies of the earlier buildings, but recognises and reflects the individual historic worth of earlier buildings, drawing from their influences to create modern buildings that will ensure harmony.

#### Prescriptive Measures

1. Proposals within the Bangalow **Heritage Conservation Area** that include **community significant development** should be designed by an architect with experience in heritage conservation and be supported by a **heritage impact statement** prepared by an appropriately qualified professional.
2. Development applications seeking consent for development within the Bangalow **Heritage Conservation Area** defined by Byron LEP 2014 must demonstrate compliance with Chapter C1 Non-Indigenous Heritage.

### E2.4.2 Development in B2 Local Centre Zone





**Figure E2.4.1 – A map of the precincts in the Bangalow Village Centre**

### **Objectives**

1. To reinforce the character of the village centre including the two distinct precincts of Byron Street and Station Street.
2. To ensure proposed development is complimentary to the distinct style of each precinct.
3. To promote pedestrian connectivity in the village centre.
4. To foster a lively and vibrant village centre

### **Performance Criteria**

1. Development must comply with Chapter C1 Non-indigenous Heritage
2. Development must show regard to the urban design principles:
  - a) Retain and protect Heritage
  - b) Encourage **Active Street frontages**
  - c) Keep the centre green and leafy
  - d) Recognise and celebrate the distinct precinct

## **E2.4.3 Active street frontages**

This clause applies to land zoned B2 Local Centre under Byron LEP 2014.

### **Objectives**

1. To foster a lively and vibrant village centre
2. To promote pedestrian connectivity in the village centre.

### **Performance criteria**

1. Proposed development within the B2 Local Centre Zone must have a commercial ground floor use that attracts pedestrian traffic and movement.
2. Development must enhance the **fine grain** architectural scale of the village centre.
3. Development should avoid large expanses of blank walls.
4. Development supports a vibrant and safe street environment where commercial ground floor uses positively engage with the public realm.

### **Prescriptive Criteria**

1. There are to be no continuous frontages of a single premises beyond 20m
2. Ground floor land use is commercial in nature.
3. Street frontage must enable direct visual and physical connection between the street and the interior of the building.
4. All above ground car parking, loading and unloading zones are behind buildings.

## **E2.4.4 Connectivity and Permeability**

This clause applies to areas identified as Byron Street Precinct and Stations Street Precinct in Figure E2.5.

### **Objectives**

1. To promote pedestrian connectivity in the village centre.
2. To encourage wayfinding on foot
3. To enhance connections through private property
4. To retain the laneways of Bangalow
5. To facilitate mid-block connections

### **Performance Criteria**

1. Development should ensure pedestrian connectivity through the site.
2. Sites should link pedestrian paths to adjacent development
3. The provision of 'internal public spaces' is encouraged
4. Clear and legible pedestrian paths should be provided within development sites, and should promote connections to adjoining sites.

### **Prescriptive Criteria**

1. Council will not grant consent to a development unless it is satisfied that:
  - a) All existing pedestrian access ways are retained or an acceptable alternative is provided.
  - b) The development allows pedestrians to move through, within and around the site in a safe and convenient manner

- c) Pedestrian access ways are suitable for wheelchairs and meet the needs of people with a disability.
- d) Land that has frontage to any public space, will make provision to:
  - i) Incorporate an active pedestrian frontage to the public space
  - ii) Complement the character, public use, security and enjoyment of the public space, and to provide an outlook to the space.





# Byron Shire Development Control Plan 2014

## Chapter E3 Mullumbimby



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## Chapter E3 – Mullumbimby

### Contents

<b>E3.1</b>	<b>Aims of this Chapter .....</b>	<b>5</b>
<b>E3.2</b>	<b>Application of this Chapter .....</b>	<b>5</b>
<b>E3.3</b>	<b>Mullumbimby Residential Character Narrative .....</b>	<b>6</b>
<b>E3.4</b>	<b>Character, Bulk and Scale of Development .....</b>	<b>11</b>
<b>E3.5</b>	<b>Urban Design and Infill Development.....</b>	<b>11</b>
<b>E3.6</b>	<b>Infill Development in Precincts 2 and 3.....</b>	<b>12</b>
<b>E3.7</b>	<b>Urban Design in Precinct 5 .....</b>	<b>13</b>
<b>E3.8</b>	<b>Urban Design in Precinct 7 &amp; southern part of Precinct 2 (Large Lot Residential Areas) .....</b>	<b>14</b>
<b>E3.9</b>	<b>Urban Open Space and Recreation .....</b>	<b>15</b>
<b>Appendix E3.1</b>	<b>Character Precincts .....</b>	<b>22</b>

### Maps

Map E3.1 – Mullumbimby Urban Area Map .....	17
Map E3.2 – Mullumbimby Precinct 1 and 2 Map.....	18
Map E3.3 – Mullumbimby Precinct 3 Map .....	19
Map E3.4 – Mullumbimby Precinct 4 Map.....	20
Map E3.5 – Mullumbimby Precincts 5, 6 and 7 Map .....	21

### Figures

Figure E3.1 – Shelterbelt Design.....	14
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### Appendices

Appendix E3.1 Character Precincts.....	22
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***Document History***

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## E3.1 Aims of this Chapter

The primary purpose of this Chapter is to provide criteria and standards for the future development of the **Mullumbimby Urban Area**. The Aims of this Chapter are:

1. To facilitate and provide guidelines for the development of the **Mullumbimby Urban Area** consistent with the provisions of Byron LEP 2014, the draft Byron Shire Residential Strategy 'residential character narratives' and other relevant strategies and Chapters of this DCP.
2. To inform the content of any **Design Verification Statement** and site analysis required by the *Low Rise Housing Diversity Design Guides (for Complying development and Development Applications)*.
3. To promote compatible, innovative urban development of a high design quality that reflects and reinforces the low rise, heritage character and scale of Mullumbimby.
4. To encourage a compact Mullumbimby central business and shopping area and maximise its accessibility for residents and visitors.
5. To facilitate provision of open space, commercial and community facilities to serve existing and future residents of Mullumbimby and its surrounding locality.
6. To provide an upgraded network of public open space and riparian environmental protection areas based primarily on the river park system and integrated with the walkway/ cycleway system to meet the needs of existing and future residents and visitors.
7. To preserve areas of significant habitat and vegetation value, to promote their active regeneration and to protect them from the impacts of development and domestic animals.
8. To minimise engineering works associated with roadworks, drainage and individual lot development.

## E3.2 Application of this Chapter

This Chapter applies to certain land at Mullumbimby described as the **Mullumbimby Urban Area** shown on the **Mullumbimby Urban Area Map**. The urban area is broken up into 7 precincts and specific detail about the character of 5 of these precincts is provided in Appendix E3.1.

The provisions in other Chapters of this DCP also apply to development to which this Chapter applies. However because of the special site characteristics and resultant special design criteria and provisions applying to Mullumbimby, in the event of any inconsistency between this Chapter and other Chapters, the provisions of this Chapter shall prevail.



## E3.3 Mullumbimby Residential Character Narrative

*This section provides the residential character context and principles for development within the residential areas of Mullumbimby. The narrative statements draw on the unique qualities of this locality and provide an important direction for the development controls and built form guidelines. The statements divide the residential areas into pockets based on context including topography, setting, heritage, streetscape, land uses and built form. Accompanying the narrative is a figure showing a tiered approach to possible character change to signal how new residential development should respond to the streetscape and/or neighbourhood character within different parts of this locality.*

*The statements have been established via the Residential Strategy through consultation with the community and other key stakeholders. They build on the existing structure and important elements contributing to the neighbourhood character of Mullumbimby.*



Mullumbimby situated in the northern part of the Shire is an important service centre for town residents and the surrounding rural area. Located on traditional lands of the people of the Bundjalung nation. The Bundjalung of Byron Bay (Arakwal) people have occupied these lands for generations. They continue to live on, and care for Country today. The population is expected to increase by some 1740 people over the next 20 years to reach approximately 5,520 people.

The town has grown in developmental waves. This is evidenced by diverse street patterns, varying lot sizes and layouts, and architectural styles reflecting the trend at the time of the original subdivisions. The community now generally supports a greater housing choice, diversity and equity in Mullumbimby's established and new release areas. However, it does not want to see the character of its heritage conservation areas eroded by

unsympathetic new development. In the established areas, new housing should respect the surrounding neighbourhood character and contribute to the town's low scale, 'country town' feel and landscape character. **Figure E3.1** following, links with the description below to help define the residential character of Mullumbimby as a 'country town'.

**Pocket A** wraps around the town centre. Initially developed between 1890 and 1930



on a traditional grid layout with rear laneways, the older small and detached houses contribute to the recognised heritage

character of this precinct as the Mullumbimby Heritage Conservation Area. Most buildings are set back from the street and have established, landscaped gardens enclosed by variable height low set front fences. However, some, generally on small lots, are closer to the street and contribute to neighbourly contact and streetscape variety. The leafy wide streets have grassy nature strips with mature trees offering valued shade. Some have edible street gardens, pockets of parking

sealed with permeable, functional materials. All lend to a relaxed, walkable and spacious feel. New houses and low rise medium density developments will need to address the main street frontages, positively respond to their scale and be sensitive to the early 'filigree', 'bungalow' and 'worker's cottage' styles.

The rear lanes, once relegated to a service function, are evolving with the old sheds and garages repurposed or replaced with small adaptable, multi-functional dwellings that offer more affordable accommodation to both new and old residents and support the town's vitality and creativity. The transformation of these narrow but highly valued laneways maintains a connection with the service and industrial architecture of the past, but delivers a more pedestrian and cycle friendly space.

The use of greening techniques to create cooler microclimates, capture stormwater and continue to combat the urban heat island effects in the town centre are all important to the delivery of a high-quality, attractive environment. Retaining the overhanging trees and shrubs is important to maintaining the country lane feeling.



**Pocket B**, east of the rail corridor, reflects the various styles of the post war era with an eclectic mix of low set homes with a blend of external

materials including fibro, rendered brick and weatherboard. Existing homes and new development in this precinct will need to balance necessary responses to flooding constraints while maintaining a consistency with the scale, rhythm and defining features of existing houses.

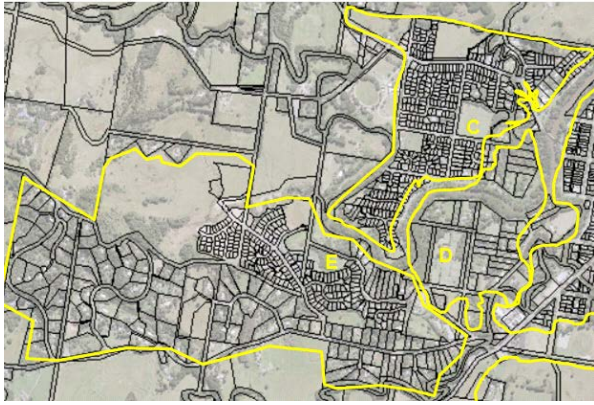
These are typically single storey, with low pitched roofs, setbacks that minimise their impact and front doors and verandahs facing the street.

The leafy streetscapes, variable low set front fences and gardens support opportunities to contribute to edible streets. As with the areas around the town centre rear service lanes are repurposed in various ways while retaining a connection to their past uses.

Argyle Street is the eastern gateway to Mullumbimby. The streetscape and building form of this street signals entrance to a smaller hinterland centre at the foothills of significant scenic natural areas. These are visible in the distance and that connection should be maintained by minimising building heights. Developments should connect with the street and look beyond just the basic provision of housing and transport aspects of Argyle Street to focus on the ways to creating an inviting, interesting and memorable vista:

- through the retention of low set pitched roof housing unobtrusive to the view beyond
- use of verandahs, porches and vertical windows and doors addressing the street
- pockets of parking interspersed with paths, open space, seating and vegetation to encourage walkability and a slowing of vehicles
- well blended planting of local indigenous trees and vegetation to create a connection to the caldera as well as shade, shelter and ecological benefits.





**Pocket C** is over Federation Bridge, the primary access to west. It is a suburban garden area bordered by the Mullumbimby Showgrounds and the meandering Brunswick River. Like Argyle Street, Main Arm Road is an important gateway road to and from the town and development should afford similar streetscape outcomes. Other streets use a modified grid layout and introduce the use of cul-de-sacs. They are also characterised by grassy nature strips with kerb and gutter edges more evident.

Original homes in the area are typically brick and tile, well set back from the street with relatively large lots and lawns. The built form is largely single storey with some pockets of two-storey housing. Larger lots on through streets in the less flood prone areas, lend themselves to one and two storey medium density homes that provide all the amenity of a traditional freestanding home in a well-designed and compact form. Parking for this form of development should be accommodated on site and the interface with the street designed to promote safety and community interaction.

**Pocket D** flanks the riparian area of the Brunswick River with older pockets of large lot residential. These pockets exist due to a response to flooding and servicing constraints, while positively contributing to an important environmental and aesthetic green corridor through the town.

The natural drainage pattern of the town supports good access to open space and opportunities for recreation, while the provision of future pedestrian and cycle connections across watercourse/drainage areas would improve access to the town centre.

**Pocket E** houses more recent residential development in Tallowood and along Left Bank Road. Some occurs on hilly topography that supports areas of wet sclerophyll forest and a range of wildlife. These features, and planning principles of the era, have influenced a departure from traditional grid layouts to more curvilinear streets following contour lines and the substantial use of battle-axe lots. However, the pattern of development may also be attributed to the use of 'minimum lot size' rather than 'lot mix' constraints in LEP 2014. This has not encouraged housing diversity and the Area has little variation in housing type and a high level of car dependence. Interestingly, there is a diversity of housing styles.

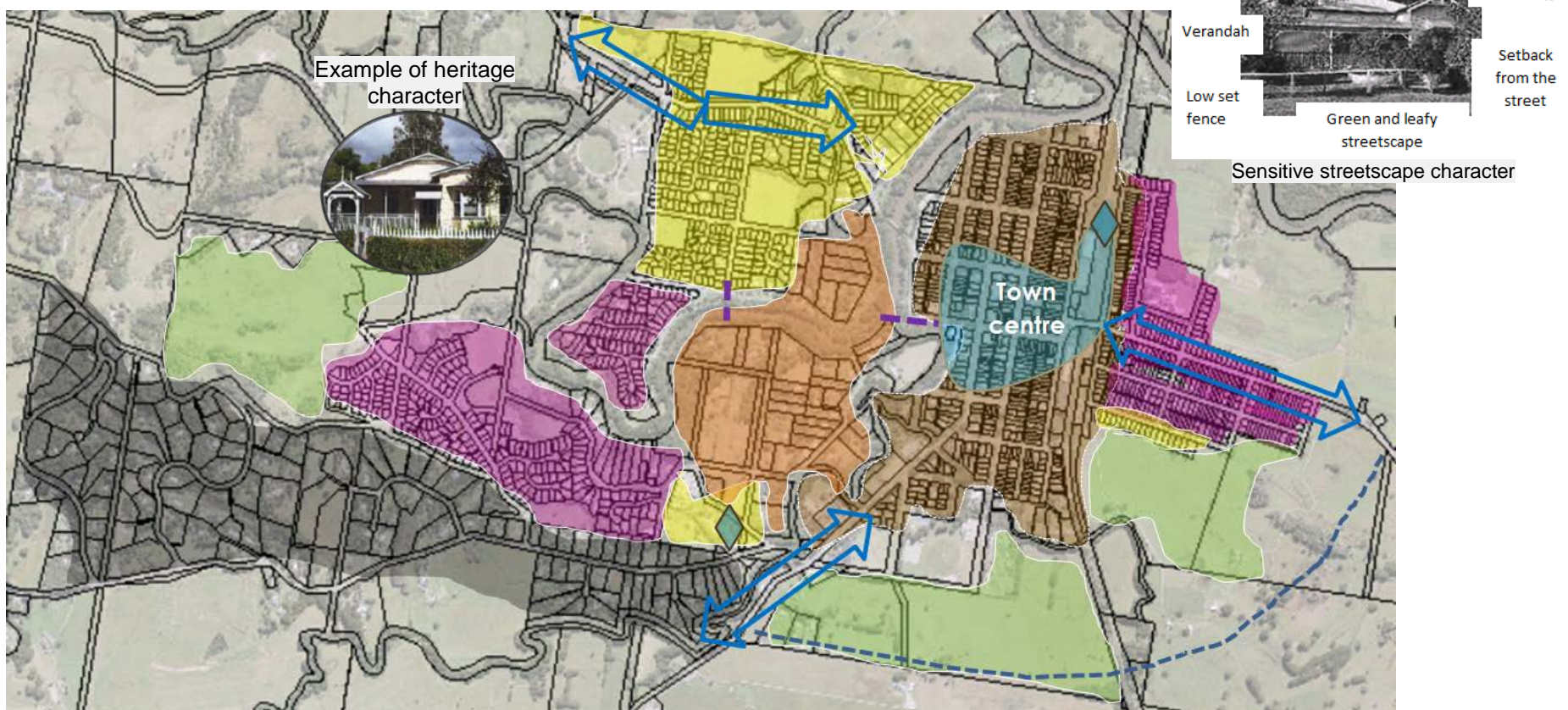


**Pocket F** contains the largest investigation area known as the Saltwater Creek Precinct. Investigation areas are earmarked for affordable housing contributions. Coordinated planning using a structure plan will be required for this area and the old Hospital Site to achieve the best possible outcomes for future residents and the community. Structure plans should demonstrate how greater diversity, choice and equity in housing would be delivered while responding to



community concerns about flooding and emergency access. Planning for this area will include investigations for a possible multimodal local connection road. In all areas front fences and walls do not dominate the public domain instead they respond to and complement the context and character of the street or lane areas front fences and walls do not dominate the public domain instead they respond to and complement the context and character of the street or lane.

**Figure E3.1 - Mullumbimby Residential Character Areas**



#### Character categories

**Sensitive:** any new development reflects existing low scale heritage

**Subtle:** small clusters of low rise medium density complementing the existing form and terrain – likely to be incremental with many of existing elements remaining

**Transitional:** earmarking an area for change incorporating pockets of low rise medium density homes that match the amenity of traditional free standing homes, while introducing contemporary dwelling forms for old and young singles and families – retaining attributes that are valued by the community. How the area will look and feel in the future is likely to evolve, and in some cases notably

Possible local connection multimodal road (indicative only)

Possible local connection pedestrian/cycle (indicative only)

**Emerging:** planned future neighbourhood areas for residents where character is successfully created through careful design considerations and recognition of the need to provide a low rise housing with a mix of lots sizes and housing types to meet a diverse population

**Gateways:** enhance as welcoming gateway feel to a country town - retaining distant vista, low scale & low intensity atmosphere and encouraging integrated street scaping

**Urban village:** opportunity to expand on the creative/business start-up culture and vibrancy of centres

Large lot residential retained

Large lot residential under review as part of Rural Land Use Strategy Action



## E3.4 Character, Bulk and Scale of Development

### Objectives

1. *To ensure that development is consistent with and will enhance the low rise, low scale heritage character of Mullumbimby.*

### Performance Criteria

1. The existing character of Mullumbimby derives from a number of components, including the surrounding backdrop of steep hills; subtropical environment; the distinct shop fronts of the commercial area; the older residential areas; wide streets with mature street trees and narrow rear lanes. Development needs to be consistent with these components where possible.
2. Development Applications must demonstrate that:
  - a) the character, bulk, scale and density of proposed development will be compatible with and will enhance the low rise character and scale of Mullumbimby, its built environment and its surrounds, including the characteristics discussed above where relevant;
  - b) building materials, textures, finishes and colours will be compatible with and will enhance the low rise character and scale of Mullumbimby, its built environment and its surrounds.

### Prescriptive Measures

There are no Prescriptive Measures.

## E3.5 Urban Design and Infill Development

### Objectives

1. *To specify urban design guidelines for development within established urban areas of Mullumbimby.*
2. *To protect the established streetscape character of Mullumbimby's older residential and commercial precincts.*
3. *To ensure that new development in established urban areas will be consistent with and will enhance the low rise scale and heritage character of Mullumbimby.*

### Performance Criteria

1. Development Applications seeking consent for infill development in established areas must demonstrate consistency with the character statements for Mullumbimby contained in Appendix E3.1 of this Chapter.
2. It is important that new buildings or renovations respect the old. New buildings should sit comfortably in the urban fabric, utilising sympathetic elements and demonstrating a continuation of the evolutionary building process that is the heritage of Mullumbimby.
3. New buildings should not be “faked” copies of old buildings or made to look ‘old’, but should be designed and placed so that they reflect the modern, progressive thinking of the community, yet do not overwhelm the neighbouring architectural characteristics. Byron LEP 2014 defines a large part of Mullumbimby urban area as a **Heritage Conservation Area**.



4. Development or demolition involving **Heritage Items** or the **Heritage Conservation Area** is subject to the Heritage provisions of Byron LEP 2014, and the provisions of Chapter C1 Non-Indigenous Heritage.

#### **Prescriptive Measures**

There are no Prescriptive Measures.

## **E3.6 Infill Development in Precincts 2 and 3**

The existing subdivision pattern in Precincts 2 and 3 is dominated by long narrow lots often with houses located across two lots with large rear yards with laneway access. These properties provide opportunities for infill housing in the form of **dual occupancy** development, small lot subdivision and boundary adjustment or re-subdivision.

The use of existing rear lanes to provide resident vehicle access to new infill housing in Precincts 2 and 3 is encouraged, as long as pedestrian accessibility and service provision (garbage, post) is to be provided from the main street frontage. This is to protect and enhance the established streetscape character of Mullumbimby and the immediate surrounds of the site, while also ensuring that the rear lanes do not become main street frontages in their own right.

#### **Objectives**

1. *To ensure infill development in Precincts 2 and 3 occurs in a co-ordinated manner.*
2. *To ensure vehicle and pedestrian safety and residential amenity is maintained.*
3. *To encourage urban consolidation of underdeveloped residential lots in close proximity to Precinct 1.*

#### **Performance criteria**

1. Vehicle access to the development complies with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.
2. Suitable lot shape, **dwelling** sites and **dwelling** design are established so that proposed or future **dwellings** are compatible with adjacent existing housing and do not unnecessarily intrude on the privacy of neighbours.
3. Landscaping treatment to both street and lane frontages to protect and enhance the streetscape and character of the Precinct.

#### **Prescriptive Measures**

Refer to Chapter D6 Subdivision (Section D6.4.3)



## E3.7 Urban Design in Precinct 5

### Objectives

1. To specify urban design guidelines for development within Precinct 5 in addition to those in other Sections of this DCP.
2. To ensure that development in Precinct 5 for new urban areas will support and enhance the low rise, character and scale of Mullumbimby.

### Performance Criteria

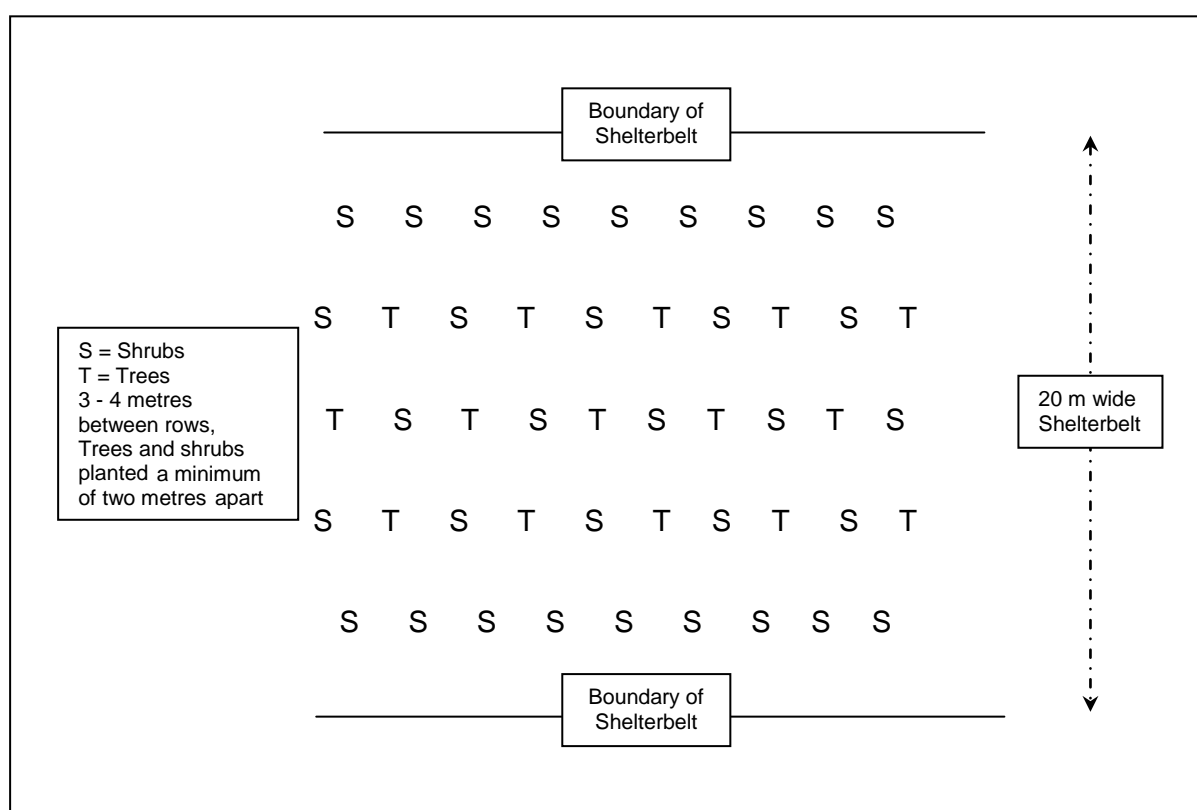
1. The development shall respond to the undulating topography and north-facing aspects of this precinct with curvilinear layouts and innovative, cost effective subdivision practice. The character of the streetscape and length of visual 'runs' in this precinct will contrast with the existing town grid pattern.
2. The prominent east/ west ridgeline is to be preserved as an important local wildlife corridor, **shelterbelt** and visual element in the landscape. Native vegetation communities are to be managed appropriately with a combination of weed control, assisted natural regeneration and planting where necessary. The **shelterbelt** is to provide:
  - a) a distinctive visual buffer between residential development in Precinct 5 and rural residential development to the south in Precinct 7;
  - b) an extension of the Mooyabil Spur native vegetation corridor to the west linking with riparian areas adjoining the main arm of the Brunswick River to the east;
  - c) habitat for native flora and fauna including koalas; and
  - d) a natural feature to reduce wind speed.
3. The open space system will focus on the river corridor and the extension along the gully forming the northern boundary of this area.
4. Preferred cluster housing/ medium density sites should be located adjacent to open space corridors or the **shelterbelt**.
5. A master plan will identify a potential site for a future community facility on an area of land identified for open space. The future community facility is to serve the residents of this precinct and adjoining residential and rural residential areas.
6. Vehicle access is to be provided from Clays Road to Left Bank Road through Precinct 5 to improve connectivity between the southern and western areas of Mullumbimby, as shown on the **Mullumbimby Urban Area Map**. Brushbox Drive to also link in with the proposed distribution road through Precinct 5. Design and construction to comply with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

### Prescriptive Measures

1. The **shelterbelt** will have a minimum width of 20 metres and shall be planted with species **locally indigenous** to Byron Shire (refer to the **Native Species Planting Guide to Byron Shire**) along the southern boundary of Precinct 5 (**Mullumbimby Urban Area Map**) within the adjacent road reserve (See Figure E3.1 for design details). Existing native vegetation within the road reserve and within Precinct 5 is to be integrated with planted species.
2. No vehicle access or roads to be provided from or constructed within the **shelterbelt** other than a potential link connecting Brushbox Drive within Precinct 7 to the proposed



distribution road, as indicated in the [Mullumbimby Urban Area Map](#). A shared bike/ pedestrian pathway in the [shelterbelt](#) will be considered on merit.



**Figure E3.2 – Shelterbelt Design**

Trees and shrubs are to be planted at minimum two metres spacing in rows and the rows are to be 3-4 metres apart as per Figure E3.1. Species selected are to include [Koala food trees](#) endemic to the area. A mixture of native shrubs and grass species are to be planted on the outside rows. A detailed plan prepared by a suitably qualified professional is to be submitted with the Development Application demonstrating how the [shelterbelt](#) will be landscaped (including the planting list), vegetation to be retained, and how the [shelterbelt](#) will be managed.

## E3.8 Urban Design in Precinct 7 & southern part of Precinct 2 (Large Lot Residential Areas)

### Objectives

1. To specify urban design guidelines for development within the Large Lot Residential areas adjoining the Mullumbimby township.
2. To ensure that development in Large Lot Residential areas will support and enhance the low rise, heritage character and scale of Mullumbimby.

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

Development Applications seeking consent for development in R5 zone must demonstrate compliance with the following urban design principles, in addition to the requirements of Byron LEP 2014 and Chapter D1 Residential Development in Urban and Special Purpose Zones:

- a) A Pedestrian/ cycleway system, and a potential **neighbourhood shop** site to service the needs of residents is located on the corner of Left Bank Road and Tuckeroo Avenue to service the residents in Precincts 5, 7 and surrounding areas.
- b) Brushbox Drive to potentially connect with a distribution road in Precinct 5 to improve vehicle and pedestrian connectivity.
- c) The land west of the Mullumbimby swimming pool is flood prone and not serviced by reticulated sewer. Any development on these properties to be carefully sited and designed to enable suitable area for the treatment and disposal of effluent in accordance with Chapter B3 Services.
- d) In the Orchid Avenue/ Station Street area at the south end of Precinct 2 residential development is to be restricted to the flood free area located north of Saltwater Creek.

## E3.9 Urban Open Space and Recreation

### Objectives

1. *To provide for the public open space and recreation needs of existing and future residents of Mullumbimby.*
2. *To facilitate the provision of a continuous open space and environmental protection network on the banks of the Brunswick River and its tributaries in Mullumbimby.*

### Performance Criteria

Development Applications must demonstrate compliance with the following open space principles:

- a) public open space is to form an integrated network and functional hierarchy of open space as shown on the **Mullumbimby Urban Area Map**;
- b) the principal open space element to be enhanced and extended includes the riparian open space and environmental protection corridor as illustrated on the **Mullumbimby Urban Area Map**;
- c) new neighbourhood parks or playgrounds are to be provided so that no new urban **dwelling** lot is located further than 400 metres from a park;
- d) neighbourhood parks need to be designed to meet the Crime Prevention through Environmental Design (CPTED) principles and Active Living criteria. Constructed facilities and amenities are to be provided to a level that is commensurate with the demands generated by that open space area.

### Prescriptive Measures

1. Provision should be made for future sports fields on the land in the northern portion of Precinct 5 as nominated on the **Mullumbimby Urban Area Map**. Details to be submitted with the Development Application for the subdivision of this land as to how

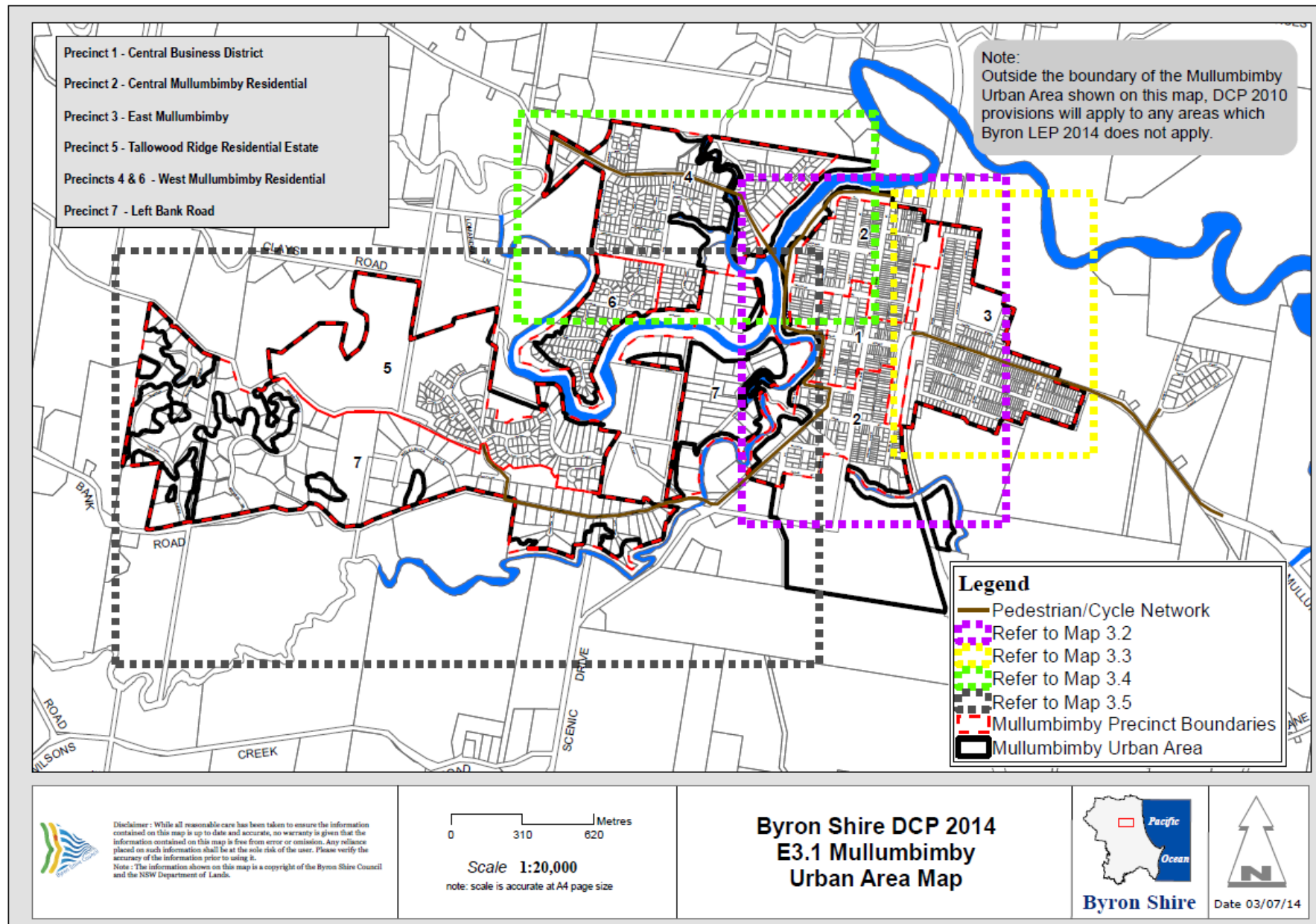




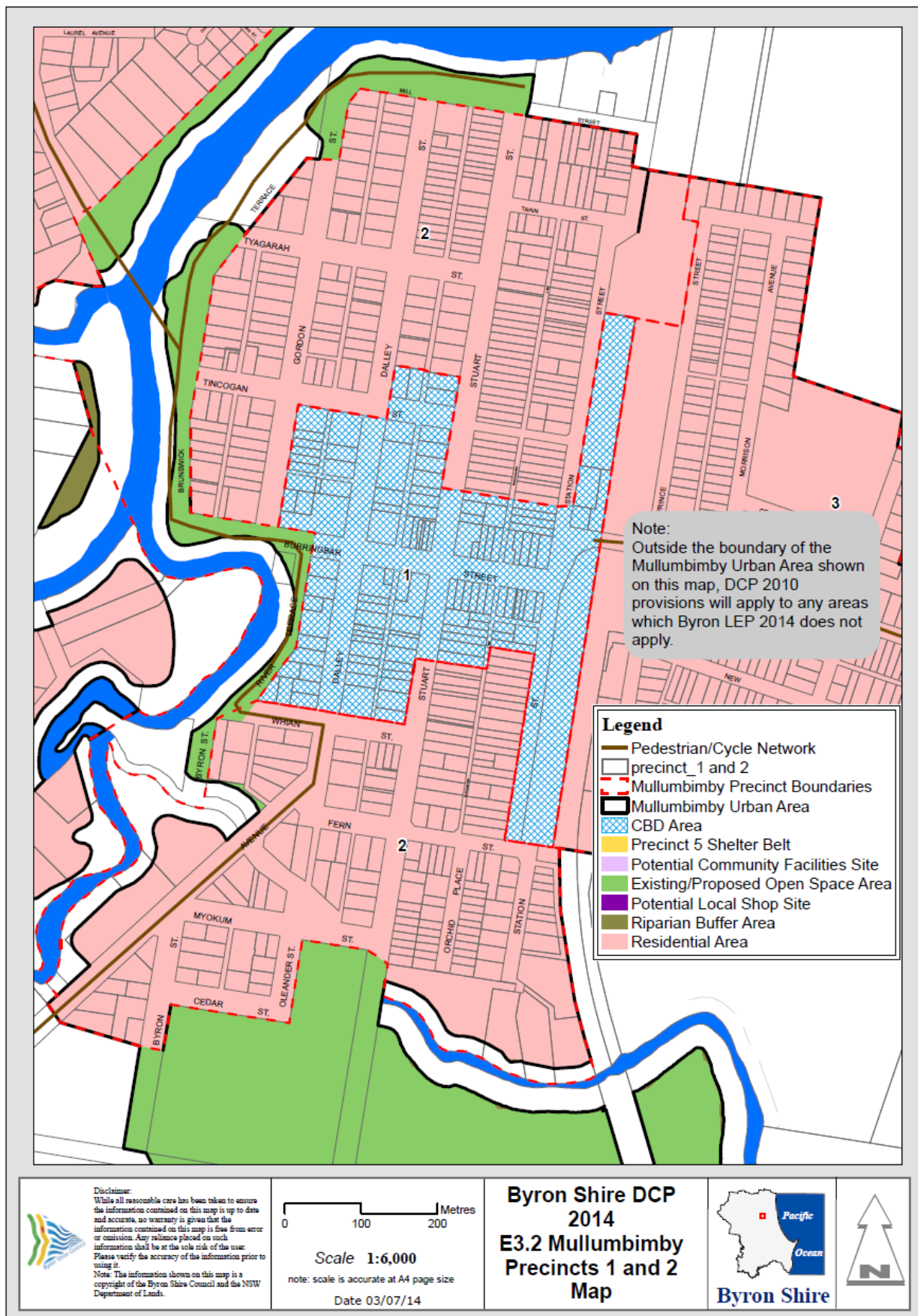
these sports fields are to be provided and embellished. As a minimum the plan to indicate the following:

- a) an informal playing fields area constructed to a standard to that which is required for competitive sport. Such fields should be dimensioned to facilitate sports such as soccer, football, cricket, hockey and other team sports, although it may comprise informal usage, by the residents or people using the recreational facilities;
  - b) walking/exercise/educational tracks;
  - c) children's playground, west of the parking area on the south side of the playing fields;
  - d) seating, shelters/BBQs, toilet facilities, west of the parking area on the south side of the playing fields;
  - e) basketball and Tennis court (with tennis court fencing);
  - f) car parking for a minimum of 40 vehicles;
  - g) landscaping, particularly around the perimeter of the facilities and along the creek line;
  - h) fencing, bollards, signage;
  - i) flood signage and management devices;
  - j) any area(s) proposed for community garden purposes;
  - k) location of future community facility and associated parking.
2. New neighbourhood parks in other localities should be designed with a usable area commensurate with the number of residents it shall serve. Neighbourhood parks are to be provided with the following facilities as a minimum:
- a) imaginative play and sensory stimuli areas/structures: providing opportunities for children to create their own play scenarios;
  - b) some form of ball play area (e.g. half court basketball);
  - c) some conventional play equipment (e.g. Climbing structure/s) must meet Australian standards, 80m<sup>2</sup> of play equipment as a minimum;
  - d) synthetic soft-fall surfaces in areas of high use;
  - e) ample supervising adult seating;
  - f) an electric BBQ, two covered tables and bins on stands;
  - g) a pathway network connecting to adjoining roads;
  - h) shade covers over all play equipment;
  - i) appropriate plantings of **locally indigenous species** (no eucalypts or exotics). Trees must have non-invasive root systems and be suitable for under-pruning as they develop to allow mower egress and undisturbed lines of sight;
  - j) the park should have bollards spaced at 1.5m separating roadway from park. A chained entrance should be provided for mower access; and
  - k) the park should be turfed with a Couch (*Cynodon* sp.) to allow selective weed control.

## Map E3.1 – Mullumbimby Urban Area Map

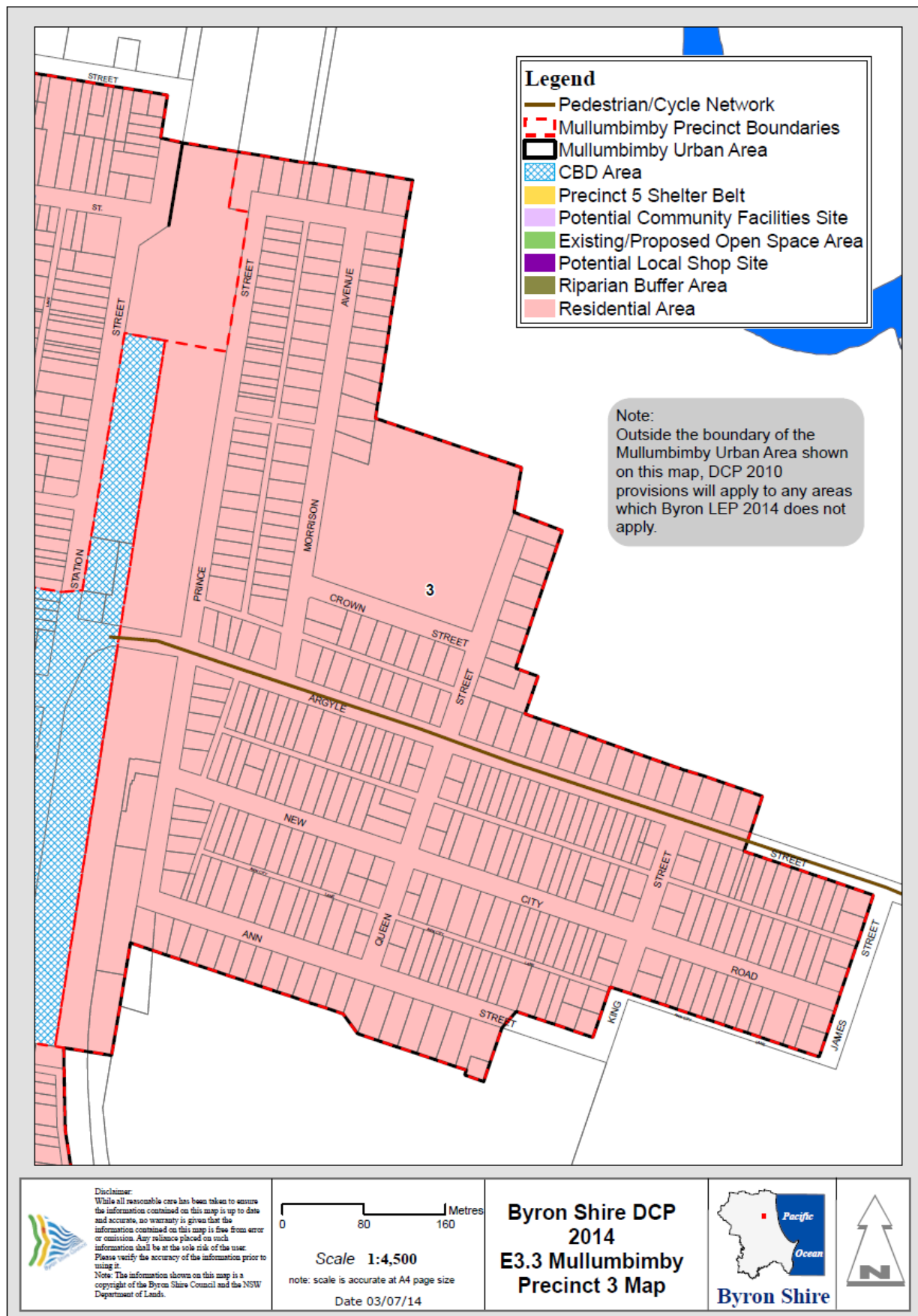


Map E3.2 – Mullumbimby Precinct 1 and 2 Map

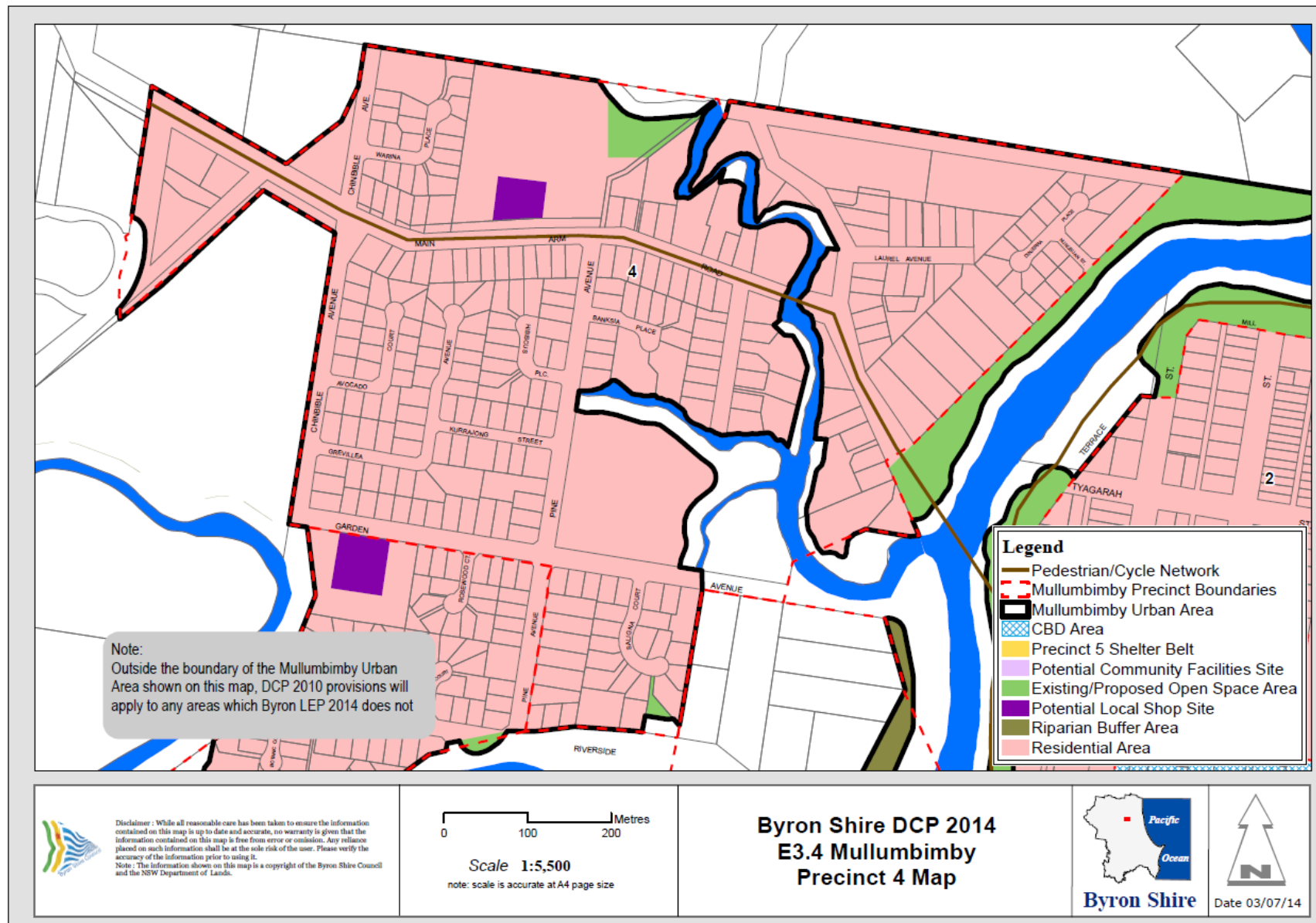




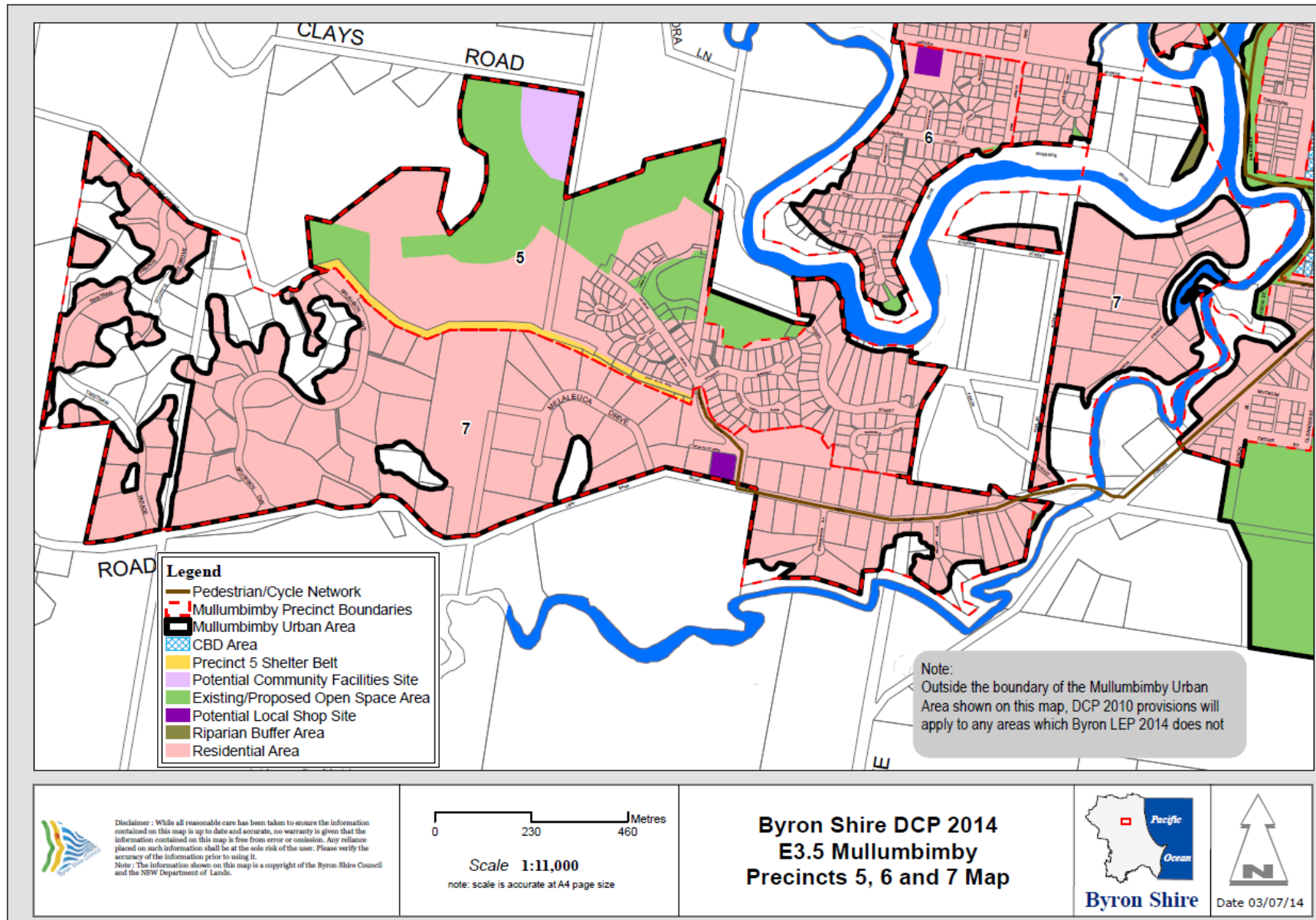
## Map E3.3 – Mullumbimby Precinct 3 Map



Map E3.4 – Mullumbimby Precinct 4 Map



Map E3.5 – Mullumbimby Precincts 5, 6 and 7 Map



## Appendix E3.1 Character Precincts

### Central Business District – Precinct 1

#### General guidelines

An objective of this Chapter is to encourage the central business and shopping area to remain compact and to maximise its accessibility for residents and visitors. Public accessibility within the commercial area is to be improved by provision of walkways and arcades within commercial redevelopment, linking the laneways and car parking areas to the main commercial street frontages.

#### Character of buildings

All development must comply with the provisions of Chapter C1 Non-Indigenous Heritage.

The buildings of most significant character in this area include:

- a) National Australia Bank
- b) Westpac Bank
- c) Commercial Hotel
- d) Two **storey** building (39-49 Burringbar Street), diagonally opposite Commercial Hotel
- e) Two **storey** building (55 Burringbar Street), west of Westpac Bank
- f) Courthouse

All of these buildings, except for the Courthouse, are two **storey** and all but the timber two **storey** building on the eastern side of the Westpac Bank have steep, hipped roofs. Five of these buildings have or had verandahs, so sun control and a sense of light and shade are very important. Wide eaves at the roof are also a common feature. Wall materials are either red brick with light painted contrasts or in a light painted finish over weatherboard or rendered brickwork. Roof materials are predominantly in galvanised iron, although tiles are to be found in the National Australia Bank and on several new developments. Windows are small, of vertical proportion and solid wall area accounts for the greater part of the wall face area. Large areas of glass are not common. The floor-to-floor heights within these buildings are greater than now used with the result that these buildings stand well above the newer flat roofed developments.

The majority of commercial buildings however are of a lower scale, have a parapet front with minor relief and are of single **storey**. New developments should consider the following points:

#### Scale

Two **storey** is preferable, with ground floor ceiling heights less than the significant buildings so they do not lose their importance, but not less than 10% height difference. Single **storey** buildings could be designed to take a future second **storey**.

#### Form

A hipped roof or hipped gabled roof with pitch between 25-30 degrees is preferable. If a flat roof is chosen, it should be concealed by a parapet having a height of at least equal to 50%





of the ground floor height. Flat, unrelieved parapets should be avoided and relief in the form of string courses, ledges, cornices or cappings should be considered.

### Materials

Most new buildings will be built in brickwork to suit fire prevention requirements, but this does not need to be left in face work. It should be noted that although the majority of buildings in Burringbar Street are in a face brick, a large number are painted and this adds much interest to the street. Painted cement rendered brickwork should be considered as an alternative to face brickwork. The use of roughly laid imitation sandstock bricks is out of character with the older, more traditional, well-laid bricks.

### Verandahs and awnings

An important amenity for pedestrians in a hot and wet climate is adequate protection from the weather. Verandahs or awnings over the footpath fulfil this purpose. Generally, there is good footpath coverage except for the banks, which are not designed to provide this amenity. New development should provide footpath awnings in a style sympathetic to the adjoining awnings.

### Signage

All **signage** must comply with the provisions of Chapters B10 Signage and C1 Non-Indigenous Heritage.

### Shopfronts

Many original shopfronts remain in Mullumbimby, either in heavily moulded timber or nickel plated frames with leadlight highlights. These original shopfronts contribute much to the character of the shopping area and their retention and reinstatement should be regarded as necessary. New buildings should consider the importance of a well designed shopfront using materials compatible with neighbouring earlier shopfronts and avoid bland low cost materials such as aluminium. In the case of additions, recessed entry doors to shops create interest in the line of shopfronts.

## **Central Mullumbimby Residential – Precinct 2**

This area comprises the main residential section of the existing town located between the railway and the river, to the north and south of the central business precinct.

### Character of buildings

A number of houses in this area are good examples of their type and contribute significantly to the character of the area. These include:

- a) 4 Dalley Street
- b) 22 Gordon Street
- c) 6 Jubilee Avenue
- d) 8 Jubilee Avenue
- e) 5 Fern Street
- f) 138 Dalley Street
- g) 140 Dalley Street (“Cedar House”)



- h) 87 Station Street
- i) 4 Tyagarah Street

Although these 9 have been singled out, there are many others that use common design features or materials that contribute to a consistent architectural character in this area. The majority of these houses generally belong to an era of 1890-1930 and within this area there are few intrusive buildings. As in all eras of building, the common use of available materials and social aspirations produces buildings of compatible appearance. Just as the earthy tone brickwork and dark tile low pitched roofs identify newer residential developments, so do the light painted weatherboard walls with steep galvanised iron roofs identify this older established area. Other features that identify this older area are:

#### Height and scale

The buildings can appear to be much higher than in some other areas, caused by many buildings being raised to a safe flood level, higher floor to ceiling heights than now commonly used, and steep pitched roofs. This overall height is very significant, and the more recent introduction of new domestic buildings with slab-on-the-ground construction, lower ceiling heights and low-pitched roofs produces an incompatible relationship between the old and new buildings. Eave heights above the ground should reflect the common heights in the immediate existing surrounds and preferably should be within plus or minus 10% of the existing buildings. Similarly, roof pitches should be compatible with the commonly used pitches, i.e. between 25 degrees and 35 degrees.

#### Materials

Most of the earlier buildings are in painted weatherboard and the use of this is still appropriate. If brickwork is desired, it is worth considering rendering and painting it, so that the important colour component in the area is not lost. Where reflective glare is likely, silver, white or light grey should be avoided.

#### Verandahs

Nearly all the older houses enjoy the amenity of verandahs and wide eaves, giving maximum protection from the weather and providing an important transition space between the garden and the house proper. New residences are encouraged to include this feature.

#### Fences

Many of the buildings in this area would be greatly enhanced by the inclusion of an appropriate and sympathetic fence to the street. When constructed using details belonging to the period of the house and painted in sympathetic colours, they add much interest to the streetscape.

### **East Mullumbimby – Precinct 3**

This area was developed later than the central residential area. It contains many houses dating from the 1940s to the present time. As development has spread steadily east, so have the materials and architectural styles changed from painted weatherboard or asbestos cement sheet houses with galvanised iron or corrugated asbestos roofs to the more recent brick and tile or timber housing.

The older houses, as in Precinct 1 and 2, have common features of painted walls and apparent height. When redeveloping within the precinct, the qualities of adjoining houses exhibiting the precinct's character should be considered such that scale, eave heights, roof pitches, wall finishes and siting are compatible. The continuation of painted or precoloured materials is important.

No particular building has been singled out in this area for its architectural quality but rather, the character derives from the group as a whole.

### **West Mullumbimby Residential – Precincts 4 and 6**

Houses in the western area are predominantly of more recent brick and tile construction. Although this has produced its own character, attention to climate control by use of wide eaves and verandahs, as well as planting of gardens and trees that will mature to offer colour and shade like established gardens will be beneficial.

Four buildings contribute significantly to the character of this precinct, these being:

- a) No. 2 Main Arm Road
- b) Casuarina Street (Manse)
- c) Casuarina Street (Convent)
- d) Main Arm Road, Inverary (out of town)

Others such as Lot 10, Riverside Drive, give strong support to these.

As for Precincts 2 and 3, the scale, light coloured wall materials, steep galvanised iron roofs, verandahs, fences and well-established gardens are important characteristics of older buildings in this area. When developing next to or near buildings of this character, care should be taken in the building design to achieve compatibility.

The **Mullumbimby Urban Area Map** identifies a potential neighbourhood shop on two sites (one in Precinct 4 and one in Precinct 6) to service the west Mullumbimby area. The two sites are largely undeveloped residential properties with one site located at 23-37 Main Arm Road and the second site at 30 Chinbible Avenue. The nomination of the two sites does not lock the landowners in to developing the land specifically for that purpose, with the feasibility of such development dependant upon economic circumstances and other factors. Any retail premises including car parking areas to be carefully designed and sited to provide a minimum 20 metre buffer from existing adjoining residential lots.



# Byron Shire Development Control Plan 2014

## Chapter E4 Brunswick Heads



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## Chapter E4 – Brunswick Heads

### Contents

E4.1	Introduction .....	5
E4.1.1	Application of this Chapter .....	5
E4.1.2	Aims of this Chapter.....	5
E4.2	Brunswick Heads Residential Character Narrative .....	6
E4.3	General Provisions.....	10
E4.3.1	Character, Bulk and Scale of Development.....	10
E4.3.2	Development in Tweed Street.....	11
E4.3.3	Development Adjoining and Near the Brunswick River .....	12
E4.3.4	Pedestrian and Cycle Access.....	12
E4.3.5	Biodiversity Conservation.....	13

### Figures

Figure E4.1: Brunswick Heads Residential Character Area .....	9
---	---

### Maps

Map E4.1 – Brunswick Heads Urban Area Map.....	14
--	----

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## E4.1 Introduction

### E4.1.1 Application of this Chapter

This Chapter applies to certain land at Brunswick Heads, which is known as the **Brunswick Heads Urban Area**. The land to which this Chapter applies falls within various zones pursuant to Byron LEP 2014, and is illustrated on the **Brunswick Heads Urban Area Map**.

The provisions of other Chapters of this DCP apply to development to which this Chapter applies. In the event of any inconsistency between this Chapter and other Chapters, the provisions of this Chapter shall prevail.

### E4.1.2 Aims of this Chapter

The primary purpose of this Chapter of the DCP is to provide relevant criteria and standards for the future development of the **Brunswick Heads Urban Area**. The aims of this Chapter are:

1. To facilitate and provide guidelines for the development of the **Brunswick Heads Urban Area** consistent with the provisions of the Byron LEP 2014, the draft Byron Shire Residential Strategy 'residential character narratives' and other relevant strategies and Chapters of this DCP.
2. To inform the content of any **Design Verification Statement** and site analysis required by the *Low Rise Housing Diversity Design Guides (for Complying development and Development Applications)*.
3. To maintain and enhance the appearance and atmosphere of Brunswick Heads as a low-key, family-friendly coastal village.
4. To encourage new development to complement, support and strengthen the character, living amenity and tourist potential of the town and to maintain and enhance pedestrian and cycle access.
5. To foster and reinforce the restoration and protection of the riverside environment of Brunswick Heads.
6. To continue to implement environmentally sustainable development principles in the town's business area; and to further enhance its role as a dynamic local business sector offering a range of employment opportunities.
7. To reinforce the town's historical linkages and to protect identified **heritage items**.

## E4.2 Brunswick Heads Residential Character Narrative

*This section provides the residential character context and principles for development within the residential areas of Brunswick Heads. The narrative statements draw on the unique qualities of this locality and provide an important direction for the development controls and built form guidelines. The statements divide the residential areas into pockets based on context including topography, setting, heritage, streetscape, land uses and built form. Accompanying the narrative is a figure showing a tiered approach to possible character change to signal how new residential development should respond to the streetscape and/or neighbourhood character within different parts of this locality.*

*The statements have been established via the Residential Strategy through consultation with the community and other key stakeholders. They build on the existing structure and important elements contributing to the residential neighbourhood character of Brunswick Heads.*



Brunswick Heads is small coastal village located on traditional lands of the people of the Bundjalung nation. The Bundjalung of Byron Bay (Arakwal) people have occupied these lands for generations. They continue to live on, and care for Country today. The population is expected to increase by some 820 people over the next 20 years to reach approximately 2450 people.

The functional, practical and utilitarian beginnings as a logging and fishing village set amongst valued nature reserves, wetlands, the Brunswick River and its estuary, foreshore parklands and the beach combine to give an aesthetic appeal that is humble and human in scale. This appeal has helped make Brunswick Heads a popular family-friendly seaside holiday destination over the decades.

Within the village are two distinct residential areas; the original village and the newer Bayside estate. This is

evidenced by a contrasting street, lot layout and architectural styles reflecting the trend at the time of the original subdivisions. The community now generally supports a greater housing choice, diversity and equity. However it does not want to see the character of the older original village area eroded by unsympathetic new development.

**Figure 1** following, links with the description below to help define the residential character of Brunswick Heads that contributes to its quintessential vibe as a small family-friendly coastal village both reminiscent and nostalgic of a holiday experience pre the 1960's.



**Pocket A** wraps around the village centre. Initially developed between 1890 and 1930 on a traditional grid layout with rear laneways, the

older detached houses and 1920's holiday cottages evidenced throughout the village contribute to an eclectic mix of housing stock recognised by the community as of historical significance as typified in Booyun, Fawcett, Mullumbimbi and Nana Streets.

Most buildings are set back from the street and have established, landscaped gardens enclosed by variable height low set front fences.

The leafy wide streets have grassy nature strips with mature trees offering valued shade and habitat for wildlife. Some have edible street gardens and roadside parking arranged in pockets with a surface of gravel or grass. Residential 'character' is strongly influenced by landscape qualities (waterways, wildlife and green spaces), continuity of landscapes and predominantly flat topography. Commemorative and nostalgic Norfolk pines synonymous with seaside towns throughout Australia, punctuate the skyline. All lend to a relaxed, walkable and spacious feel.

Fisherman's cottages and residential watch towers provide a legacy from the past. The various styles and blend of external materials including fibro, rendered brick and weatherboard. Existing homes and new development in this area will need to maintain a consistency with the domestic scale, rhythm and defining features of existing houses. Large buildings typical of the 1970's flat development and cubist forms are inappropriate where they do not exhibit details appropriate to the existing mix of predominantly small scale traditional dwellings. These are typically single storey, with low pitched roofs, setbacks that minimise their impact and front doors and verandahs facing the street typical of a traditional seaside village atmosphere.

The rear lanes, once relegated to a service function, are evolving with the old sheds and garages repurposed or replaced with small adaptable, multi-functional dwellings that offer more affordable accommodation to both new and old residents and support the village's vitality and creativity. The transformation of these narrow but highly valued laneways maintains a connection with the service architecture of the past,

and retain pedestrian and cycle friendly space for residents to stop and chat.

Tweed Street has seen a change in function from highway to gateway to Brunswick Heads. The native Cyprus pines, streetscape and building form of this street hints entrance to a smaller coastal village set amongst estuaries and wetlands. Developments should connect with the street and look beyond just the basic provision of housing and transport aspects of Tweed Street to focus on the ways to creating an inviting, interesting and memorable vista:

- through the retention of low set pitched roof housing
- use of verandahs, porches and vertical windows and doors addressing the street
- pockets of parking interspersed with paths, open space, seating and vegetation to encourage walkability and a slowing of vehicles
- well blended planting of local indigenous trees and vegetation to create a visual connection to the estuaries and wetlands as well shade, shelter and ecological benefits.



#### **Pocket B**

containing the more recent Bayside estate is characterised by typically brick and tile homes. This part of town is linked to the

older part by a multi-use path surfaced with natural materials that winds through bushland, sporting fields and remnants of coastal cypress pine forest along the banks of Simpson's Creek. Most houses have either no or low front fences and variable front setbacks and streets continue the feeling of openness and community. The larger lots and vacant residential land as show in the Residential Strategy lend to

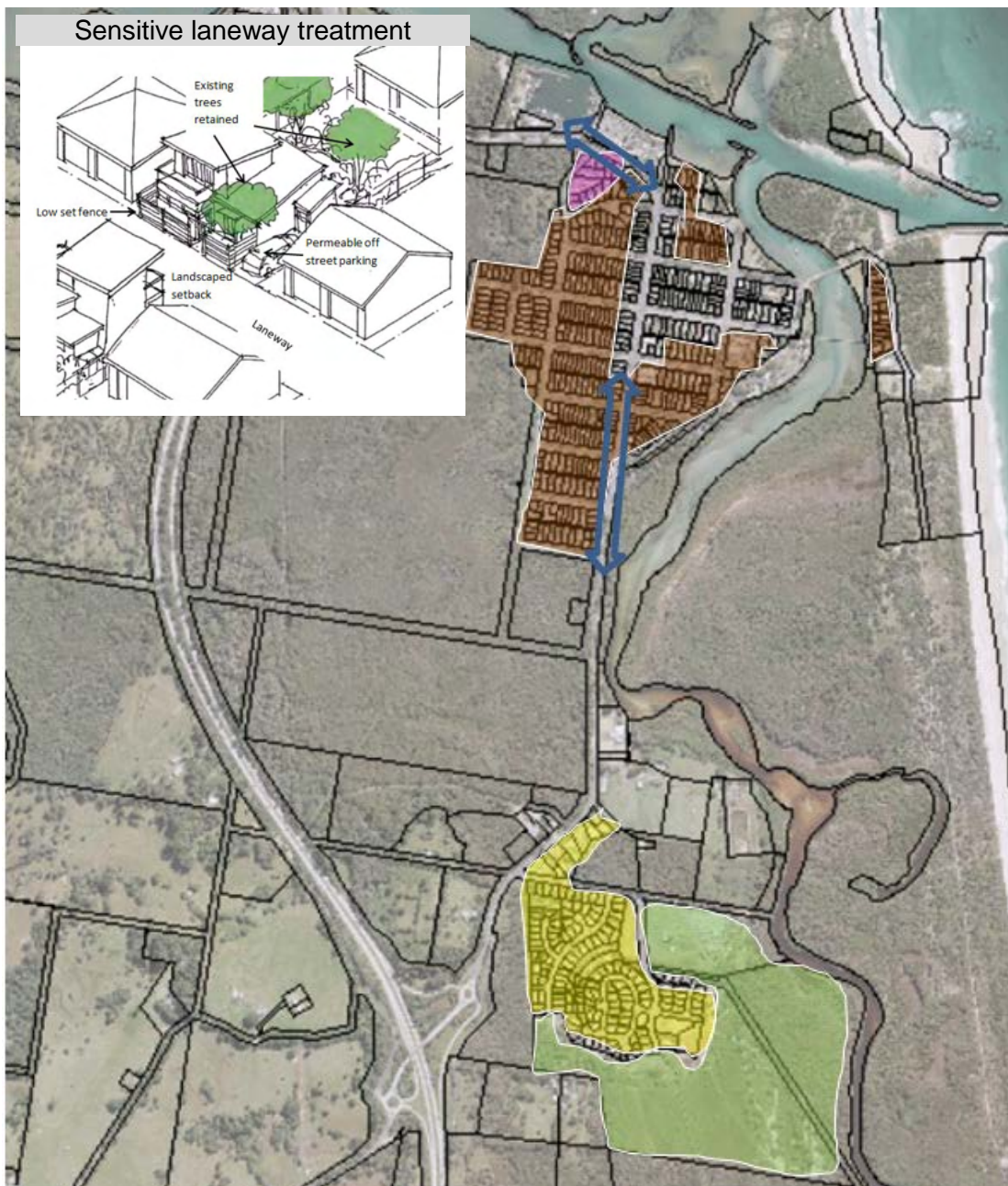
potential accessible housing and one and two storey medium density homes and that provides all the amenity of a traditional freestanding home in a well-designed and compact form. Parking for this form of development should be accommodated on site and the interface with the street designed to promote safety and community interaction. In this area it is similarly important that future housing complements the low scale character, natural landscape qualities and seaside atmosphere that characterise older Brunswick Heads.

The forest buffer between this pocket, the Old Pacific Highway and new Pacific Highway helps manage highway noise and vehicle emissions. It is also essential to help protect the koala corridor linking the Brunswick Heads Nature Reserve with the Tyagarah Nature Reserve. This corridor provides habitat and protection not only to

koalas but also to wallabies, goannas, long-nosed potoroos and a variety of other wildlife, including important bird habitat.

Future housing options will need to address the challenges of: a low growth and ageing population, decreasing household sizes, increasing number of lone person households, attracting young families, housing affordability and growing popularity with holiday makers. To do otherwise may result in Brunswick Heads having negative population growth over time and potentially falling below the 'critical mass' needed to maintain or improve the range of key services and facilities available.





#### Character categories

- **Sensitive:** reflects existing low scale built form and streetscape
- **Subtle:** small clusters of low rise medium density complementing the existing form – likely to be incremental with many of existing elements remaining.
- **Transitional:** earmarking an area for change incorporating pockets of low rise medium density homes that match the amenity of traditional free standing homes, while introducing contemporary dwelling forms for old and young singles and families – retaining attributes that are valued by the community. How the area will look and feel in the future is likely to evolve, and in some cases notably.

- **Emerging:** planned future neighbourhood areas for residents where character is successfully created through careful design considerations and recognition of the need to provide a low rise housing with a mix of lots sizes and housing types to meet a diverse population
- ⇄ **Gateways:** enhance as welcoming gateway feel to a seaside village - retaining wetland and esplanade vista, low scale & low intensity atmosphere and encouraging integrated street scaping

**Figure E4.1: Brunswick Heads Residential Character Area**

## E4.3 General Provisions

### E4.3.1 Character, Bulk and Scale of Development

#### Objectives

1. *To ensure that all development is consistent with, and will maintain and enhance the low-key, family-friendly, coastal village character, streetscape and scale of Brunswick Heads.*
2. *To ensure that business, office and retail development in the B2 and B4 zone contributes to a unified and recognisable town centre character and applies sustainable development principles that further enhance the centre's role as a dynamic local business sector.*
3. *To ensure that residential development in Brunswick Heads will complement, support and strengthen the town's unique character, living amenity and tourist potential.*

#### Performance Criteria

The existing and desired future character of Brunswick Heads is defined by the following characteristics:

##### 1. Natural Environment

The **Brunswick Heads Urban Area** is bounded and strongly influenced by natural elements including the sea, the Brunswick River, wetlands, remnant forests, bushland and parklands. Development within the **Brunswick Heads Urban Area** is located, designed and oriented to support, complement and foster community access to and understanding of those natural elements. Development is designed to protect and enhance their integrity and to respect their natural edges. Where feasible, development allows and encourages the natural elements to expand into the development site.

##### 2. Residential Areas

- a) The residential areas of Brunswick Heads contain a varied and compatible range of architectural styles, materials, landscapes and streetscapes. Housing comprises mainly low density, low rise single and **attached dwellings** with low-impact bulk and scale. New development is designed to respect the integrity and character of **heritage items**, consistent with Chapter C1 Non-Indigenous Heritage.
- b) New residential development is consistent with the requirements of Chapter D1 Residential Development in Urban and Special Purpose Zones. Development is designed to enhance the low key, family-friendly, coastal village character, streetscape and scale of Brunswick Heads. Landscaping is provided in accordance with the requirements of Chapter B9 Landscaping.

##### 3. Business and Mixed Use Areas

- a) Land zoned B2 and B4 (along Tweed Street between Mullumbimbi and Booyun Streets) provides a safe, low traffic speed, pedestrian/cycle friendly environment that encourages outdoor dining and community activity in the street. Land zoned B4 along Tweed Street north of Mullumbimbi Street and south of Booyun Street provides a transition area between town centre business zones and residential areas. Development in this area uses **setbacks**, planting and design elements to

contribute positively to village amenity and create a pedestrian/cycle friendly streetscape.

- b) New commercial and retail development is consistent with the requirements of Chapter D4 Commercial and Retail Development. Development is designed to enhance the low key, family-friendly, coastal village character, streetscape and scale of Brunswick Heads. **Shop-top housing** is encouraged.
- c) New development respects the north coast climatic conditions and adopts sustainable design principles. It incorporates footpath awnings and sun and rain protection for pedestrians. Landscaping is provided in accordance with the requirements of Chapter B9 Landscaping. Development respects **heritage items** and where relevant is consistent with Chapter C1 Non-Indigenous Heritage. It is compatible in design and character with its neighbours.
- d) No excavated parking basements will be permitted and additional vehicle footpath crossings will be discouraged in the B2 zone.
- e) Development applications must demonstrate that:
  - i) the character, bulk, scale, density, streetscape and landscape treatment of proposed development will be compatible with and will enhance the low-key, family-friendly, coastal village character, scale and streetscape of Brunswick Heads, its built environment and its surrounds;
  - ii) the proposed development will be consistent and compatible with the relevant characteristics and criteria described above in: 1. Natural Environment, 2. Residential Areas and 3. Business and Mixed Use areas inclusive.
  - iii) building materials, textures, finishes and colours will be compatible with and enhance the coastal village character and scale of Brunswick Heads, its built environment and its surrounds;
  - iv) where applicable the proposed development is consistent with the requirements of other provisions of this DCP, including but not limited to Chapters B9 Landscaping, C1 Non-Indigenous Heritage, D1 Residential Development in Urban and Special Purpose Zones and D4 Commercial and Retail Development.

### Prescriptive Measures

There are no Prescriptive Measures.

## E4.3.2 Development in Tweed Street

### Objectives

1. *To promote integration of the character of the former Pacific Highway precinct with the remainder of the town.*
2. *To implement the adopted **Tweed Street Masterplan**.*

### Performance Criteria

Development applications that include land with frontage to Tweed Street, or that adjoin land with frontage to Tweed Street, must demonstrate:

- a) that the development is consistent with and/or complementary to the **Tweed Street Masterplan**;





- b) that the design of the project will contribute to the unified design, streetscape and landscape themes set out in the **Tweed Street Masterplan**; and
- c) that the development addresses and, where relevant, incorporates changes in the public realm set out in the **Tweed Street Masterplan**.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **E4.3.3 Development Adjoining and Near the Brunswick River**

### **Objectives**

1. *To ensure that development adjoining and near the river will foster and reinforce the restoration and protection of the riverside environment of Brunswick Heads.*

### **Performance Criteria**

1. Development applications that include land adjoining or near the Brunswick River must demonstrate that the proposed development will not adversely impact, and where feasible will enhance, the recreation, tourism, fisheries, ecological and landscape values of the River and its environs.
2. Buildings are to be suitably set back to ensure the visual amenity of the Brunswick River foreshore is maintained.

### **Prescriptive Measures**

1. A minimum **setback** of 10m is required to the rear boundary for any building on land Zoned R2 adjoining the Brunswick River.
2. No stormwater is to be directed to the Brunswick River from buildings or hardstand areas.
3. Landscaping is to be dominated by native species endemic to an estuarine/ coastline environment.

## **E4.3.4 Pedestrian and Cycle Access**

### **Objectives**

1. *To assist in the delivery of Council's adopted **Byron Shire Bike Strategy and Action Plan** where possible.*
2. *To provide an expansion of the existing pedestrian/ cycleways to improve connectivity throughout Brunswick Heads.*
3. *To ensure that the development of pedestrian and cycle pathways will incorporate **water sensitive urban design** measures and foster the protection and restoration of ecological and hydrological functions and values of **riparian corridors**.*

### Performance Criteria

1. Development applications must demonstrate that the pedestrian/ cycleway network illustrated on Map E4.1 and detailed in Council's adopted **Byron Shire Bike Strategy and Action Plan** will be incorporated into new developments.
2. Any proposed internal pathway network must be integrated with the pedestrian/ cycleway system as indicated on Map E4.1 and in accordance with Chapter B5 Providing for Cycling.
3. Development applications must demonstrate that the pedestrian/cycleway will not adversely impact, and where feasible will enhance the ecological and hydrological values of the river and its **riparian corridor**.

### Prescriptive Measures

1. A minimum **setback** of 10m is required from the Brunswick River to any pedestrian or cycle pathway.
2. Where feasible, **riparian corridors** adjacent to pedestrian or cycle pathways are to be protected and enhanced by appropriate plantings of **locally indigenous** vegetation.

## E4.3.5 Biodiversity Conservation

### Objectives

1. *To ensure that development takes into account and, where appropriate, contributes to the biodiversity values of Brunswick Heads and its surrounds.*

### Performance Criteria

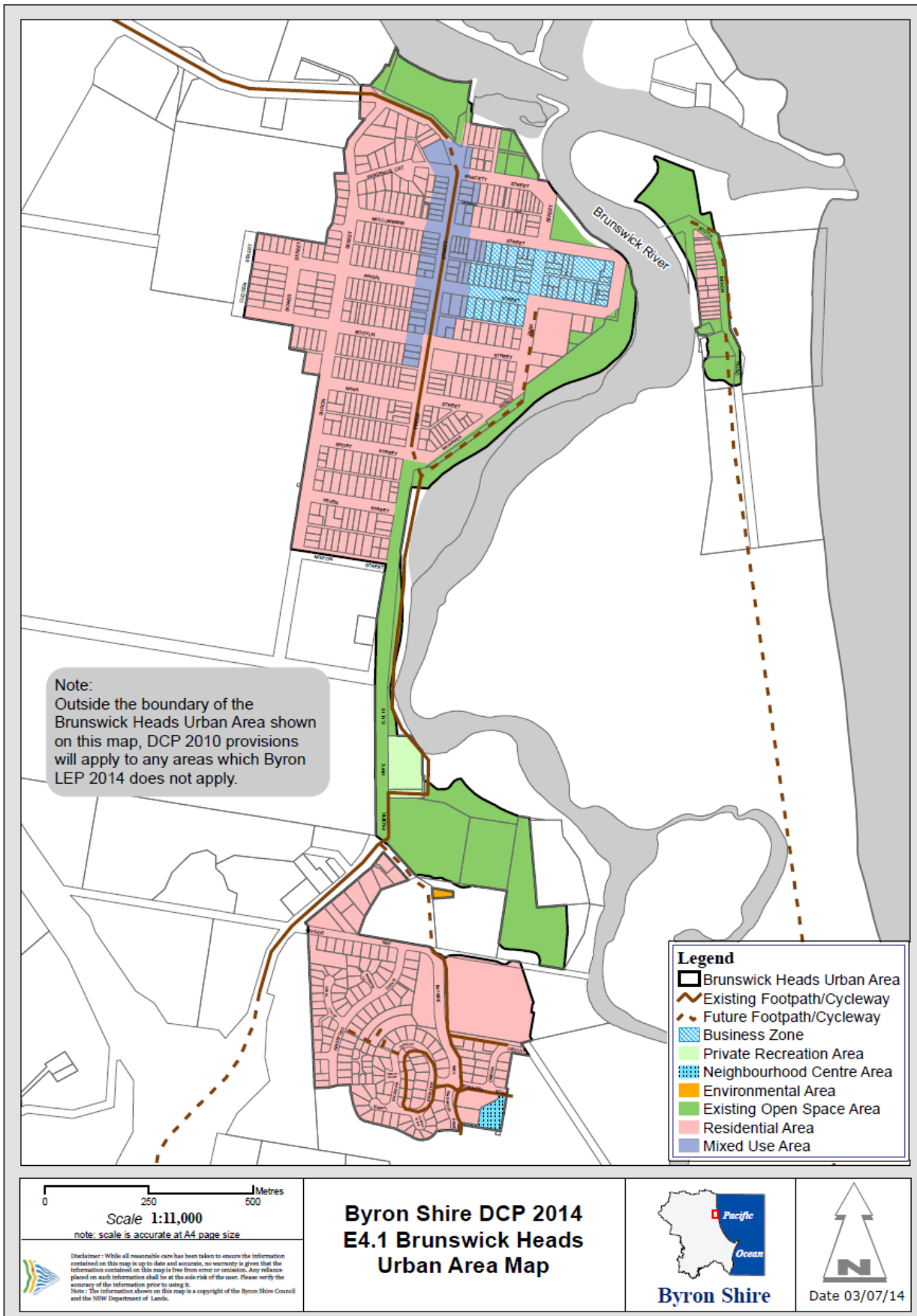
Development applications must:

- a) address and identify biodiversity, connectivity, corridor and riparian values of the site, including its relationship to adjoining land, riparian areas, open space areas and the wider locality;
- b) where biodiversity, connectivity, corridor and/ or riparian values are present, outline a strategy to protect and enhance those values;
- c) include a strategy for removal and ongoing management of weeds and Camphor Laurel trees on the site.

### Prescriptive Measures

There are no Prescriptive Measures.

**Map E4.1 – Brunswick Heads Urban Area Map**





# Byron Shire

## Development Control Plan 2014

### Chapter E5

#### Certain Locations in Byron Bay and Ewingsdale

## Contents

<b>E5.1</b>	<b>Introduction.....</b>	<b>7</b>
<b>E5.2</b>	<b>Application of this Chapter .....</b>	<b>7</b>
<b>E5.3</b>	<b>Aims of this Chapter.....</b>	<b>7</b>
<b>E5.4</b>	<b>Development Controls .....</b>	<b>7</b>
E5.4.1	Development and servicing of land affected by predicted coastal hazards.....	7
<b>E5.5</b>	<b>Habitat .....</b>	<b>10</b>
E5.5.1	Where this Section Applies .....	10
E5.5.2	Objectives of this Section.....	10
E5.5.3	Desired Future Character and Development Principles .....	11
E5.5.3.1	Statement of Desired Future Character .....	11
E5.5.3.2	Planning Principles .....	11
E5.5.3.3	Achieving the Desired Future Character .....	12
E5.5.3.4	Precinct Plan .....	12
E5.5.4	Design and Development Controls .....	14
E5.5.4.1	Land Use, Management and Environmental Assessment.....	14
E5.5.4.2	Car Parking .....	18
E5.5.4.3	Building Design .....	21
E5.5.4.4	Site and Open Space Design .....	24
E5.5.4.5	Lot Size and Subdivision .....	26
E5.5.4.6	Water Cycle Management .....	27
E5.5.4.7	Ecological Enhancement .....	29
<b>E5.6</b>	<b>Byron Central Hospital Locality.....</b>	<b>32</b>
E5.6.1	Where this Section Applies .....	32
E5.6.2	Objectives of this Section.....	32
E5.6.3	Landscaped Buffer .....	32
<b>E5.7</b>	<b>The North Byron Beach Resort Site .....</b>	<b>33</b>
E5.7.1	Where this Section Applies .....	33
E5.7.2	Objectives of this Section.....	33
E5.7.3	Statement of Desired Future Character .....	34
E5.7.4	Planning Principles .....	35
E5.7.5	Achieving the Desired Future Character .....	36

E5.7.6	Development Applications and Site Concept Plan .....	37
E5.7.7	Conservation Areas and Corridors .....	38
E5.7.7.1	Western Wetland and Heath Precinct C .....	38
E5.7.7.2	Southern Wildlife Corridor Precinct D .....	39
E5.7.7.3	Eastern Wetland and Littoral Rainforest Precinct E .....	40
E5.7.8	Buffers and Hazards .....	41
E5.7.8.1	Bush Fire Asset Protection Zones .....	41
E5.7.8.2	Water Body Buffers .....	42
E5.7.8.3	Mosquito Management .....	42
E5.7.9	The Developable Area .....	43
E5.7.9.1	Built Form .....	43
E5.7.9.2	Low Density Perimeter (Precinct 1) .....	44
E5.7.9.3	Central Development Area (Precinct 2) .....	44
E5.7.9.4	Drainage and Water Cycle Management .....	45
E5.7.9.5	Landscape .....	45
E5.7.9.6	Tourism Management .....	46
E5.7.10	Environmental Management and Repair .....	47
E5.7.10.1	Beach Access .....	47
E5.7.10.2	Environmental Management .....	48
<b>E5.8</b>	<b>Residential Character Narratives – Byron Bay, Sunrise Beach and Wategos..</b>	<b>50</b>
E5.8.1	Where this Section Applies .....	50
E5.8.2	Purpose .....	50
E5.8.3	Design Considerations .....	50
E5.8.4	Character Narratives .....	51
<b>E5.9</b>	<b>The Farm .....</b>	<b>55</b>
E5.9.1	Where this Section Applies .....	55
E5.9.2	Objective of this Section .....	55
E5.9.3	Rural Activity Precinct .....	55
E5.9.4	Farming Precinct .....	56
<b>Maps</b>		
Map E5.1 – Byron Bay Coastal Hazards Map .....		9
Map E5.2 –Habitat .....		30
Map E5.3 – Habitat Precinct Plan .....		31

Map E5.4 – North Byron Beach Resort Precinct Map .....49

Figures

Figure E5.1 – Indicative examples of Byron vernacular .....22

Figure E5.2     Byron Bay, Sunrise Beach and Wategos Residential Character Areas .....54

Tables

Table E5.1 – Land Uses Consistent with Desired Future Character .....15

Table E5.2 – Setbacks .....17

Table E5.3 – Car Parking Standards .....19



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Byron Shire Development Control Plan 2014 Chapter E5 Certain Locations in Byron Bay and Ewingsdale

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## E5.1 Introduction

Byron Bay is an iconic coastal town characterised by spectacular beaches and coastline. It is a relatively low density urban place with a compact, walkable CBD and a predominance of one and two **storey** development in residential areas with three **storeys** in the business area. It is partly affected by **coastal hazards** and flooding.

## E5.2 Application of this Chapter

This Chapter applies to certain land at Byron Bay and Ewingsdale that is subject to Byron LEP 2014. The land to which this Chapter applies is only that land identified in this Chapter.

## E5.3 Aims of this Chapter

The Aims of this Chapter are:

1. To identify land in Byron that may be affected by future **coastal hazards** and to apply development controls proportionate to the hazards affecting that land.
2. To identify land on Bayshore Drive, Byron Bay that is suitable for an innovative suite of land uses that will result in a compatible mix and density of business, office, residential, retail, **light industry** and other development on the site.
3. To facilitate the development of a new **hospital** for Byron Bay on Ewingsdale Road and ensure that it fits well with its surrounding rural locality.
4. To facilitate the responsible development of land at the Eastern end of Bayshore Drive for **tourist and visitor accommodation** and related uses while preserving and regenerating the vegetation on the site.

## E5.4 Development Controls

### E5.4.1 Development and servicing of land affected by predicted coastal hazards

#### Objectives

1. To define how public utility services may be provided to development which is potentially threatened by **coastal hazards**.
2. To ensure the impact of **coastal hazards** on potential development is minimised by ensuring any development ceases as the **erosion escarpment** approaches the development.

#### Performance Criteria

1. Vehicular access, water, sewerage, electricity, telephone and other services must be located so as to minimise the impact from actual or predicted **coastal hazards**.

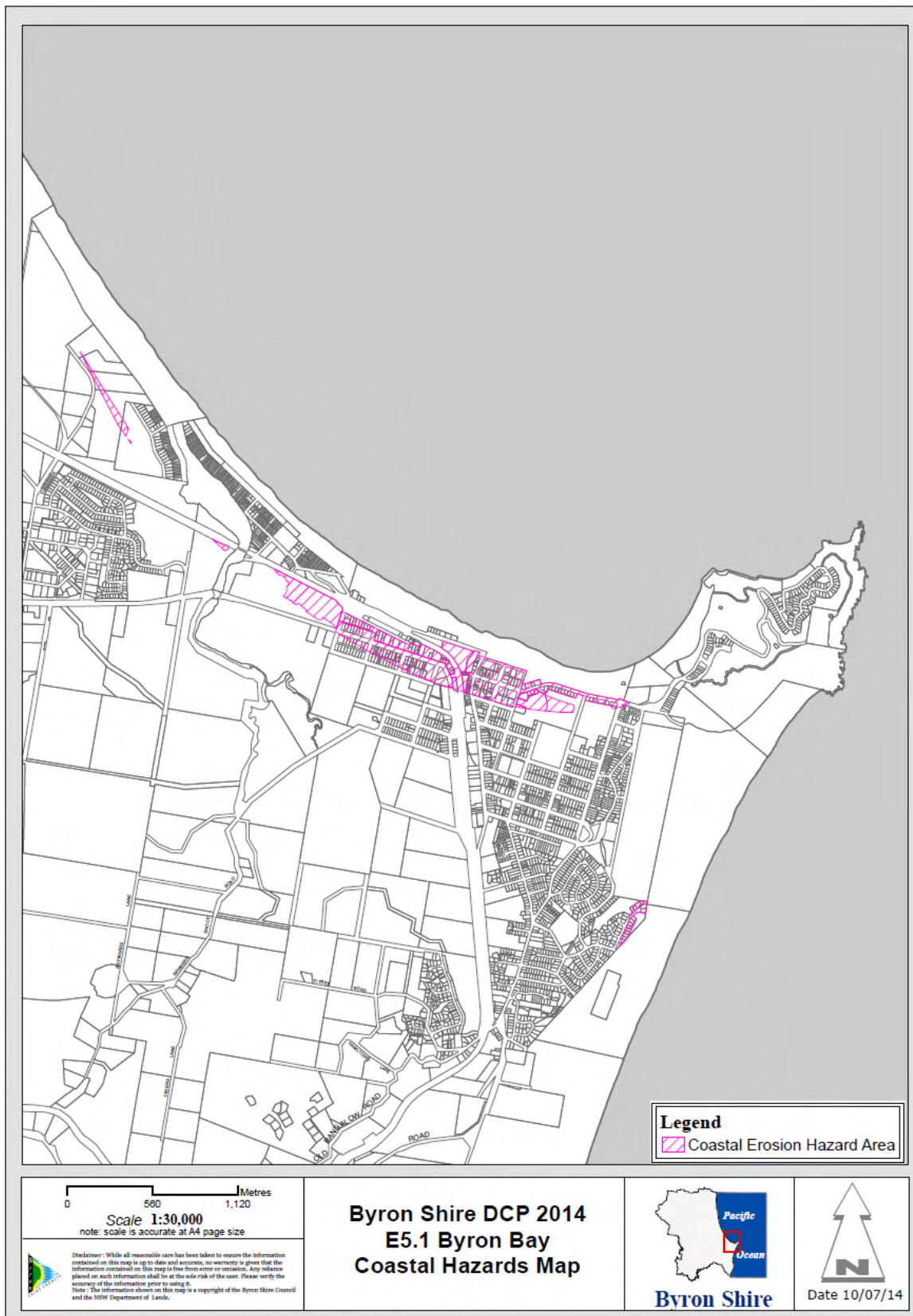
2. Development on land marked as 'Coastal Erosion Hazard Area' on the **Byron Bay Coastal Hazards Map** (Map E5.1) must be designed to be relocated or demolished, or to cease operation, should the **erosion escarpment** come within 50 metres.

### **Prescriptive Measures**

1. All services must be provided from the landward side of the development such that the building is between the services and the **erosion escarpment**.
2. Development within the 'Coastal Erosion Hazard Area' on the **Byron Bay Coastal Hazards Map** (E5.1) will be considered on the understanding that any consent granted will be subject to the proviso that should the **erosion escarpment** come within 50 metres of any building then the development consent will cease.
3. If the development consent does cease then the owner of the land will be responsible for the removal of all buildings.
4. The option of demolition as the means of removal will be available to all buildings.
5. Prior to the issue of a Construction Certificate a restriction as to user *must be placed on the title pursuant to the provisions of section 88E of the Conveyancing Act 1919*, stating:

*"The subject land and any improvements erected thereon must not be used for the purpose of (land use) in the event that the erosion escarpment as defined by the Works and Services Director of the Council of the Shire of Byron from time to time comes to within 50 metres of any buildings or any part thereof at any time erected on the said land".*

## Map E5.1 – Byron Bay Coastal Hazards Map



## E5.5 Habitat

### E5.5.1 Where this Section Applies

This section applies to the land defined by a heavy black line on Map E5.2 known as Habitat, and identified as Lot 3 DP1004514, Bayshore Drive, Byron Bay. It is bounded by the Byron Bay Arts and Industry Estate to the south, the West Byron Sewage Treatment Plant to the west, regenerating heathland, shrubland and low woodland to the north, and the Sunrise Beach residential estate to the east.

In the event of any inconsistency between Section E5.5 and other Chapters of this DCP, the provisions of Section E5.5 shall prevail.

### E5.5.2 Objectives of this Section

The primary purpose of this Section is to provide standards for the future development of the site. To assist in this regard, the objectives of this Section are to:

1. Promote and implement the principles of ecologically sustainable development identified in aims of Byron LEP 2014, in the planning, development and management of the site;
2. Contribute to the implementation of Byron Shire Affordable Housing Initiatives, the Biodiversity Conservation Strategy, the Byron Shire Cultural Policy and applicable objectives as outlined in the Community Strategic Plan 'Our Byron, Our Future'.
3. Define a compatible mix and density of business, office, residential, retail, light industry and other development on parts of the site;
4. Seek to increase the range of housing choice and further promote affordable living opportunities.
5. Enhance and protect the bio-physical environment, particularly the Wallum vegetation and wildlife habitat adjacent to the site;
6. Enhance and protect ground water and surface water quality and hydrology;
7. Ensure that the siting, scale and intensity of development enhance and protect Byron Bay's social and cultural qualities by:
  - a) responding to local and regional values, community needs and aspirations;
  - b) reflecting Byron Bay's character and scale;
  - c) ensuring that development of the site contributes to the range of services available and the identity of West Byron; and
  - d) ensuring that site access does not compromise the amenity or safety of adjacent residential areas.

## E5.5.3 Desired Future Character and Development Principles

### E5.5.3.1 Statement of Desired Future Character

Habitat provides a vibrant and sustainable urban environment, which enhances social equity, economic vitality, environmental performance and sustainability, and cultural expression within the Byron Bay community.

It provides a wide range of housing and employment choice and has strong connections to nearby shops, industry, town services, facilities and transport corridors.

A mix of housing types and small scale creative enterprises contribute to the neighbourhood's vitality and the town's identity. **Dwelling** types reflect the household profile of Byron Bay. Smaller **dwelling**s and multiple dwelling types cater for Byron's higher than average proportion of group households and lone person households. Integrated work and living spaces provide affordable and flexible opportunities for small scale businesses. Commercial ventures provide for local employment, **creative industries** and an outlet for goods and services produced on the site.

Land is used efficiently and energy and water use is minimised. The community actively contributes to the enhancement and maintenance of important habitats on adjoining land. Buffers are provided to these adjoining habitats, and to bushfire hazards and the West Byron Sewage Treatment Plant. Edges are well defined, the public domain is safe and permeable and amenity is fostered by transitions between uses and by integrated site planning.

### E5.5.3.2 Planning Principles

The desired future character reflects the following planning principles:

1. Social Equity
  - a) Enables the co-location of uses to provide housing close to employment opportunities while ensuring potential conflict between the different land uses is minimised;
  - b) Provides a range of low cost residential and live/ work solutions that will enable creative artisans/business people to establish an economically achievable base; and
  - c) Includes a mix of housing, ownership patterns, prices and building types for a diverse community.
2. Economic Vitality
  - a) Provides a mix of employment opportunities with particular emphasis on **creative industries**;
  - b) Facilitates a density of development (with amenity) which makes cost effective use of scarce land; and
  - c) Embraces the concept of shared opportunities and synergies within the surrounding neighbourhood, which contributes to overall efficiencies.
3. Environmental Performance



- a) Facilitates a smaller environmental footprint than traditional suburban development;
  - b) Utilises a site sensitive approach which provides filters and buffers protecting the ecological values of adjoining lands;
  - c) Provides for habitat enhancement that integrates with work previously undertaken on adjoining land to restore significant new wetland habitat.
4. Cultural Expression
- a) Encourages a clustering of artistic and lifestyle based small scale industries; and
  - b) Promotes the cultural identity of the area by building upon the commercial / services and industrial base in the surrounding neighbourhood.

#### E5.5.3.3 Achieving the Desired Future Character

This Plan aims to achieve the Desired Future Character of the site as described in Section E5.5.3.1 by:

- 1. Providing a Precinct Plan for the major elements of Habitat (refer to Map E5.3);
- 2. Specifying Principles that must apply to development of the site;
- 3. Specifying objectives, performance criteria and prescriptive measures for a number of environmental elements relevant to the future development of Habitat; and
- 4. Specifying ecological enhancement measures that are to be undertaken in adjoining habitats.

#### E5.5.3.4 Precinct Plan

- 1. The Habitat Precinct Plan (Map E5.3) identifies the major bio-physical elements that will make up the structure of the developed site. These elements include:
  - a) Major entries/ exits;
  - b) Internal access connections;
  - c) Land use 'precincts', including:
    - i) Precinct 1A - Mixed use, commercial premises, hotel or motel accommodation, residential flat building, serviced apartments, high technology industry, function centre, information and education facility, medical centre, recreation facility (indoor), and food and drink premises.
    - ii) Precinct 1B - Mixed use, retail / business / food and drink / recreation facility (indoor).
    - iii) Precinct 2 - pocket living.
    - iv) Precinct 3 - warehouse lofts.
    - v) Precinct 4 - mixed use, retail / business / residential / café / community recreation facilities / commercial terraces.

vi) Precinct 5 - ecological enhancement.

2. The Precinct Plan provides a framework for development in Habitat. It will assist developers and designers to obtain an understanding of the context for their proposed development. Components of the plan include the following:

a) Major entries/ exits

The major entries / exits for Habitat will be from Wallum Place, at the northern frontage of the site. Entry-only service access and entry-only access to car parking areas within the site will be from Bayshore Drive, at the eastern frontage of the site.

b) Precinct 1

i. Precinct 1A: Mixed Use

Mixed use entails commercial premises, hotel or motel accommodation, residential flat building, serviced apartments, high technology industry, function centre, information and education facility, medical centre, recreation facility (indoor), and food and drink premises.

ii. Precinct 1B: Mixed Use

The Precinct will offer a mix of business, retail, recreation facilities (indoor) and food and drink, including: approx.. 450m<sup>2</sup> of retail space; approx.. 900m<sup>2</sup> of commercial office space; 615m<sup>2</sup> of recreation facilities (indoor) and 105m<sup>2</sup> of food and drink premises space.

c) Precinct 2: Pocket Living

The Pocket Living Precinct consists of 4x two-and-a-half **storey** buildings along the north western edge of the site and an amenities block (half **storey** comprised of a mezzanine or loft that utilises the roof space). This precinct offers the opportunity for high quality, small scale living units at an affordable price point and is comprised of 56x one bedroom units and 4x two bedroom units.

d) Precinct 3: Warehouse Lofts

The Warehouse Lofts consist of 4x two **storey** buildings along the southern edge of the site. Each building is comprised of six ground floor commercial/retail spaces with a one-bedroom apartment above. There is also an option for a second bedroom on the ground floor. This integrated solution will suit many creative industries.

e) Precinct 4: Retail / Business / Residential / Café / Community Recreation Facilities

This area offers a mix of business, retail and living spaces including; approx. 1200m<sup>2</sup> of retail space; approx. 1700m<sup>2</sup> of commercial office space plus a café/restaurant, gym and pilates studio, as well as 10x two bedroom apartments, with attached retail or commercial workspaces. The recreational precinct includes a swimming pool, change rooms, barbecue areas, bicycle storage and shaded lawn.

f) Precinct 5: Ecological Enhancement

Existing low lying areas or swales on adjoining lands will be extended and revegetated with freshwater wetland and heath plant species of local provenance to improve wetland habitats and increase important habitat components for local fauna species, particularly the Wallum frogs (Wallum Sedge frog, *Litoria olongburensis*, Wallum froglet *Crinia tinnula*). Appropriate restrictions on the title of the property (Lot 3) will ensure that the community will continue to contribute to the maintenance of these important Wallum frog habitats.

## E5.5.4 Design and Development Controls

Section E5.5.4 contains a range of controls which reflect environmental and design aspects of the future development of Habitat.

### E5.5.4.1 Land Use, Management and Environmental Assessment

#### Background

A key characteristic of villages is the mix of uses that occur throughout them. Mixing uses facilitates a vibrant and safe environment by day and by night. The close proximity of workplaces and housing reduces travel distances and creates affordable and accessible urban environments. The economic viability of the development is supported over its life cycle by the provision of both housing and productive uses. Provision of a variety of housing types and configurations supports a diversity of households and reflects local demands for differentiated and affordable housing options.

The site has a number of constraints which will require detailed environmental assessment as part of any future development application for the site. These constraints include proximity to the West Byron Sewage Treatment Works and its primary access road, potential **acid sulfate soils**, and various ecological constraints.

#### Objectives

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1;
2. To facilitate the creation of a **mixed use development** with a diversity of housing and employment choice and optimum density that reflects the environmental capability of the site and the socio-economic and cultural context; and
3. To assess and mitigate potential environmental impacts.

#### Performance Criteria

1. Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings;
2. In Precinct 1, utilise front fences and walls to enable use of private open space abutting Wallum Place to provide an acoustic barrier to vehicle movements;
3. In **mixed use development**, ensure loading bays, garbage collection areas etc are located away from bedrooms and other quiet areas in the residential component;

4. Provide diverse **dwelling** types within Precincts 1, 2, 3 and 4;
5. In Precinct 1, provide **spaces** to be used for a home office, **creative industry** or as an additional bedroom.

### Prescriptive Measures

1. Land Use and Density
  - a) Distribute land uses across the site in accordance with the Precinct Plan (Map E5.3) and the consistent land uses and densities outlined in Table E5.1; and
  - b) Provide for a maximum of 152 residential **dwelling**s within the site.

**Table E5.1 – Land Uses Consistent with Desired Future Character**

Precinct	Consistent Land Uses*	Maximum Densities*
<u>Precinct 1A</u>  Land Area: Approximately <b>8,419m<sup>2</sup></b>  Built Gross Floor Area: Approximately <b>6,700m<sup>2</sup></b>  Bedroom Total: <b>126</b>	<ul style="list-style-type: none"> <li>- Commercial premises,</li> <li>- Co-working,</li> <li>- Food and drink premises,</li> <li>- Hotel or motel accommodation,</li> <li>- Serviced apartments,</li> <li>- High technology industry,</li> <li>- Function centre,</li> <li>- Information and education facility,</li> <li>- Medical centre,</li> <li>- Recreation facility (indoor) and food and drink premises.</li> </ul>	Mixed Use  <ul style="list-style-type: none"> <li>- 1, 2 &amp; 3 bedroom serviced apartments / residential apartments to support the live/work concept',</li> <li>- 1 &amp; 2 bedroom hotel or motel rooms to meet the needs of business tourism,</li> <li>- Retail and commercial premises (class 5/6) to various levels,</li> <li>- Medical centre and recreation facility (indoor) to various levels,</li> <li>- Function centre, information and education facility , high technology industry,</li> <li>- Food and drink premises,</li> <li>- Shared meeting rooms, WC's, garbage facilities,</li> <li>- Back of house,</li> <li>- Underground car parking.</li> </ul>
<u>Precinct 1B</u>  Land Area: Approximately <b>3,710m<sup>2</sup></b>  Built Gross Floor Area: <b>2,160m<sup>2</sup></b>	<ul style="list-style-type: none"> <li>- Retail</li> <li>- Business</li> <li>- Food and Drink</li> <li>- Recreation Facilities (indoor)</li> </ul>	<ul style="list-style-type: none"> <li>- Retail (class 6) to the lower level.</li> <li>- Commercial (class 5) to the upper two levels.</li> <li>- Food and drink and Recreation Facilities (indoor) to the lower level.</li> <li>- Shared meeting rooms, WC's, storage and garbage facilities.</li> </ul>

Precinct	Consistent Land Uses*	Maximum Densities*
<u>Precinct 2</u>  Land Area: Approximately <b>10,255m<sup>2</sup></b>  Built Gross Floor Area: <b>3,655m<sup>2</sup></b>  Bedroom Total: <b>64</b>	Pocket Living (PL)	<u>Pocket Living</u>  <ul style="list-style-type: none"> <li>- Mix of 1 + 2 bedroom units to ground floor</li> <li>- 1 bedroom units to first floor</li> </ul>
<u>Precinct 3</u>  Land Area: Approximately <b>7,360m<sup>2</sup></b>  Built Gross Floor Area: <b>3,200m<sup>2</sup></b>  Bedroom Total: <b>48</b>	Warehouse Lofts (WL)	<u>Warehouse Lofts</u>  <ul style="list-style-type: none"> <li>- Commercial / retail to the ground floor (class 5 / 6)</li> <li>- Generally residential to the first floor with additional bedroom permissible to ground floor</li> <li>- Able to be configured with 1 or 2 beds</li> </ul>
<u>Precinct 4</u>  Land Area: Approximately <b>16,740m<sup>2</sup></b>  Built Gross Floor Area: <b>5,325m<sup>2</sup></b>  Bedroom Total: <b>20</b>	<ul style="list-style-type: none"> <li>- Retail</li> <li>- Business</li> <li>- Residential</li> <li>- Café</li> <li>- Community / Recreation Facilities</li> </ul>	<u>Commercial Precinct</u> B1 / C1 / C2 / C3 / C4 / C5  <ul style="list-style-type: none"> <li>- Retail (class 6) to lower level with the exception of C5 (dentist)</li> <li>- Commercial (class 5) to upper level with the exception of C1 (gym) C3 and C5 (pilates studio)</li> <li>- Shared meeting rooms and wc's</li> </ul> <u>Recreation Precinct</u>  <ul style="list-style-type: none"> <li>- Swimming pool and change facilities</li> </ul> <u>Commercial Terraces</u>  <ul style="list-style-type: none"> <li>- Part of the ground floor is commercial/retail (class 5/6)</li> </ul>

Precinct	Consistent Land Uses*	Maximum Densities*
		<ul style="list-style-type: none"> <li>- Rear portion of the ground floor and all upstairs is residential (class 2)</li> <li>- 2 bedrooms</li> </ul>
<u>Precinct 5</u>  Land Area: Approximately <b>2,728m<sup>2</sup></b>	Ecological enhancement, restoration, management and monitoring.	No buildings allowed

## 2. Setback

Provide **setbacks** within the development consistent with the minimum distances outlined in Table E5.2.

**Table E5.2 – Setbacks**

Land Use	Minimum Setback	Distance (m)
Precinct 1	External Property (lot) Boundary	2
	External road	7
	Internal roads	0
	Adjoining buildings	0
Precincts 2 & 3	External Property (lot) Boundary	4
	Internal roads	0.5
	Adjoining Buildings	0
Precinct 4	Bayshore Drive	7
	Wallum Place	4
	Internal Roads	0

## 3. Buffering

- Provide a minimum 20m **setback** between **dwelling**s and the western and north-western site boundaries, where these adjoin the adjacent Wallum frog habitats;
- Provide a minimum 5m **setback** between **dwelling**s and the internal boundary between Precincts 2 and 5, located in the north-western corner of the site as denoted by the approved Acid Frog Management Plan (Geolink, 2017) for the site; and

- c) Provide buffering from the Byron Bay Sewerage Treatment Works in the form of a minimum 20m buffer along the north western boundary of the site (this acknowledges the buffer provided in the original subdivision of the land, by the creation of Lot 12 DP 1189646).

#### 4. Environmental Assessment

The following environmental assessment reports must be prepared as part of any development application for the site:

- a) Preliminary Acoustic Report;
- b) **Site Waste Minimisation and Management Plan** and assessment consistent with the requirements of Chapter B8 Waste Minimisation and Management.

#### E5.5.4.2 Car Parking

##### **Background**

An integrated 'live/work' approach to development, characterized by the inclusion of **workspaces** in detached and attached residential **dwelling**s, presents the opportunity for *dual use* of parking spaces, thereby reducing the overall parking demand of the proposed development.

Dual use of parking spaces occurs when the same parking space can serve more than one component of a development, such as where residents of living areas also operate businesses in the attached workplaces. In circumstances where the parking demand generated by residents is satisfied by parking provided to serve the living areas, there is no need to satisfy the parking demand generated by residents' use of the workplaces.

A **mixed use development** also provides the potential for *complementary use* of parking spaces. This occurs when the peak parking demand of one component of the proposed development does not coincide with the peak parking demand of another.

##### **Objectives**

1. To provide sufficient parking to satisfy the needs of the proposed development taking into account the potential for dual and complementary use of parking spaces; and
2. To assist in achieving the Desired Future Character for the site as defined by Section E5.5.3.1 by minimising the total area of hard stand car parking within the site.

##### **Performance Criteria**

1. Provide on-site car parking appropriate to the needs of both residents and off-site workers, with consideration to potential for dual use and complimentary use of spaces;
2. **Dual Use Parking** - apply the concept of dual use parking, as described above, as appropriate to the nature of the proposed site development. In this regard it is not unreasonable to expect that the actual parking demand generated by the workplace floorspace in the commercial precinct (most notably the office floorspace), and in the industrial precinct, will be up to 30% less than the parking requirement which is



calculated without regard to the duplication of parking provision, which is a consequence of the integrated “live/work” approach to the development. It should be noted, however, that it is possible that not all of the workforce employed by businesses that occupy the workplaces incorporated in integrated ‘live/work’ components of a **mixed use development** will also be residents of that development. For example, a resident operating a business from a workplace could employ a non-resident/residents to assist in the operation of the business;

3. **Complementary Use** - seek to reduce the total number of car parking spaces associated with a **mixed use development** proposal by comparing peak demands of each use by time of day, day of the week, and season. Where the varied parking demand for proximate uses allows joint use of a single parking space or facility, a reduced number of spaces is strongly encouraged;
4. Located shared parking spaces to be convenient to all users;
5. Provide non-residential parking on internal streets and accessways, providing that such parking does not affect the capacity of the internal access system to allow efficient internal movement of vehicles and pedestrians; and
6. Provide cycle access and facilities within the site, consistent with the requirements of Chapter B5 Providing for Cycling.

### Prescriptive Measures

Provide on-site car parking in accordance with standards outlined in Table E5.3. Total provision of car parking is to consider potential for *dual use* and *complementary use*, as described above.

**Table E5.3 – Car Parking Standards**

Type of Development	Minimum Car Parking Provision	Special Requirements	Precinct Requirements
<b>Precinct 1A –Mixed Use</b>			
Apartment	1 space per room +1 per 4 for visitor	1 space to be provided for people with a <b>disability</b> for each accessible room.	Where car share is provided the maximum car parking credit shall be on the basis of 1 car share space per 5 spaces. Car share cannot account for more than 10% of the overall required parking.
Bike shop	1 space per 20m <sup>2</sup> GFA		
Co-retail	1 space per 20m <sup>2</sup> GFA		
Commercial Kitchen	1 space per 20m <sup>2</sup> GFA		
Hotel	1 space per room	1 space to be provided for people with a <b>disability</b> for each accessible room	1 per cent of spaces to be provided for people with a
Networking	1 space per 20m <sup>2</sup> GFA		
New retail - Office premises	1 space per 40m <sup>2</sup> GFA x 70%		

Adopted 5 August 2021

Effective 12 January 2022

Type of Development	Minimum Car Parking Provision	Special Requirements	Precinct Requirements
- Retail Premises	1 space per 20m <sup>2</sup> GFA		disability (generally – does not apply hotel/ serviced apartments)
Office	1 space per 40m <sup>2</sup> GFA x 70%		
Restaurant	1 space per 20m <sup>2</sup> GFA		
Retail	1 space per 20m <sup>2</sup> GFA		
Sauna	Ancillary to Hotel		
Special function centre	1 space per 20m <sup>2</sup> GFA		
Studio	1 space per 20m <sup>2</sup> GFA		
Wellness Centre	1 space per 40m <sup>2</sup> GFA x 70%		
Hotel Staff	1 per 2 employees		
Delivery/Service Vehicles	Provide Specific Loading Bay		
<b>Precinct 1B –Mixed use, retail / business / food and drink / recreation facility (indoor)</b>			
Retail	1 space per 20m2 gross floor area		1 per cent of spaces to be provided for people with a <b>disability</b>
Office / professional rooms / business premises	1 space per 40m2 gross floor area x 70%		
Recreation facility (indoor)	1 space per 20m2 gross floor area		
delivery / service vehicles	1 space per 400m2		
<b>Precinct 2 – Pocket Living</b>			
small <b>dwelling</b> s – 1 bedroom	1 space per <b>dwelling</b>		1 per cent of spaces to be provided for people with a <b>disability</b>
small <b>dwelling</b> s – 2 bedroom	1.5 spaces per <b>dwelling</b>		
delivery/ service vehicles	1 space per 800 m <sup>2</sup> gross floor area	Visitor parking can be used if designed for dual use	
<b>Precinct 3– Warehouse Lofts</b>			
small <b>dwelling</b> s (1bedroom)	1 space per <b>dwelling</b>		1 per cent of spaces to be provided for people with a <b>disability</b>
small <b>dwelling</b> s – 2 bedroom	1.5 spaces per <b>dwelling</b>		
visitor car parking	1 space per 4 <b>dwelling</b> s		

Type of Development	Minimum Car Parking Provision	Special Requirements	Precinct Requirements
Workspace	1 space per workspace		
delivery / service vehicles	1 space per 800 m <sup>2</sup> gross floor area	Visitor parking can be used if designed for dual use	
Precinct 4 – Mixed Use			
retail	1 space per 20 m <sup>2</sup> gross floor area		1 per cent of spaces to be provided for people with a disability
office / professional rooms/ business premises	1 space per 40m <sup>2</sup> gross floor area x 70%		
spa	1 space per 20m <sup>2</sup> gross floor area		
small dwellings (1 or 2 bedrooms)	1.5 spaces per dwelling		
large dwellings (3 or 4 bedrooms)	2 spaces per dwelling		
visitor car parking	1 space per 4 dwellings		
delivery / service vehicles	1 space per 400 m <sup>2</sup>		

#### E5.5.4.3 Building Design

##### Background

The climate, coastal location and the evolving culture of Byron Bay has given rise to a 'Byron style' which can be characterised as informal, light weight construction and is referred to in this Section as the 'Byron vernacular' and the 'Byron style'. Achieving the Byron vernacular will be reinforced within the developments' residential precincts, with the development as a whole characterised by lush vegetation, open spaces and linked landscaped areas, a mix of flat and sloping rooflines, timber, masonry and glass structures typical of the local Byron style (refer to Figure E5.1).

An opportunity exists for Habitat to be an intense living and working environment of a considerably higher density than suburbia. Consequently, a high degree of detailed design resolution is required in the architecture and urban design.

The density proposed for the site means that the form and layout of each building needs to consider its relationship to its immediate neighbour and its context in the street. It means that the creation of identifiable and well defined space in the public domain is more important than the individual building and garden. Further, it means that gardens and the landscaping on private lots need to contribute to the public domain. The issue of overshadowing will also need to be carefully considered in any design for the site.

Building design should:

1. Reinforce the structure of the public domain;
2. Respond to climate and local 'Byron vernacular';
3. Ensure privacy and amenity are maintained;
4. Contribute to high environmental performance; and
5. Ensure an adequate level of solar access is provided to living areas.



**Figure E5.1 – Indicative examples of Byron vernacular**

### **Objectives**

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1;
2. To ensure that buildings on the site reinforce the structure of the public domain, respond to climate and the 'Byron vernacular', ensure that privacy and amenity are maintained, and contribute to high environmental performance;
3. To ensure that residential development will not significantly increase the overshadowing of adjoining properties; and
4. To ensure that occupants of buildings will enjoy the optimum use of winter sunlight and summer shade.

### **Performance Criteria**

1. Provide low-rise) two and three storey building forms that are in proportion to street trees or existing built form. Two and (half **storey** comprised of a mezzanine or loft that utilises the roof space) are also possible.
2. Where possible, provide rear lane vehicular access to housing sites to facilitate a coherent, safe and visually pleasing streetscape and negate the need for private hard surfaced driveways;

3. Provide articulation and variety in building forms and utilise screening features to facilitate visual interest, privacy and energy efficiency;
4. Ensure that the width and internal layout of buildings facilitate natural cross ventilation;
5. Design entrances so that they are a clearly identifiable element of the building in the street;
6. Utilise durable materials and finishes;
7. No roof should have a highly reflective surface; any metal roof must have a colorbond or equivalent finish in a colour approved by Council. White or light coloured roofing will not be approved where it's likely to be intrusive;
8. Locate habitable rooms and open spaces away from noise sources and utilise car parking areas and zero side building **setbacks** to provide a buffer to noise sources;
9. In Precinct 1, design and construct development adjoining Wallum Place to ensure that acceptable living conditions can be created within **dwellings**, particularly in relation to noise and odour;
10. Incorporate lush vegetation to provide shade and screening; and
11. Orientate **dwellings** and design building roof and shade structures to maximise solar access into private open space areas and internal living spaces during winter months.

### **Prescriptive Measures**

1. Provide details of building materials and surface colours for assessment with the development application;
2. External materials must complement the 'Byron vernacular' and can include various forms of cladding including pre-painted corrugated steel, fibrous cement, weatherboard, masonry, concrete and timber;
3. Allow zero side **setbacks** and boundary walls to efficiently utilise the site, create an urban edge to streets, minimise building material and energy usage, and enable the provision of private internal open space;
4. Design buildings to ensure a minimum of 3 hours of sunshine to the living area of **dwellings** between 9am and 3pm mid winter;
5. Coordinate and integrate building services, such as drainage pipes and air conditioners, with overall façade and **balcony** design;
6. Coordinate security grills/ screens, ventilation louvres and **car park** entry doors with the overall façade design;
7. Provide operable walls and large openings to allow for windows and doors to be opened during summer and closed in winter;
8. Incorporate mosquito mitigation devices;
9. Locate living areas with direct access to private outdoor spaces; and
10. Avoid large expanses of any single material.
11. Design buildings to ensure that building heights do not exceed the maximum height shown for the land on the Byron LEP 2014 [Height of Buildings Map](#).
12. Design buildings to ensure that the maximum floor space ratio for a building is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

#### E5.5.4.4 Site and Open Space Design

##### Background

The flat topography and high water table of the site and the sensitive wetland habitats of its context mean that managing stormwater runoff will be important. Minimising impervious surfaces across the site is critical to the reduction of stormwater runoff. This issue will also be supported by building design and infrastructure design elements of this Section.

The provision of areas for communal exchange, relaxation, education and contemplation will support the village concept. At the same time, territorial reinforcement of public and private space will facilitate efficient utilisation of the land and discourage crime opportunities.

Universal **access** will need to be built into the design of the site at ground level in order to produce a village that is supportive of people with the range of physical and mental functionality.

The mixed use nature and density of the proposed land use pattern and the availability and augmentation of existing cycling and walking networks delivers an opportunity to provide wide transport choice. Minimising and integrating vehicular parking is a demand management measure that can further support, walking, cycling and public transport. Locating visitor parking within the street system reduces the footprint of **dwelling** sites.

##### Objectives

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1; and
2. To minimise the impervious footprint of the site, provide communal and private open space, delineate the public or private role of space and facilitate universal **access**.

##### Performance Criteria

1. Provide common open space to facilitate communal exchange and foster a sense of community;
2. Locate communal open space so that it exists as a focal point for the development;
3. Provide private outdoor open space areas in **dwelling** sites as an extension of living spaces, to allow yards to be fully planted as landscaped **deep soil areas** and to maximise pervious areas;
4. Provide private open space for **workspaces** by way of open space **balconies** as an extension of living spaces;
5. Provide adequate facilities for storage, clothes drying and waste management while minimising their visual and amenity impacts;
6. Provide universal **access** throughout the site by providing **continuous accessible paths of travel** and some housing and car parking specifically designed to support persons who have reduced physical or cognitive function;
7. Ensure communal open space areas are useable and accessible to all including those persons with a **disability**;

8. Ensure passive surveillance of the communal open space area;
9. Improve the amenity of open space with landscape design by:
  - a) providing appropriate shade in the form of **locally indigenous** trees or structures;
  - b) providing accessible routes through the space and between buildings; and
  - c) screening cars, communal drying areas, swimming pools and the courtyards of ground floor residential buildings;
10. Contribute to streetscape character and the amenity of the public domain by:
  - a) relating landscape design to the desired proportions and character of the streetscape;
  - b) using planting and landscape elements appropriate to the scale of the development; and
  - c) allowing for locating **public art** where they can be viewed by users of open space and/ or from within courtyards and the public domain;
11. Improve the energy efficiency and solar efficiency of **dwelling**s and the microclimate of private open spaces. Planting design solutions include:
  - a) **locally indigenous** trees for shading low-angle sun on the eastern and western sides of a buildings;
  - b) locating **locally indigenous** dense-foliaged trees well away from the building to permit winter sun access;
  - c) varying heights of different species of **locally indigenous trees** and shrubs to shade walls and windows; and
  - d) locating pergolas on **balconies** and courtyards to create shaded areas in summer and private areas for outdoor living.

## **Prescriptive Measures**

### **1. Public Open Space**

- a) Provide a minimum of 2,000m<sup>2</sup> of public / communal open space, with at least one central location having an area of not less than 450m<sup>2</sup>; and
- b) Orientation of communal open spaces to the north with a minimum of three hours of sunlight between 9am and 3pm mid winter provided to at least 50% of the communal open space area.

### **2. Private Open Space**

- a) A private open space balcony must be provided for each **dwelling** where the residential component is not located on the ground floor (note this includes **dwelling** that contain a **dwelling** on the first floor and **workspaces** / office on the ground floor). Within the commercial precinct, such private open space **balconies** must have a minimum area of 10m<sup>2</sup> and a minimum length and width of 2.5m. Within the Pocket Living precinct, private open space balconies must have a minimum area of 11m<sup>2</sup>. In all other precincts, the private open space **balconies** must have a minimum area of 15m<sup>2</sup> and a minimum length and width of 2.5m;



- b) Private open space **balconies** must have appropriate orientation and adequate provision for winter sun and summer shade; and
- c) Each **dwelling** that has a residential component on the ground floor must have a minimum private **landscaped area** of 49m<sup>2</sup> (including terrace) plus additional common outdoor area.

### 3. Universal Access

- a) Provide a minimum of one **dwelling** as **adaptable housing**, designed in accordance with AS4299, for every 10 **dwellings** or part thereof;
- b) Design facilities for disabled persons (including car parking) to comply with the Australian Standard 1428 (Part 1 and 2), the Building Code of Australia and the *Disability Discrimination Act 1992* (as amended);
- c) Provide **continuous accessible paths of travel** from all public roads and public spaces, as well as throughout the ground level internal spaces of **adaptable housing dwellings**; and
- d) Design **adaptable housing dwellings** in accordance with AS 1428 Parts 1, 2 and 4 and AS 4299 Adaptable Housing.

#### E5.5.4.5 Lot Size and Subdivision

##### **Objectives**

- 1. To provide lots of sufficient size to satisfy the needs of future residents and occupants, and which will accommodate well designed and innovative development;
- 2. To encourage diversity in lot size and opportunities for a variety of housing/building choice; and
- 3. To ensure that lot design takes into account the natural features of the site and locality.

##### **Performance Criteria**

- 1. Lots must be of sufficient area to allow for the siting of **dwellings** / buildings including provisions for private open space, **landscaped area**, vehicle access and car parking and to permit solar access; and
- 2. Lot sizes and design must enable **dwellings** / buildings and driveways to be sited to protect natural or cultural features, and respond to site constraints including topography, bushland, soil, erosion, drainage, and bushfire risk.

##### **Prescriptive Measures**

- 1. The minimum lot size requirements for the site (including residential community title) shall be in accordance with Byron LEP 2014.
- 2. Lots must enable the construction of a built form which is sympathetic to the established character of the area.

3. Subdivision of the site is to occur only through strata and/or community title subdivision.
4. There is no minimum **allotment** size for strata subdivision provided the **allotment** boundaries substantially correspond with parts of any building intended for separate ownership. Demonstration of compliance with the Building Code of Australia with regard to fire separation and egress will be required prior to subdivision approval.
5. In the case of strata or community-title subdivisions, car spaces are not to be given separate lot numbers, and all visitor spaces are to be included within common property where possible. All private landscape area attached to a **dwelling** shall be identified on the subdivision plan as being part of the appropriate **dwelling** unit/ lot. All common **landscaped areas** and community facilities shall be identified as being within the common property.

#### E5.5.4.6 Water Cycle Management

##### Background

The wetland systems to the south-west and west of the site demand a water management regime that ensures that water leaving the site is appropriately treated and managed.

##### Objectives

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1;
2. To ensure that management of surface water and **ground water** on the site is consistent with the principles of Integrated Water Cycle Management and **water sensitive urban design**; and
3. To protect the area's sensitive ecological and geophysical environment, particularly by ensuring that water released into the **ground water** and adjacent swales is low in pH and nutrients.

##### Performance Criteria

1. Utilise uncontaminated, low pH, low nutrient fill to provide for drainage of stormwater within and from the site;
2. Minimise building footprints by including three **storey** building forms in order to maximise pervious open space areas;
3. Minimise impervious surfaces dedicated to vehicular access and manoeuvring by minimising the length of driveways and parking provided within individual house sites;
4. Incorporate water use minimisation measures, such as water saving devices, into building designs;
5. Minimise filling of the site by adopting above-surface drainage regime with the use of swales;
6. Council may consider variations to its engineering standards to allow swale drainage, as an alternative to standard kerb and gutter drainage, if it can be demonstrated that the swale drainage design could be adapted to conform to standard kerb and gutter drainage in the event of system failure;

7. Avoid the need for deep basins or permanent pools for the detention of stormwater by incorporating shallow detention areas or swales across the site which fully drain following rainfall events;
8. Utilise car parking areas for the detention and treatment of stormwater runoff from roads;
9. Ensure that stormwater leaving the site is treated to a quality equal or better to pre-development quality;
10. Ensure that stormwater flow rates leaving the site are no greater than pre-development flow rates;
11. Manage the flow and quality of water leaving the site to avoid adverse impacts upon adjoining sensitive wetland areas, particularly in relation to maintaining low pH and low nutrient levels;
12. Maximise the reuse of treated wastewater and stormwater for non potable purposes such as garden watering and toilet flushing within site capability and public health limits; and

### **Prescriptive Measures**

1. Requirements of the site wide Integrated Water Cycle and Soil Management Plan (Geolink, 2011) as amended by Stormwater Management Plan (Ardill Payne & Partners, 2013) are to be adhered to;
2. Provide dual reticulation within the site for the reuse of recycled water from the West Byron sewage treatment plant (STP) for toilet flushing and watering of open spaces where suitable;
3. Rainwater tanks to be provided as required by the approved Stormwater Management Plan (Ardill Payne and Partners, 2013);
4. Private courtyards are to minimise surfaces with impervious materials. Where timber decking is provided, water must be capable of infiltrating into the soil beneath the deck;
5. Contribute to water and stormwater efficiency by integrating landscape design with water and stormwater management, by:
  - a) using **locally indigenous** plants with low water demand to reduce water consumption;
  - b) using **locally indigenous** plants with low fertiliser requirements;
  - c) using **locally indigenous** plants with high water demand, where appropriate, to reduce run off from the site;
  - d) utilising permeable surfaces; and
  - e) incorporating wetland filter systems using **locally indigenous** plant species;
6. Employ sub-surface irrigation for watering of public spaces, using recycled water with scheduling to avoid over-watering and adverse impacts to soils and **groundwater**;
7. Employ swale drainage within drainage systems to promote infiltration and treatment of stormwater. Swales shall be designed to minimise maintenance requirements with the use of **locally indigenous** plant species or alternative coverings such as river pebble;

8. Council will require the body corporate of Habitat to enter into an appropriate management agreement for the maintenance of any drainage swale on the public roads (Bayshore Drive and Wallum Place) fronting the site;
9. Drainage systems are to be maintained to ensure that ongoing stormwater quality is achieved.
10. Design car parking areas to facilitate stormwater detention and treatment; and
11. Carry out all **excavation** above the existing water table and in a way that does not change the natural characteristics of the water table.

#### E5.5.4.7 Ecological Enhancement

##### Background

Habitat is almost devoid of non-grass vegetation, having been slashed for decades. Three (3) vegetation communities occur on the site. These are swamp forest (small clump on southern boundary), sedgeland (located in depressions across the site) and grassland (majority of the site). No threatened plant species have been identified on the site.

The threatened Wallum Froglet (*Crinia tinnula*) has been recorded on and adjacent to the site and the threatened Wallum Sedge frog *Litoria olongburensis* occurs adjacent to the site. The site itself offers marginal habitat for the Wallum froglet as a result of degradation due to past disturbance.

A Compensatory Habitat Agreement exists between the land owner and Council, which will substantially enhance Wallum frog habitats and provide linkages between existing habitats of importance for these species. The development of the Habitat site will implement and inform the development of this compensatory habitat agreement.

##### Objectives

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1; and
2. To assist and increase ecological restoration being undertaken to the west of the site and extend ecological restoration into the site.

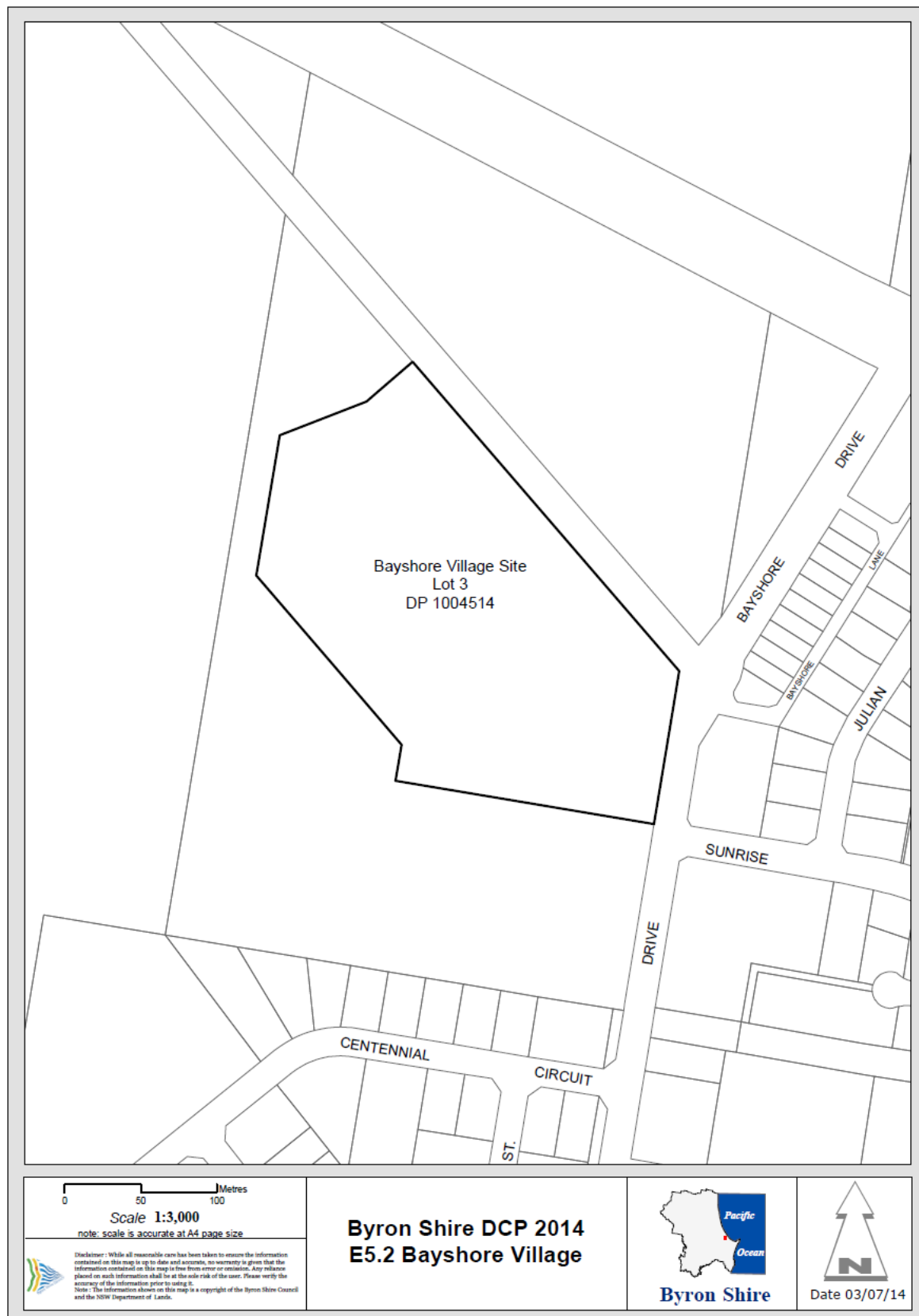
##### Performance Criteria

1. Continue to contribute to the establishment and maintenance of Wallum frog habitats being created on adjoining land; and
2. Provide restored Wallum frog habitat in accordance with the Council approved *Acid Frog Management Plan: Habitat North Beach, Byron Bay* by Geolink Environmental Management and Design, Version 4 dated 4/5/17.

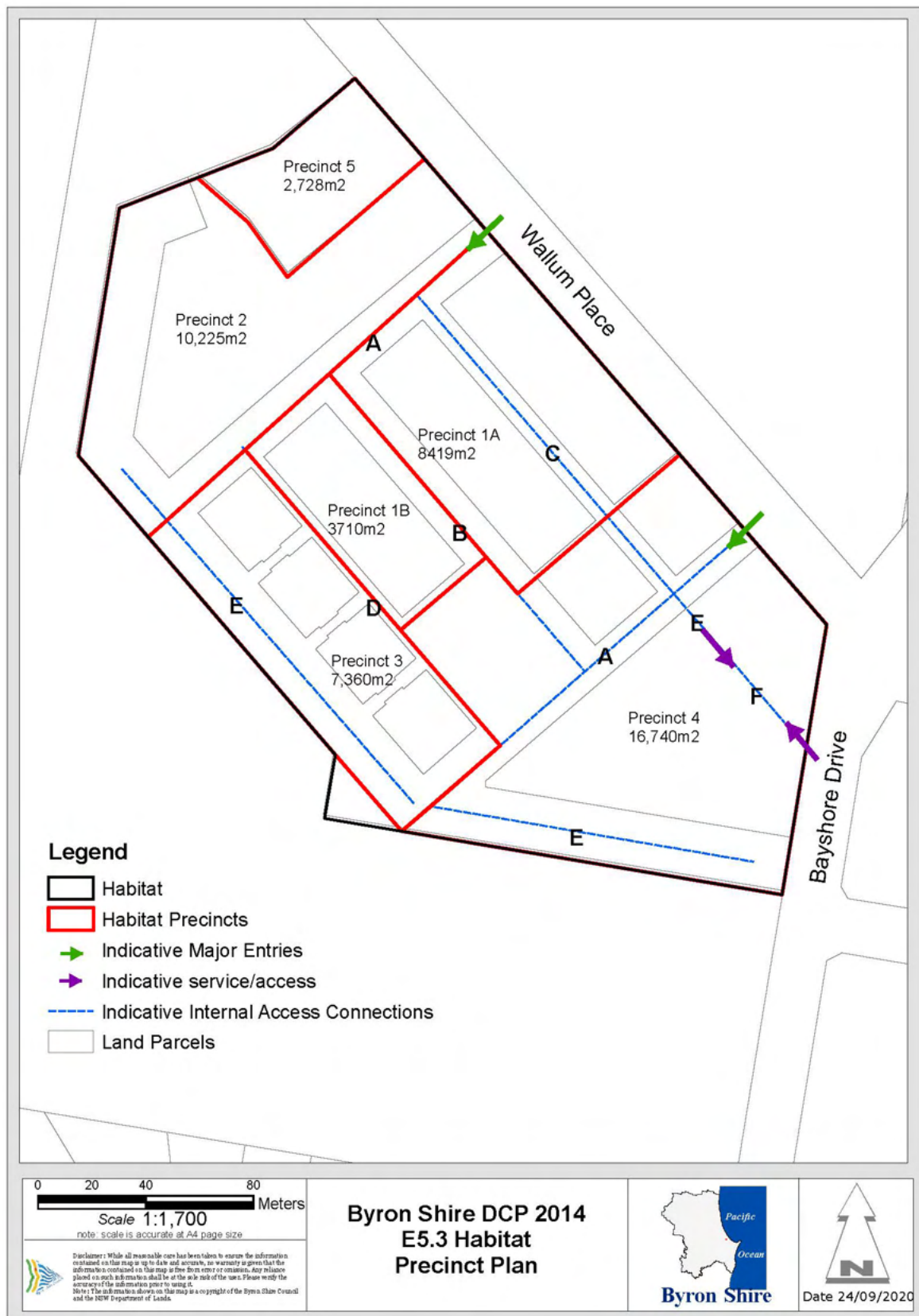
##### Prescriptive Measures

Habitat restoration within the site and adjoining lands is to be in accordance with the Council approved *Acid Frog Management Plan: Habitat North Beach, Byron Bay* by Geolink Environmental Management and Design, Version 4 dated 4/5/17.

**Map E5.2 –Habitat**



Map E5.3 – Habitat Precinct Plan





## E5.6 Byron Central Hospital Locality

### E5.6.1 Where this Section Applies

This Section applies to land within Zone 'SP2 Hospital' at Ewingsdale, described as Lot 100 DP 1140936, Ewingsdale Road.

### E5.6.2 Objectives of this Section

The objectives of this Section are:

1. To facilitate achievement of the objectives of R5 zone on land adjoining development to which this Section applies.
2. To minimise conflict between land uses within the SP2 Hospital zone and land uses within adjoining zones.
3. To promote retention of a semi-rural landscape in the locality.

### E5.6.3 Landscaped Buffer

#### Objectives

1. To provide an effective acoustic and visual buffer between the proposed **hospital** site and adjoining land within the R5 zone; and
2. To achieve a semi rural landscape character in and around the proposed **hospital** site.

#### Performance Criteria

Development applications must incorporate landscape and management measures to ensure that the proposed development will not create adverse visual, noise, lighting or residential character impacts on the existing or potential residential amenity of adjoining land within the R5 zone.

#### Prescriptive Measures

Development applications must be accompanied by a landscape plan consistent with the requirements of Chapter B9 Landscaping. The landscape plan must include (but is not limited to) construction of a mounded and landscaped buffer a minimum of 20m wide between the proposed development and adjoining land within the R5 zone. The buffer must be designed, located, intensively planted and maintained in perpetuity as a visual and acoustic screen. All planting must utilise **locally indigenous** species.



## E5.7 The North Byron Beach Resort Site

### E5.7.1 Where this Section Applies

This Section applies to land at the eastern end of Bayshore Drive identified as the North Byron Beach Resort Site on Map E5.4.

In the event of any inconsistency between Section E5.7 and other Chapters in this DCP, the provisions of Section E5.7 shall prevail.

### E5.7.2 Objectives of this Section

The objectives of this Section are:

1. To promote and implement the principles of ecologically sustainable development, as identified in the aims of Byron LEP 2014, in the planning, development and management of the site.
2. To define controls on location, form, character and density of permissible development on the site.
3. To define those parts of the site that require protection from development because of their inherent habitat or biodiversity values, visual characteristics, hazard characteristics, community values or other environmental values or characteristics.
4. To maintain, protect and enhance wildlife corridors to facilitate the movement and dispersal of species between Tyagarah Nature Reserve and significant areas of native vegetation on and beyond the site.
5. To define the remediation, environmental repair and ongoing management measures that are required in order to ensure appropriate environmental restoration and improvement of specific areas and characteristics of the site.
6. To protect and enhance the visual and scenic quality of the site.
7. To ensure that the siting, scale and intensity of development protect and enhance Byron Bay's social and cultural qualities by:
  - a) protecting areas and features of cultural significance;
  - b) accounting for local and regional values, community needs and aspirations;
  - c) reflecting Byron Bay's character and scale;
  - d) ensuring that development of the site does not dominate or detract from the town centre; and
  - e) ensuring that site access does not compromise the amenity or safety of adjacent residential areas.

### E5.7.3 Statement of Desired Future Character

The site is characterised by a mix of native bushland, coastal dune systems, wetlands and low intensity, low-rise and low scale **tourist accommodation** and ancillary uses. The integrity of native vegetation, wildlife habitats and waterbodies will be enhanced through active management and strategic revegetation. Natural areas will be separated from development by vegetated buffers and fire protection areas that are designed to minimise impacts on the integrity and quality of ecologically sensitive areas. The buffers also define the boundary of the development footprint and provide a transition between the two.

The textures, colours and design of new development will complement the existing bushland and coastal landscapes, both within and adjoining the site. Buildings will be designed to optimize energy and water efficiency. A public **car park** and cycle racks will be provided within the Bayshore Drive road reserve for beach users not accommodated on the site.

The land has three distinct components, each with a particular desired future character:

1. Ecologically sensitive wetlands, habitat and corridor areas, beaches and waterbodies that provide foraging and nursery areas for shorebirds and other conservation priority species. These areas also include an important habitat corridor adjoining the railway line, which is presently partly developed with holiday **accommodation units** but which provides a connective wildlife corridor between the Belongil Creek estuary and the Tyagarah Nature Reserve. Development (including re-development) in these areas will maximise the retention of native vegetation and habitats and provide opportunities for further revegetation over time to enhance the effectiveness of the wildlife corridor.
2. Dunes and adjacent lands that are susceptible to shoreline recession and coastal processes. These lands are characterised by vegetated and grassed dunes, hind-dune littoral rainforests and wetlands, grassed areas and waterbodies. Development in these areas will be limited to low-impact environmental facilities, coastline access and environmental management activities, and surf lifesaving facilities (note: such land is not subject to this DCP however the provisions of DCP 2010 will apply to these areas).
3. A development area central to the site containing low scale **tourist accommodation** and associated facilities and waterways in a landscaped setting of grassed areas and **locally indigenous** trees and vegetation. Within the development area:
  - a) the perimeter adjoining ecologically sensitive areas provides a transition between the natural environment and the central development area. It will be characterised by low building densities and open areas landscaped with grassed areas and local endemic species. The only buildings that will be located in this transition area are tourist **accommodation units** and environmental facilities; and
  - b) the centre of the developable area will contain a range of tourist facilities including a **function centre** and may contain shops, **restaurants or cafes** and related facilities.

**Note:** A number of existing approvals are applicable to the subject site (i.e. for the areas subject to Byron LEP 2014 and this DCP and adjoining areas that remain subject to Byron

LEP 1988 and Byron DCP 2010). Those approvals include Development Application 82/479 and DA 83/513 for what was initially called Belongil Woods and now referred to as Bayshore Bungalows; and Development Application 5.1987.208.3 relating to the tourism development on the Byron Bay side of Bayshore Drive.

Development will be designed to respect and protect the ecological values, coastal processes, natural hazards and access limitations of the locality. Development will be designed to respect the relationship of the site to the adjoining Sunrise Beach residential neighbourhood, Tyagarah Nature Reserve, Cape Byron Marine Park and Belongil Beach.

Areas of natural vegetation and important wildlife habitats will be retained, protected and managed to maintain and enhance their biodiversity values. Wildlife corridors that facilitate the movement and dispersal of native species between Tyagarah Nature Reserve and significant areas of native vegetation on and beyond the site will be enhanced.

To ensure protection of native fauna species, no cats or dogs will be kept on, or brought to or through the site.

The areas that are subject to potential coastal processes will be managed in a way that ensures protection of the natural dunal and hind-dune systems. Development will be cognisant of coastal processes and will not be designed or located so as to create demands for protection from coastal erosion.

Public pedestrian access to the beach will be provided and situated so as to avoid the shorebird nesting area and to respect coastal and dune system processes.

Public car parking and cycle racks will be provided within the Bayshore Drive road reserve for beach users not accommodated on the site.

## E5.7.4 Planning Principles

The desired future character shall also reflect the following planning principles:

### 1. Transport, Access and Parking

- a) There is no significant increase in stress on the Byron Bay community in terms of access to transport infrastructure, and in particular, transport time, parking availability, traffic congestion or access to local services.
- b) Additional demand on existing transport infrastructure and networks is addressed.
- c) Pedestrian, bicycle and alternative transport systems (including bus and rail where feasible) connect the site to local community facilities, reducing dependence on car use.
- d) Access infrastructure avoids locations of ecological or conservation value.
- e) A public road is provided through the site and includes provision of a public car parking area.

### 2. Land Use

- a) A mix of tourist, commercial /retail, community, recreational, environmental /conservation and open space uses is provided.

- b) Land uses recognise, protect and enhance conservation values and coastal processes.
- c) New development reflects the unique character and scale of Byron Bay.
- d) The design and arrangement of buildings discourages permanent residential occupation.

3. Tourist Development

- a) The type and amount of permissible development reflects the environmental, social and economic capacity of the site and Byron Bay.
- b) Areas of high environmental value or cultural significance are left largely undeveloped and protected for present and future generations.
- c) Natural, landscape, archaeological and cultural features are protected and enhanced.
- d) Low-rise **accommodation units** will be the basis of any tourist accommodation, with central resort facilities incorporating a **function centre**.
- e) Public access is provided to the beach.

4. Conservation and Habitat Protection

- a) Sensitive areas are protected and enhanced.
- b) Only those areas with low ecological value are used for tourism purposes.
- c) The State and Regional significance of existing wildlife corridor values of the site are protected and enhanced.
- d) The habitats of threatened or endangered terrestrial and aquatic species are protected and enhanced.

5. Coastal Processes and Environmental Hazards

- a) Structures and facilities are designed and located to account for climate change including potential sea level rise, storm tide, flooding and other associated impacts.
- b) Buildings and activities are located away from areas of active coastal processes.
- c) The natural topography and physical features of the coastal dune system are protected and managed.
- d) Emergency evacuation routes are provided for flood events, including those rarer than 1% AEP.
- e) Community services and facilities are located outside areas of coastal or other natural hazards.

### E5.7.5 Achieving the Desired Future Character

The Desired Future Character of the site set out in Section E5.7.3 is to be achieved by:

- a) Defining particular Precincts and Areas within the site;

- b) Specifying Principles that must apply to development of the site;
- c) Specifying the type, character, form and nature of development that will be permitted within each of the Precincts; and
- d) Specifying specific environmental management and environmental repair measures that must apply as a consequence of development on the site.

Map E5.4 North Byron Beach Resort Precinct Map defines the following Precincts and Areas on the site:

- Precinct 1 Developable Area Low Density Precinct.
- Precinct 2 Developable Area Higher Density Precinct.
- Precinct C Western Wetland and Heath Precinct.
- Precinct D South-western Wildlife Corridor Precinct.
- Precinct E Eastern Wetland and Littoral Rainforest Precinct.
- Bush Fire Asset Protection Zone (APZ) Areas.
- Waterbody Areas within Precincts 1 and 2.

## E5.7.6 Development Applications and Site Concept Plan

### Objectives

1. To ensure that development approved on land within the site will be consistent with the objectives, desired future character, principles and provisions of Section E5.7.
2. To ensure that individual developments approved on land within the site will be consistent with existing and potential future approved development.

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. The Consent Authority will grant consent to development on the site only if it is satisfied that:
  - a) the proposed development will be consistent with the Objectives, Desired Future Character, Principles and relevant provisions defined by Section E5.7; and
  - b) the proposed development will not jeopardise the achievement of the Objectives, Desired Future Character, Principles and relevant provisions defined by Section E5.7 for other approved or potential future development on the site.
2. Development applications that propose development of only part of the site must be accompanied by a Site Concept Plan that demonstrates that the proposed development will be compatible with the longer term development of the site in a

manner that can achieve the Objectives, Desired Future Character, Principles and relevant provisions defined by Section E5.7.

3. Development applications proposing development of all or a significant part of the site must contain the following supporting management plan/s:
  - a) Biodiversity Conservation Management Plan addressing the following specific matters:
    - i) Conservation, restoration and management of native vegetation, wildlife corridors and buffers.
    - ii) Staged removal of weed species.
    - iii) Buffers around waterbodies.
    - iv) Rehabilitation and revegetation of walking tracks through the littoral rainforest in Precinct E (where applicable).
    - v) Revegetation and restoration opportunities within Precinct D to enhance the operation of the wildlife corridor between the Belongil Creek estuary and the Tyagarah Nature Reserve
    - vi) Shorebird and seabird management strategies (where relevant)
  - b) Landscaping and landscape management.
  - c) Control and management of biting insects including mosquitoes, consistent with the requirements of Chapter B7 Mosquitoes and Biting Midges.
  - d) Water cycle management.
  - e) Dune management (where relevant)
  - f) An environmental education strategy to inform visitors and the general public of the environmental sensitivity of the site and the locality. The strategy must include mechanisms to encourage avoidance of the shorebird nesting area and prevention of dogs and cats being kept on or brought to the site.

Note: Further details of matters to be included in the abovementioned plans may be found in the provisions below.

## **E5.7.7 Conservation Areas and Corridors**

### **E5.7.7.1 Western Wetland and Heath Precinct C**

#### **Objectives**

1. To facilitate sensitively designed and managed low intensity tourism uses.
2. To identify, protect and restore endangered ecological communities.
3. To protect the paperbark and eucalypt/Lophostemon-dominated swamp forest and woodland and dry sclerophyll woodland vegetation by restoration together with revegetation of buffering vegetation.
4. To provide protection for the open freshwater habitat by revegetation of buffering vegetation.

5. To focus environmental repair and protection measures on the habitats of native fauna species (particularly threatened species).
6. To protect and enhance wildlife corridor values on the site and in the general locality.

### **Performance Criteria**

1. Development in this precinct should incorporate revegetation and/or restoration works based on the following outcomes:
  - a) Restoration of the swamp sclerophyll vegetation must achieve regeneration of the understorey layers (particularly along the eastern edge) and must minimise habitat and breeding opportunities for invasive fauna species (e.g. cane toad, red fox).
  - b) Revegetation of a buffer to the eastern edge of the paperbark and mixed swamp sclerophyll forest vegetation must incorporate local swamp sclerophyll tree species planted at spacings designed to achieve a closed canopy and extend fully to meet the north-eastern boundaries of other precincts and/or adjoining land not subject to this DCP.
  - c) Revegetation of a buffer to the open freshwater habitat must incorporate local sedge and swamp sclerophyll species planted at a suitable density to maintain water quality and disadvantage access by the cane toad.
2. Development in this precinct is designed, sited and managed to avoid any adverse impacts on native vegetation or the native fauna that relies on such vegetation as habitat (whether for food, shelter or breeding).

### **Prescriptive Measures**

There are no Prescriptive Measures.

#### **E5.7.7.2 Southern Wildlife Corridor Precinct D**

### **Objectives**

1. To facilitate sensitively designed and managed low intensity tourism uses.
2. To identify, protect and restore endangered ecological communities and other **high environmental value vegetation and habitats**.
3. To protect koala habitat and enhance connectivity of koala populations
4. To focus environmental repair and protection on the habitats of native fauna species (particularly threatened species).

### **Performance Criteria**

1. Development in this precinct should incorporate revegetation and/or restoration works based on the following outcomes:
  - a) Restoration and revegetation of the regenerating littoral rainforest vegetation must involve staged removal of weed species that provide food resources for frugivores,



- such as Camphor Laurel and Queensland Umbrella Tree, and incorporate a replacement planting program using native tree species attractive to frugivores such as figs, laurels, quandongs and acronychias.
- b) Revegetation of a buffer to the eastern edge of the littoral rainforest and swamp sclerophyll vegetation must incorporate local littoral rainforest and swamp sclerophyll tree species and aim to achieve a closed canopy.
  - c) Revegetation of a buffer to the northern section of the dry sclerophyll forest must incorporate local dry sclerophyll forest tree species.
  - d) Provision must be made for safe fauna crossing of the road in the corridor between Precinct D and adjoining land to the west.
2. Development in this precinct should be designed, sited and managed to maximise opportunities for establishment and/or enhancement of the wildlife corridor between the Belongil Creek estuary and the Tyagarah Nature Reserve and to avoid any adverse impacts on native vegetation or native fauna that relies on such vegetation as habitat (whether for food, shelter or breeding).

### **Prescriptive Measures**

A Biodiversity Conservation Management Plan submitted in accordance with Section E5.7.6 must identify opportunities for revegetation and restoration within Precinct D (including any proposed works) to enhance the operation of the wildlife corridor between the Belongil Creek estuary and the Tyagarah Nature Reserve.

#### **E5.7.7.3 Eastern Wetland and Littoral Rainforest Precinct E**

### **Objectives**

1. To facilitate sensitively designed and managed low intensity tourism uses.
2. To identify, protect and restore endangered ecological communities and other **high environmental value vegetation and habitats**.
3. To protect the littoral rainforest and regenerating littoral rainforest, paperbark swamp forest and woodland and saltmarsh vegetation by restoration and revegetation.
4. To focus environmental repair and protection on the littoral rainforest and saltmarsh communities and the habitats of native fauna species (particularly threatened species).
5. To reconnect the littoral rainforest vegetation with other areas of littoral rainforest occurring in the locality.
6. To establish an effective habitat connection with Precinct D, the Southwestern Wildlife Corridor by consolidation of the littoral rainforest link through the regenerating littoral rainforest vegetation in the southwestern section of the precinct.

### **Performance Criteria**

1. Development in this precinct should incorporate revegetation and/or restoration works based on the following outcomes:

- a) Restoration of the littoral rainforest and regenerating littoral rainforest vegetation must involve staged removal of weed species that provide food resources for frugivores, such as Camphor Laurel and Queensland Umbrella Tree, and incorporate a replacement planting program using native tree species attractive to frugivores such as figs, laurels, quandongs and acronychias.
  - b) Revegetation of the regenerating littoral rainforest and a buffer to the western edge of the littoral rainforest must incorporate **locally indigenous** littoral rainforest and swamp sclerophyll tree species and aim to achieve a closed canopy.
  - c) Revegetation of the regenerating littoral rainforest should initially focus on consolidating the corridor link in the south-western section of Precinct E where it abuts Precinct D, the South-western Wildlife Corridor.
  - d) Closing and rehabilitation of existing walking tracks through the Precinct.
2. Development in this precinct is designed, sited and managed to avoid any adverse impacts on native vegetation or the native fauna that relies on such vegetation as habitat (whether for food, shelter or breeding).

### **Prescriptive Measures**

A Biodiversity Conservation Management Plan (submitted in accordance with E5.7.6 with a Development Application and Site Concept Plan) must identify the existing walking tracks to be closed and rehabilitated (including the approach to such rehabilitation).

## **E5.7.8 Buffers and Hazards**

### **E5.7.8.1 Bush Fire Asset Protection Zones**

#### **Objectives**

1. To provide for an Asset Protection Zone (APZ) to minimise the impacts of bushfires.
2. To establish a buffer to minimise impacts of development and associated bush fire protection measures on adjoining native vegetation, revegetation areas and wildlife habitats.

#### **Performance Criteria**

1. Bushfire hazards must be managed in accordance with Planning for Bushfire Protection (2006) or its successor.
2. Habitat revegetation and rehabilitation must be undertaken consistent with bush fire management requirements.

#### **Prescriptive Measures**

1. An Outer Protection Area of sufficient width is to be established generally as depicted by the Asset Protection Zones on the Precinct Map (Map E5.4) to act both as a fuel reduced hazard reduction area and a buffer between any development and native vegetation.

2. Where consistent with bush fire protection measures, appropriate plantings or regeneration of native species will be encouraged in this area so as to reduce the exposure of the adjoining vegetation to wind, noise, light, pollution or other detrimental factors and to provide additional resources and benefits to fauna.
3. No development or works other than bush fire protection and revegetation or landscaping is to occur in the Outer Protection Area.
4. Development comprising walking or cycle tracks, access roads, drainage, environmental facilities or recreation areas may be carried out in other parts of the defined Asset Protection Zones, provided that development or work does not compromise the Objectives of adjoining Precincts.
5. No habitable structures or storage structures may be constructed within the defined Asset Protection Zones.

#### E5.7.8.2 Water Body Buffers

##### Objectives

1. To revegetate buffers around waterbodies with appropriate local native species.
2. To reduce cane toad impacts, provide cover refuge for water fowl and improve wildlife habitat and water quality.

##### Performance Criteria

1. Vegetated buffers should be provided around all waterbodies to disadvantage cane toads and to improve wildlife habitat and water quality.
2. Dense plantings of local sedges and rushes should be undertaken around the edges of waterbodies to minimise opportunities for cane toad habitat.

##### Prescriptive Measures

1. Plantings must comprise a suite of **locally indigenous** species comparable with the surrounding indigenous vegetation.
2. All planting and buffers around waterbodies must be designed to disadvantage cane toads and to improve wildlife habitat and water quality.
3. Plans for revegetation of buffers around waterbodies within C, D, and E must be included in the **Biodiversity Conservation Management Plan** prepared in accordance with this Section.

#### E5.7.8.3 Mosquito Management

##### Objectives

1. To manage potential risks from mosquito borne diseases.

##### Performance Criteria

There are no Performance Criteria.

##### Prescriptive Measures

Development applications must include provision for management of mosquitoes and sandflies consistent with Chapter B7 Mosquitoes and Biting Midges.

## E5.7.9 The Developable Area

### E5.7.9.1 Built Form

#### Objectives

1. To ensure that development on the site achieves relevant standards that apply to development generally within Byron Shire, provides acceptable levels of daylight and ventilation, provides appropriate levels of visual and acoustic amenity, respects local climate and achieves an acceptable micro-climate.
2. To provide variety in the visual amenity of development and avoid a monotonous and excessively uniform appearance.

#### Performance Criteria

1. Buildings will vary in size, design and appearance, density and height throughout and be responsive to the environmental and climatic context of the site. Buildings range from low density detached and single **storey** built form around the perimeter to a higher density and more consolidated built form at the centre of Precinct 2.
2. **Accommodation units** are to be designed having regard to the NSW Government's North Coast Urban Design Guidelines and Coastal Design Guidelines for NSW and avoid masonry construction with small eaves.

#### Prescriptive Measures

1. **Tourist accommodation** development must comply with the requirements of Chapter D3 Tourist Accommodation.
2. All traffic, access and parking provision on the site must comply with the provisions of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.
3. Development on land below the **Flood Planning Level** must comply with the provisions of Chapter C2 Areas Affected by Flood.
4. **Signage** on the site must comply with the provisions of Chapter B10 Signage.
5. The placement and design of development must ensure that buildings, private open space and public spaces will have:
  - a) access to daylight;
  - b) access to natural ventilation;
  - c) appropriate levels of visual and acoustic privacy; and
  - d) a pleasant micro-climate.

### E5.7.9.2 Low Density Perimeter (Precinct 1)

#### Objectives

1. To facilitate development of **tourist and visitor accommodation** on land adjoining conservation areas and habitat corridors at a density, and in a form and character that ensure that the conservation values of the adjoining lands are not compromised.

#### Performance Criteria

1. Development within Precinct 1 will consist of tourist and visitor **accommodation units** at low densities in a **landscaped area** of grasses and local native species, consistent with the Desired Future Character Statement in Section E5.7.3 and the Objectives of this section.
2. Buildings in Precinct 1 shall be low-scale, use materials that are light weight in appearance and have a gross floor area less than, and a function secondary to, buildings in the Central Development Area (Precinct 2).
3. Landscaping will enhance amenity and be appropriate to its location adjoining conservation areas and habitat corridors.

#### Prescriptive Measures

1. No single tourist and visitor **accommodation unit** should have a gross floor area greater than 80m<sup>2</sup> or more than 3 bedrooms.

### E5.7.9.3 Central Development Area (Precinct 2)

#### Objectives

1. To facilitate development of a range of **tourist and visitor accommodation** including a **function centre, shops, restaurants and cafes** and related facilities in Precinct 2 designed and located to maximise convenience to potential users and to minimise adverse impacts on the amenity of persons utilising tourist accommodation on the site.
2. To promote flexibility and innovation in design and form of development within Precinct 2.

#### Performance Criteria

1. The development of facilities and services that provide for the recreational, cultural and social needs of both tourists and residents of Byron Shire is encouraged in Precinct 2.
2. Development other than tourist accommodation should be:
  - a) clustered together in a focal area in Precinct 2;
  - b) be located to minimise adverse impacts on the amenity and quiet enjoyment of tourist accommodation on the site.

#### Prescriptive Measures

There are no prescriptive measures

#### E5.7.9.4 Drainage and Water Cycle Management

##### Objectives

1. To ensure that management of surface water and ground water on the site is consistent with the principles of Integrated Water Cycle management and **Water Sensitive Urban Design**.
2. To protect the site's sensitive geophysical environment.

##### Performance Criteria

1. Water cycle and drainage design on the site must incorporate **water sensitive urban design** principles such as stormwater source control, stormwater and wastewater re-use, potable water demand reduction, the utilisation of natural flow paths and provision of drainage measures with pervious surfaces. It must also address flooding impacts in accordance with the requirements of Chapter C2 Areas Affected by Flood.
2. The site's water cycle must be designed to utilise natural processes, systems and storage. The design must apply reuse principles to reduce the quantities, velocities and pollutant loads of stormwater discharged from developed areas, improve the efficiency of water use and reduce demand for imported mains water.
3. The system must be designed to install a continuous chain of treatment elements ("treatment chain") that address not only flooding impacts, but also flow volumes, water quality, water conservation and ecological impacts arising from processes such as flooding and fluctuations in the water table. A development application for development on the site must contain a comprehensive Water Cycle Management Strategy. The Strategy must address the principles of **water sensitive urban design** and treatment system maintenance.
4. All **excavation** must be carried out above the existing water table and in a way that does not change the natural characteristics of the water table.
5. No building elements, parking or storage areas shall be constructed below the level of the natural water table.

##### Prescriptive Measures

1. All drainage and water cycle management measures must comply with the requirements of Chapter B3 Services. Flooding issues and impacts must be addressed in accordance with the requirements of Chapter C2 Areas Affected by Flood.
2. A comprehensive assessment of the contaminants in **groundwaters** and waterbodies must be undertaken, specifically focusing on heavy metals and arsenic. Causes of any contamination and appropriate mitigation measures must be identified. Waterbodies found to be unsafe for human use must be clearly signposted.

#### E5.7.9.5 Landscape

##### Objectives

1. To provide a development landscaped with **locally indigenous** species.

2. To ensure that the landscape of the site is harmonious with the natural environment and respects and protects the sensitive character of its setting.

### Performance Criteria

1. Precincts C, D, and E must be rehabilitated, landscaped and managed in accordance with the requirements identified in this Section.
2. The landscape of the developed areas must be designed to reinforce protect and enhance the spread of the indigenous tree canopy and preserve existing **waterways**.
3. Landscaping in Precincts 1 and 2 must be characterized by only **locally indigenous** tree and shrub species and grassed areas, and must not include species that have the potential to be environmental weeds.
4. Landscaping must be designed, constructed and maintained so as to:
  - a) Retain and rehabilitate natural watercourses, native **riparian vegetation** and other natural landscape features;
  - b) Promote natural water balance;
  - c) Take into account site constraints, hazards and microclimatic conditions;
  - d) Promote efficient water use;
  - e) Provide for the removal of pollutants prior to the discharge of runoff to receiving waters; and
  - f) Minimise the need to use herbicides and artificial fertilizers.

### Prescriptive Measures

1. A landscape plan prepared in accordance with the requirements of Chapter B9 Landscaping must be submitted with a development application proposing development of all or part of the site for **tourist accommodation** or other ancillary or associated tourist development.
2. Plants known or with the potential to become weed species must not be used.
3. Landscaping must use **locally indigenous** native tree and shrub species, and must prefer local provenance seed sources.

#### E5.7.9.6 Tourism Management

### Objectives

1. To ensure that development will be operated and managed as **tourist and visitor accommodation** and that these facilities are not used for permanent residential occupation.

### Performance Criteria

A development application must identify controls on the proposed development that ensure to the Council's satisfaction that **tourist and visitor accommodation** will not be utilised for residential purposes.



## **Prescriptive Measures**

There are no Prescriptive Measures.

## **E5.7.10 Environmental Management and Repair**

### **E5.7.10.1 Beach Access**

#### **Objectives**

1. To provide for legal public access to the beach.
2. To limit human impacts on the shorebird nesting area, dunes, Aboriginal sites, vegetation and adjacent reserves.

#### **Performance Criteria**

1. The siting and design of the road, pedestrian and cycle access across the site for tourists and the general public must be consistent with the Section Objective of the Precinct(s) through which it travels and must be located so as to promote safety and convenience for users.
2. Provision must be made in a convenient location on the Bayshore Drive road reserve for public parking and for safe bicycle storage, primarily to accommodate beach parking for Shire residents. The location of the parking and cycle storage areas must be such that people are encouraged to use the existing beach access track and are discouraged from crossing the dunes elsewhere. The location and design of the parking facilities must be consistent with the Section Objective of the Precinct(s) in which they are located and must have regard for water cycle management, coastal processes, vegetation management, erosion management and maintenance.
3. **Signage** must be provided to inform people of the location of the shorebird nesting area, the need to avoid the shorebird area during the breeding season, the need to respect and avoid turtle nesting sites, the location of the Tyagarah Nature Reserve, and zonings, and associated restrictions on activities, of the Cape Byron Marine Park in the vicinity.
4. All facilities referred to in this Section must be designed and constructed to avoid damage to any Aboriginal sites, littoral rainforest or threatened plants, and so as not to hinder the movement of wildlife due to inappropriate fencing or other structures.
5. Full details of the proposed works, environmental management measures and maintenance measures described above must be included with the Development Application for the first stage of development on the site.

## **Prescriptive Measures**

There are no Prescriptive Measures.

### E5.7.10.2 Environmental Management

#### Objectives

1. To ensure the preparation of appropriate environmental management plans for the conservation precincts on the site.
2. To ensure the preparation of a **Biodiversity Conservation Management Plan** to protect and enhance high value native vegetation, to consolidate vegetation boundaries and reduce edge effects, to control and where possible eliminate environmental weeds, to enhance habitat values and to revegetate and consolidate wildlife corridors.
3. To ensure the preparation of strategies for Seabird and Shorebird Management (where relevant) to enhance the breeding success of seabirds and shorebirds and to manage impacts of human activities, foxes and dogs on their habitat.
4. To ensure the preparation of a Dune Management Plan (where relevant) to protect and enhance natural coastal dune vegetation, to control the impact of development on dune stability and to maintain coastal processes.
5. To identify and ameliorate Key Threatening Processes.

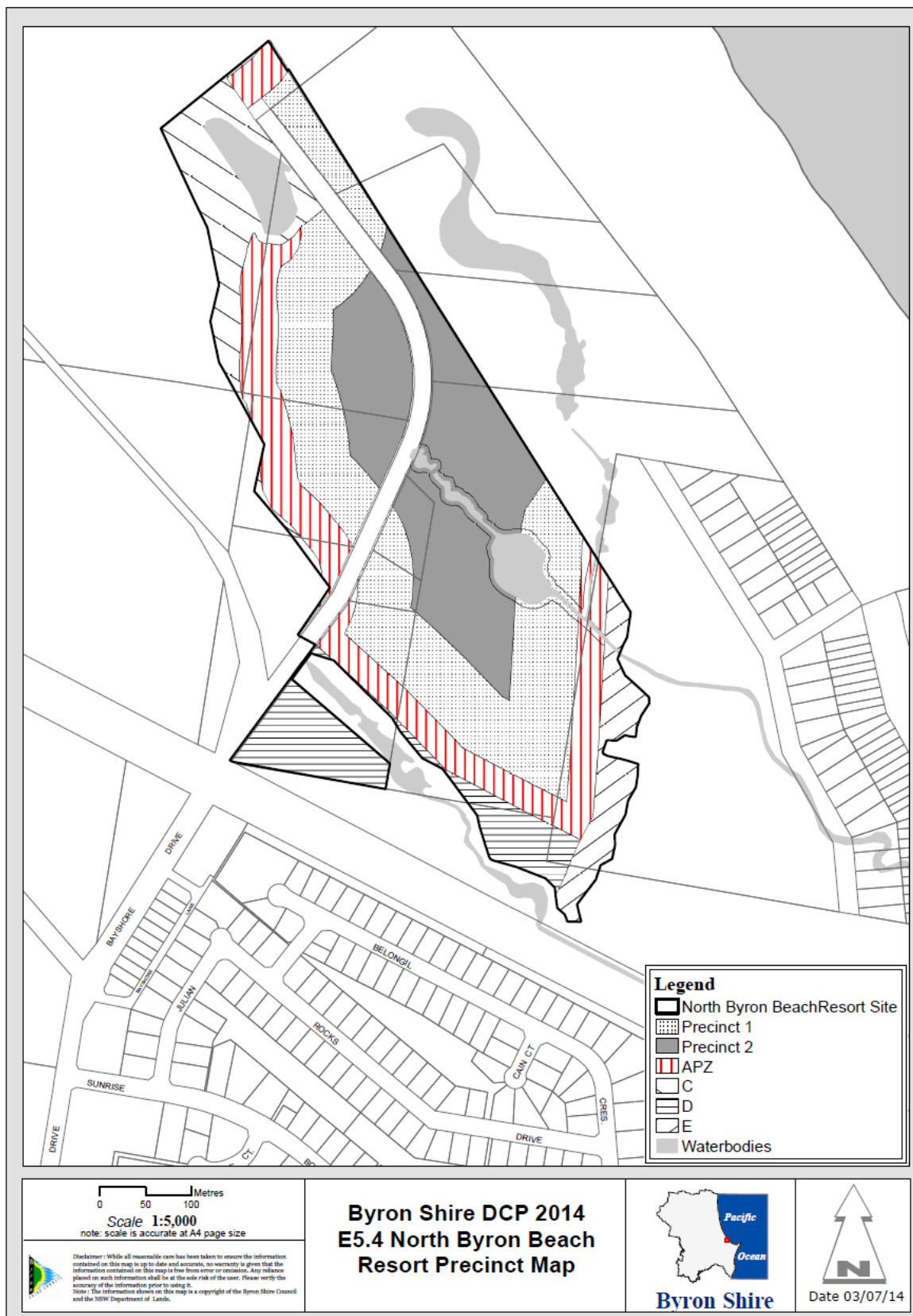
#### Performance Criteria

Development applications must include management strategies to address Key Threatening Processes under the *Threatened Species Conservation Act 1995*, including specified measures to reduce the distribution and abundance of species identified as a Key Threatening Process.

#### Prescriptive Measures

1. Where relevant strategies for Dune Management and Seabird and Shorebird Management (included in the **Biodiversity Conservation Management Plan**) must be submitted for approval by Council in conjunction with the first stage of any tourist, recreational, accommodation or related development on the site. These management strategies/management plans must be developed in consultation with the relevant Government Agencies and Byron Shire Council.
2. Plantings must be of **locally indigenous** species of local provenance seed stock, and comprise a suite of species compatible with the surrounding indigenous vegetation.
3. No cats or dogs are to be kept on, or brought to or through the site.

**Map E5.4 – North Byron Beach Resort Precinct Map**



## E5.8 Residential Character Narratives – Byron Bay, Sunrise Beach and Wategos

This section provides the residential character context and principles for development within the residential zoned areas of Byron Bay, Sunrise Beach and Wategos. The narrative statements draw on the unique qualities of these localities and provide an important direction for the development controls and built form guidelines. The statements divide the residential areas into pockets based on context including topography, setting, heritage, streetscape, land uses and built form. Accompanying the narrative is a figure showing a tiered approach to possible character change to signal how new residential development should respond to the streetscape and/or neighbourhood character within different parts of this locality.

The statements have been established via the Residential Strategy through consultation with the community and other key stakeholders. They build on the existing structure and important elements contributing to the residential character of these areas.

### E5.8.1 Where this Section Applies

This Section applies to the residential zoned areas of Byron Bay, Sunrise Beach and Wategos, shown on Map E5.5.

In the event of any inconsistency between Section E5.8 and other Chapters in this DCP, the provisions of Section E5.8 shall prevail.

### E5.8.2 Purpose

The purpose of this section is to inform the content of any **Design Verification Statement** and site analysis required by the *Low Rise Housing Diversity Design Guides (for Complying development and Development Applications)*.

### E5.8.3 Design Considerations

Future residential development should have regard to the following design principles where applicable:

- Buildings are predominantly low-rise and small scale, integrating with the natural landform and landscape.
- Building footprints and hard landscaping areas are limited to ensure sufficient vegetated areas are established to maximise the opportunities for habitat creation, recreation and general amenity particularly along street frontages;
- Design and construction of homes are better equipped for future climate change impacts, such as bushfire, flooding and erosion hazards;
- Development creates a cohesive streetscape in respect to building setback, massing, composition, architectural detailing, materials and colours and incorporating pitched roofs;
- Elements such as verandahs and balconies to establish a street rhythm making walks more interesting and residences that are well connected to the streets or laneways;

- Front fences and walls do not dominate the public domain; instead responding to and complementing the context and character of the street or laneway.

#### E5.8.4 Character Narratives

**Pocket A** contains the original Byron Bay town (including Belongil) has the greatest diversity in built form and an eclectic village character. Set on a grid street layout, residential areas are within easy walking distance of the town centre. The oldest dwellings were the homes of entrepreneurs, farmers and people of a working class background – a mix of street fronting low set fibro workers cottages, bungalows and high-set weatherboard Queenslander style homes with characteristically strong ‘Federation’ influences of hipped or gabled roofs. The homes are located at a relatively consistent setback and of a locally consistent height with front verandahs and set in landscaped gardens. Vehicle access to the sites has minimal interruption to the street frontages with the parking incorporated at the side or to the rear. The newer detached housing has largely continued to reflect these features blending to contribute to an overall integrated streetscape.

Byron Bay town has a strong presence of medium density villa, townhouse and three storey mixed use developments. These medium density developments exhibit a somewhat incoherent and inconsistent design contribution to the overall streetscape. As a mix of apartment types and sizes is proposed for this area, new buildings outside of the Heritage Conservation Areas should be able to have their own unique interpretation of ‘local’ to continue the pattern of an eclectic village character. The outcome should nevertheless be one that responds sensitively to the predominant coastal townscape of the particular locality.

Developments should use contemporary interpretations of the traditional design elements and detailing found in the older homes and support the ‘Place Principles’ of the Byron Town Centre Master plan by:

- offering a range of dwelling sizes and types to cater for a variety of socio-economic groups, including local residential living mixed with commercial opportunities (ie. live/work) to offset the overly dominant visitor accommodation in the Byron Bay town
- avoiding building elements typical of the 1950’s to 1970’s residential flat and shop top buildings, with a high proportion of solid walls devoid of decorative architectural elements and/or parking/driveway areas dominating the street frontage, creating a poor and unsafe pedestrian environment.

**Pocket B** extends south and east from this area forming the Byron Bay suburban garden areas bounded by undulating to steep landforms, national park and wetland nature reserves. These features have influenced the departure from a traditional grid layout to more curvilinear streets following contour lines and the substantial use of cul-de-sacs and battleaxe lots. Housing types include a mix of detached and semi-detached houses as well as low rise terraces (townhouses) and apartments. The residential character is one of an eclectic array of architectural styles, with diverse coastal architectural themes. The built form is largely one or two storeys incorporating various building materials and styles. The areas coastal and hinterland views, hilly topography and abundance of subtropical/coastal vegetation give it a distinctly leafy green and natural feel. It is important that any future infill development in ‘transitional’ areas respects the limitations of steep terrain and does not intrude on highly visible hills and other landforms, while areas mapped in the environmentally

sensitive category should complement the low scale character and qualities of the natural landscape.



**Pocket C Wategos Beach**, known locally as Wategos is the most easterly residential area in Australia, bounded on three sides by Cape Byron State Conservation Area. The beach frontage is part of the Cape Byron Marine Park. Cape Byron Lighthouse can be accessed by a walking track that passes along the beachfront. Consequently, the area is a popular destination for local surfers, day trippers and tourists. The beachfront has for many years been an important meeting place for Wategos residents, townspeople and visitors, and is a focal point for longboard surfing with club events being held regularly.

Many of the original 1960-70's homes have been replaced or modified. Initially, houses were built as weekenders and holiday homes, with basic design and construction. Over time, as the ownership diversified and land values increased, the design and construction of new builds reflected these values, with an increasing number of substantial size permanent residences.

The residential character is one of an eclectic array of architectural styles with diverse coastal architectural themes. Some newer dwellings are two or three storeys in height and step down the slope of the site. There are examples where building bulk dominates the site, regarded by some as inconsistent with the *R2 Low Density Residential* zoning of the area. It is considered important that future housing remains consistent with the *R2* zone objectives, with appropriate bulk and scale and use of natural landscaping.



**Pocket E Sunrise Beach**, located west of Belongil Creek is characterised by two distinct sectors – the older Sunrise residential neighbourhood (**Pocket E1**) and a recently extended area (**Pocket E2**) encompassing an integrated live/ work development (known as “Habitat”).



The older Sunrise neighbourhood (**Pocket E1**) has original homes, duplexes and units, typically brick and tile well set back from the street with relatively large lots, lawn areas, interspersed with contemporary single and two storey houses in a mix of styles from lightweight with a variety of claddings, through to modern composite construction to heavier masonry styles. Well-tended yards, gardens and leafy streetscapes with wide grassy nature strips — all bordered by kerb and channel — are a substantial part of the pocket's overall residential character. The retention of mature trees is encouraged, with both indigenous and exotic species contributing to the streetscape and habitats for koalas and other native fauna.

It is important that future infill development complements the low scale character, coastal habitat and natural landscape qualities of this pocket.

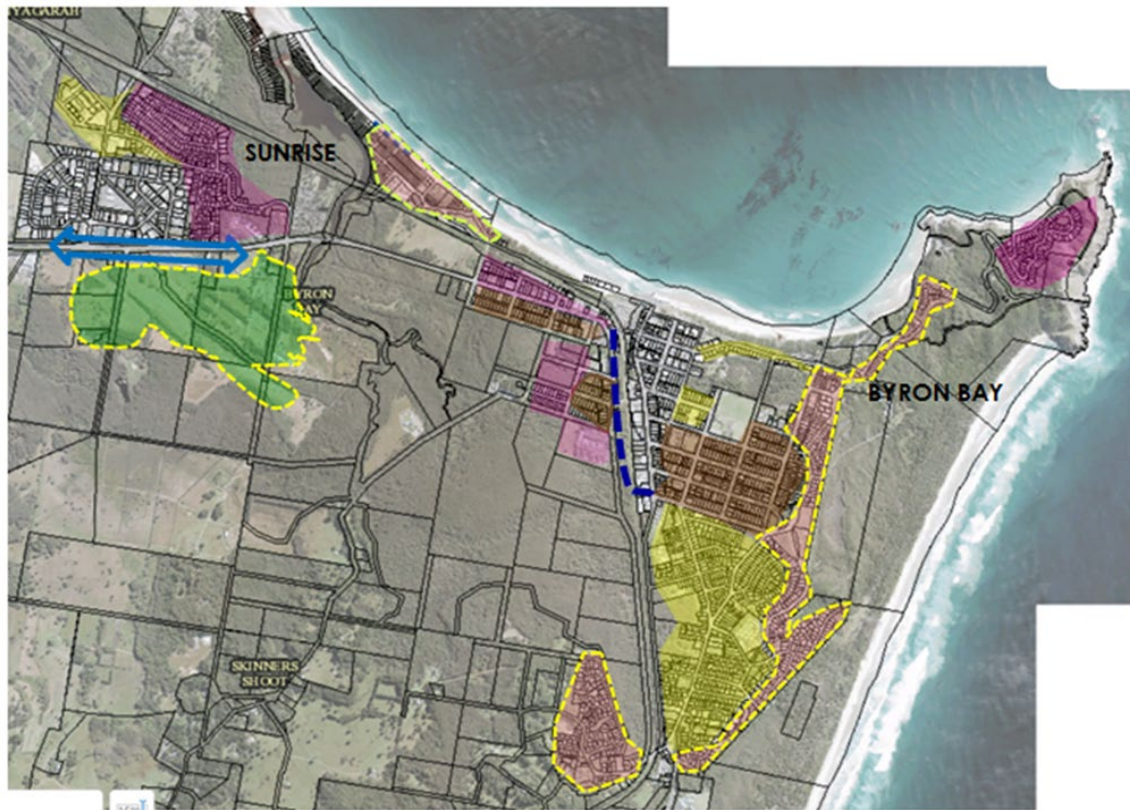
“Habitat” (**Pocket E2**), an integrated live/work development aimed at connecting niche businesses — often knowledge based or service based — has a distinctly different character to the older Sunrise area. The live/work spaces are both an avenue for self and community expression and a platform for economic development.

The proximity of Sunrise Beach and Habitat to the beach, solar train and Byron Arts & Industry Estate (with a supporting Precinct Plan) provide opportunities for an emerging a beachside urban village character. The existing character is closely related to its immediate natural surroundings, combined with a mix of housing types and small scale creative enterprises where residents live, work and play needs can be met locally. Important to enhancing its future character is the creation of local focal place/s, such as a square or community green, to provide a beating heart for this local community.



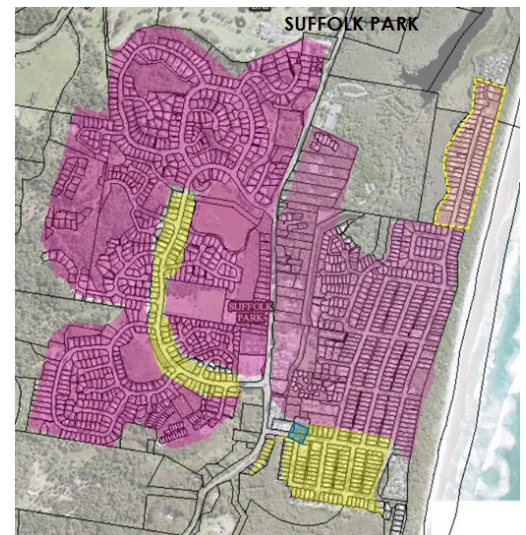


**Figure E5.2 Byron Bay, Sunrise Beach and Wategos Residential Character Areas**



#### Character categories

- Sensitive:** reflects existing low scale built form and streetscape
- Environmental sensitive** due to coastal and /or habitat considerations –density and built form to address these considerations and to reflect existing low scale built form and streetscape
- Subtle:** small clusters of low rise medium density complementing the existing form – likely to be incremental with many of existing elements remaining
- Transitional:** earmarking an area for change incorporating pockets of low rise medium density homes that match the amenity of traditional free standing homes, while introducing contemporary dwelling forms for old and young singles and families – retaining attributes that are valued by the community. How the area will look and feel in the future is likely to evolve, and in some cases notably
- Environmental sensitive emerging:** due to coastal and /or habitat considerations: low scale with a mix of lots sizes and housing types to meet a diverse population - density and built form to address these considerations
- Gateways:** enhance as welcoming gateway feel to a seaside village - retaining wetland and esplanade vista, low scale & low intensity atmosphere and encouraging integrated street scaping
- Urban Village:** an opportunity to expand on the creative/business start-up culture and vibrancy of centres
- Local connection multimodal road (indicative only)



## E5.9 The Farm

### E5.9.1 Where this Section Applies

This section applies to land at Ewingsdale Road, Ewingsdale, known as The Farm; being Lot 1, DP 780234 and Lot 5, DP 848222, as shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014.

Clause 6.16 of the Byron Local Environmental Plan 2014 specifies a number of land uses that are permissible on the site, which are additional to those permitted in the zoning table to the LEP.

The provisions in this Part of Chapter E5 relate to the land uses permitted in that Clause. They do not apply to other land uses permitted within the RU1 Primary Production zone.

In the event of any inconsistency between this Section and other Chapters in this DCP, the provisions of this Section shall prevail.

### E5.9.2 Objective of this Section

The objective of this Section is to outline planning controls to regulate the additional land uses permitted under the provisions of Clause 6.16 of Byron Local Environmental Plan 2014.

### E5.9.3 Rural Activity Precinct

The location and extent of the Rural Activity Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to the part of the land containing a cluster of existing buildings, located in the south-west corner of the property.

#### Objectives

The objective of the Rural Activity Precinct is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming

#### Performance Criteria

1. Land uses within the Rural Activity Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

#### Prescriptive Measures

1. An artisan food and drink industry, being a bakery, must be located within an existing building, and used for the preparation and sale of bread and other bakery goods, provided that a majority of the products contain ingredients sourced directly from the property;

2. An information and education facility, must utilise areas within existing buildings or their immediate curtilage, and provide small group training where that training is related to agriculture or rural industry;
3. Development consent must not be granted for any use within the Rural Activity Precinct shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
  - a) the use has an essential association with existing agricultural/ primary production activities undertaken within the **Farming Precinct** at the site, or enables or enhanced agricultural production on the site;
  - b) the use will not limit the operation and/ or expansion of adjoining and nearby agricultural uses;
  - c) wastewater generated by the proposed use will be within the treatment and disposal capacity of the approved on-site wastewater management system;
  - d) there are no new or additional buildings proposed on the site;
  - e) traffic generated by the proposed use will not result in total peak hour trips (i.e. from the site as a whole), exceeding 200 trips outside of school holiday periods or 350 trips during holiday periods;
  - f) individual events undertaken within agricultural training/ education facilities involve a maximum of 30 people, with the exception of school groups, which can have more participants; and
  - g) there will be no more than 1 training/ education event per week within the agricultural training/ education facilities.

#### E5.9.4 Farming Precinct

The location and extent of the Farming Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to all of the property outside of the Rural Activity Precinct.

##### Objectives

The objective of the Farming Precinct is to provide for primary production on the land and opportunities for the community to learn about and appreciate farming.

##### Performance Criteria

1. Land uses within the Farming Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

##### Prescriptive Measures

1. Development consent must not be granted for a farm field day or exhibition within the **Farming Precinct** shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
  - a) there are a maximum of 4 such events in any calendar year;

- b) there are no more than 100 people attending any individual event;
  - c) events are scheduled such that event traffic avoids morning and afternoon peak hour periods;
  - d) events will not occur concurrently with any use of the agricultural training / education facilities within the Rural Activities Precinct;
  - e) A Biosecurity Management Plan has been prepared;
  - f) a Noise Management and Monitoring Plan has been prepared for each event, including:
    - details to ensure adequate measures, roles and responsibilities are in place to ensure that event noise remains inaudible above background levels at nearby dwellings;
    - assessment of expected noise impacts;
    - detailed examination of all feasible and reasonable management practices that will be implemented to minimise noise impacts
    - strategies to promptly deal with and address noise complaints. This should include any records that should be kept in receiving and responding to any noise complaints;
    - details of performance evaluating procedures (for example, sound checks on amplified public address systems);
    - procedures for notifying nearby residents living within 1 kilometre of the property of forthcoming events, times that they are likely to notice noise emanating from the site and the contact details for the onsite manager for complaints and queries to be made, and responded to;
    - operational details about the use of any noise monitoring equipment to record sound pressure levels around the property;
    - name and qualifications of person who prepared the report; and
    - protocols for the monitoring of the event, including a requirement that a report be provided to Council following the event.
2. A vegetated buffer is to be provided along all boundaries that adjoin privately owned farm land. The buffer is to be densely planted for a minimum width of 5 metres and include species that have a mature tree height of at least 3 metres. A 2 metre cleared area between the northern property boundary and the vegetation buffer is required.





# Byron Shire Development Control Plan 2014

## Chapter E6 Federal Village



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## Chapter E6 – Federal

### Contents

E6.1	Introduction.....	5
E6.2	Application of this Chapter .....	5
E6.3	Aims of this Chapter.....	5
E6.4	Siting of Development.....	6
E6.5	Character, Bulk and Scale of Development .....	6
E6.6	Heritage Character Area.....	7
E6.7	Village Centre Area.....	7
E6.8	Residential Area.....	8
E6.9	Biodiversity Conservation.....	8
E6.10	Subdivision .....	9

### Maps

Map E6.1 – Federal Village Map .....	10
--------------------------------------	----



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## E6.1 Introduction

The **Federal Village** is characterised by low density residential housing focused around a small commercial centre containing a general store and cafe, a motor mechanic, art gallery, restaurant and park land. The village also contains a hall, community owned church building, tennis courts and a child care centre.

The built form of many **dwellings** and buildings in the **Federal Village** are clad with timber, pitched sheet metal roofs with eaves and covered verandas for climate control, and elevated on piers. Two of the oldest structures in the Village include the Federal Village School of Arts Hall which was established in 1895 and the ex Anglican Church on the adjacent allotment. Both buildings have sheet metal roofs and are clad in weatherboard. In more recent times new **dwellings** that have been constructed have incorporated a similar built style, but the use of rendered or bagged brick or fibro is more prevalent.

## E6.2 Application of this Chapter

The land to which this Chapter applies is described as the **Federal Village** and is shown on the **Federal Village Map**.

The provisions of all other Chapters of this DCP apply to development to which this Chapter applies. However because of the special site characteristics and resultant special design criteria and provisions applying to the **Federal Village**, in the event of any inconsistency between this Chapter and other Chapters, the provisions of this Chapter shall prevail.

## E6.3 Aims of this Chapter

The primary purpose of this Chapter is to provide criteria and standards for the future development of the **Federal Village**.

To assist in that regard, the Aims of this Chapter are:

1. To facilitate and provide guidelines for the development of the **Federal Village** consistent with the provisions of Byron LEP 2014, the Byron Rural Settlement Strategy 1998, and the Byron Biodiversity Conservation Strategy 2004.
2. To promote compatible, innovative village development of a high design quality that reflects and reinforces the low intensity, rural heritage character and scale of Federal.
3. To facilitate provision of public open space and community facilities to serve existing and future residents of the village and its surrounding locality.
4. To facilitate the active regeneration of the area's natural vegetation through protection and revegetation of riparian and degraded areas and the restoration of habitat values where practical.

## E6.4 Siting of Development

### Objectives

1. *To implement the land use structure and development principles identified on the [Federal Village Map](#).*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

Development Applications must demonstrate that the proposed development and future land use will be consistent with the principles and land use categories identified on the [Federal Village Map](#).

## E6.5 Character, Bulk and Scale of Development

### Objectives

1. *To ensure that development is consistent with and will enhance the low intensity, rural heritage character and scale of Federal.*
2. *To ensure development design incorporates suitable elements for climate control and weather protection.*

### Performance Criteria

Development Applications must demonstrate that:

- a) the character, bulk, scale and density of proposed development will be compatible with and will not detract from the low intensity, rural heritage character and scale of Federal, its built environment and its surrounds. Roof forms are hipped or hipped with gable roofs and verandah roofs clad in sheet metal roofing iron. New developments are to complement these forms;
- b) building materials, textures, finishes and colours will be compatible with and will not detract from the low intensity, rural heritage character and scale of Federal, its built environment and its surrounds. Reflective surfaces are generally not permitted.

### Prescriptive Measures

1. Building design shall incorporate eaves, pergolas and verandas for climate control and weather protection purposes.
2. Formal car parking areas/ garages and car ports to be set back behind the front building line of the **dwelling**.
3. **Setbacks** within the 'Heritage Character Area' (illustrated on Map E6.1) are to be consistent with the existing streetscape of Federal Drive in this area.

## E6.6 Heritage Character Area

### Objectives

1. *To ensure that proposals for development on land defined as 'Heritage Character Area' on the **Federal Village Map** will be compatible with the heritage values of **Federal Village**, and of nearby **heritage items**.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

Development Applications seeking consent for development on land within the Heritage Character Area shown on the **Federal Village Map** must demonstrate that the proposed development:

- a) will be compatible in terms of land use, character, bulk, scale, materials, **signage**, colours, **setbacks** and textures with the low intensity, heritage character of **Federal Village** and its surrounds;
- b) will include **setbacks** to Federal Drive within the Heritage Character Area that are consistent with existing development in this area.

Note: Any development directly affecting the LEP listed **heritage items** in Federal will need to refer to Chapter C1 Non-Indigenous Heritage.

## E6.7 Village Centre Area

### Objectives

1. *To ensure that progressive development of the land identified as 'Village Centre Area' on the **Federal Village Map** results in the short term and long term provision of an integrated, mixed use Village Centre to serve the business and community needs of the residents of Federal and surrounding areas.*
2. *To ensure that land identified as 'Village Centre Area' on the **Federal Village Map** is not developed for any purpose that may jeopardise or inhibit its existing or future development as an integrated, mixed use Village Centre.*
3. *To ensure that the scale, character and likely impacts of development on land identified as 'Village Centre Area' will be compatible with development in the locality and with the low density, low intensity character and scale of Federal.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. Land identified as 'Village Centre Area' on the **Federal Village Map** must not be developed for any purpose which may jeopardise, delay or preclude the use of this area as a mixed use village centre comprising a mix of residential, retail, business, community and associated purposes.
2. Development Applications seeking consent for commercial and/ or retail development on land identified as 'Village Centre Area' must comply with Chapter D4 Commercial and Retail Development.



## E6.8 Residential Area

### Objectives

1. *To ensure that development of land in the defined 'Residential Area' contributes to an integrated rural village that meets the residential needs of residents and is compatible with the low density, low intensity, heritage character and scale of Federal.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

Development Applications to address the following measures:

- a) land identified as 'Residential Area' on the **Federal Village Map** must not be developed for any purpose which may jeopardise, delay or preclude the use of that land predominantly for **residential accommodation** purposes;
- b) Development Applications for development on land identified as 'Residential Area' must comply with Chapter D1 Residential Development in Urban and Special Purpose Zones.

## E6.9 Biodiversity Conservation

### Objectives

1. *To ensure that development in Federal takes into account and, where appropriate, contributes to the biodiversity values of Federal and its surrounds.*

### Performance Criteria

Development Applications must:

- a) address and identify biodiversity, connectivity, corridor and riparian values of the site, including its relationship to adjoining land;
- b) where biodiversity, connectivity, corridor and/ or riparian values are present, outline a strategy that proposes to protect and enhance those values;
- c) include a strategy for removal and ongoing management of weeds and Camphor Laurel trees where present on the site.

### Prescriptive Measures

There are no Prescriptive Measures.

## E6.10 Subdivision

### Objectives

1. *To ensure that subdivision of land in **Federal Village** contributes to an integrated rural village that meets the needs of residents, recognises constraints imposed by on-site sewage management, and is compatible with the low density, low intensity, heritage character and scale of Federal.*

### Performance Criteria

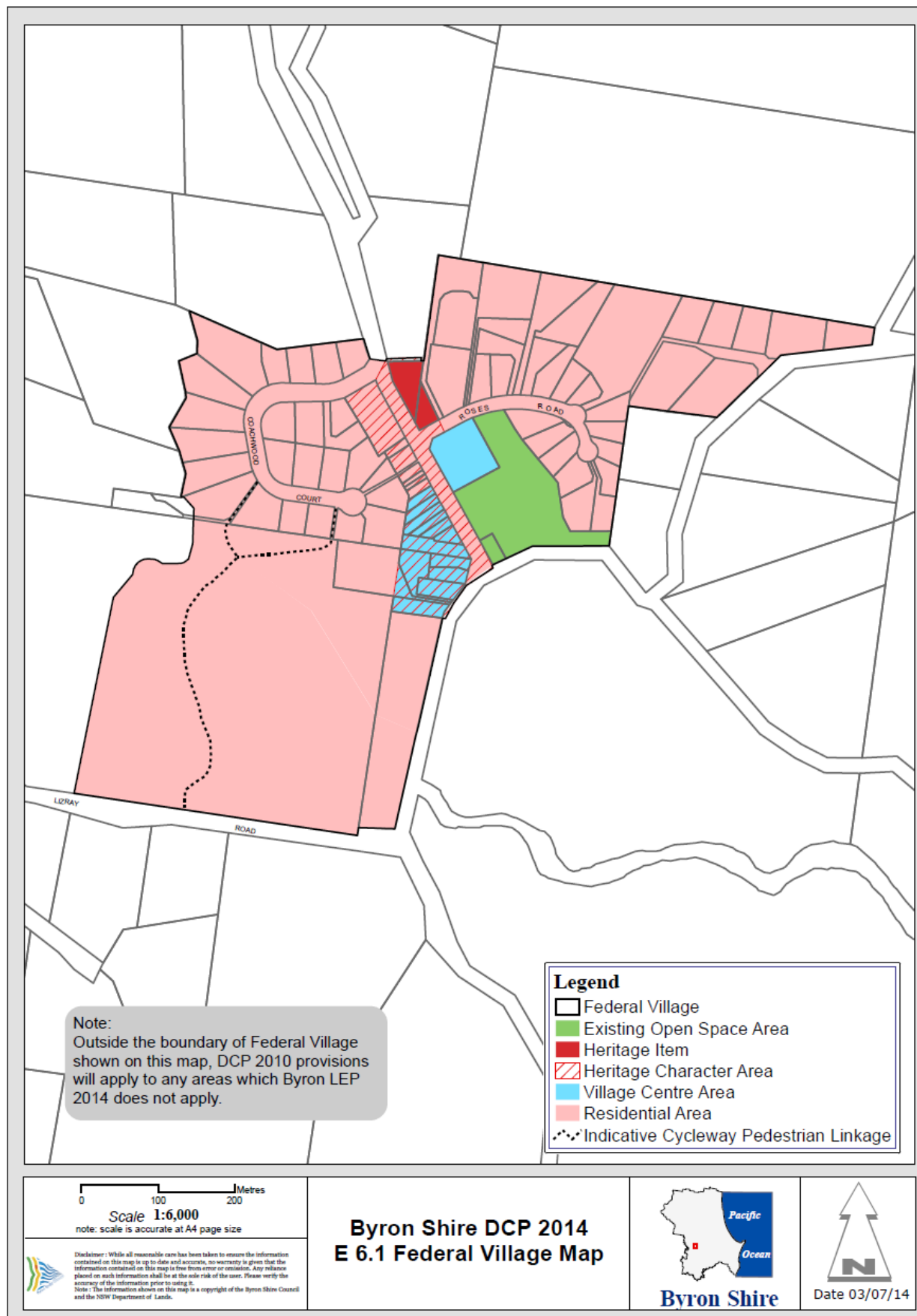
There are no Performance Criteria.

### Prescriptive Measures

Development Applications to address the following measures:

- a) development applications seeking consent for subdivision must be consistent with the provisions of Chapter D6 Subdivision;
- b) development applications seeking subdivision shall provide pedestrian connectivity back to the village centre and to Lizray Road, and where possible link with and utilise existing pedestrian pathways. An indicative cycleway/pedestrian linkage is included on Map E6.1.

## Map E6.1 – Federal Village Map







# Byron Shire Development Control Plan 2014

## Chapter E7 Main Arm



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## Chapter E7 – Main Arm

### Contents

E7.1	Aims of this Chapter .....	5
E7.2	Application of this Chapter .....	5
E7.3	Site Context .....	5
E7.4	Siting of Development.....	6
E7.5	Character, Bulk and Scale of Development.....	6
E7.6	Public Open Space Area .....	6
E7.7	Riparian Buffer Area.....	7
E7.8	No Build Area.....	8
E7.9	Village Centre Area .....	8
E7.10	Residential Area .....	9
E7.11	Biodiversity Conservation .....	10
E7.12	Water Cycle and Sewage Management.....	10

### Maps

Map E7.1 – Main Arm Village Map .....	12
---------------------------------------	----

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## E7.1 Aims of this Chapter

The primary purpose of this Chapter is to provide criteria and standards for the future development of the **Main Arm Village**.

To assist in this regard, the Aims of this Chapter are:

1. To facilitate and provide guidelines for the development of the **Main Arm Village** consistent with the provisions of Byron LEP 2014, the Byron Rural Settlement Strategy 1998, the Byron Biodiversity Conservation Strategy 2004 and other relevant Chapters of this DCP.
2. To promote compatible, innovative village development of a high design quality that reflects and reinforces the low scale, low intensity, rural character of Main Arm.
3. To facilitate provision of public open space and community facilities to serve existing and future residents of the village and its surrounding locality.
4. To improve water quality within the catchment.
5. To facilitate the active regeneration of the area through protection and revegetation of riparian and degraded areas and the connection of isolated vegetation remnants to form wildlife corridors.

## E7.2 Application of this Chapter

This Chapter applies to land at Main Arm known as the **Main Arm Village** shown on the **Main Arm Village Map** (Map E7.1).

The provisions of other Chapters apply to development to which this Chapter applies. In the event of any inconsistency between this Chapter and other Chapters, the provisions of this Chapter shall prevail.

## E7.3 Site Context

The **Main Arm Village** is contained within the catchment of the main arm of the Brunswick River, and is located at the convergence of the main arm of the Brunswick River and Blindmouth Creek.

The Village locality enjoys convenient access to the national, sub-regional and local road system, however access is routinely affected by flooding. Local facilities such as community halls, primary schools and preschools are located in the vicinity, while district facilities are available at Mullumbimby, Byron Bay and Ocean Shores. Regional facilities are available at Tweed Heads and Lismore.

## E7.4 Siting of Development

### Objectives

1. *To implement the land use structure and development principles identified on the [Main Arm Village Map](#).*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

Development Applications must demonstrate that the proposed siting of development is consistent with the principles and land use categories identified on the [Main Arm Village Map](#) (Map E7.1).

## E7.5 Character, Bulk and Scale of Development

### Objectives

1. *To ensure that development is consistent with and will enhance the low density, low intensity character and scale of Main Arm.*
2. *To ensure development design incorporates suitable elements for climate control and weather protection.*

### Performance Criteria

Development Applications must demonstrate that:

- a) the character, bulk, scale and density of proposed development will be compatible with and enhance the low intensity, rural character and scale of Main Arm, its built environment and its surrounds;
- b) building materials, textures, finishes and colours will be compatible with and will enhance the low intensity, rural character and scale of Main Arm, its built environment and its surrounds.

### Prescriptive Measures

1. Formal car parking areas/ garages and car ports to be set back behind the front building line of the dwelling.
2. Building design to incorporate eaves, pergolas and verandahs for climate control and weather protection purposes.

## E7.6 Public Open Space Area

### Objectives

1. *To ensure that areas identified for public open space are set aside for that purpose.*
2. *To protect and enhance cultural, conservation and environmental values of land identified for public open space.*

3. *To ensure that Development Applications and/ or subdivision applications that include land identified as 'Public Open Space Area' on the **Main Arm Village Map** make provision for dedication and/ or transfer to Council of that land, in a condition suitable to enable access and use by the public for appropriate open space and recreation purposes.*

### **Performance Criteria**

There are no Performance Criteria.

### **Prescriptive Measures**

1. Land identified as 'Public Open Space Area' on the **Main Arm Village Map** (Map E7.1) must not be developed for any purpose which may jeopardise, delay or preclude the use of that land for public open space/ recreation purposes.
2. Development Applications that include land identified as 'Public Open Space Area' on the **Main Arm Village Map** must demonstrate that arrangements are in place that will ensure that the land so identified will be dedicated and/ or transferred to Council in a condition suitable to enable immediate access and use by the public for open space and recreation purposes. The land so identified can also have a dual purpose by providing for stormwater conveyance to Blindmouth Creek and the Brunswick River.
3. Development Applications referred to in Item 2 must include an outline of an Open Space Management Plan for the land identified on the **Main Arm Village Map** as 'Public Open Space Area'. The outline must address at least the following matters:
  - a) the land's environmental characteristics, including but not necessarily limited to topography, soils, flora, fauna, habitat values, riparian values, weed and pest management, cultural and heritage values, bush fire hazard, surface water, **groundwater** and visual character;
  - b) the land's active and passive recreation potential;
  - c) proposals for environmental repair and enhancement;
  - d) works required to enable access and use by the public for open space and recreation purposes;
  - e) potential for provision of public facilities such as play areas, playground equipment, picnic areas, playing fields, walking tracks, lookouts, viewing areas, bicycle and vehicle access, parking and the like.

## **E7.7 Riparian Buffer Area**

### **Objectives**

1. *To protect the functions and integrity of natural waterways and their surrounds.*
2. *To ensure that riparian areas and their associated natural functions are protected and enhanced in the development process.*

### **Performance Criteria**

There are no Performance Criteria.



### Prescriptive Measures

1. Land identified as 'Riparian Buffer Area' on the **Main Arm Village Map** (Map E7.1) must be developed only for purposes that will maintain and enhance the riparian, ecological, bank stability, landscape, connectivity and natural functions of the waterway, its banks and its surrounds.
2. No buildings or effluent treatment facilities will be permitted on land identified as 'Riparian Buffer Area'.
3. Development Applications that include land identified as 'Riparian Buffer Area' must demonstrate that arrangements are in place that will ensure that the land so identified will be rehabilitated and/ or upgraded to a condition that will maintain and enhance the riparian, ecological, bank stability, landscape, connectivity and natural functions of the waterway, its banks and its surrounds.

## E7.8 No Build Area

### Objectives

1. *To identify and protect land that is unsuitable for urban development because of geology, soils, stability, gradient, sedimentation, erosion potential, exposure or other characteristics.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. Land identified as 'No Build Area' on the **Main Arm Village Map** (Map E7.1) must not be developed for building, or other active urban purposes.
2. Development Applications that include land identified as 'No Build Area' must demonstrate that the land so identified will be protected, rehabilitated and managed in a manner that ensures its ongoing stability, integrity and visual character in perpetuity; and that the 'No Build Area' will remain compatible with the proposed development and its surrounds.

## E7.9 Village Centre Area

### Objectives

1. *To ensure that progressive development of the land identified as 'Village Centre Area' on the **Main Arm Village Map** results in the short term and long term provision of an integrated Village Centre to serve the business and community needs of the residents of Main Arm and surrounding areas.*
2. *To ensure that land identified as 'Village Centre Area' on the **Main Arm Village Map** is not developed for any purpose that may jeopardise or inhibit its existing or future development for retail, business, community or associated purposes.*
3. *To ensure that the scale, character and likely impacts of development on land identified as 'Village Centre Area' will be compatible with development in the locality and with the low density, low intensity character and scale of Main Arm.*

### Performance Criteria

Development Applications must demonstrate that the proposed development will achieve the Objectives.

### Prescriptive Measures

1. Land identified as 'Village Centre Area' on the **Main Arm Village Map** (Map E7.1) must not be developed for any purpose which may jeopardise, delay or preclude the use of that land for retail, business, community or associated purposes.
2. A **dwelling(s)** will be permitted only if demonstrated to be directly associated with and subsidiary to retail, business, community or associated development in the 'Village Centre Area'.
3. Development Applications for development on land identified as 'Village Centre Area' must comply with Chapter D4 Commercial and Retail Development.
4. The initial Development Application for development on any part of the land identified as 'Village Centre Area' must include a concept plan for the entire 'Village Centre Area' as shown on the **Main Arm Village Map**, demonstrating that the proposed development will form an integral and interconnected part of the **Main Arm Village** in terms of:
  - a) provision of an integrated Village Centre to serve the business and community needs of the **Main Arm Village** and surrounding rural areas;
  - b) compatibility in bulk, scale, character, colours and materials consistent with this DCP, in the context of a business and community focal point / meeting area;
  - c) provision of outdoor landscaping, paving, shade, weather protection and community meeting space;
  - d) integrated vehicle and bicycle facilities, access and parking.

## E7.10 Residential Area

### Objectives

1. *To ensure that development of land in the defined 'Residential Area' contributes to an integrated rural village that meets the residential needs of residents and is compatible with the low density, low intensity character and scale of Main Arm.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. Land identified as 'Residential Area' on the **Main Arm Village Map** (Map E7.1) must not be developed for any purpose which may jeopardise, delay or preclude the use of that land predominantly for residential accommodation purposes.
2. Development Applications for development on land identified as 'Residential Area' must comply with Chapter D1 Residential Development in Urban and Special Purpose Zones.
3. Development Applications seeking consent for subdivision must be consistent with the provisions of Chapter D6 Subdivision.



4. New subdivisions to provide pedestrian connectivity back to the village centre and where possible link with and utilise existing pedestrian pathways.

## E7.11 Biodiversity Conservation

### Objectives

1. *To ensure that development in Main Arm takes into account and, where appropriate, contributes to the biodiversity values of Main Arm and its surrounds.*

### Performance Criteria

Development Applications must:

- a) address and identify biodiversity, connectivity, corridor and riparian values of the site, including its relationship to adjoining land, to identified 'Riparian Buffer Areas', to identified 'Public Open Space Areas' and to the wider Main Arm locality;
- b) where biodiversity, connectivity, corridor and/ or riparian values are present, outline a strategy to protect and enhance those values;
- c) include a strategy for removal and ongoing management of weeds and Camphor Laurel trees on the site.

### Prescriptive Measures

There are no Prescriptive Measures.

## E7.12 Water Cycle and Sewage Management

### Objectives

1. *To ensure that development in **Main Arm Village** is consistent with **Water Sensitive Urban Design** principles.*
2. *To nominate specific requirements for on-site sewage management in **Main Arm Village**, having regard to the particular water cycle and soil characteristics of Main Arm and its relationship to important waterways.*

### Performance Criteria

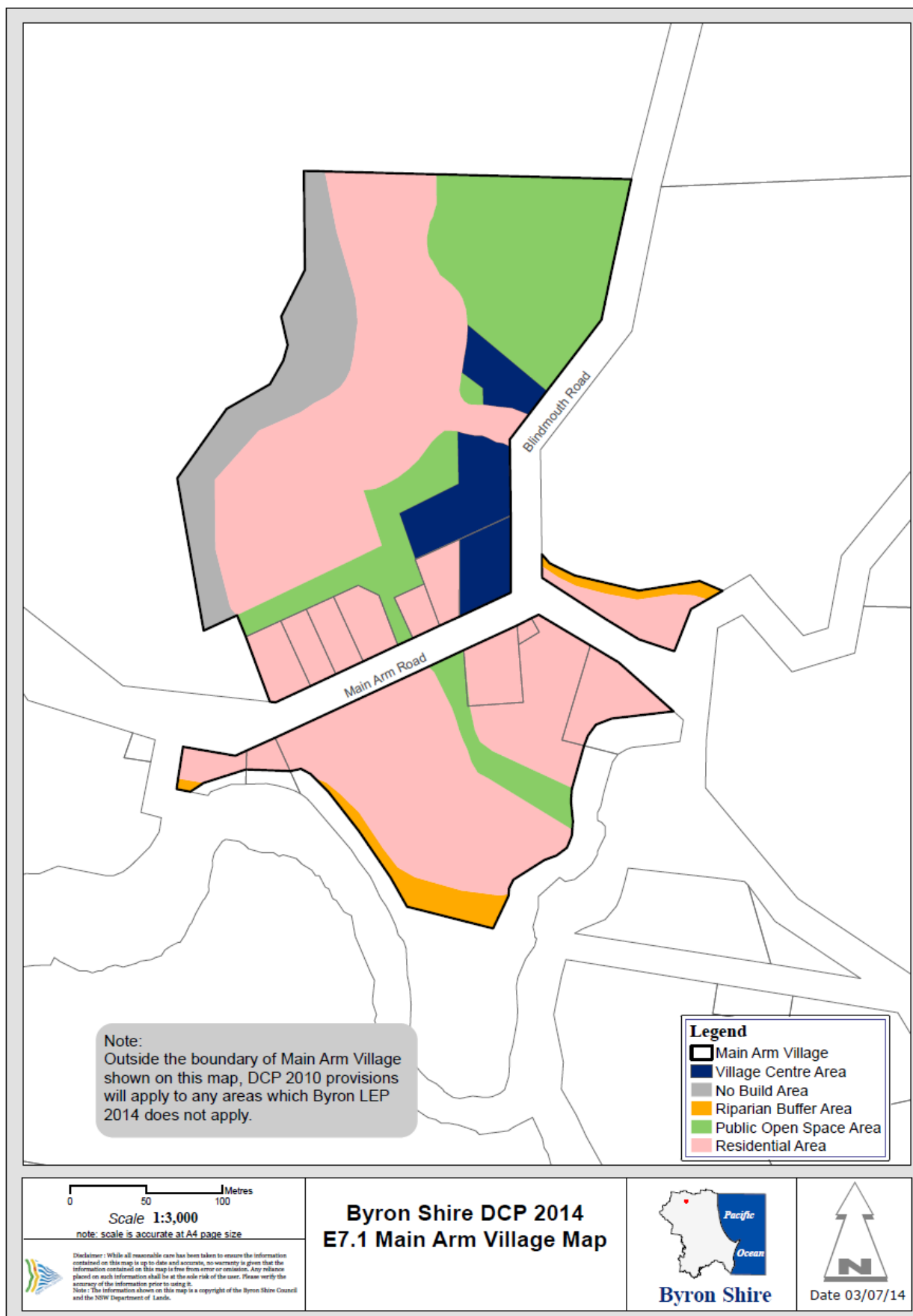
There are no Performance Criteria.

### Prescriptive Measures

1. Subject to the specific requirements for **Main Arm Village** specified below, Development Applications must be consistent with the provisions of Chapter B3 Services.
2. In addition to the requirements of Chapter B3 Services, **tertiary treatment** of effluent is required due to the particular water cycle and soils characteristics of Main Arm, and its close proximity to the Brunswick River and Blindmouth Creek. Minimum waste water treatment required will be advanced **tertiary treatment** of effluent (60% nitrogen reduction rate and disinfection) prior to subsurface irrigation.

3. A range of systems could be employed to satisfy these requirements, e.g. composting toilets and an advanced greywater system, or advanced aerated waste water treatment systems.
4. Development Applications must include an on-site sewage management report prepared by a suitably qualified person in accordance with the requirements of Chapter B3 Services, outlining how the proposed system complies with these requirements, or how the existing system will be upgraded.
5. The system must incorporate the following features, or alternatives that in Council's opinion will deliver at least an equivalent environmental outcome:
  - a) each lot must install an **on-site sewage management system** which achieves a nitrogen reduction rate of no less than 60 % in the treatment system;
  - b) land application areas located within 250m of licensed **groundwater** bores or within 100m of permanent surface waters must only dispose of **effluent** which has been treated to a **tertiary treatment** standard;
  - c) all on-site disposal systems must be designed and certified by a suitably qualified professional. The detailed design must include specifications of pump sizes, valves and pipe-work. The design must ensure the even distribution of effluent over the disposal area and include the location of surface drains and swales for diverting stormwater away from the irrigation area;
  - d) in areas where slope is greater than 15%, designs of on-site disposal systems must clearly demonstrate mechanisms to effectively accommodate the slopes to ensure effective disposal and ensure protection of human health and the environment. This may include, but not be limited to, an increased land application area and specialised design.

**Map E7.1 – Main Arm Village Map**





# Byron Shire Development Control Plan 2014

## Chapter E8 West Byron Urban Release Area



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## Contents

<b>E8.1</b>	<b>Introduction .....</b>	<b>1</b>
<b>E8.2</b>	<b>Name and Application of this Chapter .....</b>	<b>1</b>
<b>E8.3</b>	<b>Land to which this Chapter applies .....</b>	<b>1</b>
<b>E8.4</b>	<b>Purpose of this Chapter .....</b>	<b>1</b>
<b>E8.5</b>	<b>Relationship to other Plans and Policies .....</b>	<b>3</b>
<b>E8.6</b>	<b>Background Information .....</b>	<b>4</b>
<b>E8.7</b>	<b>Interpretation .....</b>	<b>6</b>
<b>E8.8</b>	<b>Compliance with Objectives and Controls in this Chapter .....</b>	<b>7</b>
<b>E8.9</b>	<b>Notification of Development Applications .....</b>	<b>7</b>
<b>E8.10</b>	<b>Design Principles .....</b>	<b>7</b>
E8.10.1	Staging Plan .....	8
E8.10.2	Housing Subdivision Layout, Orientation and Diversity .....	11
E8.10.3	Transport Movement and Street Hierarchy .....	14
E8.10.4	Stormwater Water Management .....	17
E8.10.5	Biodiversity, Vegetation Management and Landscaping .....	19
E8.10.5.1	Biodiversity and Vegetation Management .....	19
E8.10.5.2	Landscaping .....	23
E8.10.6	Public Facilities, Services and Infrastructure .....	24
E8.10.7	Recreational Areas .....	26
E8.10.8	Hazards and Constraints .....	28
E8.10.8.1	Flooding .....	28
E8.10.8.2	Acid Sulfate Soils .....	29
E8.10.8.3	Groundwater .....	30
E8.10.8.4	Bushfire .....	31
E8.10.8.5	Odour .....	32
E8.10.8.6	Contamination .....	33
E8.10.8.7	Mosquitoes .....	34
E8.10.8.8	Buffer to Ewingsdale Road .....	34
E8.10.9	Aboriginal Cultural Heritage .....	37
E8.10.10	Urban Design of Significant Sites and Higher Densities .....	37
E8.10.10.1	West Byron Village Centre Precinct .....	37
E8.10.10.2	Neighbourhood Business Area .....	39
E8.10.10.3	Residential Areas .....	42
E8.10.10.4	Industrial Area .....	62
E8.10.11	Development in the E3 Zone .....	64
E8.10.12	Tourist and Visitor Accommodation in the Residential R2 and R3 Zones and the B1 Zone .....	64



## Figures

Figure E8.1	Land to which this Chapter applies.....	2
Figure E8.2	Alignment of Subdivision Lots .....	12
Figure E8.3	Street Parking for Small Lots.....	13
Figure E8.4	Typical Road Verge with Swale and Footpath .....	15
Figure E8.5	Road and parking design combined with vacant small lot subdivision .....	16
Figure E8.6	General Habitat Corridors to be Strengthened .....	23
Figure E8.7	Street Tree Landscaping .....	24
Figure E8.8	Example of exercise equipment on soft fall material.....	26
Figure E8.9	Examples of playground equipment .....	28
Figure E8.10	Predicted 2 Odour Unit Contour for Poultry Processing Plant.....	32
Figure E8.11	Landscape Buffer and Acoustic Barrier to Ewingsdale Road .....	36
Figure E8.12	Planning Principles for the West Byron Village Centre Precinct .....	38
Figure E8.13	Example of a green wall .....	41
Figure E8.14	Example of Cafe opening onto a park area .....	42
Figure E8.15	Examples of Various Building Elements against Planning Controls 2, 3, 4 and 8 in Table E8.3.....	58
Figure E8.16	Examples of Various Building Elements against Planning Control 11 in Table E8.3 .....	59
Figure E8.17	Photo Plates – Examples of Various Building Elements against Planning Controls in Table E8.3.....	61
Figure E8.18	Examples of access from the Spine Road fronting the IN2 Zone.....	63

## Tables

Table E8.1	Relevant Provisions of the Byron Shire DCP 2014.....	4
Table E8.2	State Significant Site Study – Technical Studies .....	5
Table E8.3	Key Controls for Dwelling Houses, Dual Occupancy (attached and detached), multi-dwelling housing and integrated development permissible under Clause 83 of Byron LEP 1988 in the R2 and R3 Zones.....	44

## Appendices

Appendix A - Staging Plan.....	65
Appendix B – Concept Plan.....	65
Appendix C – WSUD Street Tree with Pit.....	66
Appendix D – Typical Road Cross Sections (Not to scale) .....	67
Appendix E – Typical Driveway Access across Swales (Not to Scale).....	69
Appendix F – Typical Stormwater House Connection (Not to Scale) .....	69
Appendix G – Widening of Ewingsdale Road Plan .....	70



## **E8.1 Introduction**

This development control plan (DCP) chapter provides a framework to guide the future development of West Byron. The document specifies subdivision, built form, environmental protection and other controls to achieve the vision for West Byron Bay.

## **E8.2 Name and Application of this Chapter**

This plan is called Chapter E8 West Byron Bay Urban Release Area and will amend Byron Shire DCP 2014. It has been prepared pursuant to the provisions of Section 74C of the *Environmental Planning and Assessment Act 1979* (the Act).

## **E8.3 Land to which this Chapter applies**

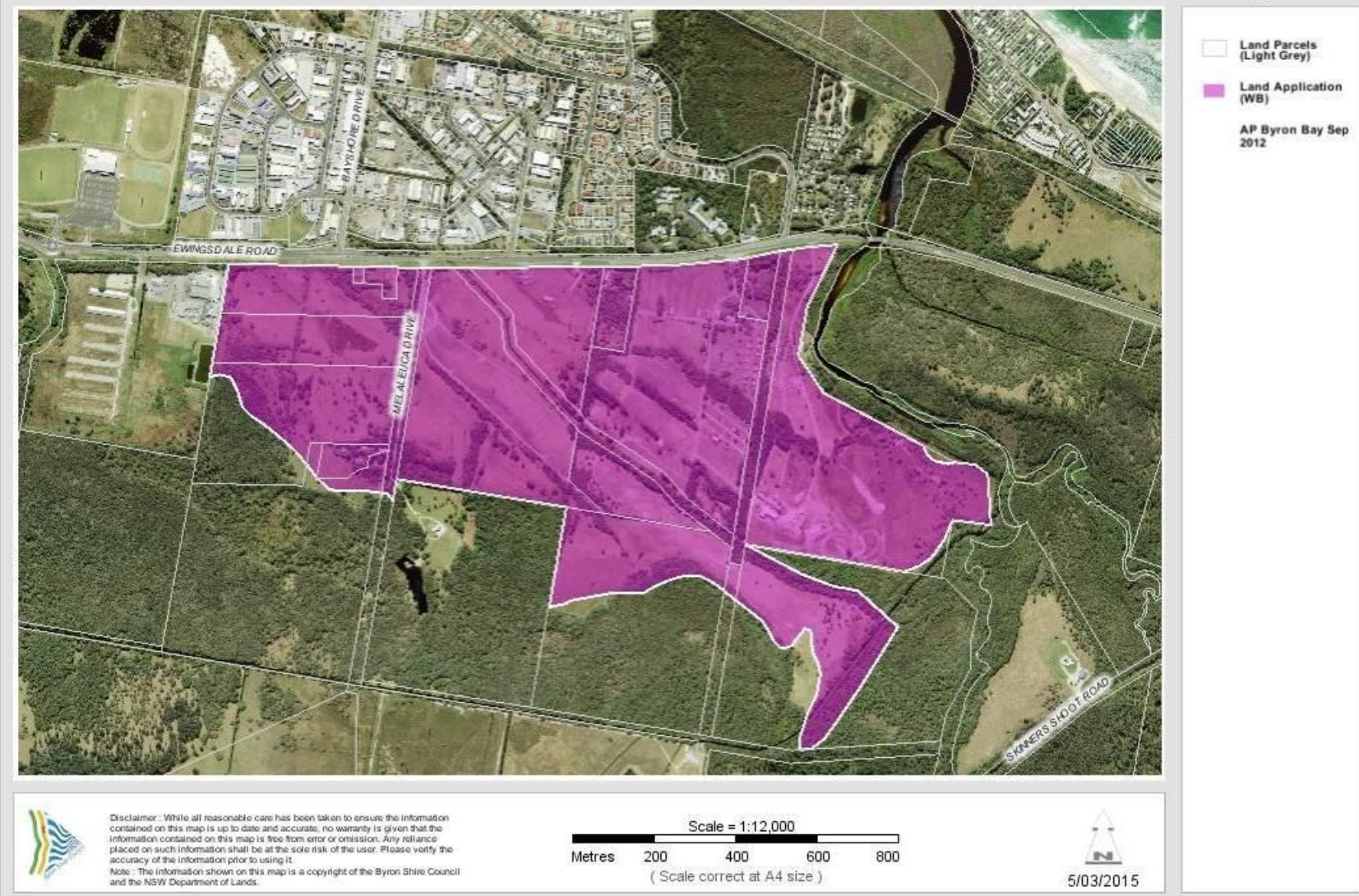
This Chapter applies to land identified under Part 4 West Byron Bay Site of Byron Local Environmental Plan 1988. The site location is shown below in Map E8.1 – West Byron Urban Release Area Map

## **E8.4 Purpose of this Chapter**

The purpose of this chapter is:

1. To establish the planning, design and environmental objectives and guidelines against which the consent authority will assess future development applications.
2. To communicate site specific controls for the site relating to urban design, mitigation of environmental impacts, protection of biodiversity and management of environmental hazards.
3. To promote high quality urban design outcomes for the site within the context of environmental, social and economic sustainability.

## E8.1 - West Byron Bay Urban Release Map



**Figure E8.1: Land to which this Chapter applies**

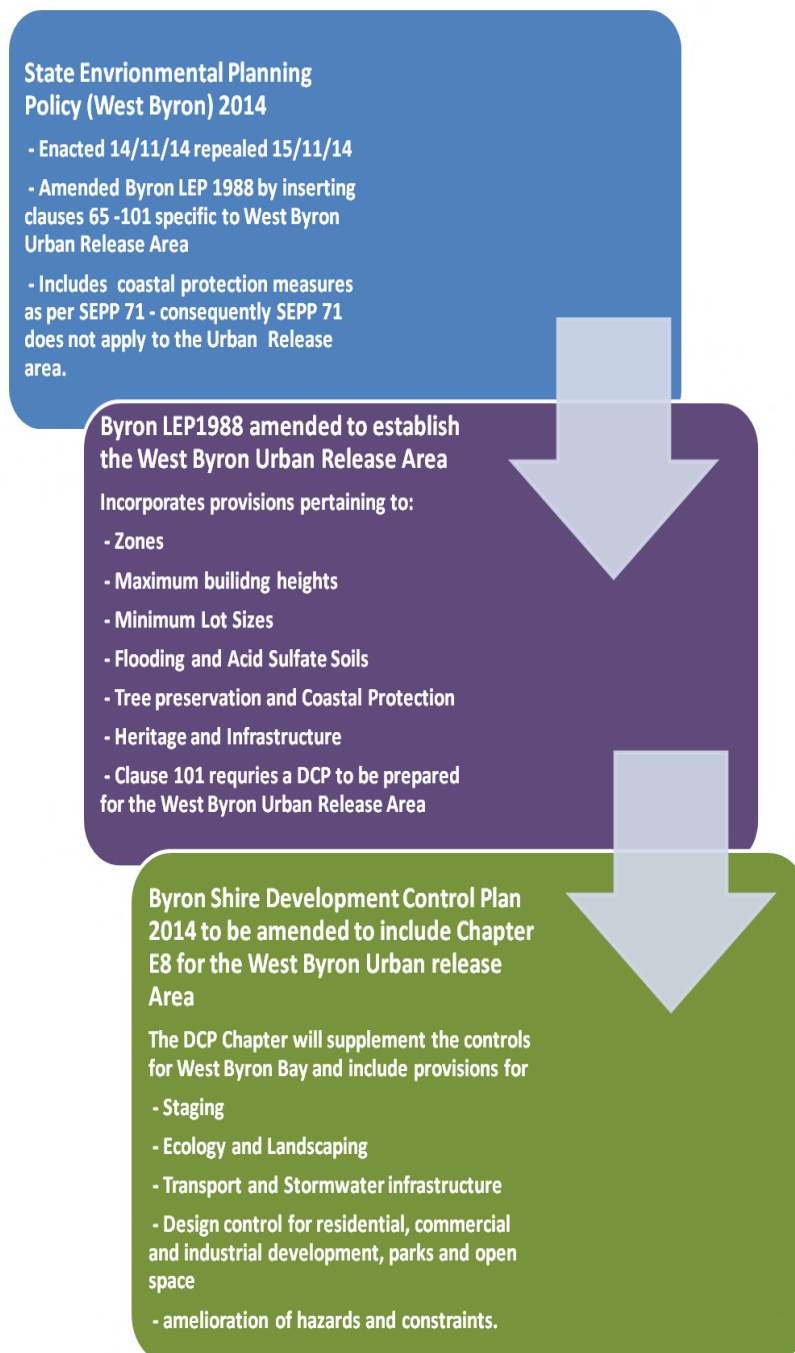


## E8.5 Relationship to other Plans and Policies

Relevant State Environmental Planning Policies (SEPP) and Byron Local Environmental Plan (LEP) 1988 are the statutory environmental planning instruments applicable to the site and will prevail over any inconsistencies with provisions contained in the Chapter.

State Environmental Planning Policy (West Byron Bay) 2014 amended the Byron LEP 1988 by inserting Clauses 65 – 101 and identified the site as an urban release area on the 14 November 2014. Clause 101 requires the preparation of a DCP for the West Byron Urban Release Area. The West Byron SEPP after amending the Byron LEP 1988 was subsequently repealed the following day.

The flow chart below provides a summary of the relationship between the now repealed SEPP and the DCP Chapter.



Development within West Byron Bay will need to comply with this chapter, as well as other relevant chapters in the Byron Shire DCP 2014 set out in Table E8.1. In the event of any inconsistency between this DCP Chapter and other Chapters within Byron Shire DCP 2014 or any other plan or policy of Council, this chapter will prevail to the extent of the inconsistency.

**Table E8.1 Relevant Provisions of the Byron Shire DCP 2014**

<b>Section and Provisions of Byron Shire DCP 2014</b>	
<b>Part A</b>	<b>Preliminary</b>
<b>Part B</b>	<b>Controls Applying Generally to Development Applications</b>
Chapter B2	Preservation of Trees and Other Vegetation
Chapter B3	Services
Chapter B4	Traffic Planning, Vehicle Parking, Circulation and Access
Chapter B5	Providing for Cycling
Chapter B6	Buffers and Minimising Land Use Conflict
Chapter B7	Mosquitoes and Biting Midges
Chapter B8	Waste Minimisation and Management
Chapter B9	Landscaping
Chapter B10	Signage
Chapter B11	Planning for Crime Prevention
Chapter B12	Social Impact Assessment
Chapter B13	Access and Mobility
Chapter B14	Excavation and Fill
<b>Part C</b>	<b>Further Controls Applying to Land with Specific Constraints and Environmental Characteristics</b>
Chapter C1	Non-Indigenous Heritage
Chapter C2	Areas Affected by Flood
Chapter C3	Visually Prominent Sites, Visually Prominent Development and View Sharing
Chapter C4	Development in a Drinking Water Catchment
<b>Part D</b>	<b>Further Controls Applying to Specific Land Uses</b>
Chapter D1	Residential Accommodation in Urban, Village & Special Purpose Zones
Chapter D2	Residential Accommodation and Ancillary Development in Rural Zones
Chapter D3	Tourist Accommodation
Chapter D4	Commercial and Retail Development
Chapter D5	Industrial Development
Chapter D6	Subdivision
Chapter D7	Sex Services Premises
Chapter D8	Public Art

## **E8.6 Background Information**

A number of technical studies have been completed for the site previously for the West Byron Bay Urban Release Area when it was rezoned by the Department of Planning and Environment. The technical studies completed as part of the SSS Study are set out in Table E8.2. These are available from the NSW Department of Planning and Infrastructure's website [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au).

**Table E8.2 State Significant Site Study – Technical Studies**

Issue	Technical Study	Author	Date
Acid Sulfate Soils	<i>Preliminary Acid Sulfate Soils Assessment</i>	Southern Cross University Environmental Analysis Laboratory	December 2010
Air Quality	<i>Odour &amp; Air Quality Constraints West Byron</i>	PAE Holmes	December 2010
	<i>Options for Future Development on West Byron SSS Site: Odour Constraints</i>	PAE Holmes	May 2012
Aquatic Ecology	<i>Aquatic Assessment of West Byron Urban Land Release Program</i>	Peter Parker Environmental Consultants Pty Ltd	August 2010
Bushfire	<i>Bushfire Assessment</i>	LandPartners	December 2010
Civil Engineering	<i>Byron West Engineering Advice</i>	Cardno	April 2011
Contamination	<i>Preliminary Contamination Land Assessment</i>	EAL Consulting Service	December 2010
Cultural Heritage	<i>Proposed West Byron Urban Release Area Cultural Heritage Assessment</i>	Jacqueline Collins (Consultant Archaeologist)	December 2010
Ecology	<i>Preliminary Ecological Assessment</i>	LandPartners	August 2010
	<i>Ecological Assessment West Byron Project</i>	Australian Wetlands Consulting Pty Ltd	December 2010
	<i>West Byron Urban Land Release Area: Response to Submissions Received during Public Exhibition Period – Ecological Matters</i>	Australian Wetlands Consulting Pty Ltd	April 2012
Flooding	<i>West Byron Flood Impact Assessment</i>	BMT WBM	December 2010
	<i>West Byron Flood Impact Assessment – Assessment Revision - Correspondence</i>	BMT WBM	22 November 2011
	<i>West Byron Flood Impact Assessment – Response to Submissions - Correspondence</i>	BMT WBM	22 March 2012
	<i>West Byron Bay Development Proposal – Flooding – Final Report</i>	WMA Water	21 June 2012
Geotechnical	<i>Geotechnical Assessment for Development of West Byron/Belongil Fields</i>	Shaw Urquhart	June 2010
Koala Management	<i>West Byron Urban Release Area Response to Submissions by Byron Shire Council and Office of Environment and Heritage – Koala Management</i>	Austeco Environmental Consultants for Setscan Pty Ltd	6 November 2012
	<i>Koala Management in the West Byron Urban Release Area – Memorandum to Byron Bay West Landholders Association</i>	Austeco Environmental Consultants for Setscan Pty Ltd	16 November 2012



Issue	Technical Study	Author	Date
Land Use Conflicts	<i>Land Use Conflict Risk Assessment</i>	LandPartners	December 2010
Mosquitoes	<i>Mosquito Risk Assessment</i>	Sydney West Area Health Service	December 2010
Noise	<i>Revised Preliminary Acoustic Advice</i>	TTM Acoustics	June 2010
Retail and Commercial Demand	<i>West Byron Urban Release Area Retail and Commercial Demand Study</i>	Hill PDA	July 2010
Social Impact	<i>West Byron Urban Release Area Housing and Human Services Study Social Impact Assessment</i>	BBC Consulting Planners	February 2011
Traffic	<i>West Byron Development Transport Study</i>	Veitch Lister Consulting	March 2011
	<i>West Byron Development Transport Study – Supplementary Report on Changes in Level of Service</i>	Veitch Lister Consulting	March 2011
Urban Design	<i>West Byron Urban Release Area Enquiry-by-Design Workshop Outcomes Report</i>	Deicke Richards Architects	September 2010
	<i>Summary of Issues and Proposed Resolution of Traffic Noise, Visual Impact and Urban Design along Ewingsdale Road</i>	TTM Acoustics, Ennismore Field P/L & Deicke Richards P/L	May 2011
Visual Impact	<i>West Byron Urban Release Area Visual Assessment</i>	Ennismore Field Pty Ltd	Undated
Water Management	<i>West Byron Urban Land Release Project Report</i>	The Water & Carbon Group	October 2010

## E8.7 Interpretation

In this chapter **Urban Release Area** is the West Byron Bay site identified under Part 4 of the Byron Local Environmental Plan 1988.

Any other word or expression used in this Chapter has the same meaning as it has in the standard instrument (as prescribed by the Standard Instrument (Local Environmental Plans) Order 2006) unless it is otherwise defined in this Chapter. Where the word or expression is not defined in the standard instrument, it will have the same meaning as defined in the Byron Shire DCP 2014. Wherever any discrepancy arises, the provisions used in the standard instrument prevail.

Where not otherwise defined, the meaning is to be taken as the meaning most commonly understood. A reference in this Chapter to any Australian Standard or legislation includes a reference to any amendment or replacement as made.

**Notes:** are included in this document to provide additional guidance and explanation of the provisions. These notes are not part of the formal provisions of the Chapter.

## E8.8 Compliance with Objectives and Controls in this Chapter

Clauses in this plan contain **Objectives, performance criteria and prescriptive measures**. The prescriptive measures are requirements that Council considers likely to meet the objectives and performance criteria. In certain circumstances applicants can propose alternate solutions to the prescriptive measures, however they will need to demonstrate that the alternative design satisfies the objectives and performance criteria for that clause. Further information is provided in Part A of DCP 2014 (see Clause A12) where an explanation is provided on dual path assessment.

## E8.9 Notification of Development Applications

Notification of development applications will be undertaken in accordance with Part A of the Byron Shire DCP 2014.

## E8.10 Design Principles

The development of the site is underpinned by the following key design principles:

### ***Legible and connected***

- a) A vibrant mixed use village centre to provide a community meeting place and to provide retail and commercial opportunities
- b) a street pattern that connects the new residential areas with the mixed use village centre, the light industrial area and local parks
- c) neighbourhoods where residents can safely walk or cycle to the local shops and open space
- d) public transport, cycle and pedestrian ways that links with existing networks.
- e) high speed broadband to the entire estate

### ***Reinforcing the natural environment***

- a) high quality streetscapes with generous green verges, street trees and footpaths with access to safe open space areas
- b) Appreciation of areas of high quality habitat for conservation
- c) Residential open space areas which link with the natural environment

### ***Innovative and integrated***

- a) mixture of dwellings types to improve housing choice for a variety of residents and budgets and create diversity in the built form
- b) housing arrangements different to the existing model in Byron Shire including small lot housing and co-operative housing
- c) Clearly defined entry statements at the access points from Ewingsdale Road

### **Amenity**

- a) Residents and properties are protected from hazards including flooding and bushfire
- b) Coherent buffers provided to Ewingsdale Road and other environmental constraints.

### **Concept and Staging Plan**

A Staging and Concept Plan has been developed for the site as shown in Appendix A and B. The plans form the basis for urban development by setting out:

- a) access points from Ewingsdale Road and associated intersection treatments
- b) a key circulation route through and around the development area including cycleways
- c) the location of future land uses including low and medium density residential development, the neighbourhood centre, the light industrial area, and open space
- d) buffers to Ewingsdale Road
- e) the identification of environmental conservation and management areas for revegetation
- f) landscaping and street trees

Both plans are indicative and further changes to the layout and or staging may occur through the development of West Byron and further assessment. Where major variations are proposed the applicant will be required to demonstrate the development remains consistent with the Design Principles in this section.

## **E8.10.1 Staging Plan**

### **Objectives**

1. *Enable the orderly development of the site.*
2. *Enable land to be developed in a co-ordinated fashion.*

### **Performance Criteria**

1. Land use development will be integrated, coordinated and planned in line with the provision of infrastructure
2. All infrastructure will be designed to provide a high standard of living for residents and a vibrant, well serviced village centre and industrial estate.
3. Rehabilitation and re-vegetation works are to be delivered in a timely manner and in accordance with management plans.

### **Prescriptive Measures**

1. West Byron is to be developed in two main stages generally as shown in **Appendix A Staging Plan**.
2. **Stage 1** to comprise the following minimum infrastructure and works to enable the site to be subsequently developed for commercial, residential and industrial land uses. This includes a detailed traffic study be undertaken to confirm the appropriate configuration

of the two round about intersections with Ewingsdale Rd. The study to address the requirements of the Guide to Traffic Generating Developments (RTA 2002), and any additional traffic studies and design plans prepared by Council to inform the final design of the roundabouts. The study should be completed to address the requirements of the whole site based on a maximum dwelling yield of 856 dwellings.

- a) The two roundabouts on Ewingsdale Road – Details to be submitted and approved as to the timing of construction of the roundabouts to minimise disruption to traffic flows on Ewingsdale Road. The roundabout at the intersection of Bayshore Drive and Ewingsdale Road to be designed and constructed with a concrete pavement to facilitate heavy vehicle movements into West Byron.
- b) The start of the two ends of the Main Spine Road for a length of approximately 250 metres to the first major internal intersections;
- c) Legal access to roads and services for any allotments (including Lot 1 DP780242) not having land frontage to the constructed Main Spine Road;
- d) Closing of Melaleuca Drive from Ewingsdale road and measures to ensure access to other properties on this road.
- e) Noise attenuation measure to Ewingsdale Road including earth bunds, noise fencing and landscaping to satisfy the Australian Standard;
- f) Trunk water services (including Dual Reticulation mains to service the IN2 Light Industrial Zone and B1 Neighbourhood Centre Zone) for the length of the constructed roads;
- g) Main Trunk Sewer infrastructure, pump stations and other necessary sewage infrastructure for the length of the constructed roads;
- h) Bulk Earthworks to satisfy the flooding and stormwater requirement for the site including the reconstruction of the main stormwater drain through to the point of discharge;
- i) Any necessary stormwater infrastructure to service this Stage including embellishment and landscaping of the main drain in this Stage. Where appropriate drainage work in Stage 2 can commence with Stage 1 including works on the main drain.
- j) Bulk Earthworks for Central Park on Ewingsdale Road (not embellishment) zoned RE1;
- k) Acid Sulfate Soils Management Plan for the entire site, Water Management Plan for Belongil Creek including baseline data, monitoring and hold points in the event that water quality is adversely affected by the development, and **Biodiversity Conservation Management Plan** including a program for environmental management and staged rehabilitation for the E2 and E3 Zones;
- l) Identification and protection of any special cultural or heritage places for the entire site;
- m) Construction of the pedestrian/ cycleway for the full frontage of Ewingsdale Road and other pedestrian/ cycleways through Stage 1 as required;
- n) General landscaping, street trees and the like where relevant to Stage 1 for the sections of roads being constructed;
- o) Subdivision for the purpose of creating super or master lots and smaller site specific residential, commercial and industrial lots where appropriate;

- p) Address the provisions for the West Byron Village Centre Precinct under Clause E8.10.10.1
- q) Design for the construction and embellishment of the Park adjacent to the B1 Zone. The timing for the dedication of the park to be linked with the development of the B1 Zoned Land and the adjacent R3 Zone Land.
- r) Any landscaping or buffer treatments as required under Clause E8.10.5.1.
- s) General timing and sequencing of work within this stage.
- t) Applicants to demonstrate that Infrastructure to be constructed at Stage 1 is designed to accommodate the expected population yield for West Byron.

Subsequent development applications for residential, business and industrial development including subdivision, are to demonstrate how they will be co-ordinated with infrastructure being provided with the Stage 1 approval.

3. **Stage 2** - Stage 2 to comprise the following works and infrastructure:

- a) Completion of the Spine Road link;
- b) Completion of trunk water supply and sewer links;
- c) Any other necessary stormwater infrastructure to service this Stage;
- d) Compliance with any plans of management or Cultural Heritage recommendations approved in Stage 1:
- e) General landscaping, street trees and the like where relevant to Stage 2 for the sections of roads being constructed;
- f) Subdivision for the purpose of creating super or master lots or smaller site specific residential lots where appropriate;
- g) Any landscaping or buffer treatments as required under Clause E8.10.5.1;
- h) Embellishment of the Central Park on Ewingsdale Road; and
- i) General timing and sequencing of work within this stage.

Subsequent development applications for residential, including subdivision are to demonstrate how they will be co-ordinated with the infrastructure being provided within Stage 2.

Should housing numbers exceed 856 dwellings a further traffic impact assessment is required on impacts on Ewingsdale Rd and the wider road network for traffic exceeding this number. Such a study to be prepared in accordance with the Guide to Traffic Generating Developments (RTA 2002).

- 4. Where road reserves are to be dedicated to Council they are to terminate at the property boundary to ensure access to adjoining properties.
- 5. Where drain crossings over Crown Land or other public property are deferred from Stage 1 to Stage 2, details to be submitted to Council outlining how the construction of the crossing will be financed including the agreement of land owners where nominated.
- 6. The boundaries with Ewingsdale Road for the site to be adjusted to reflect future widening of Ewingsdale Road as indicated in Appendix G - Widening of Ewingsdale Road Plan. The boundary adjustment(s) to occur with Council agreement and can occur with Stage 1 or 2 or by a standalone application process. Such widening to have regards to the requirements under E8.10.8.8 Buffers to Ewingsdale Road
- 7. Where more than 100 lots are to be released as part of a subdivision, a staging plan to be submitted with the development application breaking such land releases into stages

of no more than 50 lots to enable the co-ordination and provision of necessary infrastructure and services.

## **E8.10.2 Housing Subdivision Layout, Orientation and Diversity**

The subdivision layout needs to consider not only orientation, vegetation and constraints but also provide for suitably located and shaped lots for a diverse range of housing types in addition to standard single dwelling lots. In addition to the minimum lot size provisions under Byron LEP 1988 the following controls apply.

### **Objectives**

1. *To facilitate the provision of a diversity of dwelling types and land tenure to service the needs of residents at different stages of life.*
2. *Street layout and the configuration and sizing of residential lots is responsive to site characteristics and achieves the following outcomes wherever possible:*
  - a) *potential for solar access to the main living areas and private open space of future dwellings on each lot, is maximised;*
  - b) *lots are oriented so that future buildings can make best use of the site's characteristics (e.g. desirable views/ outlook, most suitable access) in order to maximise amenity and privacy and keep building and running costs to a minimum;*
  - c) *potential for overshadowing and overlooking of neighbouring dwellings and their private open space, is minimised.*
3. *Consideration to be given to the residential controls when planning lots sizes and dimensions in relation to car parking, open space and landscaping areas and building footprint.*

### **Performance Criteria**

1. A diversity of lot sizes and dwelling types, to suit different household structures.
2. Higher density development lots sited in proximity to walkways, cycleways, parkland, and public transport. Corner lots and lots with rear lane access to facilitate alternate access arrangements that reduce the number of driveways across the primary street frontage are preferred.
3. Subdivision design addresses existing vegetation (to be retained), bushfire and other environmental constraints in terms of the location and sizing of lots.
4. The configuration, shape and size of lots maximises solar access to each lot and are of appropriate shape and width to accommodate dwelling designs where the main indoor and outdoor living spaces can be orientated to the north, north east or north west.
5. Consideration to be given to the siting of dwellings in the design of subdivision for **small lots**.

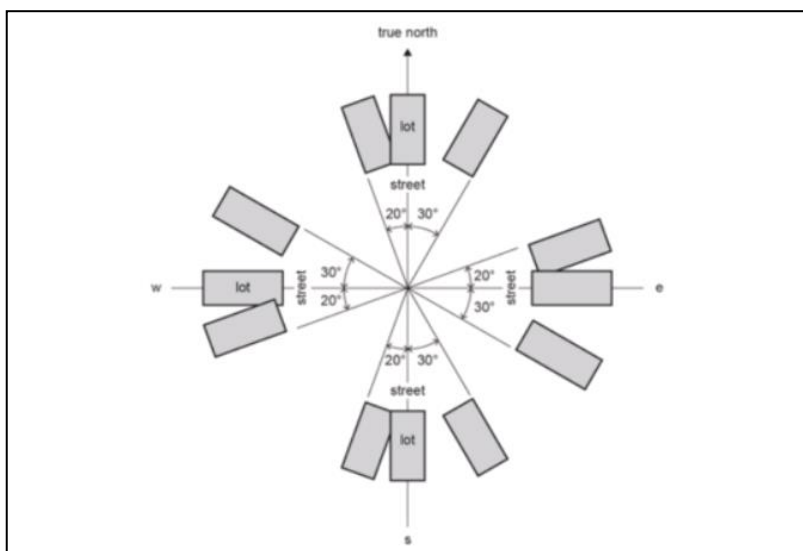
### **Prescriptive Measures**

1. Applications for subdivision to be generally in accordance with the Concept Plan for West Byron. Details to be submitted with the relevant application demonstrating how access to properties on Melaleuca Drive will be provided and maintained.
2. A minimum building envelope of 12m x 15m to apply in R2 zone and 12m x 10m in the R3 Zone for vacant residential allotments.



3. Subdivision layouts provide rectangular shaped lots with the long side of the lot aligned on a general east-west or north-south axis wherever possible, in order to maximise the potential for solar access to future dwellings. (see note below and Figure E8.2)
4. The use of battle-axe lots is to be kept to an absolute minimum. To ensure a suitable residential area to build upon, the access handle is not to be included in the lot size calculations. Access handle widths to comply with Chapter D6 of Byron DCP 2014.
5. **Dual Occupancy, Multi Dwelling Housing, residential flat buildings** and **Integrated Housing** lots in the R2 Zone are to be designed as follows:
  - a) The plan of subdivision to clearly nominate lots for dual occupancy, multi dwelling housing, residential flat buildings and **integrated housing** as per Clause 83 of Byron LEP 1988.
  - b) Lots nominated for higher densities than single dwelling housing should be carefully chosen having regards to vehicle access, solar orientation, location of pedestrian paths and cycleways and public open space areas and the residential controls contained within this Chapter.
6. Dual occupancy, multi dwelling housing, residential flat building or **integrated housing** lots to have a minimum dimensions of 25 metres on a general north -south axis with secondary street or rear lane access.

Such lots are not to be clustered in one location but generally dispersed throughout the R2 Zone.



**Figure E8.2: Alignment of Subdivision Lots**

7. Subdivision with the R3 Zone to have careful consideration to the final built form in terms of vehicle access and car parking, solar orientation, private open space, and the public domain. Accordingly it is preferable that master or super lots be created with an area greater than 1000m<sup>2</sup>, which can be subsequently developed and purposely planned for medium density residential development. Such lots should have dual frontage as a minimum in terms of either a corner lot, rear lane access or extend through from one street to the next street.

Where vacant **small lots** are proposed pursuant to Clause 81 of Byron LEP 1988, the following controls are to apply in the R3 Zone:

- a) Access to be provided by way of a rear lane, secondary street or reciprocal right of carriageway to be incorporated into the subdivision design to provide access to the



rear of these properties. In circumstances where access is provided via a battleaxe handle, the area of the handle to be excluded from the lot size calculation. Access to be designed and constructed in accordance with Chapter D6 of Byron DCP 2014.

- b) To include an appropriate Section 88B instrument for the subject lot and the adjoining lot(s) that will enable zero lot line development on each property boundary.
- c) Where 4 or more **small lots** are proposed in a street section, the street to be of a suitable width to accommodate nose in, or 45 degree angle parking across the frontage of those lots. The parking to be integrated with footpaths, cycleways and landscaping including street tree blisters every five parking spaces to break up the parking areas and to provide shade.
- d) Lots to be clearly orientated between the north east to the north west to ensure good solar access.



**Figure E8.3: Street Parking for Small Lots**

8. Where lots incorporate vegetation to be retained, details to be submitted with the subdivision application demonstrating that the vegetation will be managed and not removed for bushfire protection purposes or for residential buildings with subsequent applications for residential development. In certain circumstance Council may require a Section 88B instrument on the title to aid in the protection of the vegetation and to override the 10/50 Vegetation Clearing Scheme exemptions for vegetation removal.

**Notes:**

- Applicants are encouraged to consider the residential provisions when designing the subdivision layout, and in particular for multi dwelling housing and **integrated housing** lots. Lots with potential private open space within the front setback may need to be longer/ wider to enable a suitable, useable, private area with solar access to be provided.
- Corner lots provide good opportunities for dual occupancy and multi dwelling housing/ **integrated housing** options with vehicle access provided from both streets for a dual occupancy, or a single shared access point provided from the secondary street for three or more dwellings.
- Lots that run from one street through to a second street also provide good design solutions for vehicle and pedestrian access and egress.

## E8.10.3 Transport Movement and Street Hierarchy

### Objectives

1. *To provide a hierarchy of interconnected streets that gives safe, convenient and legible access through West Byron.*
2. *To minimise through traffic in residential neighbourhoods.*
3. *To ensure that the hierarchy of the streets is clearly legible through variations in carriageway width, on-street parking, threshold parking, incorporation of water sensitive urban design measures (where possible), street tree planting, and pedestrian amenities.*
4. *To provide a safe and convenient public transport, pedestrian and cycleway network.*
5. *To ensure a high quality, functional, safe, legible and visually attractive public domain.*
6. *To design streets within each neighbourhood primarily for people, not for cars, by providing a level of access, safety and convenience to residents in each neighbourhood.*

### Performance Criteria

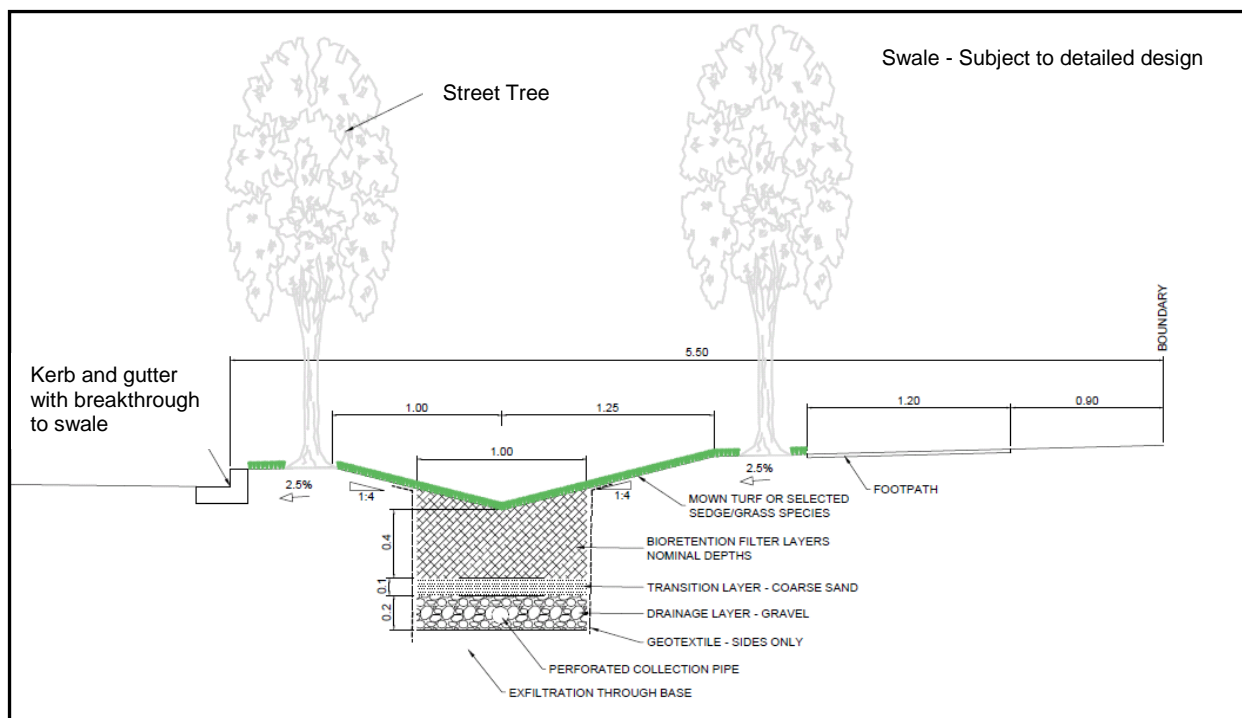
1. The street network is to be designed to achieve the following principles:
  - a) Access to Ewingsdale Road restricted to the two main entrances as indicated on the concept plan. All properties with frontage to Ewingsdale Road to gain access from an internal local road. Existing properties on Ewingsdale road to re-site driveways to the internal road network.
  - b) Establish a permeable pedestrian and cycleway network that is based on AMCORD principles that will encourage walking and cycling and reduce travel distances involving those activities,
  - c) Provide for a safe pedestrian cycleway crossing point across Ewingsale Road to facilitate access to Sunrise Estate, the Byron Arts an Industrial Estate and the Cavanbah Sports Centre.
  - d) maximise neighbourhood connectivity between residential neighbourhoods, recreational areas and the Village Centre;
  - e) accommodate significant vegetation to avoid its removal and to maintain and habitat corridors;
  - f) optimise solar access opportunities for dwellings having regards to the controls relating to **dual occupancy**, **multi dwelling housing** and **integrated housing**;
  - g) maximise surveillance of open space and environmental protection corridors; and
  - h) maximise the use of water sensitive urban design measures.

### Prescriptive Measures

1. The road layout is based generally on the Concept Plan. The road hierarchy is based on the following:
  - a) a main Spine Road which intersects with Ewingsdale Road in two places at roundabouts (Distributor road)
  - b) Collector roads;

- c) Local roads;
- d) Access Roads;
- e) Laneways; and
- f) Pedestrian and cycleway routes.

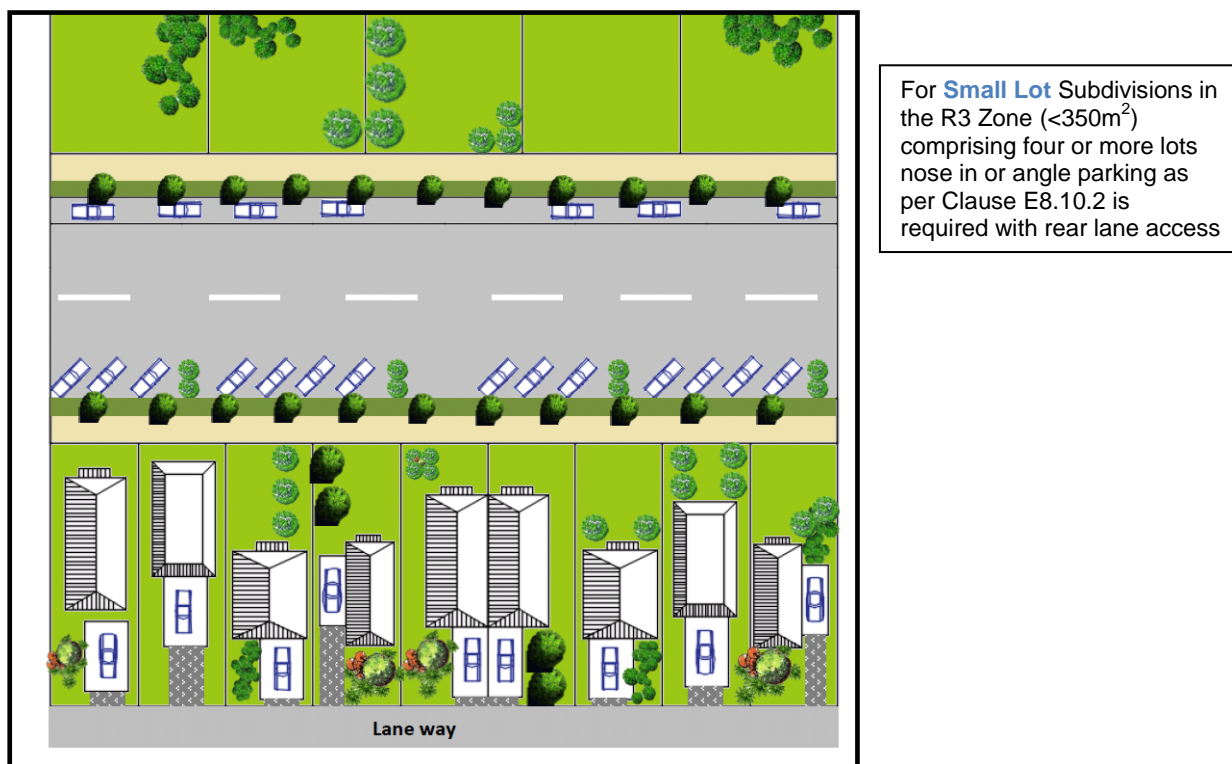
Typical Road Cross Sections are provided at Appendix D incorporating swales. Figure E8.4 shows typical road verge with swale and footpath. The final road layout is subject to detailed design and assessment having regards to topography, drainage, environmental factors and lot layout.



**Figure E8.4: Typical Road Verge with Swale and Footpath**

2. The street network layout and associated infrastructure to be carefully sited and designed, having regards to the provisions contained under E8.10.5.1 Biodiversity and Vegetation Management and in particular threatened species of flora, fauna and endangered ecological communities, habitat corridors and links.
3. Street design to provide generally no more than three (3) intersection turns to be traversed from the furthestmost lot to the Ewingsdale Road entrances. Local roads in a residential zone shall be designed to discourage through traffic via traffic calming measures, such as landscaped street blisters, chicanes and on-street parking.
4. Cul-de-sacs to be a maximum of 200m in length and for a maximum of 25 dwellings. Cul-de-sacs are to provide for pedestrian and cycle permeability.
5. Formal entry statement to be provided at both entrances from Ewingsdale Road through fencing and landscaping and changes in road pavement. Each neighbourhood area (including the Village centre and Industrial precinct) to provide a distinctive entry statement by way of changes to the road pavement material at the entrance.

6. Formal pedestrian crossings to be clearly delineated through changes in road pavement material and or raised, plus appropriate signage and line marking as required.
7. Except where otherwise provided for in this Chapter, all roads, streets and roundabouts are to be designed and constructed in accordance with the minimum requirements set out in the Northern Rivers Local Government Development Design and Construction Manual.
8. For all local roads and access roads, traffic management, (i.e. road layout and/or speed reducing devices), to be used to produce a low speed traffic environment. Such traffic management devices are to be identified at the time of the subdivision application.
9. Laneways that are solely designed for back of house access and egress in the residential and business zones to be contained within a minimum 6 metre wide road reserve with a 6 metre wide pavement based on vehicle design speeds of 15kmh The laneway to generally service no more than 300 vehicles per day. The road reserve may need to be widened to accommodate services, intersections and other constraints.
10. The road through the IN2 Zone Land to terminate in a cul de sac at the boundary with Lot 181 DP755695. Alternatives to extend the road through this parcel and back to Ewingsdale Road will be considered where it can be demonstrated with a traffic study a positive outcome for traffic management on Ewingsdale Road and to enable the free flow and movement of heavy vehicles, delivery trucks and other traffic entering the IN2 Zone.
11. Four bus stops to be sited either side of the Spine Road in a minimum of two locations to facilitate public transport within the eastern and western halves of the Urban Release Area.
12. The road to incorporate nose in / 45 degree angle on-street car parking in the R3 Zone for overflow parking as required under Clause E8.10.2. The parking areas to be integrated with street landscaping including street tree blisters passively watered by WSUD, cycleways and footpath areas.



**Figure E8.5: Road and parking design combined with vacant small lot subdivision**

## E8.10.4 Stormwater Water Management

### Objectives

1. To facilitate the disposal of stormwater in a sustainable manner.
2. To maintain and improve the quality of water entering Belongil Creek.
3. To ensure groundwater levels are considered in the management of stormwater.

### Performance Criteria

1. To enable stormwater to be managed in accordance with the concept of **Water Sensitive Urban Design**.
2. To enable stormwater infrastructure in the main drain to also become environmental features for native flora and fauna, habitat corridors and to facilitate pedestrian and cycling access.
3. To ensure a coordinated response to the design of stormwater infrastructure combined with landscaping and the built form in the public and private realm.
4. To provide stormwater infrastructure that can be readily maintained at minimum cost to Council and the public.
5. Groundwater levels are not to be significantly altered by stormwater works in areas of actual or potential acid sulphate soils or such impacts are appropriately managed
6. Vegetated buffers are provided around stormwater infrastructure and to trap sediments, nutrients and pollutants from the surrounding environment
7. Stormwater is managed to maintain appropriate water quality and levels for wallum froglet and wallum sedge frog habitat.

### Prescriptive measures

1. A detailed Stormwater Management Plan to be submitted with the Stage 1 Development Application for approval by Council based on the concept of **Water Sensitive Urban Design**. The plan is to be for the entire Urban Release Area of West Byron and include the following:
  - a) Outline stormwater treatment facilities, infrastructure and landscaping associated with water sensitive urban design measures.
  - b) Be consistent with the stormwater requirements of Chapter D6 Subdivision of Byron DCP 2014 and the Northern Rivers Development and Design Manual unless otherwise agreed to by Council;
  - c) Demonstrate through stormwater modelling that the proposed development will not adversely impact the coastal wetlands, Belongil Creek or Cape Byron Marine Park;
  - d) Demonstrate a **lawful point of discharge** for all stormwater outlets. Where Union Drains and other private infrastructure is to be accessed, details to be provided on lawful access and ability for such drains to be maintained legally by Council.
  - e) Works within the main drain including excavation and widening, environmental embellishment and access arrangements for pedestrians, cyclist and maintenance vehicles to be generally consistent with the Concept Plan for West Byron;
  - f) Any stormwater detention/ treatment basins are to be limited in number for ease of maintenance. (N.B. preference will be given to the design and construction of



- larger basin(s) rather than multiple smaller basins/ponds);
- g) Landscaping as part of the WSUD Strategy for West Byron to provide details on:
    - i) Soils, mulch and sub-grade treatment. The plans should reference relevant engineering drawings for filter media requirements;
    - ii) Contours and spot levels;
    - iii) Proposed plant species (only native species to be used – except where turf is utilised in swales), including the plant's botanical name, planting height, quantities and densities;
    - iv) existing vegetation proposed to be retained and details of proposed protection measures;
    - v) Planting specification notes are required to include details on plant procurement, timing, maturity, preparing filter media, mulching, planting procedures, watering and the acceptable measures of successfully established plants; and
    - vi) Any targeted habitat improvement for threatened or endangered species.
  - h) Outline any requirements for ongoing monitoring of water quality impacts and measures for managing Acid Sulfate Soils;
  - i) Outline mitigation measures to minimise mosquitoes;
  - j) Be consistent with other stormwater measures included in this DCP Chapter;
  - k) Staging and timing of works and financial responsibility for construction.
  - l) Identify any additional stormwater detention requirements for subdivision and subsequent development in the residential, business and industrial zones;
  - m) Outline long term management, ownership and maintenance arrangements for all stormwater infrastructure. An extended maintenance period to be provided for WSUD measures. Typically this will require that 90% of dwellings are substantially commenced within the development sub-catchment associated with the relevant treatment measure;
  - n) Baseline studies to be prepared of water quality of surface and groundwater and within drainage lines across the site. The Studies to consider wet and dry period, tidal movements and incorporate sampling upstream (eg Arts and Industrial Estate) and Down Stream (eg Belongil Creek);
  - o) Identification of all areas proposed for fill or other major earth works and an assessment of impacts on stormwater runoff, ground water levels, acid sulphate soils and wallum froglet and wallum sedge frog habitat and identification of effective mitigation measures where impacts can't be avoided.
  - p) Detailed designs for the central drainage line that identify impacts on the watertables in the vicinity of Acid Sulfate Soils and minimises damage to existing native vegetation.
  - q) A monitoring regime for Belongil Creek to ensure a Neutral or Beneficial Impact (NorBE) is being achieved for the creek. Target criteria for water quality including litter, coarse sediments, fine particles, total phosphorus and nitrogen and hydrocarbons to be nominated consistent with the Northern Rivers Development Local Government Design Manual. The monitoring regime to be applied to assess impacts as the development proceeds from the start of construction for a period of 10 years.

2. The embellishment of the main drain through the site and the secondary drain on the Belongil Fields site to be carefully designed to protect high environmental value vegetation. The drain(s) to be strategically widened at areas with limited conservation value. Where vegetation is proposed to be removed, details to be provided under Section E8.10.5.1.
3. Any subsequent development application is to be consistent with the Stormwater Management Plan.
4. Construction water quality impacts are to be mitigated through appropriate erosion and sediment controls in accordance with *Managing Urban Stormwater - Soils and Construction* ('The Blue Book').

## E8.10.5 Biodiversity, Vegetation Management and Landscaping

The subject site provides important habitat for a range of species and ecological communities including koalas, wallum froglet, wallum sedge frog, blossom bat and remnant coastal cypress pine communities. A voluntary planning agreement has been signed between the Minister for Planning and the landowners requiring a vegetation management plan to be prepared addressing matters such as a program and implementation strategy of environmental management works for the land zoned E2 Environmental Conservation. Vegetation management however will need to apply to the entire site, and any native vegetation that is proposed to be removed from within the urban footprint will need to be appropriately compensated. Landscaping will play an important role as part of the overall environmental management of the site, and will enhance habitat attributes, whilst also playing a part in the management of stormwater. The following controls apply:

### E8.10.5.1 Biodiversity and Vegetation Management

#### Objectives

1. *Maintain and improve habitat and ecosystem connectivity;*
2. *Protect biodiversity values of the site particularly within E2 Environmental Conservation and E3 Environmental Management zoned land including flora, fauna, habitat, wetlands, and the riparian areas of Belongil Creek.*
3. *Maintain or improve the ecological and hydrological functions and values of Belongil Creek*
4. *Environmental buffers to sensitive ecological areas*
5. *Improve koala ecological values on the site.*

#### Performance Criteria

1. Ensure that a comprehensive **Biodiversity Conservation Management Plan**, including identified sub-plans, is prepared and approved to minimize and offset the impact of development on the site with the Stage 1 Development Application.
2. Environmental buffers to sensitive ecological areas to be revegetated or restored, with development located outside environmental buffers.
3. Protect potential and **core koala habitat** areas from development that would compromise habitat quality and integrity and enhance koala habitat to provide connectivity links to facilitate the natural movement of koalas.
4. Protect, maintain and enhance key habitat corridors to improve linkages between habitats.



5. Improve biodiversity on the site by rehabilitating and re-vegetating areas identified for conservation within an established timeframe for delivery.
6. Mitigation of direct and indirect impacts of development on drainage lines and riparian areas.
7. To identify, protect and maintain wallum froglet and wallum sedge frog habitat areas where appropriate and to provide additional wallum froglet and wallum sedge frog habitat areas within the West Byron Site, so that there is no net loss in habitat.

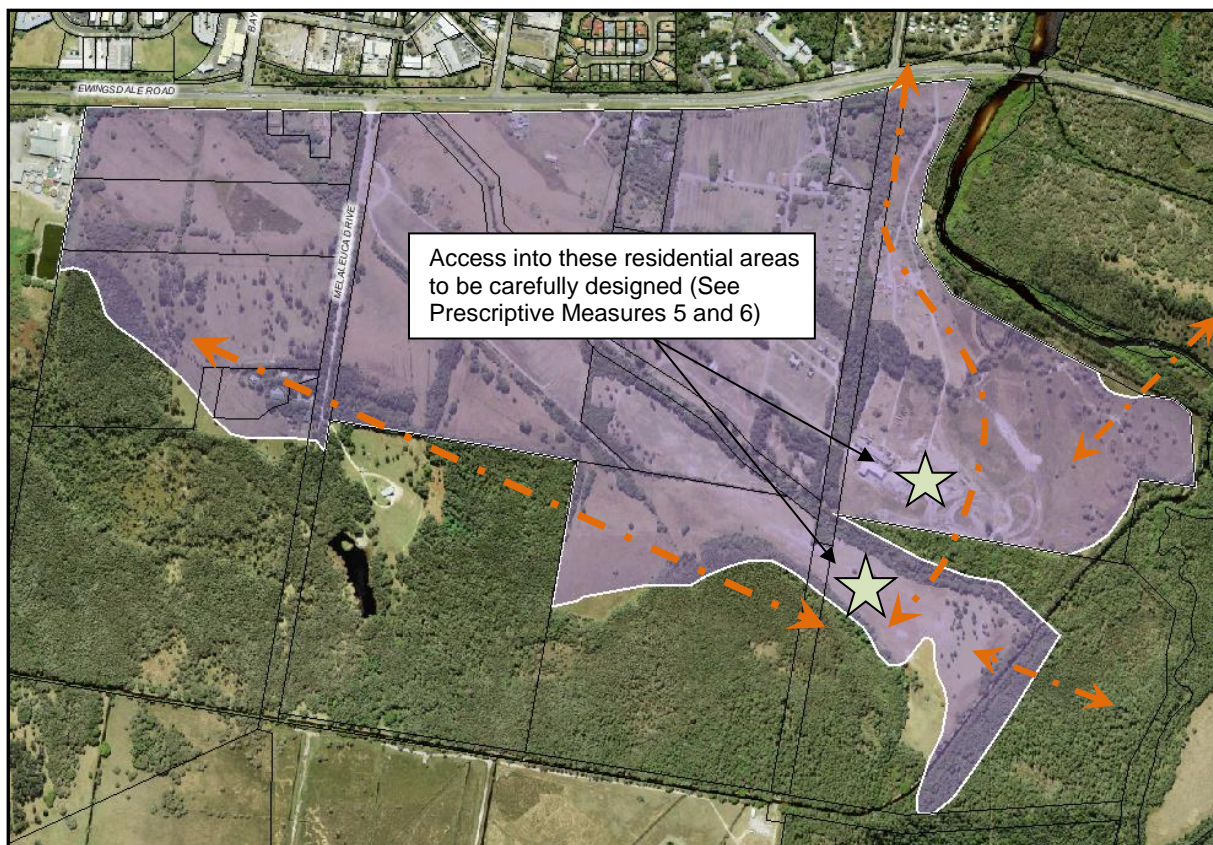
### Prescriptive Measures

1. A comprehensive **Biodiversity Conservation Management Plan** is required to be prepared for the Stage 1 Development Application. The plan is to be for the entire Urban Release Area and to include the following:
  - a) identification of existing vegetation to be retained;
  - b) the types of vegetation management works required and how those works will be implemented, including allocation of responsibility for funding works;
  - c) an initial five-year implementation program setting out habitat restoration and management works including strategies for planting, weed control and maintenance based on strengthening general key habitat corridors along the eastern and southern periphery of the Urban Release Area (See Figure E8.6 below). Such works are to be incorporated into the first Construction Certificate for the site to ensure any compensatory planting that may be required is established as West Byron is gradually developed;
  - d) details of responsibility for the ongoing management of habitat areas in the E2 and E3 Zones following the initial five year implementation program;
  - e) methods to prevent the introduction of exotic pest species or to manage and reduce pest species already present;
  - f) methods to reduce potential for bird strikes into windows of buildings;
  - g) details of ongoing monitoring, reporting to Council and processes for adaptive management where necessary;
  - h) The Vegetation Management Plan for the E2 Zone as required under the Voluntary Planning Agreement (VPA) dated 21/10/14 to be incorporated into the comprehensive **Biodiversity Conservation Management Plan**. The plan to address threatened species, SEPP 44 Koala Habitat Protection, measures to manage Belongil Creek and the requirements of the VPA. The plan can be detailed in the following sub plans:
    - i) Threatened species management plan providing details on any expected impacts on threatened species or their habitat, how such impacts will be avoided as far as practical or mitigated if necessary, and how any impacts will be compensated through rehabilitation and revegetation work. Council records indicate the site provides habitat for wallum sedgefrog and the wallum tree frog. The management plan is to address the National Recovery Plan for Wallum Sedgefrogs and other wallum dependant frog species.
    - ii) A Belongil Creek Plan of Management to be prepared in consultation with the relevant land owner and provide for bushland restoration on land adjacent to the creek and within riparian buffers provided by the E2 conservation zones, weed control and habitat restoration along drainage lines. Any new culverts over existing water crossings to provide improvements in water quality and fish passage

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- iii) Provide a minimum width buffer of 20 metres. The buffer can include a perimeter road/ bushfire trail for bushfire protection purposes provided that road is located outside of the E2 and E3 zone and comprises a minimum vegetated edge adjacent to the E2 and E3 zone of 7 metres. Cycleways and pedestrian paths are also acceptable within buffer areas. Where required the vegetated edge to the E3 Zone to be widened to 10 metres to provide for a suitable level of amenity to properties in the E3 Zone off Melaleuca Drive.
  - iv) Incorporate existing native vegetation into the buffer.
  - v) Provide details on long term management and responsibility.
- 4. Landscaping of drainage lines, parks, reserves, road buffers and other large areas within the urban footprint of the Urban Release Area to be designed to enhance biodiversity values and habitat linkages. Concept landscaping plan to be submitted with development applications for subdivision which form one or more stages of the proposal for West Byron.
- 5. The road network within the south eastern perimeter of the Urban Release Area including vehicle access from the main residential areas to include traffic calming measures such as narrower road widths including chicanes and or one way traffic flows to facilitate the movement of fauna through this area from the E3 Zones to the E2 Zones. Other options to regulate and limit through traffic in this area is to develop Lot 1 DP 780242 and Lot 229 DP 755695 as community title/ strata title residential estates with an “*Environmental Living Theme*” and incorporate surrounding E2 and E3 Zoned land into the common/ neighbourhood property for ongoing management.
- 6. Any roads, cycleways, pedestrian footpaths, bushfire trails and other necessary infrastructure that traverses into or across the E2 and E3 Zone to be sited to minimise impacts on the environmental qualities of native vegetation and habitat in those zones by utilising existing breaks in the native vegetation and or siting and designing such works to have minimal disturbance (eg narrow road width/ locate where weeds and exotics are to be removed, signage for wildlife crossings etc). Details to be submitted with the development application.
- 7. For ongoing removal of trees and vegetation after West Byron is developed, land owners to comply with Chapter B2 Preservation of Trees and Other Vegetation, and any requirements of the [Biodiversity Conservation Management Plan](#) approved under this Chapter.
- 8. Despite the provisions of Clause E8.3, residual areas outside of the Urban Release Area in Lots 227 and 229 DP 755695, Lot 9 DP 111821, and Lot 2 DP818403 to be incorporated into the Biodiversity Conservation Management Plan as required.
- 9. The keeping of cats and dogs other than guide dogs is to be prohibited. Any plan of subdivision to include an appropriately worded S.88B instrument in relation to keeping such pets. The prohibition to also apply to community title and strata title subdivisions and to be incorporated into Strata Plans of Management and or Neighbourhood Management plans and the like. Appropriate conditions to apply for applications to residential development including multi dwelling housing, [integrated housing](#), dwelling houses, dual occupancy and secondary dwellings.





**Figure E8.6: General Habitat Corridors to be Strengthened**  
(as denoted by orange arrows)

### E8.10.5.2 Landscaping

#### Objectives

1. *Landscaping to provide for the enhancement of the biodiversity values of the Urban Release Area.*
2. *To be an integral part of the development of the site to provide attractive and aesthetically pleasing environments.*

#### Performance Criteria

1. Native vegetation to be retained where possible and incorporated into landscaping.
2. Landscaping to reflect the subtropical character of Byron Bay.
3. Landscaping to be an integrated into street and park designs and stormwater management through Water Sensitive Urban Design (WSUD) with street trees provided throughout the subdivision.

#### Prescriptive Measures

1. Landscape plans to be submitted with all development applications for:
  - a) Subdivision
  - b) Multi dwelling housing
  - c) Residential flat buildings

- d) Dual occupancies
- e) Development in the B1 and IN2 Zones and
- f) As specified for any other development in DCP 2014

The Landscape Plan to be prepared in accordance with Chapter B9 of DCP 2014.

2. Applications for subdivision to identify street tree planting every 15 metres of road frontage, landscaping and plantings for drainage lines, car parks and recreational reserves to be dedicated to Council. The Landscape Plan to indicate how planting will be maintained, identify existing native vegetation to be retained, nominate species to be planted and describe any passive watering arrangements through **WSUD**.
3. Street trees in the B1 Zone to be incorporated into the footpath as per Appendix C – WSUD Street Tree Pit with Grate. Other treatments within West Byron include landscaping of any footpath blisters and roundabouts, and road side rain-gardens. Such landscaping to be passively watered through **WSUD**.
4. For minimum requirements for planting size, density and species please refer to Chapter B9 of DCP 2014. Locally indigenous species are to be predominantly used in landscaping. Street trees are to have a general maturity height of 10 metres and a canopy diameter of 8 meters to provide shade and assist with managing the micro climate. No species listed as undesirable in Chapter B2 of DCP 2014 are to be used in landscaping on any site.



Landscaped blister with street tree and raingarden



Street tree passively watered from stormwater runoff

**Figure E8.7: Street Tree Landscaping**

5. Where feasible, edible landscapes (bush tucker and other fruit trees and vegetation) can be used in selected areas throughout the Urban Release Area including sections of the public reserve and as landscaping for development on private property. Details to be submitted with the development application where such vegetation is being proposed for assessment.

## **E8.10.6 Public Facilities, Services and Infrastructure**

### **Objectives**

1. *To provide guidance for public facilities, services and general infrastructure.*



## Performance Criteria

1. To establish controls for infrastructure, public car parking areas, cycleways and footpaths that services the needs of residents, workers and visitors.

## Prescriptive Measures

### 1. General Infrastructure

- a) The subdivision shall be fully serviced with water, sewer, roads, drainage and underground electricity and telecommunication services. The telecommunication service to be designed to connect to the National Broadband Network. This service infrastructure may be constructed on a staged basis to accommodate the staged release of land.
- b) Street lighting to be provided in accordance with Chapter D6 of DCP 2014. Where agreed to by the electricity provider, LED street lighting or solar power lighting will be considered.
- c) All service infrastructure is to be designed and constructed in accordance with the Northern Rivers Local Government Development and Design Manual.
- d) Service infrastructure internal to the development site shall be provided by the developer at no cost to Council.

### 2. Dual Reticulation Water

- a) A dual-reticulation water supply for non-potable water is to be provided to all lots in the IN2 Light Industrial Zone and the B1 Neighbourhood Centre Zone as a minimum.
- b) The developer shall incorporate on the Certificate of Title for all allotments Restrictions as to User which require all dwellings and buildings with plumbing (including commercial, industrial buildings and the like) to make provision for non-potable water service plumbing and facilities to the satisfaction of Council

### 3. Public car parking

- a) Public car parking areas to be designed and constructed to meet the minimum standards within the Northern Rivers Local Government Development Design Manual and the relevant Australian Standards.
- b) Such areas to be dedicated at no cost to Council after construction and at the end of the relevant maintenance periods.
- c) Car parks to be appropriately landscaped with shade trees in accordance with Chapters B4 and B9 of DCP 2014 and passively watered through WSUD.
- d) Applicants are to consider the installation of an electric vehicle charging station for major car parking areas around the B1 Zone. (Note: Opportunities may exist to partner with Council and other organisations with the design and installation of such infrastructure as per the Byron Shire Low Carbon Strategy)



### 4. Cycleways and Footpaths

- a) To be suitably sited and designed to provide for the effective movement of people throughout the West Byron Site linking residential precincts with one another, the village centre, and the open space recreational areas. As a minimum 1.2 metre

wide concrete footpaths to be provided on one side of all access roads and both sides of local, collector and distributor roads. Laneways to be shared with pedestrians and cyclists.

- b) To connect with existing cycling pedestrian infrastructure in Ewingsdale Road and beyond.
- c) Cycleways, bike parking and storage facilities to comply with Chapter B5 of DCP 2014.
- d) Cycleway footpath along the main drain to be designed and constructed as an exercise/ fitness trail with designated training stops with appropriate equipment in three places approximately 400 - 500 metres apart.

#### 5. Bus Stops

The road network is to be designed to provide for designated bus routes and bus stops in locations which provide safe and convenient access for residents.

#### 6. Public access to Belongil Creek

No public access to be provided to Belongil Creek



**Figure E8.8: Example of exercise equipment on soft fall material**

### **E8.10.7 Recreational Areas**

#### **Objectives**

- 1. *To help engender a sense of community.*
- 2. *To help to promote social interaction, community health and wellbeing.*
- 3. *To provide a network of active and passive open recreational areas*

#### **Performance Criteria**

- 1. Lots are to be within walking and cycling distance to a neighbourhood park
- 2. Parks are to include a range of recreational facilities



3. Neighbourhood parks need to be designed to meet the Crime Prevention through Environmental Design (CPTED) principles and Active Living criteria.

### **Prescriptive Measures**

1. Residential lots are to be approximately 500 metres from the nearest neighbourhood park.
2. Outside of the two areas zoned RE1 any other neighbourhood park provided within the development site to have a usable area of approx. 0.2 hectares.
3. Neighbourhood parks are to be provided with the following facilities:
  - a) A hard stand play area (e.g. half court basketball/ skate area) to be provided in one of the RE1 Zoned Parks as a minimum;
  - b) Be designed and sited such that adjoining development can provide casual surveillance of the park. Be designed and located so as to maximise street frontage and encourage natural surveillance from surrounding residents;
  - c) Be situated on land that is readily accessible to the surrounding dwellings and physically connected to the cycleway/ pedestrian network;
  - d) Be equipped with play equipment, park furniture including seating for adults and toilet amenities;
  - e) Include soft-fall under all play equipment in accordance with the relevant Australian Standards;
  - f) Appropriate shade cover over play equipment;
  - g) Provide an electric BBQ, two roofed picnic tables, rubbish bins on stands to be provided in one of the areas zoned RE1;
  - h) Be landscaped with appropriate plantings of local native trees (no exotics) and weeds to be removed. Trees must have non-invasive root systems and be suitable for under-pruning as they develop to allow mower egress and undisturbed lines of sight. Vacant areas to be turfed with a suitable lawn species for mowing and incorporate earth mounds to provide visual interest and general play areas.
  - i) Adequate lighting be provided for crime prevention purposes.
  - j) The RE1 zoned land adjacent to the B1 Zone to provide for a village square or piazza as a community focal point and a casual meeting place for social interaction.
  - k) Other features such as a chess tables, bocce courts, ground level garden labyrinth or concrete table tennis facilities will also be considered on merit having regards to ongoing maintenance costs and the anticipated demographics of residents.
  - l) A footbridge for pedestrians and cyclist over the Main Drain in the Central Park on Ewingsdale Road.
4. Developer contributions credits will be provided for the provision and embellishment of new neighbourhood parks in accordance with Council's Development Contribution Plan.
5. Other community uses for the parks such as community gardens and as a site for public art will be considered on merit. Where this is proposed, car parking, water and toilet amenities will be required for the community gardeners as a minimum. Any public

art proposed will need to be consistent with the Byron Shire Cultural Plan and the Public Art Policy.



**Figure E8.9: Examples of playground equipment**

**Note:** – for further information on Community Gardens please see the Byron Shire Community Gardens Policy (10/012)

## **E8.10.8 Hazards and Constraints**

Flooding, acid, sulfate soils, ground water, bushfire, mosquitoes, contamination and potential odour from the adjacent chicken processing plant on Ewingsdale Road have been identified as hazards and constraints affecting the site. The following specific controls apply.

### **E8.10.8.1 Flooding**

#### **Objectives**

1. *Minimise the flood risk to life and property associated with the use of land.*
2. *Allow development on land that is compatible with the land's flood hazard, taking into account potential changes as a result of climate change.*
3. *Avoid significant adverse impacts on flood behaviour and the environment.*
4. *Ensure that development does not have a significant impact on pre-development flood levels and flows.*

#### **Performance Criteria**

1. Development shall be generally designed so that it is not affected by flooding.
2. Ensure that safe evacuation can be provided during flood events for land up to the probable maximum flood level.
3. Enable limited filling on flood prone land to facilitate the design and construction of stormwater infrastructure and to ensure residential development can meet the habitable floor level.

4. Demonstrate that the filling of flood prone lands and other earthworks do not result in any significant adverse flooding or environmental issues for adjoining land including stormwater overland flow paths.
5. Building design and levels are to consider climate change impacts including sea level rises.

### **Prescriptive Measures**

1. The provisions of Byron DCP 2014: Chapter C2 – Areas Affected by Flooding apply to the site.
2. Development to comply with the adopted Belongil Creek Floodplain Risk Management Study and Plan, and the NSW Flood Plain Development Manual, 2005.

### **E8.10.8.2 Acid Sulfate Soils**

#### **Objectives**

1. *To ensure that acid sulfate soils do not result in water quality or other environmental impacts.*

#### **Performance Criteria**

1. Where acid sulfate soils may be exposed such as from earthworks, installation of infrastructure, reshaping stormwater drains, construction of footings for buildings and swimming pools, details to be submitted with the development application how such soils will be managed to ensure no adverse impacts on the environment.
2. Where the watertable in the vicinity of Acid Sulphate Soils maybe affected by hydrological changes associated with drainage works or alteration in rainfall infiltration and runoff, an assessment must be undertaken to assess the likely consequences on groundwater and surface water quality and effective.
3. Effective mitigation measures are identified to ensure there is no deterioration in water quality in drains or the Belongil Estuary.

### **Prescriptive Measures**

1. An Acid Sulfate Soil Management Plan is required to be submitted with any development application for Stages 1 and 2 which would result in interception of the local groundwater or acid sulphate soils to suitably mitigate the potential impacts arising from the disturbance.
2. The Acid Sulfate Soils Management Plan is required to be prepared in accordance with the Acid Sulphate Soils Manual and include the following:
  - a) Identification of activities that are expected to intersect and disturb acid sulphate soils
  - b) Identification of the acid sulphate soils risks and identified acid sulphate soils layers on site
  - c) Estimation of volumes of acid sulphate soils requiring treatment and proposed treatment measures;
  - d) Estimated liming rates and treatment procedures
  - e) Validation procedures and target criteria of treated soils
  - f) Monitoring protocols and target criteria as per the ASSMAC guidelines for surface and groundwaters within the site.

- g) Monitoring protocols for Belongil Creek including baseline data and target criteria for water quality and pH levels as per ANZECC/NHMRC Guidelines.
- h) Include a generic management plan for the use of landowners and developers of vacant residential lots after Stage 1 and 2 has been completed. The Plan to address standard development issues such as footing for a dwelling and earthworks for services to the house.

**Note:** The Preliminary Acid Sulfate Soils Assessment by Southern Cross University Environmental Analysis Laboratory dated December 2010 provides background information on acid sulfate soils for West Byron.

### E8.10.8.3 Groundwater

#### Objectives

1. *Mitigate impacts on groundwater having regard to the high water table present on the site.*
2. To maintain existing groundwater level in the vicinity of wallum sedge frog and Wallum froglet habitats and wetlands

#### Performance Criteria

1. Groundwater to be managed in accordance with best practice guidelines including the Acid Sulfate Soils Manual.
2. Groundwater quality is to be maintained and levels are not lowered in the vicinity of wallum sedge frog and wallum froglet habitats and wetlands.

#### Prescriptive Measures

1. Any development application involving excavation works is to identify:
  - a) The depth of the excavation works
  - b) Any potential interaction with the water table
  - c) Associated impacts on groundwater
  - d) Any potential risk associated with acid sulfate soils
 and as necessary include appropriate measures to mitigate any impacts.
2. Any development application involving stormwater detention infrastructure such as bio-retention basins, constructed ponds, wetlands and vegetated swales is to demonstrate how any potential groundwater impacts will be mitigated. This may require the base of associated excavations to be at least 1 metre above the water table or where this is not possible, the use of impermeable liners.
3. The pH and water levels of groundwater near and or adjacent to wallum sedge frog and wallum froglet habitat and wetlands not to be altered such that it impacts on the health of that habitat for the frogs.

**Note:** Where dewatering is proposed, additional approvals may be required under the Water Management Act 2000. Applicants are encouraged to contact the NSW Office of Water to avail themselves of the Offices requirements

**Note:** Acid sulfate soil provisions in Byron LEP 1988 apply to the Urban Release Area.

#### **E8.10.8.4 Bushfire**

##### **Objectives**

1. *Reduce the risk to human life and property from bushfires.*
2. *Encourage sound management of bushfire prone areas.*

##### **Performance Criteria**

1. Ensure development is appropriately sited and designed on bushfire prone land.
2. Appropriate access and services are provided to developments to facilitate the safe access and egress of residents and emergency personnel in the event of a bushfire, and water supply is provided for firefighting purposes.

##### **Prescriptive Measures**

1. Subdivision and development applications are to comply with Planning for Bushfire Protection 2006 (NSW Rural Fire Service), including measures for perimeter roads, fire trails and reticulated water for fire fighting purposes.
2. Development applications are to be accompanied by accurately mapped plans and details for each affected lot setting out the location and widths of asset protection zones (APZs) and building envelopes for constrained lots.
3. Asset protection zones:
  - a) Are to be located wholly within the Urban Release Area and wholly located outside of the E2 Environmental Conservation and E3 Environmental Management Zone (unless specifically required for development within those zones);
  - b) May incorporate roads and flood prone land;
  - c) May be used for open space and recreation subject to appropriate fuel management;
  - d) May incorporate the building setback on private residential land;
  - e) Are not to increase the maintenance burden on public lands; and
4. Water supply is to be via a ring main system, engineered to the requirements of Australian Standard 2419.1-1994 Fire Hydrant Installations.
5. Buildings adjacent to APZs are to be constructed in accordance with the requirements of Appendix 3 of Planning for Bushfire Protection 2006 and Australian Standard 3959-1999 - Construction of Building in Bushfire Prone Areas.
6. Where a lot fronts and partially incorporates an APZ it is to have sufficient depth to accommodate a dwelling with private open space and the minimum required APZ. The APZ and building envelope is to be identified through a Section 88B instrument.
7. Temporary APZs, identified through a Section 88B instrument, will be required where development is proposed on lots next to undeveloped land. Once the adjacent stage of development is undertaken, the temporary APZ will no longer be required and shall cease.
8. The bushfire assessment to address potential risk from a peat fire.



**Note:** Technical Study Bushfire Assessment S.100B Rural Fires Act 1997 (Proposed Rezoning of Land at West Byron on behalf of Byron Bay West Landowners Association) prepared by LandPartners (December 2010) is relevant to this section.

**Note:** Certain proposals on bushfire prone land, including subdivision of land for residential purposes, child care centres, seniors housing and retirement villages will require an approval (Bushfire Safety Authority) under Section 100B of the Rural Fires Act 1997. Applicants should avail themselves of the requirements of the NSW Rural Fire Service (RFS) and include a detailed Bushfire report from a suitably qualified professional with the development application to enable assessment by the RFS and issue approval as appropriate.

#### E8.10.8.5 Odour

##### Objective

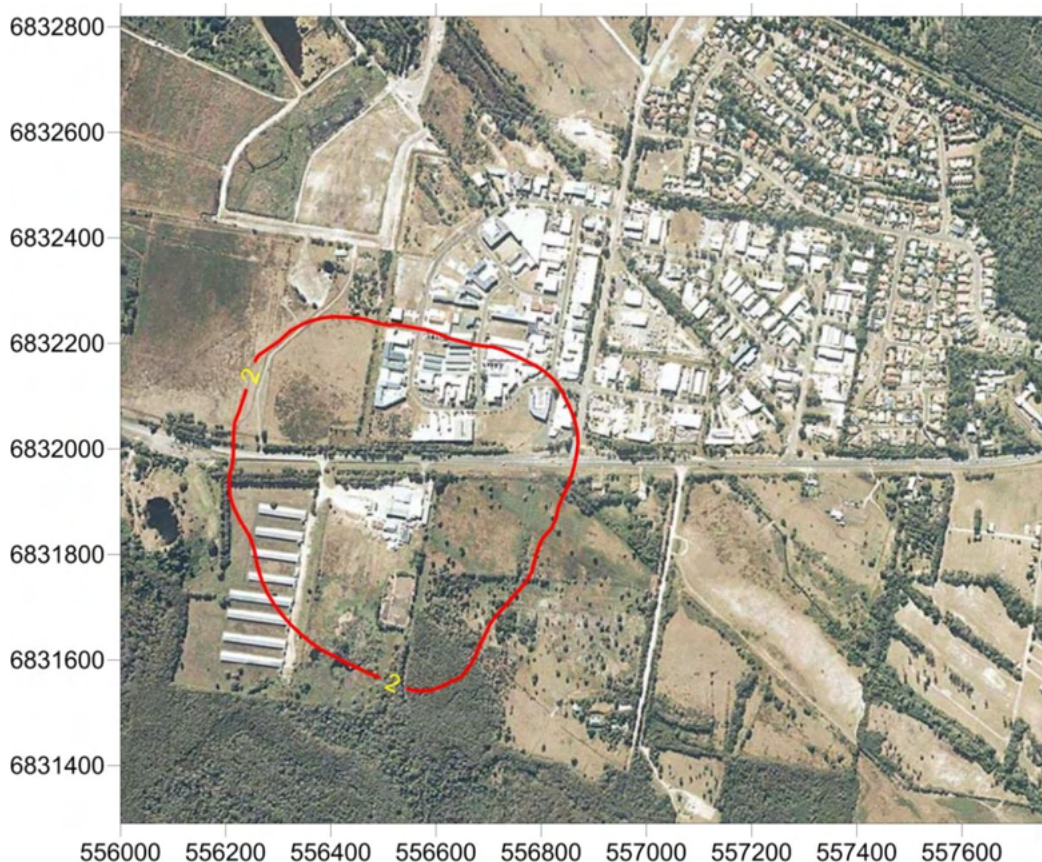
1. *Mitigate the impacts on future development of odour generated by the poultry processing plant located outside and to the west of the site on Ewingsdale Road.*

##### Performance Criteria

There are no performance criteria.

##### Prescriptive Measures

1. The first development application within the 2 Odour Unit (OU) contour as shown in Figure E8.10 is to be accompanied by details of a dense vegetation buffer to be planted along the western boundary within the site. The extent and requirements for the buffer are to be informed by odour modelling.



**Figure E8.10: Predicted 2 Odour Unit Contour for Poultry Processing Plant**

2. Sensitive land uses (e.g. child care facilities) are not to be located within the 2 odour unit contour identified in Figure E8.10.
3. Development applications within the 2 odour unit contour identified in Figure E8.10 are to be accompanied by a land use conflict risk assessment in accordance with the Land Use Conflict Risk Assessment Guide (Department of Primary Industries 2011), and outline odour mitigation strategies that may include (but is not limited to):
  - a) Additional vegetation
  - b) Appropriate land use siting
  - c) Site layout and building orientation
  - d) Design of natural air flow and ventilation
  - e) Use of mechanical heating/cooling/ventilation.
4. The extent of the 2 odour unit (ou) contour is based on Figure E8.10, unless it can be demonstrated through appropriate modelling that the contour has been reduced, for example through the provision of the vegetation buffer required along the western boundary, or as a result of odour reduction at the source.
5. Where it can be demonstrated that the Poultry Processing Plant has been closed and will not be re-opened and or redeveloped for a similar offensive use utilising existing use or existing consent rights, the above requirements may not apply. Details to be submitted with the development application.

**Note:** Technical study Odour and Air Quality Constraints prepared by PAEHolmes (20 December 2010) is relevant to this section and includes recommendations in relation to the dense vegetation buffer.

#### **E8.10.8.6 Contamination**

##### **Objective**

1. *Ensure the site is suitable for development in terms of past land uses*
2. *Any contaminated land is appropriately remediated.*

##### **Performance Criteria**

There are no performance criteria.

##### **Prescriptive Measures**

1. Development applications are to address the matters for consideration under Clause 7 of SEPP 55 Remediation of Contaminated Lands.
2. Where sites are found to be contaminated, details to be provided to Council by a suitably qualified professional demonstrating how the site will be remediated having regards to the proposed use.

**Note:** Preliminary Contaminated Land Assessment as Part of a State Significant Site Study at West Byron Urban Release Area, Byron Bay NSW (EAL, 14 December 2010) is relevant to this section.



### E8.10.8.7 Mosquitoes

#### Objectives

1. *Minimise mosquito hazard to residents.*
2. *To remove the need for coordinated management of mosquitoes from Council or other public bodies in the medium to long term post development.*

#### Performance Criteria

There are no performance criteria.

#### Prescriptive Measures

1. Subdivision development to incorporate design measures to limit the habitat for mosquitoes within the Urban Release Area. Such measures to be incorporated into the design of development to include (but are not limited to).
  - a) Stormwater ponds and artificial wetlands to be located in open areas to enable wind action to create surface waves that will disrupt mosquito breeding and reduce habitat refuges for immature mosquitoes.
  - b) Stormwater swales to be designed to ensure ponding or standing water does not occur after rainfall events.
  - c) Asset Protection Zones for Bushfire Protection Purposes around residential development to be suitable designed and sited to reduce habitat for mosquitoes, and harbourage sites which can act as “stepping stones” that facilitate the movement of mosquitoes from denser vegetated areas into residential neighbourhoods.
2. Residential development to incorporate measures to minimise mosquito impacts, to include (but are not limited to):
  - a) Cross flow ventilation for dwellings;
  - b) Fitting of insect screens to dwelling openings including door and windows;
  - c) Appropriate plant selection and management of garden vegetation to reduce habitat opportunities for mosquitoes;
  - d) Location, design and management of any individual stormwater treatment systems;
  - e) Leaf guard on roof guttering to reduce potential for water to pond in gutters; and
  - f) The inlet and outlet (overflow) of rainwater tanks to be effectively screened with stainless steel or other durable materials to prevent entry to the tank by mosquitoes. Inlet filters must be readily removable for cleaning.

**Note:** The Mosquito Risk Assessment: West Byron Bay NSW (Sydney West Area Health Service, December 2010) is relevant to this section.

### E8.10.8.8 Buffer to Ewingsdale Road

#### Objectives

1. *To ensure the development is appropriately screened from Ewingsdale Road with landscaping.*

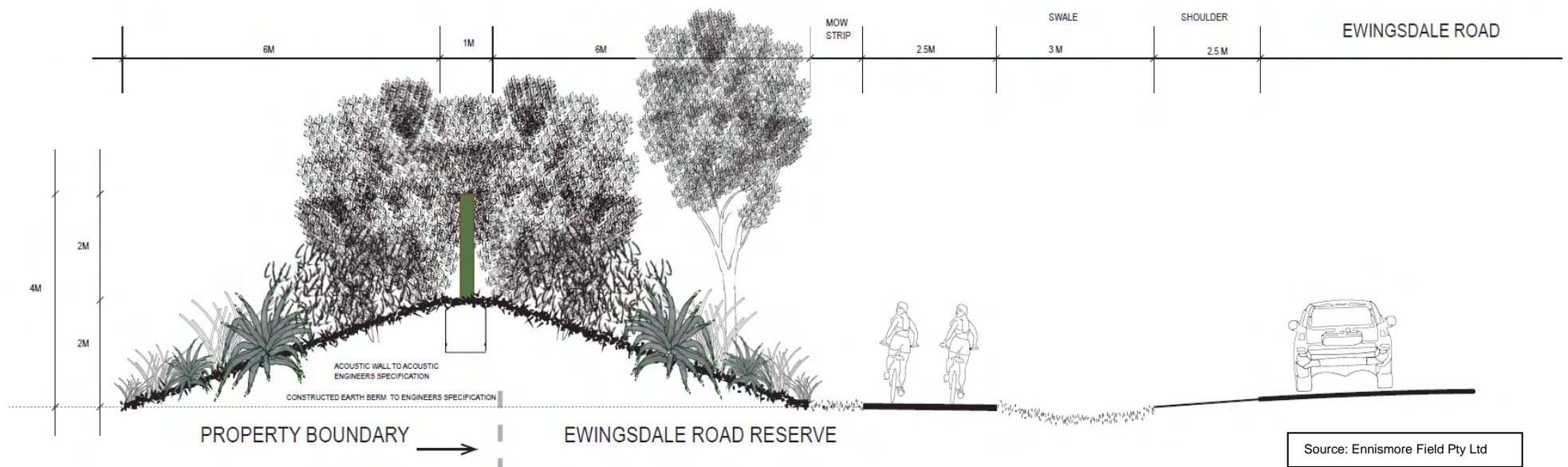
2. *To provide suitable buffers and amelioration measures for vehicle noise which may impact on future residents.*

### **Performance Criteria**

Noise attenuation measures along Ewingsdale Road to comply with the RMS Noise Mitigation Guideline and the Noise Wall Design Guideline, and are to be incorporated into the subdivisions design, layout and built form and not passed onto future residents to complete with the design and construction of dwelling houses.

### **Prescriptive Measures**

1. A landscaped buffer including both physical barriers and earth mounds adjacent to Ewingsdale Road to be incorporated into the subdivision design generally in accordance with Figure E8.11 for the full length of the West Byron Site zoned IN2, R2 and R3, subject to all required road, drainage, cycleway, services and landscaping being able to be located within the road reserve.
2. The final height and design of the barrier to be supported by an acoustic noise assessment report prepared in accordance with the NSW Road Noise Policy 2011 demonstrating that future residential dwellings will not be adversely affected by traffic noise on Ewingsdale Road.
3. The buffer to be landscaped with native trees and vegetation to conceal the mounds and barriers, and to provide a general visual screen to the development in West Byron. A concept landscape plan to be submitted with the development application in accordance with B9 of DCP 2014.
4. The buffer can be erected in stages. Details to be submitted with the Development Application as to any staging arrangements.



**Figure E8.11: Landscape Buffer and Acoustic Barrier to Ewingsdale Road**

## E8.10.9 Aboriginal Cultural Heritage

### Objectives

1. *Traditional Owners are recognised and respectfully consulted to identify ways to protect culture and features of Indigenous cultural significance.*
2. *Culturally significant features are to be protected and incorporated in accordance with the recommendations and findings of such consultation.*
3. *Opportunities for Traditional Owners to look after country both physically and spiritually will be encouraged.*

### Performance Criteria

There are no performance criteria.

### Prescriptive Measures

1. An Aboriginal Cultural Heritage Assessment to be carried out by a suitably qualified professional for the West Byron Site with the Stage 1 Development Application. The assessment to be carried out in accordance with the relevant Office of Environment and Heritage (OEH) Guidelines for Aboriginal cultural heritage matters.
2. Any sites, items, objects, relics or places of significance that are located within the development site are to be appropriately identified and management measures for their ongoing protection are to be recommended as required under the OEH Guidelines.
3. The assessment is to demonstrate consultation with the Byron Bay Bundjalung People, and other Key Stakeholders pursuant to Clause 80C of the NPW Regulation 2009, in accordance with the *OEH Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*.

**Note:** The provisions of the National Parks and Wildlife Act 1974 apply to protecting Aboriginal objects and places.

**Note:** Heritage provisions in Byron LEP 1988 apply to West Byron.

## E8.10.10 Urban Design of Significant Sites and Higher Densities

The following sections sets out controls for the West Byron Village Centre Precinct, the Neighbourhood Business Zone, Residential Zoned Land and the Industrial area.

### E8.10.10.1 West Byron Village Centre Precinct

The heart of West Byron will be centred around the neighbourhood Business Zone, the adjacent RE1 Zone parkland and surrounding residential areas. It is important that the village centre is designed in an integrated manner.

### Objectives

1. *To create a village centre precinct area that is integrated with surrounding development and is pedestrian and cycle friendly.*
2. *To provide a functional village centre area that is attractive for residents to use on a day to day basis for shopping and recreational needs.*

## Performance Criteria

1. To provide for village centre precinct with an integrated pedestrian/ cycleway/ road network through shared “mews style” laneways and designated pedestrian – cycleways to take traffic away from the main spine road.
2. To design for the car parking needs of retail and commercial operators on the periphery of the neighbourhood business zone.
3. To promote different forms of residential and commercial development providing passive surveillance of parkland, surrounding businesses and the public domain.
4. To provide planning principles for the West Byron Village Centre Precinct based on Figure E8.12.

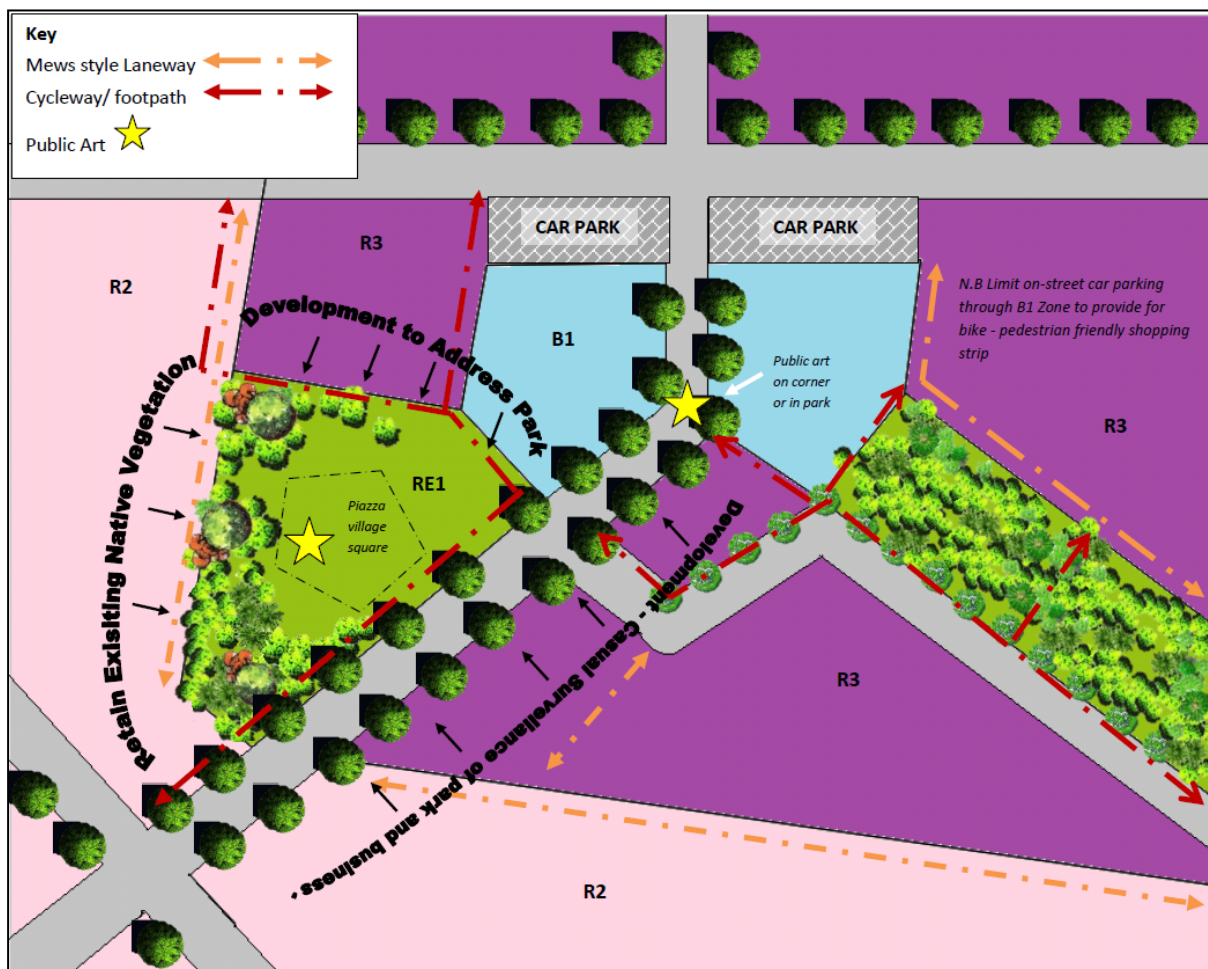


Figure E8.12: Planning Principles for the West Byron Village Centre Precinct

## Planning Principles for the West Byron Village Centre Precinct

1. Mews Style Laneways - Opportunities exist for “Mews style development” in this area providing narrow streets that balance the access and service functions of a lane with active building frontages which provide for surveillance of surrounding parkland, home office workshop uses, and a roadway shared by cars, cyclist and pedestrians. Such lanes where part of the road network will provide access to the public, however where retained in private property they will be designed to facilitate the needs of residents of that particular estate. In certain circumstances the lane may not provide through traffic for vehicles and may be blocked by bollards, but allow for connectivity for pedestrians and cyclist.



2. Address the Park - Adjoining residential and commercial development to the RE1 Zone parkland also to address the park through design and function. Vegetation of high environmental value is to be retained.
3. Public Domain – Plan for an area that provides interest as a meeting place for residents through public art, activity and function.

### **Prescriptive Measures**

An initial development application is to be submitted for this location at the subdivision stage demonstrating how the planning principles in Figure E8.12 will be generally achieved. This includes formalising the layout for roads, lanes and cycleways, details on embellishment of the RE1 Zone parkland including tree and weed removal and retention of existing native vegetation, identification of master lots for medium density housing forms, and conceptual designs for commercial and residential development in this location. Where appropriate Council will consider staged development application where the final built form is known. Subsequent development applications for residential and commercial development are also to address the Planning Principles for the West Byron Village Centre Precinct.

## **E8.10.10.2 Neighbourhood Business Area**

### **Objectives**

1. *To create a village centre for local residents that provides general shopping needs in the B1 Neighborhood Business Zone*
2. *To provide a pedestrian and cycle friendly neighbourhood business centre.*
3. *To enable creative solutions for car parking.*

### **Performance Criteria**

1. Business, commercial and retail development within the B1 Zone must be designed to promote and encourage safe, convenient pedestrian and cycle access to and from the development itself and the surrounding precinct. The neighbourhood business area is the key hub for the locality's pedestrian and cycle network. Development must be designed to integrate well with this pedestrian and cycle network and to contribute to the aesthetics, landscape design and usage of adjoining streets.
2. The design of development must be compatible with the diversity and multi-functional character of its locality.
3. A Main Street frontage is to be provided along the designated collector road so as to achieve an active street frontage to animate the street. Apart from the collector road, the design should utilise shared streets to accommodate pedestrians, cycle lanes and limited on-street parking.
4. Shops and commercial premises to be designed to promote visual interest, to maximise shopfront window access, and to minimise blank walls along street frontages.
5. Development on the spine road corner to address and wrap around the corner splay to create visual interest.
6. Development to address the adjacent RE1 Land as indicated in Figure E8.12.

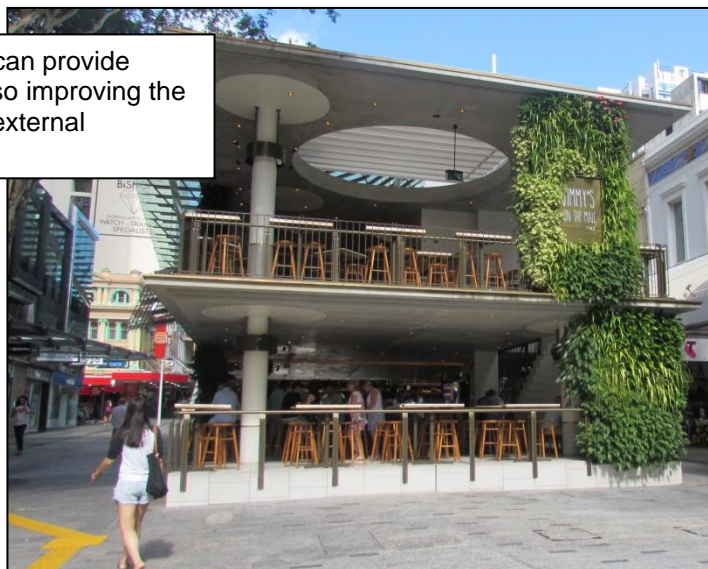
### **Prescriptive Measures**

In addition to the relevant measures contained within DCP 2014, the following specific controls apply:

1. Development at the ground level to incorporate display windows which consume a minimum of 50% of the street frontage and incorporate awnings over the footpath for weather protection. Awnings and structures on the road reserve must be setback a minimum distance of 1000mm from the kerb alignment. The underside of any awning or verandah is to be not less than 3200mm above the footpath.
2. Development on the corner splay to:
  - a) addresses neighbouring and surrounding development, with its turning of the corner.
  - b) Creating a splayed or recessed treatment of the corner in a way that gives form to the corner and provides more circulation space for pedestrians.
  - c) Stepping up at the corner and creating a perceived height greater than neighbouring buildings through the incorporation of distinctive architectural features such as stepped parapet, turret or tower, clocks, flag pole, roof elements, vertical green walls or the like.
  - d) Both street frontages to provide active street elevations through windows, awnings and shop entrances as required. Blank walls will not be accepted.
  - e) Public art as required under Chapter D8 to be installed in this corner locale to provide a focal point for the Neighbourhood Centre Zone or alternatively in the adjacent RE1 Zone.
3. Setbacks in the B1 Zone are as follows:
  - a) Generally to the boundary as per the Building Code of Australia.
  - b) Upper levels are to incorporate steps in the elevation to provide articulation in the street facade. This can be achieved by utilising verandahs, loggias and balconies which can also be utilised for private open space purposes for shop top housing, or staff or office breakout space. Other architectural features which may be appropriate include recessed windows, vertical fins and other climate appropriate measures consistent with the bulk and scale of the area.
  - c) Where it is proposed to extend upper level verandas over the footpath awning for commercial purposes, appropriate leasing arrangements to be entered into with Council. Where the verandah is to be used as part of a restaurant the area to be included in the car parking calculations. The verandah is not to be enclosed.
  - d) Where buildings adjoin residential development or the adjacent land zoned RE1, a setback of 3 metres to apply.
4. The built form to utilise contemporary materials, design elements and energy efficient architecture to facilitate natural lighting, cooling from air flow, and appropriate roof orientation for solar hot water and photovoltaic electricity generation. The treatment of facades, corner elements and blank elevation with green walls or vertical gardens to be considered as a means of providing visual interest and aesthetics to the building, regulating the building temperature, improving air quality, and reducing the developments carbon footprint.
5. The footpath through the B1 Zone to adopt a single uniform pattern (eg wave pattern per Chapter D4 of DCP 2014). The footpath is to be of a suitable width to accommodate bike parking, pedestrian traffic, footpath dining with allowances for street trees and other general landscaping. Street trees to incorporate water sensitive urban design. (See Appendix C for details).



Green walls and green roofs can provide interest to a building whilst also improving the aesthetics to the facade and external appearance.



**Figure E8.13: Example of a green wall**

6. In addition to the requirements of Chapter B4 and B5 of DCP 2014, bike parking to be provided at a general rate of 1 space per 25m<sup>2</sup> of gross floor area with customer parking provided in the public domain to enable casual surveillance from the business premises.
7. Car parking to be provided:
  - a) In accordance with Chapter B4 of DCP 2014.
  - b) To facilitate the free flow of traffic through the business area, and to provide for larger footpath areas for activations and landscaping, consideration to be given to the construction of a general shared car parking of 50 spaces or more for business and commercial needs. Limited on street parking to be provided other than accessible parking and suitably located loading zones. Should a general shared car park be provided, the park can be dedicated to Council (with council agreement) after construction and the appropriate maintenance period. Car parking in such a shared arrangement will be allocated to the development based on the rates in Chapter B4 of DCP 2014 at the time of approval. Any additional development not catered for in this approval will need to provide parking onsite.
  - c) Resident parking and loading bays to be provided onsite at the rear of the premises. Loading bays to be designed to facilitate the storage and collection of waste and the loading and unloading of goods.
8. Where vehicular access is proposed across pedestrian areas or footpaths, the design must give priority to pedestrian amenity, accessibility and safety whilst ensuring that contemporary vehicle and traffic safety criteria are achieved.
9. The public domain to:
  - a) Incorporate the principles of Crime Prevention Through Environmental Design (CPTED) and *Safer by Design* (NSW Police) into all development within the neighbourhood centres.
  - b) Provide a high quality landscape design including a co-ordinated package of street furniture and lighting that enhances the character of the neighbourhood centres.
  - c) Street trees and other landscaping to be provided through the neighbourhood centre to provide shade, manage stormwater by WSUD and to assist with managing the micro climate. On average one tree to be provided every 15 metres and can be sited in roadside blisters to delineate parking and loading zones.

- d) Site servicing and loading facilities, waste storage and other infrastructure is to be designed to minimise visual impact on the public domain and impacts on neighbours.
- e) Bus stops to be provide on both sides of the road within or on the immediate periphery of the Neighbourhood Centre Zone.
- f) Commercial development adjacent to the RE1 Zone to address the Park by shops, businesses and cafes or other food and drink premises opening onto the reserve area at the ground level through outdoor dining areas, display areas and large doors and windows fronting the park. Landscaping along the frontage to provide a shady environment, with a footpath and cycleway providing access along the boundary of the two zones.



**Figure E8.14: Example of Cafe opening onto a park area**

- g) Footpath dining permissible in accordance with Chapter D4 of Byron DCP 2014
  - h) Public Art to be provided in accordance with Chapter D8 of Byron DCP 2014.
10. Plumbing of development within the Neighbourhood Zone to consider the potential need for liquid trade waste treatment systems as per D4.2.6 of Byron DCP 2014.
  11. Any **shop top housing** to be provided in accordance with Chapter D1 of Byron DCP 2014.

### **E8.10.10.3 Residential Areas**

The following controls apply to various forms of residential development including **dwelling houses, attached dwellings, dual occupancy, multi-dwelling housing** and **integrated housing** development under 83 of Byron LEP 1988.

#### **Objectives**

1. *Ensure development is at a bulk and scale that reflects the residential character of Byron Shire.*
2. *Provide housing with a suitable degree of amenity to cater for the needs of the residents.*
3. *To facilitate diverse housing outcomes in the R2 Zone and R3 Zone,*

4. *To encourage sustainable housing through energy and water efficient design measures.*

**Performance Criteria** and **Prescriptive Measures** see Table E8.3

**Note:** Photo plates and diagrams following Table E8.3 are provided as examples of some of the planning controls to assist in explaining those provisions.

**Table E8.3 - Key Controls for Dwelling Houses, Dual Occupancy (attached and detached), multi-dwelling housing and integrated development permissible under Clause 83 of Byron LEP 1988 in the R2 and R3 Zones**

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
<b>1. Location of Development</b>		
To ensure residential land has been suitably designed and orientated to accommodate residential development comprising more than 1 dwelling.	For Dual occupancy, multi dwelling housing, residential flat buildings and <b>integrated housing</b> , the land has been identified at the subdivision stage for this type of development.	Not applicable in the R3 Zone
<b>2. Minimum Frontage</b>		
Properties are to be of a suitable width to ensure garages, car port and car parking do not dominate the front facade.  Safe vehicle access and egress is provided to the development.	<ul style="list-style-type: none"> <li>a. Garages, car ports and car parking areas consume no more than 40% of the main street frontage width.</li> <li>b. Where development is located on splayed and battleaxe handle arrangements the development to demonstrate that vehicles can enter and leave in a forward direction. Driveways to comply with AS 2890 and Chapter B3 of Byron DCP 2014. For three or more dwellings passing bays with two way access/ egress will be required at the street frontage.</li> <li>c. For development comprising three or more dwellings, corner lots with a shared access on the narrower secondary street frontage is preferable to individual access from the main frontage.</li> </ul>	See R2 Controls

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
<b>3. Setbacks</b> <ul style="list-style-type: none"> <li>- Streets</li> <li>- Corner Lots</li> <li>- Lanes</li> </ul>		
Residential development to be designed with suitable setbacks to the street: a. To delineate a clear transition between the public and private domain; b. as an extension to residents landscaped open space area; and c. to ensure safe vehicle access into and out of the property.	a. Front setback to be 4.5 metres from front boundary to building b. Garage line to be 5.5 metres from front boundary c. Corner lots – 3 metres setback from secondary street boundary to building. d. Rear Lanes – 0.9 metres to the dwelling, 2.5 metres to any garage or car port	Same as R2 Zone except front setback is 3.5 metres from front boundary to building
<b>4. Side and rear setback</b>		
Side and rear setbacks: a. To provide spatial separation between dwellings in relation to privacy and amenity. b. To enable climate control devices over windows and doors to encroach into the setback. c. To allow zero line setbacks for certain types of residential development	<b>In addition to any setback requirements under the Building Code of Australia the following minimums will apply</b> a. For single storey dwellings - 0.9 metres setback. b. For two storey buildings - 2.5 metres setback for the second storey or any part of the building higher than 4.5 metres. c. Eaves and gutters, canopies and other climate control devices over windows and doors permitted to encroach into the setback. d. Reduced setbacks down to zero line are permitted for attached dual occupancy, multi	<b>In addition to any setback requirements under the Building Code of Australia the following minimums will apply</b> a. For single storey dwellings - 0.9 metres setback. b. For two storey buildings – 1.5 metres setback for the second storey or any part of the building higher than 4.5 metres. c. Eaves and gutters, canopies and other climate control devices over windows and doors permitted to encroach into the setback. d. Reduced setbacks down to zero line are permitted for attached dual occupancy, multi

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
	dwelling housing and integrated development for shared boundaries between the proposed dwellings.	dwelling housing and integrated development for shared boundaries between the proposed dwellings.
<b>5. Building height</b>		
To ensure development maintains the general low rise - two storey nature of residential development in Byron Shire	<ul style="list-style-type: none"> <li>a. 9 metres as per Byron LEP 1988</li> <li>b. Shadow plans required for any two storey proposal for mid winter at 9am, 12 midday and 3pm. Such plans to be provided in plan view as a minimum.</li> <li>c. Any third storey elements to be integrated into the roof/ attic space or as a mezzanine level.</li> </ul>	Same for R2 Zone
<b>6. Upper level development</b>		
<p>Upper level development:</p> <ul style="list-style-type: none"> <li>a. To maintain neighbourhood privacy and amenity.</li> <li>b. To limit the potential for overlooking into neighbouring properties from upper levels through design.</li> <li>c. To minimize overshadowing of neighbouring properties private open space areas during the winter months</li> </ul>	<ul style="list-style-type: none"> <li>a. Upper level development to be primarily utilised for bedrooms, bathrooms and study areas.</li> <li>b. Main living and kitchen areas to be situated on the ground floor, except where orientated to overlook public open space/ land zoned environmental protection, or where required for solar access provided it can be demonstrated that there is no direct overlooking into adjacent properties with spatial separation of 6 metres or more between dwellings.</li> <li>c. Upper level windows to be sited so that there is no direct looking into upper level windows of adjoining dwellings. Where this cant be achieved windows are sited a minimum 1.7 metres above the upper level floor.</li> <li>d. Any upper level deck/ to be orientated to</li> </ul>	Same for R2 Zone



Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
	<p>ensure no direct overlooking of adjoining properties.</p> <p>e. Where required screening with lattice, battens, fixed louvres to be provided over upper level windows and decks/ balconies. The screening to have a maximum of 25% opening with dimension no greater than 50mm.</p> <p>f. No upper levels to overshadow the principle private open space of neighbouring dwellings for more than 3 hours between 9am and 3pm at the winter solstice (21 June).</p> <p><b>Note:</b> <i>In certain circumstances applicants may submit 3D or perspective shadow plans as well as in plan view to demonstrate the level of overshadowing on neighbouring dwellings</i></p>	
<b>7. Upper wall length</b>		
<p>a. To ensure development is at a bulk and scale that is not overbearing for adjoining dwellings.</p> <p>b. To ensure buildings are not dominated by long straight elevations.</p>	<p>a. Maximum allowable continuous upper storey wall length is 12 metres.</p> <p>b. For facades longer than 12 metres, the upper wall must be broken up with a step of 600mm deep for a length of at least 1.8m. The roof line and eaves must follow the line of the step. The stepped area must remain within the building envelope as defined by minimum setbacks.</p>	Same for R2
<b>8. Building design and material in relation to streetscape</b>		
<p>a. To provide articulated building designs that present well to the</p>	<p>a. Front façades to be articulated with one or more of the following:</p>	Same for R2



Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
<p>street.</p> <p>b. To provide for casual surveillance of the street.</p> <p>c. To reflect the coastal environment of Byron Bay and traditional coastal architecture through the use of lightweight materials</p>	<ul style="list-style-type: none"> <li>i. an entry feature or portico;</li> <li>ii. a balcony, deck, patio, pergola, terrace or verandah;</li> <li>iii. an upper level overhang or cantilever;</li> <li>iv. a window box treatment;</li> <li>v. a bay window or similar feature;</li> <li>vi. an awning or other feature over a window; and</li> <li>vii. a sun shading feature.</li> </ul> <p>b. The articulated feature or element may intrude into the front setback by up to 1 metre (averaged) provided the feature does not exceed 25% of the articulation zone. (eg a property with a frontage width of 12 metres, can have an articulate feature 3 metres wide and intrude into the setback by 1 metre, or the intrusion can be averaged and intrude for example by 0.5 metres but for a width of 6 metres)</p> <p>c. Buildings to utilise a mix of materials and colours to provide interest and variation to the streetscape and to delineate a change in storeys, to embellish an architectural feature or to reflect different elements of the building.</p> <p>d. Dwellings to incorporate windows and doors within the frontage to enable casual surveillance of the public domain and the street.</p> <p>e. Building materials and designs which are heavily urbanised through the use of brick,</p>	

Performance Criteria	Prescriptive Measures – R2 Zone		Prescriptive Measures – R3 Zone	
	concrete and tiles or attempt to replicate tuscan, tudor or federation styles will not be supported.			
9. Site coverage (includes garages, car ports, decks, balconies and verandas) and size of dwellings to lot size				
a. To ensure site coverage for residential development is consistent with the residential character of the area.  b. To ensure the size of residential dwellings are proportional to the size of the land.  c. To provide for a diversity of dwelling sizes across West Byron.	a. Ground Floor Level – maximum 60% b. Upper Level – maximum 35% c. The maximum number of bedrooms in a dwelling to be sized to the <b>Site (or allotment)</b> area as follows:		a. Ground Floor Level – maximum 70% b. Upper Level – maximum 40% c. The maximum number of bedrooms in a dwellings to be sized to the <b>Site (or allotment)</b> area as follows	
	Number of Bedrooms	Site (or allotment) area required per dwelling	Number of Bedrooms	Site (or allotment) area required per dwelling
	1-2 Bedrooms	>150m <sup>2</sup>	1-2 Bedrooms	>150m <sup>2</sup>
	3 Bedrooms	>250m <sup>2</sup>	3 Bedrooms	>200m <sup>2</sup>
	4 Bedrooms	> 300m <sup>2</sup>	4 Bedrooms	> 250m <sup>2</sup>
10. Private open space (POS) and Landscaped area				
a. To provide an even distribution of open space, landscaping and building footprint, to facilitate a balance of indoor and outdoor recreation within a garden setting.  b. To provide an attractive landscaped area to facilitate the planting of trees, shrubs, lawn	Landscape area to comprise: a. Minimum 30% of the area of an allotment to be landscaping. b. Minimum 50% of the landscaped area must consist of <b>deep soil areas</b> with minimum dimensions of 5 metres. Landscape Plan to be submitted with development application in accordance with E8.10.5.2.		Landscape area to comprise: a. Minimum 25% of the area of an allotment to be landscaping. b. Minimum 50% of the landscaped area must consist of <b>deep soil areas</b> with minimum dimensions of 4 metres. Landscape Plan to be submitted with development application in accordance with E8.10.5.2	

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
and vegetable gardens.	<b>Private Open Space per dwelling to comprise</b> <ol style="list-style-type: none"> <li>Minimum 24 m<sup>2</sup> at ground level with minimum dimension of 4 metres to be provided for Private Open Space</li> <li>Must be directly accessible from the living area.</li> <li>The principal open space area to receive at least 3 hours of sunlight between 9am and 3pm at the winter solstice (21 June).</li> <li>Where the private open space area due to orientation of a property is provided in the front of a property, dwellings to be setback a further metre from the street boundary to accommodate suitable landscaping (eg lilly pillly hedge) for privacy.</li> <li>For secondary dwellings a minimum of 15 m<sup>2</sup> with minimum dimensions of 2.5 metres to be provided in a private courtyard setting. The secondary dwelling not to compromise the overall landscaping and private open space required for the principal dwelling.</li> <li>Private Open Space at ground level is a component of the overall landscaped area.</li> </ol>	<b>Private Open Space to comprise</b> Same as R2 Zone except a minimum 20 m <sup>2</sup> at ground level with minimum dimension of 4 metres to be provided for Private Open Space.
<b>11. Car Parking and Vehicle Access</b>		
Development to ensure that <ol style="list-style-type: none"> <li>Vehicle access and parking is accommodated on site with an appropriate number of car parking spaces for the dwelling house and the normal activities</li> </ol>	<b>Car parking for residential development to comprise the following:</b> <ol style="list-style-type: none"> <li>1 – 2 bedroom dwellings - 1 Space</li> <li>3 or more bedroom dwelling – 2 spaces</li> <li>Visitor Parking required for multi dwelling housing/ <b>integrated housing</b> comprising 4 or</li> </ol>	Same for R2

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
<p>of the household.</p> <p>b. Safe vehicle access and egress is provided.</p> <p>c. To provide incentives to reduce the dominance of the motor vehicle.</p>	<p>more dwellings at a rate of 1 space/ 4 dwellings</p> <p>d. As a minimum at least one vehicle space/ dwelling to be covered either in a garage or car port.</p> <p>e. Where two spaces are required these can be provided in a tandem arrangement provided the tandem space complies with the minimum setback provisions.</p> <p>f. Access, driveways, maneuvering and turning areas, and structures adjacent to driveways to comply with Chapter B3 and B4 of Byron DCP 2014.</p> <p>g. Driveways where crossing swales to be designed in accordance with Appendix E.</p> <p>h. Where 3 or more dwellings are proposed on a property, mews style development and or common/ central car parking areas are permissible to reduce the amount of land required for the motor vehicle.</p> <p>i. Secondary dwellings are not to be sited to so as to remove car parking servicing the principle dwelling.</p> <p>j. To encourage car pooling and to reduce car dependency for three or more dwellings, a reduction in car parking of 33% will be agreed to for residential development in a community title or strata title arrangement, if a vehicle is provided as part of the common or neighbourhood property and for the use of the residents. The following will be required:</p> <p>i. 3 - 8 dwellings – 1 community vehicle</p>	

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
	<ul style="list-style-type: none"> <li>ii. 8 -12 dwellings – 2 community vehicles</li> <li>iii. More than 12 – 3 community vehicles</li> </ul> <p>Details to be provided with the application on the type of vehicle, where it will be garaged on the property under cover, and how it will be maintained, managed, shared and replaced by the residential community. The car(s) is to be no older than 5 years at the time of the issue of the occupation certificate and be able to seat four adults.</p>	
<b>12. Energy Conservation</b>		
<ul style="list-style-type: none"> <li>a. To reduce total energy use in residential buildings by reducing heat loss and energy consumption for heating and cooling.</li> <li>b. To utilise design features to passively control the climate within residential dwellings</li> </ul>	<ul style="list-style-type: none"> <li>a. A clothes drying area to be provided in an outdoor area that receives a minimum of 2 hours sunlight midwinter. The area to accommodate a minimum of 25 metres of line.</li> <li>b. Dwellings to be designed to facilitate cross ventilation of air to assist with cooling with operable windows on opposite sides of the house.</li> <li>c. Dwellings to be designed with a roof orientated between the north east to the north west to facilitate the installation of photovoltaic cells for electricity generation or solar hot water systems with a minimum area of 15m<sup>2</sup>.</li> <li>d. The western elevation of dwellings to incorporate a range of climate control features including canopy and shading devices over windows and doors, pergolas and verandahs, and eaves with a minimum width of 450mm for increased shading and weather protection.</li> </ul>	Same for R2

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
<b>13. Fencing</b>		
To enable fencing to be erected for privacy, territorial reinforcement between the public domain and private property and security	Any fencing to comply with Chapter D1 of Byron DCP 2014.	Same as R2
<b>14. Adaptable Housing</b>		
Development ensures that housing is able to be readily adapted to a resident's changing life-cycle needs.	To comply with Chapter B13 of Byron DCP 2014.	Same as R2
<b>15. Subdivision</b>		
To facilitate separate ownership of dwellings in a co-ordinated manner	Where land is to be further subdivided as part of the proposal details to be included with the application including: a. a plan of subdivision; b. type of titling proposed (eg Torrens, Strata or Community title) and c. Management/ Neighbourhood Plan (if required).	Same as R2
<b>16. Waste Disposal</b>		
a. Waste to be adequately stored and separated on site prior to being collected by the waste contractor. b. Bin storage area is adequately screened from the public domain.	In addition to the measures contained in Chapter B8 of DCP 2014 the following to apply: a. Sufficient storage area is available behind the front building line for the location of garbage, recycling and green bins (The three bin system), and the area is not to be visible from the street.	Same as R2

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
c. Common or shared storage areas permissible for medium density housing forms	b. For three or more dwellings within a strata or community title arrangement, shared waste disposal facilities can be provided on the common or neighbourhood property. c. Details to be provided as to how the three bin system can be accommodated onsite.	
<b>17. Stormwater Management And Water Consumption</b>		
a. To minimise water consumption from potable water supplies b. To assist with the management of stormwater	a. In addition to any water storage requirements for BASIX a further 3000 litres of storage capacity per dwelling to be provided for stormwater management. b. Rainwater tanks to be connected to the stormwater down pipes from the roof of the dwelling and be plumbed back into the house as a minimum for the flushing of toilet(s) and for external gardening purposes. c. Overflow from the water tank and house to be connected to the street stormwater system generally in accordance with the drawing shown at Appendix F - Typical Stormwater House Connection	
<b>18. Co-operative Housing</b> <b>Explanatory Note:</b> This is a type of shared housing in which people come together to live in an intentional community. The housing from the outside may look similar to other residential development in the neighbourhood, but the co-operative can arrange for the sharing of resources, land and other components of the development to provide for a more inclusive type of housing between residents, to have a smaller environmental footprint, and to make housing more affordable. Co-operative housing could be suitable for extended family groups, couples and singles, retirees, students, families, a group of friends, or a community organisation (eg a charity providing housing), provided the residents have the same goals and objectives to live in an intentional housing community. Making housing more affordable is one benefit of Co-operative		



Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
<p>Housing, but this is partly achieved through a restriction on <b>further subdivision</b>. Potential applicants who wish to pursue this type of residential housing are encouraged to research the topic thoroughly before making application to establish rules of ownership, voting rights, dispute resolution, cost sharing, collective use of resources and exit/ entrance strategies for people who want to move out/ buy in. Other issues for consideration and research include financial and legal implications for the residents living and investing in such housing.</p> <p>The following controls apply:</p>		
<p>a. To enable intentional housing communities to develop residential land in a co-operative manner.</p> <p>b. To enable the efficient and shared uses of resources between households on a single property.</p>	<p>a. Should a cooperative housing project be proposed on a lot consisting of three or more dwellings the above residential controls will generally still apply.</p> <p>b. If the property is in the R2 Zone, then the lot will need to be identified for either multi dwelling housing or <b>integrated housing</b> at the subdivision stage.</p> <p>c. Variation will be given to the following in terms of achieving a shared outcome:</p> <ul style="list-style-type: none"> <li>i. private open space per dwelling down to 15m<sup>2</sup> provided landscaping minimums are satisfied;</li> <li>ii. Garbage bin and storage areas;</li> <li>iii. Clothes drying areas;</li> <li>iv. Common water tanks;</li> <li>v. Common roof area for solar collectors;</li> <li>vi. Common car parking area for residents and visitors – covered or uncovered;</li> <li>vii. A car parking reduction of 33% will be given, as per Strata and Community Title Development, where a shared car is provided; (See Control 10)</li> <li>viii. Common vehicle access point; and</li> <li>ix. Front setbacks down to 3 metres.</li> </ul>	<p>Same as R2 Zone except the land does not need to be identified for multi dwelling housing or <b>integrated housing</b> at the subdivision stage.</p>

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
	<p>d. Such variations are provided on the basis that the land won't be further subdivided under Torrens, Strata or Community title and a condition of consent will apply.</p> <p>e. Other shared infrastructure may be provided including a vegetable garden, storage shed, bicycles, laundry area, children's play area, barbeque and outdoor setting.</p> <p>f. Details to be submitted with the development application on measures for the management of the land, ownership model, rights and responsibilities, dispute resolution, collective use of resources and cost sharing.</p> <p><b>Note:</b> Where a co-operative housing project seeks consent at a latter stage to be further subdivided, applicants will need to demonstrate how the development complies with the normal provisions applicable to housing.</p>	
<p><b>19. Secondary Dwellings</b></p> <p>Secondary Dwellings provide opportunities for applicants to create a range of housing types that will suit family, lifestyle and financial needs. Secondary dwellings can be attached or detached from the main house. They could also be attached with a <b>dual key</b> arrangement to facilitate housing for a growing family or to provide accommodation for an older family member, enabling residents of both dwellings to live together. Alternatively the secondary dwelling could be locked off from the main house, and tenanted to a third party as a stand alone dwelling.</p>		
To provide for small affordable housing opportunities	<p>a. Other than planning controls 1, 11, 14, 15 and 18, Secondary dwellings to comply with the above controls, and the requirements of SEPP Affordable Rental Housing 2009.</p> <p>b. Decks and verandahs for secondary dwellings not to exceed 20m<sup>2</sup> in area.</p>	Same as R2

Performance Criteria	Prescriptive Measures – R2 Zone	Prescriptive Measures – R3 Zone
	c. <b>Dual key</b> arrangements are permissible for secondary dwellings.	
<p><b>20. Seniors Housing or housing for people with a disability</b></p> <p>Opportunities exist across the residential areas in both the R2 and R3 Zones of West Byron to provide housing for Seniors and people with a disability. No specific prescriptive measures are referenced in this Chapter and applicants are directed to the controls under <b>SEPP (Housing for Seniors or People with a Disability) 2004</b>.</p>		

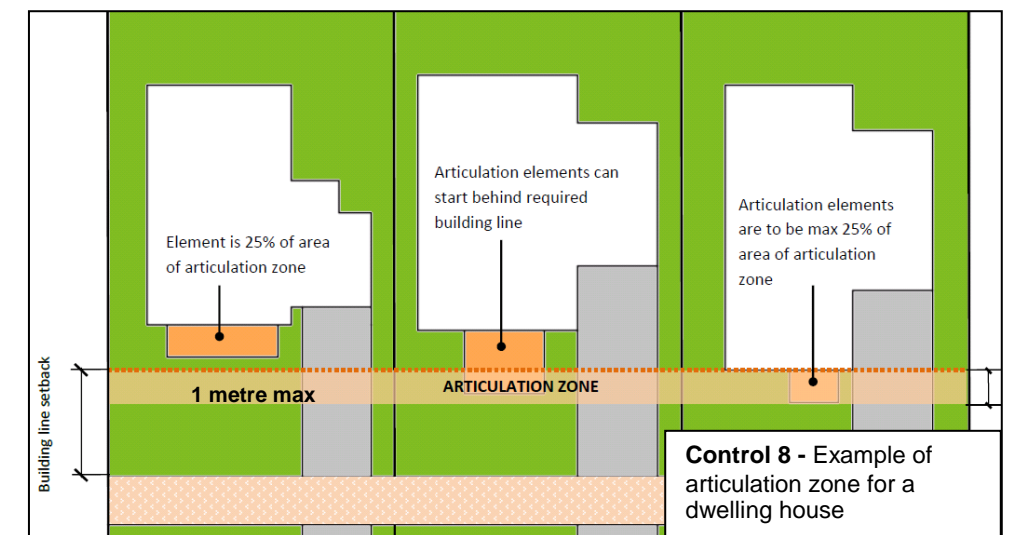
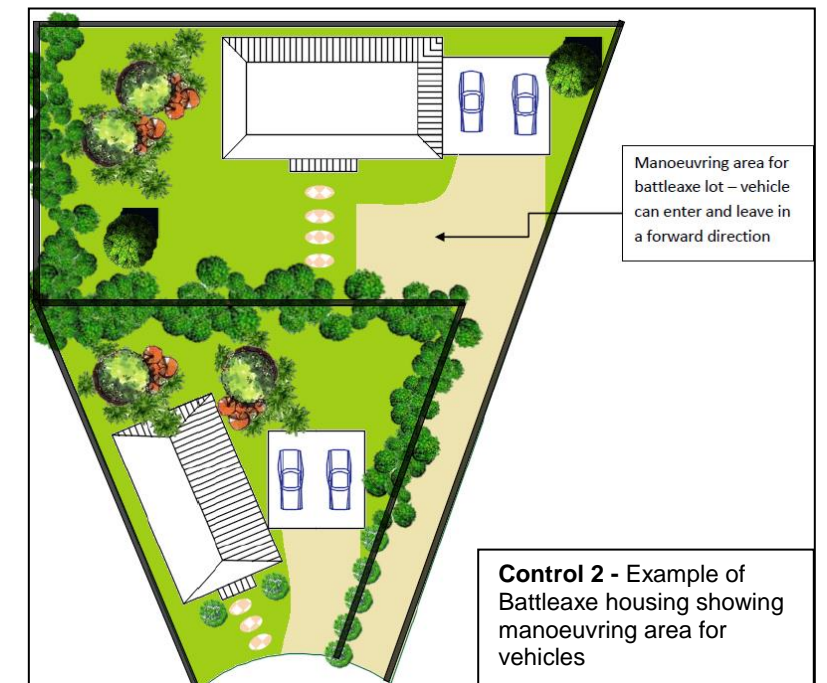
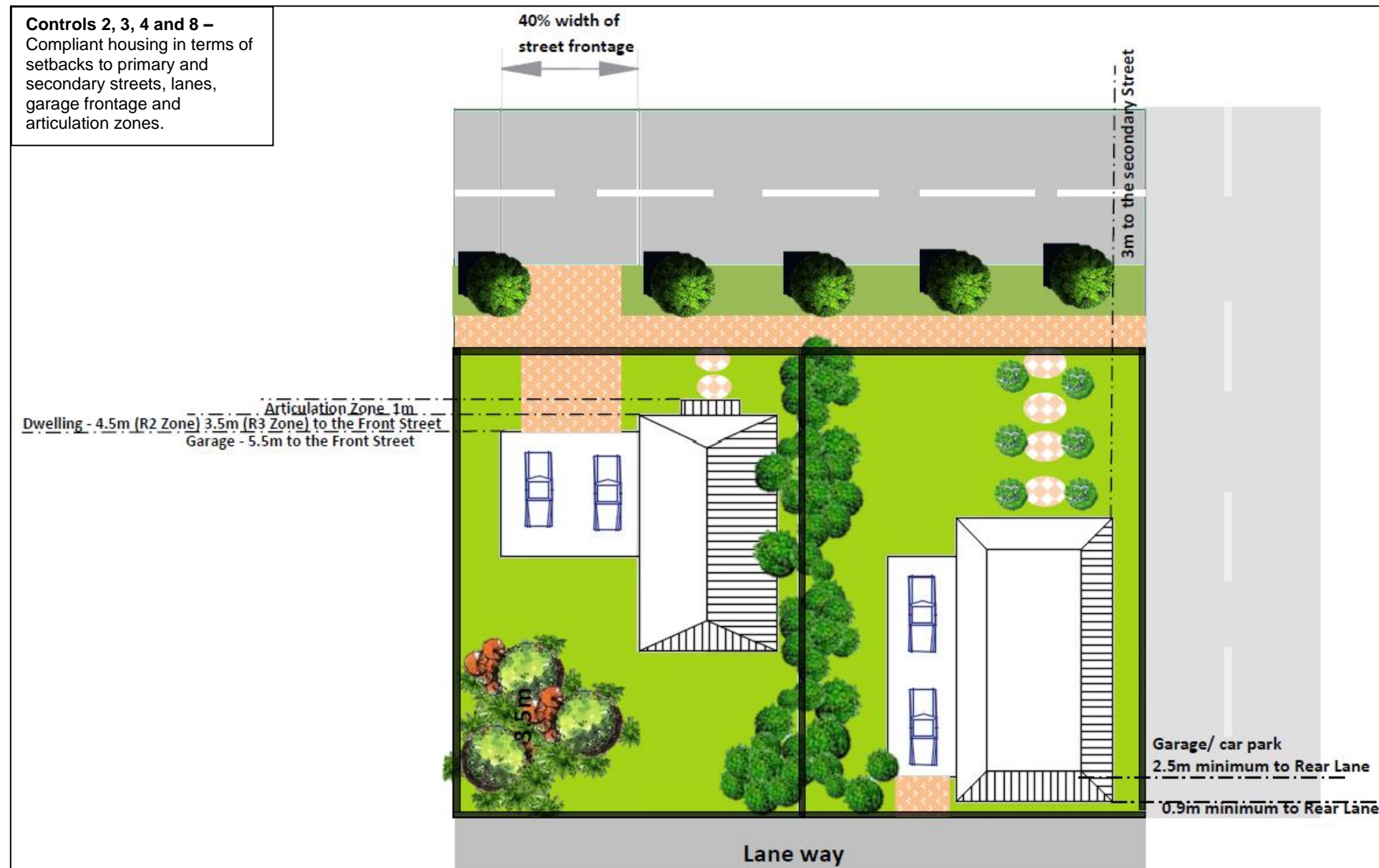


Figure E8.15: Examples of Various Building Elements against Planning Controls 2, 3, 4 and 8 in Table E8.3



**Control 11** - Example of Mews Style development with car parking of rear public lane and all dwellings overlooking central courtyard area. Removes need for individual driveways and providing more open space area/ common area for landscaping, gardens etc.



**Control 11** - Example of Mews Style development with car parking of shared central driveway with reciprocal rights of carriageway from rear lane. Removes the need for individual driveways to each dwelling and house frontages not dominated with garages.

**Figure E8.16: Examples of Various Building Elements against Planning Control 11 in Table E8.3**







**Control 8** - Front porch utilising a rendered material extends into front articulation zone. **Control 13** - Open front fence delineates property boundary but allows street surveillance.



**Control 12** - Roof area orientated to the north allows for both solar hot water system and photovoltaic cells.



**Control 8** - Simple besser block fins provide interest and variation to the front elevation extending into articulation zone.



**Control 3** - Garage recessed behind building line. **Control 8** - various materials used to reflect built form. Narrow windows enable surveillance of the street whilst retaining privacy.

**Figure E8.17: Photo Plates – Examples of Various Building Elements against Planning Controls in Table E8.3**



#### **E8.10.10.4 Industrial Area**

Approximately 7.5 hectares of the West Byron Site is zoned IN2 Light Industrial. The IN2 Zoned land sits opposite the Byron Bay Industrial Estate to the north and residential land to the east. For specific development guidelines for construction of factory units in this area, applicants are directed to Chapter D5 Industrial Development within DCP 2014. The following controls though apply to the subdivision design and development of the land Zoned IN2.

##### **Objectives**

- 1. To ensure the subdivision layout and design facilitates a wide range of light industrial and warehouse uses and employment opportunities.*
- 2. To provide industrial land that is of a size, shape and area to cater for a range of light industrial and other permissible uses that are suitably serviced with necessary infrastructure.*
- 3. To ensure development presents to the main spine road and is sympathetic to surrounding residential area.*

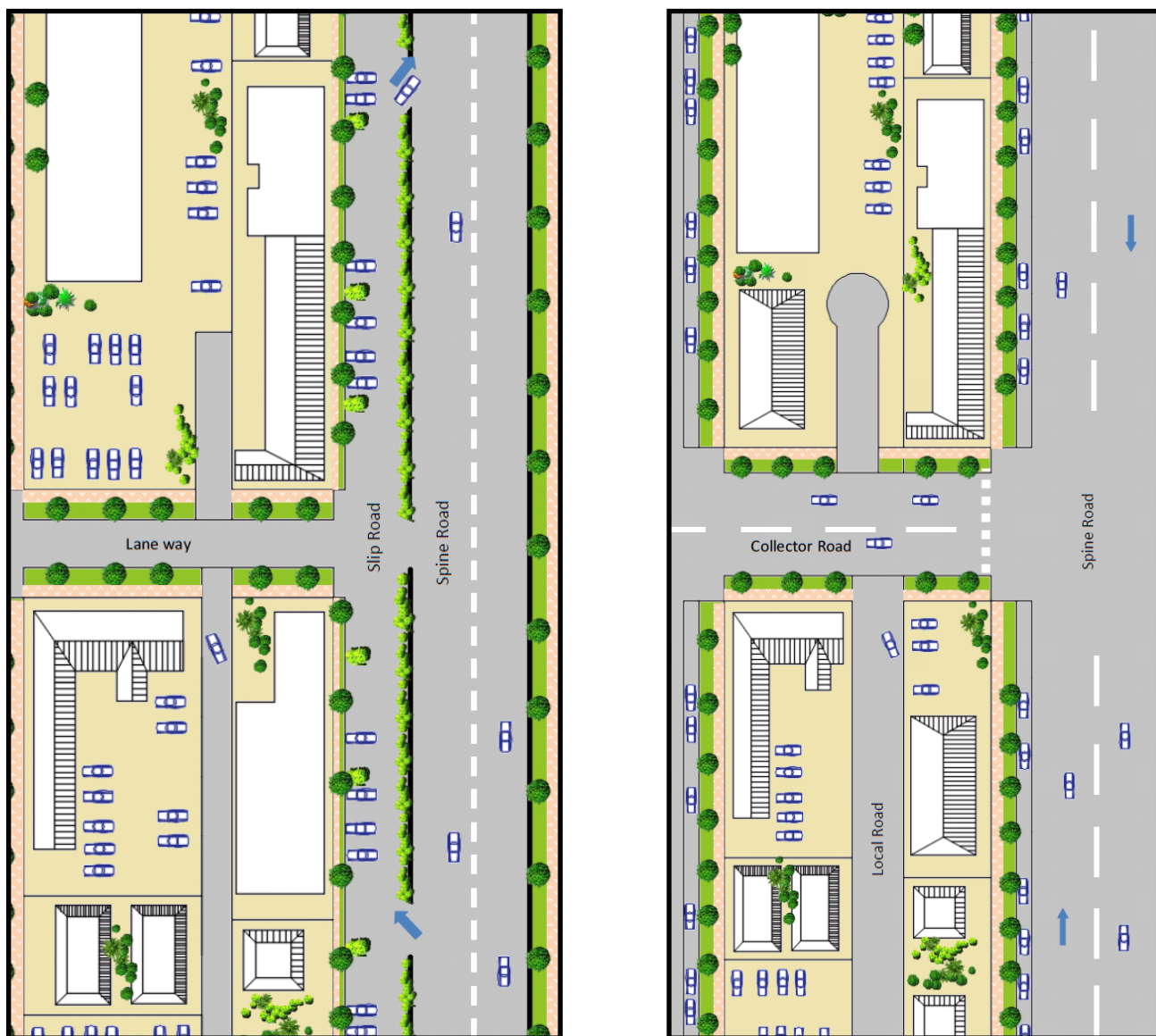
##### **Performance Criteria**

1. Access roads are designed to facilitate the movement of large vehicles.
2. Lot sizes meet minimum requirements to facilitate safe manoeuvring onsite for delivery trucks.
3. Lots are serviced with all necessary infrastructure.
4. Suitable setbacks, built form and landscaping are provided within the design of industrial development to make a positive contribution to the streetscape including Ewingsdale Road.
5. Development be designed and sited to minimise land use conflicts with surrounding residential development.

##### **Prescriptive Measures**

1. A single DA be submitted to Council for the initial subdivision of the IN2 Zoned Land presenting an integrated proposal for the road and allotment layout, based on potential industries seeking industrial land in Byron Bay. Details to be provided with the development application.
2. Access roads through the IN2 Zoned land to be of a suitable width to accommodate articulated vehicles plus on street parking.
3. A minimum of twenty five percent (25%) of lots are to be designed with an appropriate area and width to enable Articulated Vehicles to enter and leave in a forward direction.
4. In addition to normal infrastructure required by Council, lots to be provided with telecommunication infrastructure to facilitate connection to the National Broadband Network.
5. Development fronting the main spine road to include the following design features
  - a) Industrial development fronting the main spine road to be designed to address the street with a mixture of facade treatments, landscaping and pedestrian access. Two storey frontages are to be appropriately articulated through the use of different building materials including glass, masonry steel and timber elements and changes in setbacks. Large blank walls facing the main spine road will not be supported and screening of poorly designed buildings with vegetation is not an acceptable streetscape treatment.

- b) A minimum setback of 5 metres to apply to the Spine Road which is to be suitably landscaped in accordance with B9 of DCP 2014. For corner lots on the spine road this can be reduced to 3 metres.
- c) Private Access from the Spine Road to be generally limited and consideration to be given to the creation of large lots along this frontage with shared access points, rear lane/ secondary street access, or a slip lane combined with car parking and landscaping to the Spine Road.



**Figure E8.18: Examples of access from the Spine Road fronting the IN2 Zone.**

- 6. Industrial development adjacent to Ewingsdale Road to be setback a minimum of 10 metres from this boundary and appropriately screened with native trees and vegetation. This setback can be varied down to 3 metres where other alternatives are utilised in the facades of buildings along this boundary including use of green walls, mix of building materials including glass wall and upper level windows, and articulation or variation in building alignment.
- 7. A minimum 10 metre wide vegetated buffer to be provided between the IN2 and R2 Zones unless separated by a public road. The buffer to be suitably landscaped with native species in accordance with Chapter B9 of DCP 2014. A Landscape plan to be submitted with the development application for subdivision.

8. Development within the Industrial Zone to be designed and sited to minimise potential land use conflicts with surrounding adjoining residential uses. Where required noise attenuation to be provided within industrial units or on the boundary to ensure compliance with the relevant EPA guidelines for industrial noise.
9. Any retail uses to be in accordance with Byron LEP 1988 and Clause 87(4) as required. Such uses to be subservient to retail uses within the B1 Zone so as not to undermine the function and hierarchy of this zone. Consideration be given to the installation of a takeaway food shop and drink premises in a central location within the IN2 Zone to serve the needs of workers in the industrial estate. (N.B Restaurants and cafes are prohibited in the IN2 Zone)
10. Large car parking areas of 20 spaces or more to consider the installation of an electric vehicle charging station. (Note: Opportunities may exist to partner with Council and other organisations with the design and installation of such infrastructure as per the Byron Shire Low Carbon Strategy)
11. All development to be connected to the dual reticulation water supply for non potable water. From this supply a minimum of one external tap to be provided for the watering of landscaping and a minimum of one internal tap provided for the flushing of toilets with each industrial unit.
12. Development in the IN2 Zone not covered by the above provisions is to comply with Chapter D5 of Byron DCP 2014.

**Note:** For design specification, please refer to the Northern Rivers Local Government Development and Design Manual and Chapters B3 and B4 of DCP 2014.

### **E8.10.11 Development in the E3 Zone**

A small part of the West Byron site has been zoned E3 in the South west corner and along two drainage lines in the eastern half of the site. A minimum lot size of 40ha applies to subdivision and it is not envisaged any additional dwelling entitlements will be created in the E3 Zone.

Development opportunities in the E3 Environmental Management Zone are restricted by the permitted uses listed in the zoning table under Byron LEP 1988. Many of these uses are covered in part in other sections of DCP 2014, whereby specific controls apply to developments such as bed and breakfast establishments, eco-tourist facilities, dual occupancies, dwelling houses, farm stay accommodation and camping grounds. Accordingly no specific controls are drafted for the E3 Zone and applicants are directed to other relevant chapters within the DCP 2014.

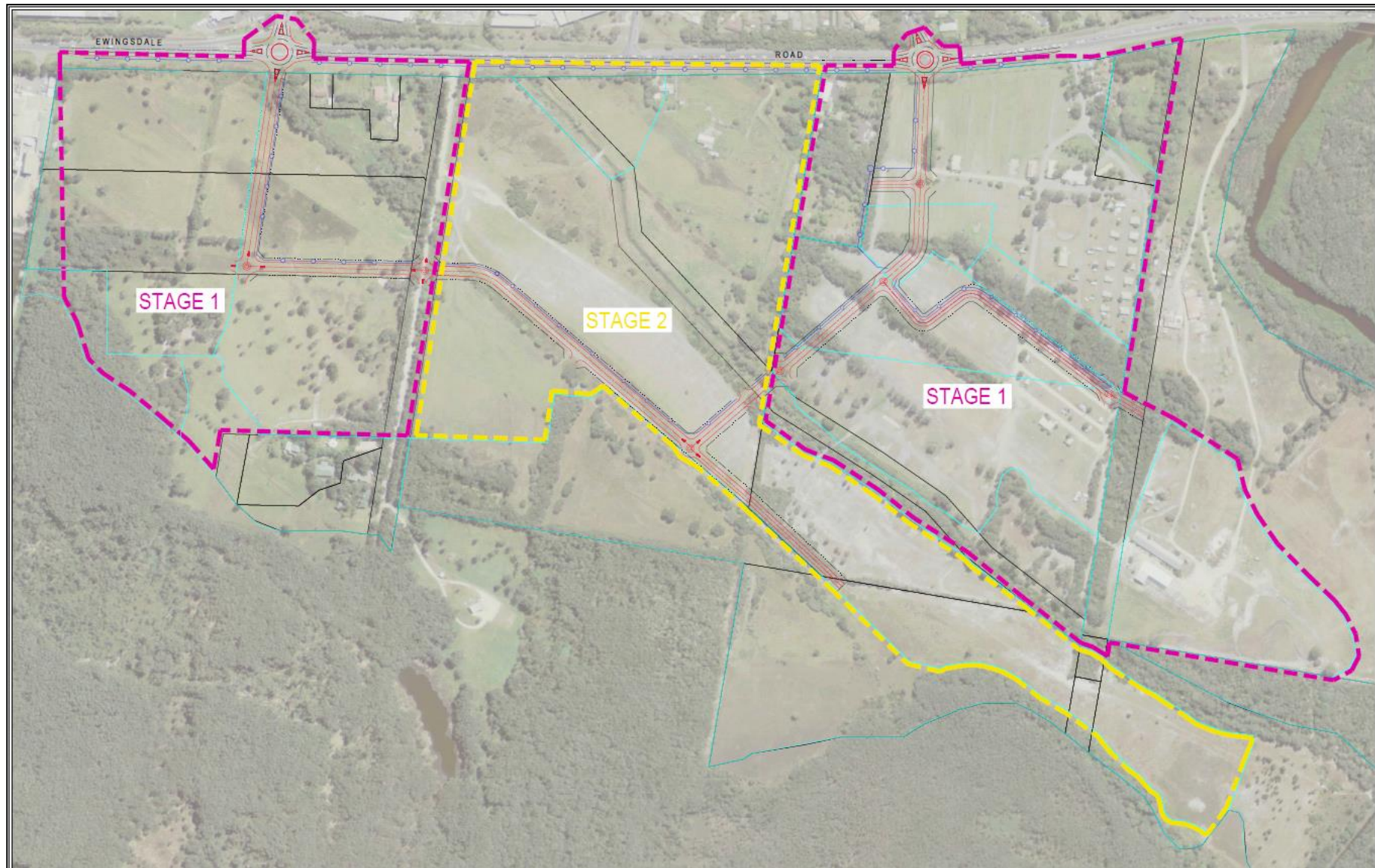
### **E8.10.12 Tourist and Visitor Accommodation in the Residential R2 and R3 Zones and the B1 Zone**

Bed and Breakfast Establishments are permissible with consent in the R2 and R3 Zone and Serviced Apartments are permissible with consent in the R3 Zones only, whilst only Hotel and Motel Accommodation is permitted in the B1 Zone. Applicants are directed to the planning controls under Byron DCP 2014 including Chapter D3 Tourist Accommodation.

**Note:** Other forms of tourist and visitor accommodation, including holiday letting of a dwelling or a dwelling house (Short term rental accommodation) are **prohibited** in the R2, R3 and B1 Zones.

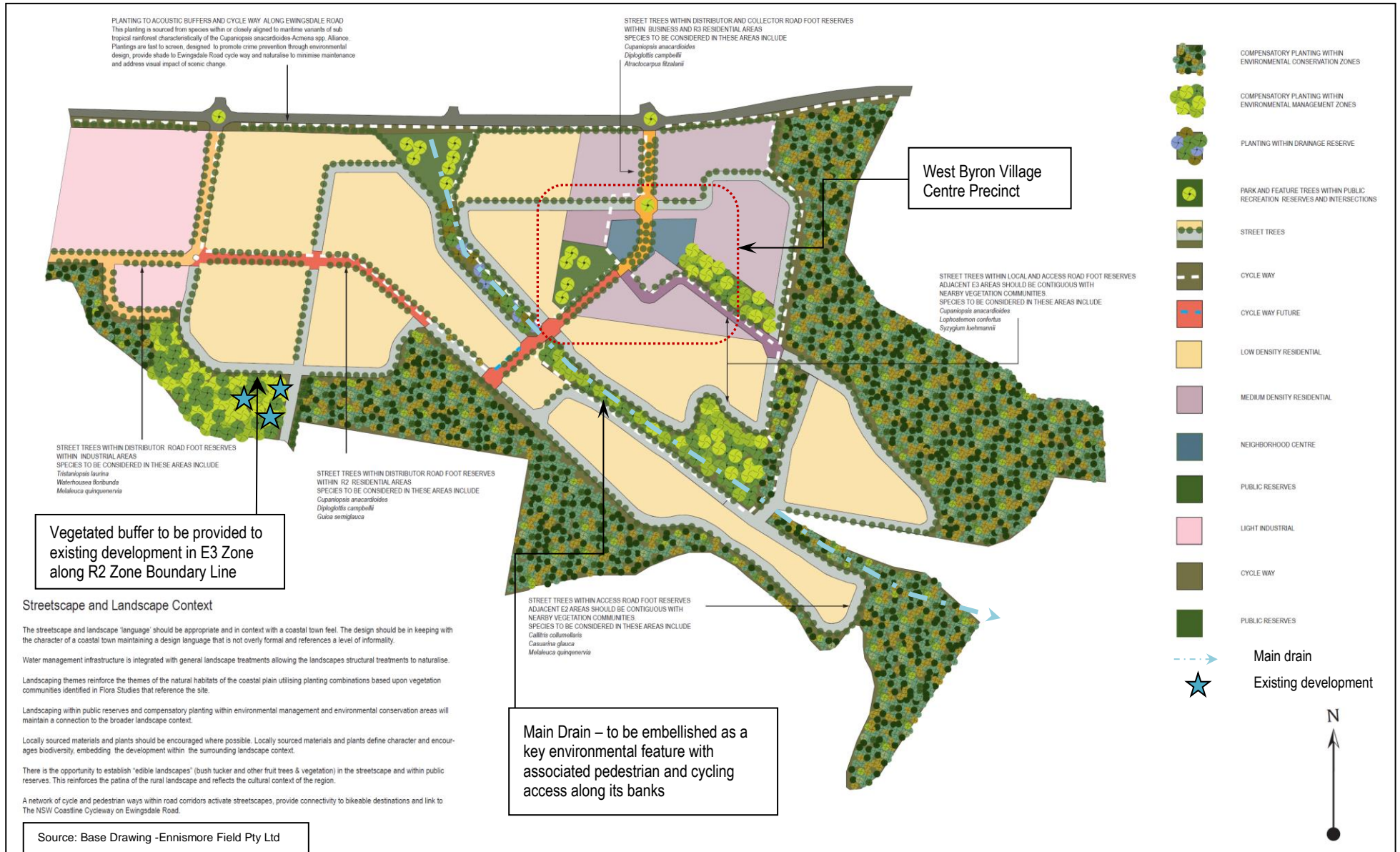


## Appendix A - Staging Plan

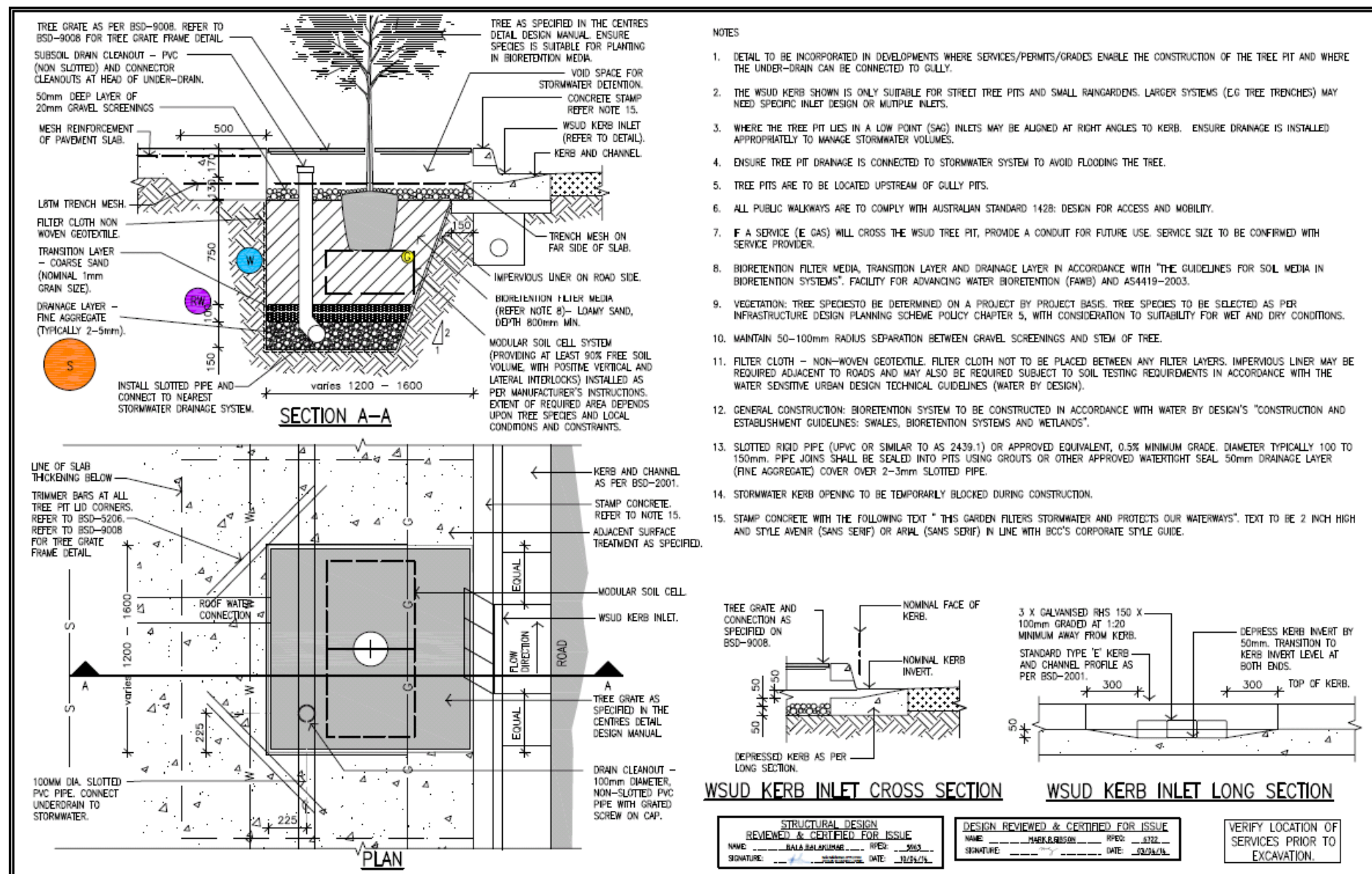




## Appendix B – Concept Plan

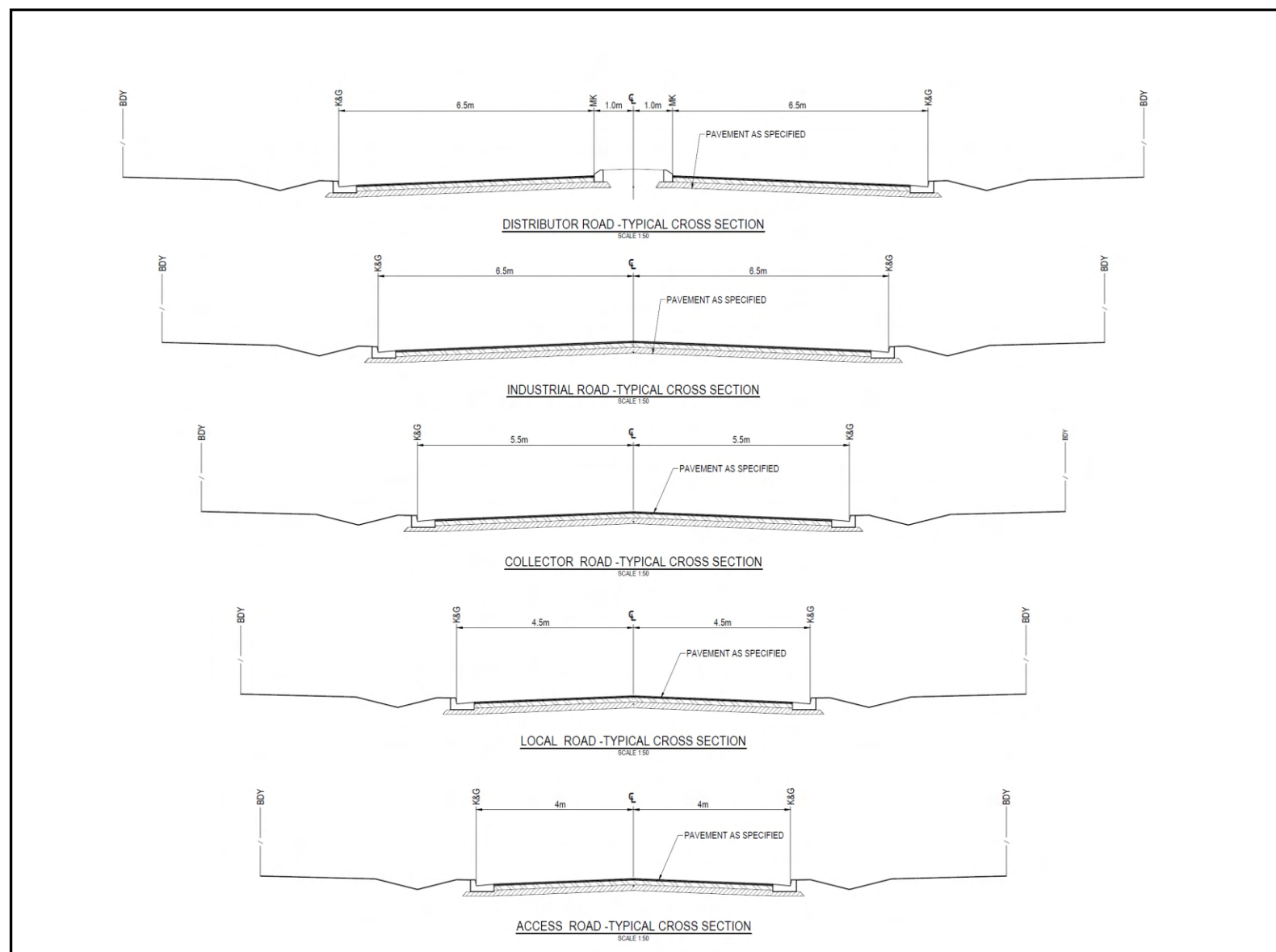


## Appendix C – WSUD Street Tree with Pit



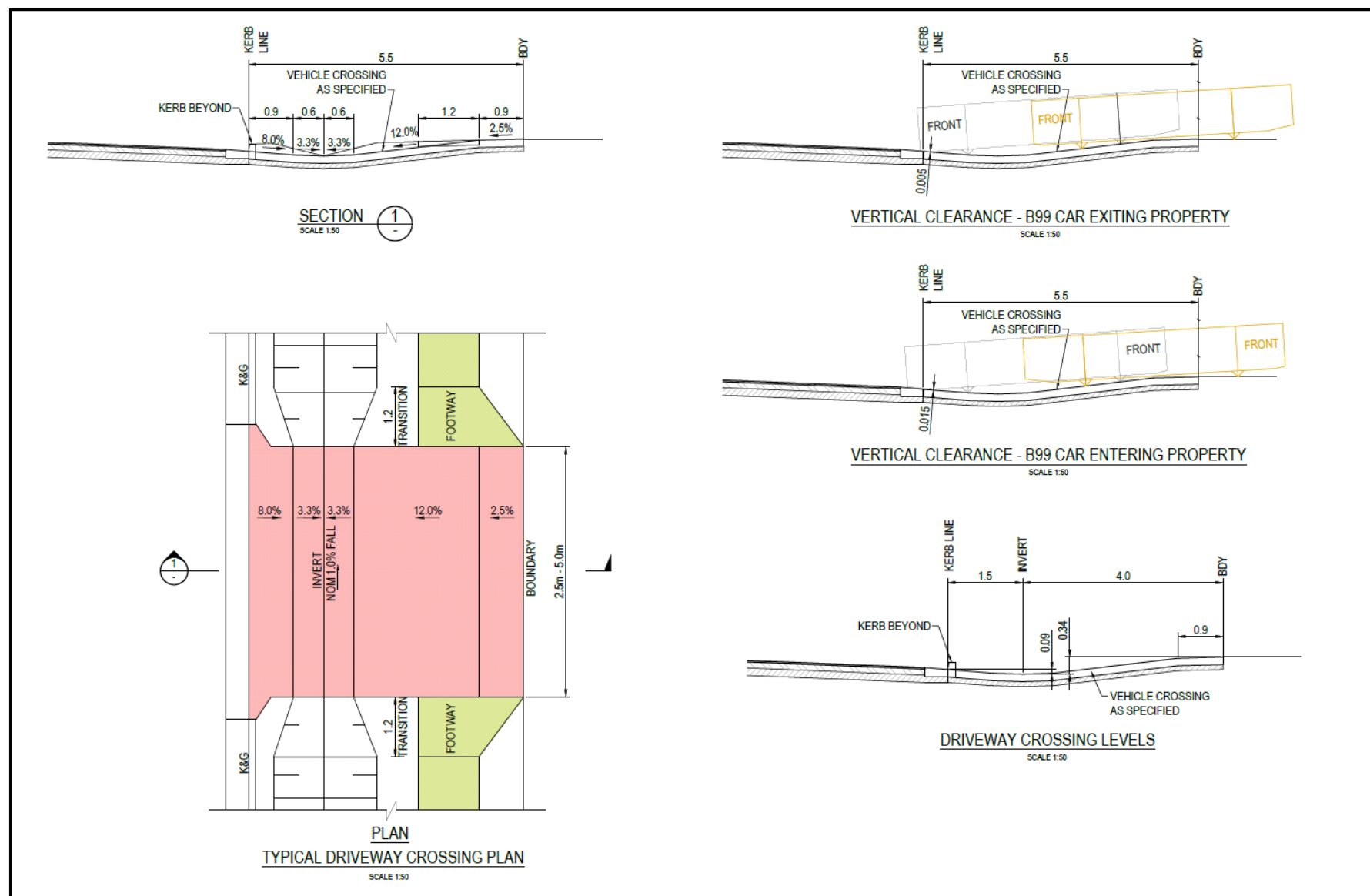
Source: Brisbane City Council

## Appendix D – Typical Road Cross Sections (Not to scale)

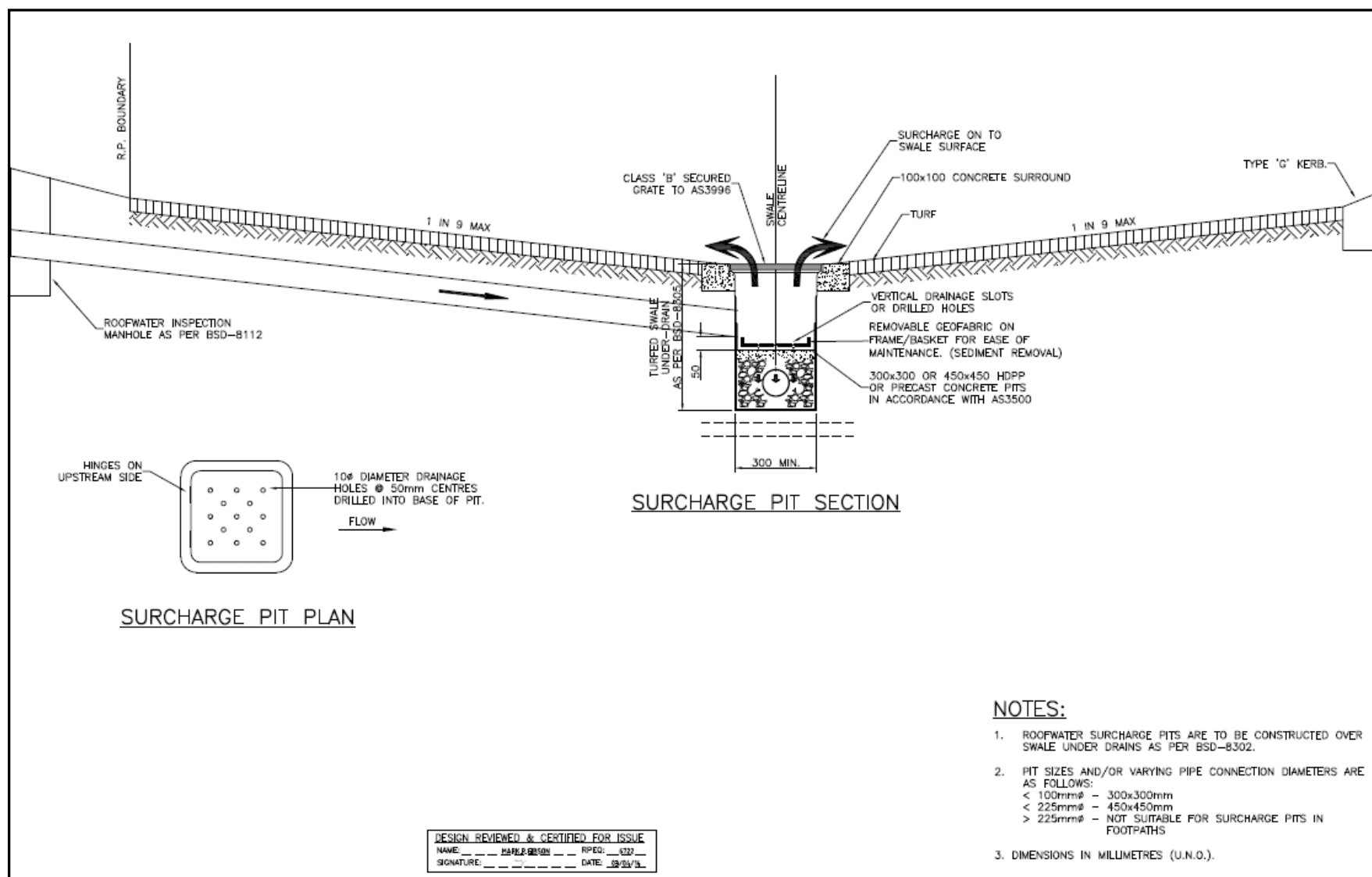




## Appendix E – Typical Driveway Access across Swales (Not to Scale)



## Appendix F – Typical Stormwater House Connection (Not to Scale)



Source: Brisbane City Council



## Appendix G – Widening of Ewingsdale Road Plan





# Byron Shire Development Control Plan 2014

## Chapter E9 Ocean Shores, New Brighton and South Golden Beach



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## Chapter E9 – Ocean Shores, South Golden Beach and New Brighton

### Contents

<b>E9.1</b>	<b>Introduction.....</b>	<b>5</b>
E9.1.1	Application of this Chapter .....	5
E9.1.2	Aims of this Chapter.....	5
<b>E9.2</b>	<b>Ocean Shores, South Golden Beach and New Brighton Residential Character Narrative.....</b>	<b>6</b>
<b>E9.3</b>	<b>General Provisions .....</b>	<b>9</b>
E9.3.1	Character, Bulk and Scale of Development.....	9

### Figures

Figure E9.1:	Ocean Shores, New Brighton and South Golden Beach Residential Character Areas .....	8
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**Document History**

Doc No.	Date Amended	Details (e.g. Resolution No.)
E2020/41483	22 June 2020	Res 20-218 – new DCP chapter incorporating residential character narratives, for public exhibition
E2020/66603	24 August 2020	Post exhibition version
E2020/66603	September 2020	Adopted 17 September 2020 Res 20-473 (no changes)





## **E9.1 Introduction**

### **E9.1.1 Application of this Chapter**

This Chapter applies to residential localities of Ocean Shores, New Brighton and South Golden Beach.

The provisions of other Chapters of this DCP apply to development to which this Chapter applies. In the event of any inconsistency between this Chapter and other Chapters, the provisions of this Chapter shall prevail.

### **E9.1.2 Aims of this Chapter**

The primary purpose of this Chapter of the DCP is to provide the residential character context and principles for development within the above residential areas. The aims of this Chapter are:

1. To provide guidelines for the development of the above residential areas consistent with the provisions of the Byron LEP 2014, the draft Byron Shire Residential Strategy 'residential character narratives' and other relevant strategies and Chapters of this DCP.
2. To inform the content of any **Design Verification Statement** and site analysis required by the Low Rise Housing Diversity Guides (for Complying development and Development Applications).
3. To encourage new development to complement, support and strengthen the residential character and living amenity of these localities.



## E9.2 Ocean Shores, South Golden Beach and New Brighton Residential Character Narrative

*This section provides the residential character context and principles for development within the above residential areas. The narrative statements draw on the unique qualities of these areas and provide an important direction for the development controls and built form guidelines. The statements divide the residential areas into pockets based on context including topography, setting, streetscape, land uses and built form. Accompanying the narrative is a figure showing a tiered approach to possible character change to signal how new residential development should respond to the streetscape and/or neighbourhood character within different parts of this locality.*

*The statements have been established via the Residential Strategy through consultation with the community and other key stakeholders. They build on the existing structure and important elements contributing to the residential neighbourhood character of these localities.*



Situated between the coast and the hinterland, this area houses the shire's second-largest urban community. Communities located on traditional lands of the people of the Bundjalung nation. The Bundjalung of Byron Bay (Arakwal) people have occupied these lands for generations. They continue to live on, and care for Country today. The population is expected to increase by some 400 people over the next 20 years to reach approximately 6,700 people.

The locality has grown in developmental waves. This is evidenced two distinct street patterns (grid and curvilinear), varying lot sizes and layouts, and architectural styles reflecting the trend at the time of the original subdivisions. The community now generally supports a greater housing choice, diversity and equity. Figure 1 following, links with the description below

to help define the residential character of Ocean shores, South Golden Beach and New Brighton a community that lives in a coastal and estuarine environment and identifies as being inclusive, open and nature oriented.

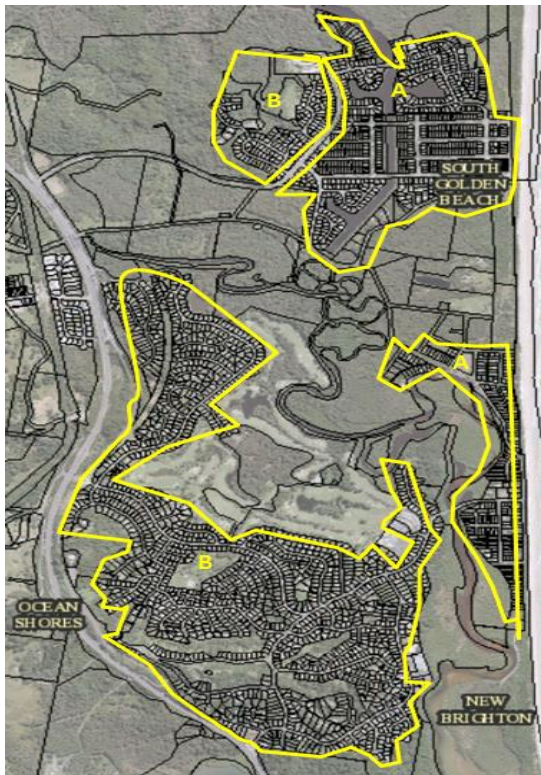
**Pocket A** contains the small coastal localities of South Golden Beach and New Brighton. These villages are situated in a reserve of protected coastal wetlands and have grown over the years to become attractive places to live, work and holiday. These localities have limited opportunities for additional housing due to a combination of environmental sensitivity, flood risk and coastal erosion hazards.

**Pocket B** surrounding these localities is Ocean Shores, master planned in the 1970s to provide a residential suburb with its own shopping centre, entertainment facilities, golf course and primary school.

Original homes in Ocean Shores are typically brick and tile homes well set back from the street with relatively large lots and lawn areas. The built form is largely contained at two storeys with some pockets of three-storey housing. Newer homes and renovations responding to solar passive design and demands for greater



housing choice display greater variation in size, height, materials, architectural styles and orientation. Outdoor activity spaces are oriented toward the backyard, with the front yard serving primarily an aesthetic landscape function and containing very few front fences. Most townhouse and unit development is clustered around Rajah Road, a main thoroughfare, or near the Ocean Shores Shopping Centre, while dual occupancies and secondary dwellings are more widely dispersed throughout.

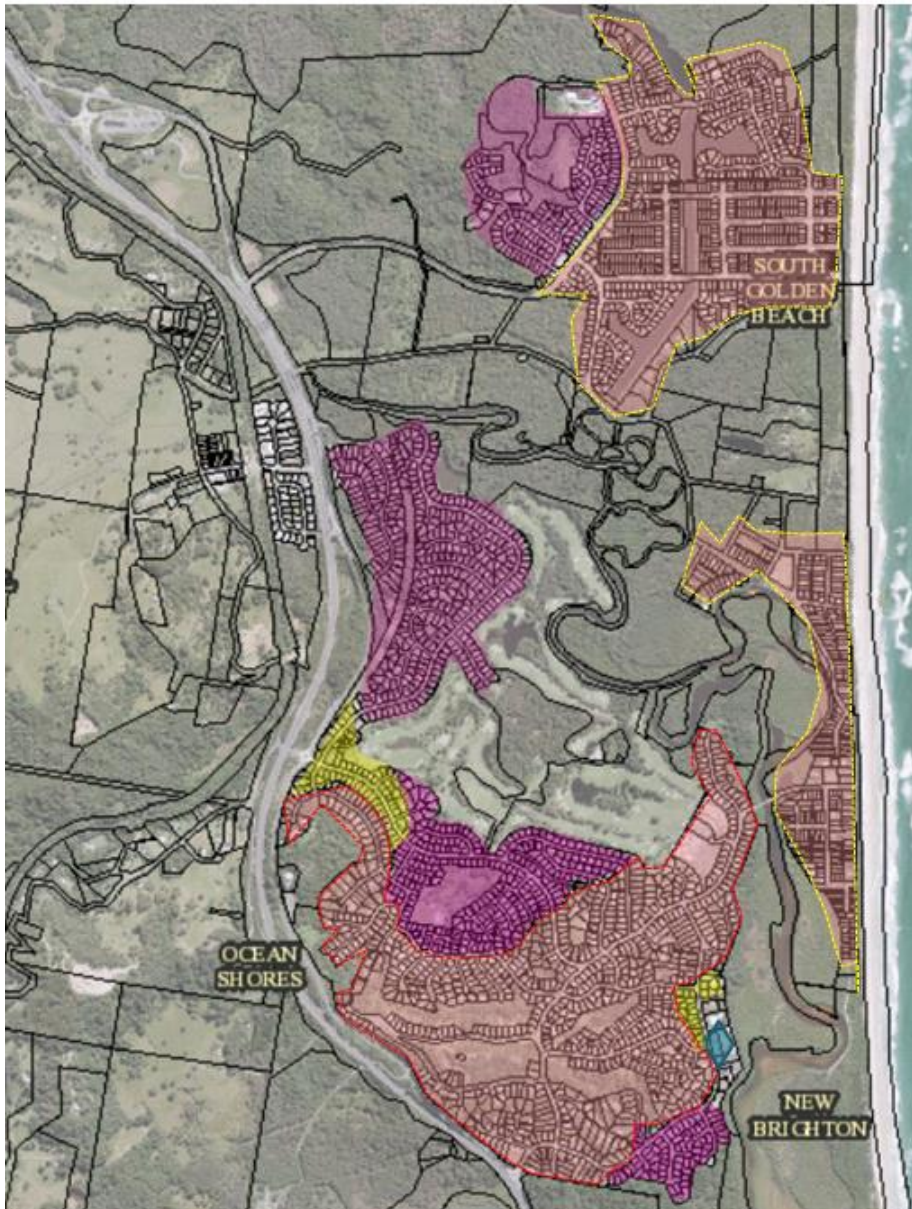


The area's coastal and hinterland views, hilly topography and abundance of subtropical vegetation, along with a wide array of wildlife, give it a distinctly natural feel. These attributes combine with the substantial presence of well-tended yards, gardens and leafy streetscapes to form the area's overall residential character.






Future housing diversity in Ocean Shores will occur through infill residential development mainly in the form of secondary dwellings, dual occupancies and

townhouses (to a lesser extent) on suitable sites. With a vitally important and challenging natural environment it is essential that future infill development respects the limitations of steep terrain, flooding and sensitive coastal habitat, as well as surrounding neighbourhood character. The amount of future growth that can be accommodated within Ocean Shores will largely depend on its capacity for infill and to be supported by adequate infrastructure (e.g. on-street parking). Higher average densities are generally suitable to areas within convenient walking distance of public transport, the Ocean Shores Shopping Centre and/or Billinudgel Village Centre. By providing greater housing choice in these localities, a greater mix of household types and age groups can be accommodated, which in turn can provide a more 'well-rounded' community.





#### Character categories

-  **Environmental Sensitive:** due to land slip and/or slope considerations - density and built form to address these considerations and to reflect existing low scale build form and streetscape
-  **Environmental Sensitive:** due to coastal and/or flooding considerations - density and built form to address these considerations and to reflect existing low scale build form and streetscape
-  **Subtle:** small clusters of low rise medium density complementing the existing form and terrain – likely to be incremental with many existing elements remaining
-  **Transitional:** earmarking an area for change incorporating pockets of low rise medium density homes that match the amenity of traditional free standing homes, while introducing contemporary dwelling forms for old and young singles and families – retaining attributes that are valued by the community. How the area will look and feel in the future is likely to evolve, and in some cases notably
-  **Urban village:** opportunity to expand on the creative/business start- up and vibrancy of centres

**Figure E9.1: Ocean Shores, New Brighton and South Golden Beach Residential Character Areas**



## E9.3 General Provisions

### E9.3.1 Character, Bulk and Scale of Development

#### Objectives

1. *To ensure that residential development will complement, support and strengthen the residential character and living amenity of these localities.*
2. *To ensure that infill development respects (where applicable) constraints associated with steep terrain, flooding and sensitive coastal habitat, as well as surrounding neighbourhood character.*

#### Performance Criteria

The existing and desired future character of these localities is defined by the following characteristics:

##### 1. Natural Environment

The Ocean Shores, New Brighton and South Golden Beach localities are bounded and strongly influenced by natural elements including the sea, Nature Reserves (Billinudgel and Marshalls Creek), wetlands, remnant forests, bushland and parklands. Development within these localities is located, designed and oriented to support, complement and foster community access to and understanding of those natural elements. Development is designed to protect and enhance their integrity and to respect their natural edges. Where feasible, development allows and encourages the natural elements to expand into the development site.

##### 2. Residential Areas

- a) The residential areas in these localities contain a varied and compatible range of architectural styles, materials, landscapes and streetscapes. Housing comprises mainly low density, low rise single and **attached dwellings** with low-impact bulk and scale. New development is designed to respect the residential neighbourhood character of these areas, consistent with residential character narratives in E9.2 above.
- b) New residential development is consistent with the requirements of Chapter D1 Residential Development in Urban and Special Purpose Zones. Development is designed to enhance the low key, family-friendly, coastal village character, streetscape and scale of Brunswick Heads. Landscaping is provided in accordance with the requirements of Chapter B9 Landscaping.

##### 3. Ocean Shores Shopping Centre

- a) The Centre should be encouraged to evolve into a contemporary town centre with a wider range of community services, meeting places and office space whilst continuing to operate as a retail and specialty use commercial centre catering for the local catchment.
- b) Where possible, new commercial and retail development (or redevelopment) should take advantage of the Centre's proximity to the adjacent Marshall's Creek Nature Reserve and ocean view, with increased opportunities for outdoor eating and other complementary uses to enhance resident/ visitor experience



- c) New commercial and retail development shall be consistent with the requirements of Chapter D4 Commercial and Retail Development. Development is designed to enhance the low key, coastal village character, streetscape and scale of the shopping centre. .

### **Prescriptive Measures**

There are no Prescriptive Measures.





# Byron Shire Development Control Plan 2014

## Chapter E10 Byron Bay Town Centre



TRADITIONAL HOME OF  
THE BUNDJALUNG PEOPLE

ALL COMMUNICATIONS TO BE  
ADDRESSED TO THE GENERAL MANAGER  
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## Contents

<b>Vision and Place Principles .....</b>	<b>3</b>
<b>E10.1 Introduction.....</b>	<b>3</b>
E10.1.1 Aims of this Chapter.....	3
E10.1.2 Application of this Chapter .....	3
<b>E10.2 General Provisions .....</b>	<b>5</b>
E10.2.1 Uses .....	5
E10.2.2 Character .....	6
E10.2.3 Built Form .....	7
E10.2.4 Respond to climate and context.....	10
E10.2.5 Acoustic and visual privacy .....	11
E10.2.6 Car parking .....	12
E10.2.7 Waste and recycling management .....	13
E10.2.8 Heritage conservation .....	15
E10.2.9 Roof form, access and use .....	15
E10.2.10 Green Infrastructure.....	16
E10.2.11 Design Excellence .....	17

### Document History

Doc No.	Date Amended	Details (e.g. Resolution No.)
#E2018/61130	19 July 2018	Draft (WORD Version)
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E2021/56492	April 2021	Version for adoption reported to Council 13 May 2021
E2021/56492	August 2021	Res 21 – 187 Adopted 13 May 2021 Effective 25 August 2021 on finalisation of Amendment 27 published NSW legislation website 20/8/2021 (26.2017.6.1)

## Vision and Place Principles

The Vision of the Byron Bay Town Centre Masterplan is:

*Connect the Centre of Byron Bay with the Spirit of its community.*

The Place Principles developed for the Masterplan are:

- a pedestrian prioritised Byron Bay that supports and integrates alternate modes of transport
- a legible network of streets and spaces that link seamlessly to Byron Bay's parks, foreshore and open spaces
- an environmentally resilient and sustainable Byron Bay that respects its natural setting and rich biodiversity
- an eclectic community vibe and the town centre as a canvas for creativity
- a multi-functional economy that supports local businesses, local living and local development opportunities for the betterment of the town centre
- an eclectic village character preserved through increased density and high quality design

## E10.1 Introduction

### E10.1.1 Aims of this Chapter

This Chapter has been prepared to complement the provisions of Byron Local Environmental Plan 2014 as they relate to the Byron Bay Town Centre. The provisions of this chapter are intended to facilitate development that will:

- implement the visions, principles and strategies of the Byron Bay Town Centre Masterplan;
- contribute to the growth and character of the Byron Bay Town Centre; and
- protect and enhance the public domain.

The Chapter has been prepared in accordance with Part 3 Division 3.6 of the Environmental Planning and Assessment Act 1979 and Part 3 of the Environmental Planning and Assessment Regulation 2000.

The relevant provisions of this Chapter are to be taken into consideration in determining an application for development in the Byron Bay Town Centre.

### E10.1.2 Application of this Chapter

This Chapter applies to development within the Byron Bay Town Centre, on land zoned B2 Local Centre, as shown in Figure E10.1.

The provisions of other Chapters of this DCP also apply to development to which this Chapter applies. However, in the event of any inconsistency between this Chapter and other Chapters, the provisions of this Chapter shall prevail.



Figure E10.1 Byron Bay Town Centre, Land to which this DCP applies

## E10.2 General Provisions

### E10.2.1 Uses

Land within the Town Centre generally consists of a mix of small scale **shops** and **commercial premises** at street level, with residential **dwelling**s, office or tourist accommodation on upper levels.

Centres with continuous ground level retail frontage offer the benefits of safety, commercial activity and street life. Incorporating housing on the upper levels can also make a significant contribution to the local character, provide street surveillance and contribute to night time activity in the centre.

### Objectives

1. To maintain continuous retail or commercial uses at street level.
2. To promote a mix of residential and non-residential land uses on upper levels that help to preserve the commercial viability of the Town Centre.
3. To preserve the small **shop** character of the Town Centre.

### Performance Criteria

1. At ground floor, the building is designed for retail or other active uses on the primary street frontage.
2. Residential uses on the ground floor are limited to areas providing access to the residential uses above. These access areas must not compromise active street frontages, or the commercial viability of the ground floor areas that provides the active street frontage.
3. Tourist accommodation uses on the ground floor are limited to areas providing access and reception services for the accommodation above.
4. At the first floor, the building is designed flexibly, to accommodate commercial, residential or tourist accommodation uses.
5. At the second floor, the building is designed to accommodate residential or tourist accommodation uses.
6. The commercial frontage at street level for individual commercial and retail units matches the traditional fine-grained subdivision pattern.

### Prescriptive Measures

1. Commercial and **retail premises** less than 200m<sup>2</sup> have a depth to width ratio between 1:1 and 3:1.

## E10.2.2 Character

Streetscape quality helps to provide local amenity and identity. Good quality street environments are particularly important in town centres where the community gathers and interacts.

### Objectives

1. To ensure that development contributes to active and desirable pedestrian environments within the Town Centre.
2. To create an active interface between ground level retail or commercial properties and the street.
3. To ensure development responds to the predominant streetscape qualities and contributes to the desired future character of the Town Centre.
4. To provide an attractive and comfortable pedestrian environment.

### Design Guidelines

#### *Be a building block for a cohesive town centre*

- *Design to account for existing opportunities and constraints within the surrounding context and demonstrate (through annotation of site plans and elevations) that improvements are thoughtfully integrated within its context and neighbours.*
- *Integrate architecture and landscape architecture – integrate vegetation and green infrastructure within site designs.*
- *Identify, reflect and enhance unique site attributes where they exist.*

#### *Refine, repair and/or enhance the town centre's urban fabric*

- *Where possible, contribute to a finer-grained network of pedestrian pathways that allow people to safely navigate a site and connect to public streets/ lanes and nearby amenities.*
- *Design for permeability and allow for pedestrian access through the site.*
- *Design sites to promote intuitive wayfinding through pathways, sightlines and signage.*

#### *Reinforce and enhance neighbourhood character*

- *Reflect, complement, or enhance established neighbourhood forms and design features that contribute positively to neighbourhood character.*
- *Relate buildings to adjacent heights.*

#### *Use built form and landscaping to frame public and semi-public spaces*

- *Use the siting of new building to define the street wall by fronting directly onto the street, or be set back to allow for plaza space and indoor/ outdoor function of the building as an extension of an activated public realm.*
- *Orient buildings to primary frontages.*
- *Support safety through the concept of "eyes on the street" by ensuring residential units, offices and other upper floor uses overlook public and semi-public spaces.*

## Performance Criteria

1. The building is located on the front property boundary, to promote interaction between pedestrians and shopfronts.
2. The building has a clear street address and entry to upper level development is well defined but not prominent at street level.
3. Development continues the predominant built form character of the street, including awnings, parapet lines, and roof pitches.

## Prescriptive Measures

1. Development is to include display windows with clear glazing to ground floor retail and commercial uses, with a maximum sill height of 0.7m.
2. Access to upper level uses shall not occupy more than 20% of the ground floor frontage.
3. Where the site has dual frontage, vehicle access shall not be provided off the primary active street frontage. Vehicular entries are to be designed to be discreet and to minimise conflicts with pedestrians by providing that cars give way to people.
4. Roof parapets and awnings must provide continuity with adjoining properties, follow the street grade and be of a sufficient depth to provide good shade and shelter to pedestrians.
5. Development shall include advanced tree planting in the footpath.
6. Lighting for streets, parks and any other public domain spaces provided as part of a development must be energy efficient LED lighting.

### E10.2.3 Built Form

The building height, floor space and setbacks establish the building envelope. The built form of the development sits within the envelope and is moulded to respond to the site context.

The maximum height is set by Byron LEP 2014 at a **building height** of either 11.5m or 9m, with a maximum **floor space ratio** of 1.3:1 also set in the LEP.

The built form controls within this Chapter accommodate a mix of uses in the Town Centre. The ground level floorplates are suitable for retail and commercial uses, while the upper level floorplates provide for more natural light and ventilation, and are suitable for flexible commercial, residential and/ or tourist accommodation uses.

## Objectives

1. To achieve a built form of a scale and character in keeping with the 'town scale' and desired future character of the Town Centre.
2. To allow for architecture that reflects the surrounding existing natural and built environment.
3. To achieve comfortable and healthy street environments and landscapes for pedestrians in terms of daylight, sense of enclosure and wind mitigation.
4. To protect streetscapes, vistas and skyline views.



5. To enable comfortable and high quality internal environments and allow natural day lighting, natural ventilation and visual and acoustic privacy.
6. To ensure adaptability of buildings for future uses.
7. To enable and encourage buildings with minimal environmental footprint and a reduced reliance on electricity.

## *Design Guidelines*

- *Maximise street presence and ground orientation*
- *Design lower floors of buildings with ground-oriented units that are around 15m wide. At ground level, circulation should be externalised to create direct street access to all parts of the building.*
- *Maintain visual connection to commercial store interiors through at least 75% glazing along the primary store frontage.*
- *Orient primary building entrances to the footpath on which the building fronts. Primary building entrances must be universally accessible and should be well-lit and visually prominent.*
- *Treat blank walls visible from the road with landscaping, architectural features, and/ or artwork to cover at least 50% of the blank wall.*

### *Frame intersections*

- *Design buildings on street corners to front both streets, with primary entrances on a chamfered (bevelled) corner.*

### *Design human-scale buildings for comfort and enjoyment*

- *Articulate building facades with architectural features, varied materials, and subtle horizontal recesses to create variety and interest along the street.*
- *Include articulation in roof design to provide visual interest.*
- *Where practical, include green roofs.*
- *Screen rooftop mechanical equipment from view.*
- *Use materials that emphasise durability and reflect an honest expression of building architecture.*
- *Use multiple material types to provide visual interest and emphasise variety.*

## *Performance Criteria*

1. Design of new development respectfully considers its neighbours, and the potential permissible future uses of its neighbours.
2. Design of new development respectfully considers the impact and presence the development will have on the public domain and amenity.
3. Design concentrates on people-scale, providing attractive and useable spaces at street level.
4. Street corners are strengthened by massing, chamfered (bevelled) corners and building articulation to both frontages.

5. Building components are designed for, in order of priority, longevity, adaptation, disassembly, re-use and recycling.
6. Development enables the incorporation of sustainable development initiatives, including green infrastructure.
7. Building design promotes minimal energy consumption.

## Prescriptive Measures

1. Where the Byron LEP 2014 **Height of Buildings Map** specifies a maximum height of 11.5m, buildings must not contain more than three **storeys**.
2. Where the Byron LEP 2014 **Height of Buildings Map** specifies a maximum height of 9m, buildings must not contain more than two **storeys**.

**Definition:** A **storey** is a space between one floor level and the floor level next above (or the ceiling where there is no floor level above). It does not include an attic, a mezzanine or a space that contains only a lift shaft, stairway or meter room.

3. Roof-top recreation or commercial facilities must not contravene the maximum building height development standard.
4. Buildings are to have minimum floor to ceiling heights of:
  - a. ground floor: 4.0m;
  - b. first floor: 3.3m
  - c. second floor: 2.7m

**Note:** A floor to ceiling height of 2.7m requires a minimum floor to floor height of 3.1m and a floor to ceiling height of 3.3m require a minimum floor to floor height of 3.6m.

Ceiling heights are to be measured from finished floor level (FFL) to finished ceiling level (FCL).

5. Second storey levels to be set back 3m from the street frontage to achieve a degree of vertical articulation

Any upper storey setback can be utilised for balcony/ open space purposes.

6. Development for residential uses is to provide a building depth up to 12m, including articulated areas. Where building depth exceeds 12m, the applicant must demonstrate how satisfactory daylight and natural ventilation is to be achieved.
7. Where already existing, access to sunlight is to be maintained for a minimum period of two hours between 9am and 3pm to private open spaces of adjoining properties. Where existing overshadowing is more than this, access to sunlight must not be further reduced by new development.
8. Where a building is proposed on a street corner, the corner is to be chamfered (bevelled).
9. Communication devices, antennae, satellite dishes, chimneys, flues, air extractors, and the like shall not be readily visible from the public domain.
10. The building or its façade must not result in glare that causes discomfort or threatens safety of pedestrians or drivers.

11. Private open space balconies for shop-top housing are to be:

- a. provided for all dwellings;
- b. have a north-west to north-east aspect where practicable; and
- c. directly accessible from the living area of the dwelling and capable of servicing as an extension of the living area.

Where environmental conditions, including wind and noise effects, could significantly diminish the amenity of private open space, the requirement for the provision of private open space may be waived.

Wind and acoustic treatments of private open space must not result in the space being enclosed where it becomes part of the building envelope as defined by the BCA.

Where, in the opinion of the consent authority, the private open space has the character of a habitable room, it will be included as GFA.

## E10.2.4 Respond to climate and context

### Objectives

1. To ensure that climate and environmentally suitable materials are used.
2. To ensure that new and existing buildings retain the coastal village character of Byron Bay and are responsive to the Far North Coast climate.
3. To encourage building design that is adaptable and suitable for the Far North Coast climate.
4. To encourage buildings that are adaptive to a changing climate whilst maintaining good urban design outcomes.

### Design Guidelines

#### *Design sustainable buildings*

- *Optimise solar radiation, natural ventilation, and daylighting through building form, orientation and thermal mass.*
- *Design residential levels to receive daylight and natural ventilation from at least two sides of the building where possible.*
- *Utilise solar shades and/ or deeper balconies/ overhangs along north and east facing building facades.*
- *Utilise durable, thermally efficient roofs that reduce heating and cooling. Landscaped roofs are encouraged.*
- *Adapt buildings to uncertain future weather events, whilst maintaining good urban design outcomes*

#### *Minimise impervious surfaces*

- *Landscape all areas not covered by buildings and/ or pedestrian facilities, with priority given to permeable surfaces.*
- *Use permeable hardscapes to mitigate stormwater runoff.*

- *Incorporate greenery in creative ways.*
- *Use edible landscapes in the form of fruit trees, nut trees and edible ground cover, provided such plantings are properly maintained to reduce attractants for pests.*

*Respond to the North Coast Climate and Design*

- *Use materials that complement the existing aesthetic of the town and are suitable for the Far North Coast climate.*
- *Use lightweight construction and adequate insulation*
- *Choose building materials, colours and textures that embody the coastal village character of Byron Bay.*

## Performance Criteria

1. Built form adapts to forthcoming climate change and future weather events.
2. Where possible, adaptive elements do not detract from urban design outcomes, including active street frontages.
3. Building ramps are provided within the building envelope to allow for active street frontages at the street boundary.
4. Shop top housing has access to useable private open space and communal open space.

### E10.2.5 Acoustic and visual privacy

The privacy of residents and neighbours should influence all stages of design, from the location of dwellings and the placement of windows and materials, through to the selection of materials and construction techniques.

Residential development in the mixed use Town Centre is likely to be subject to a certain level of activity noise associated with the uses in the Centre. The resultant amenity impacts can be substantially mitigated by good design.

## Design Guidelines

*Respect privacy*

- *Offset window placements between buildings that face each other in close proximity in order to maintain privacy in residential units.*
- *Relate proposed buildings to adjacent heights. Where a building is introduced that is taller than its neighbours, it should incorporate complementary building forms and transitional building heights to bridge the height and scale of adjacent buildings, particularly when next to lower-density residential uses.*

## Objectives

1. To ensure adequate separation between dwellings for acoustic and visual privacy.
2. To encourage building design, construction and use of materials that minimise conflicts between commercial and residential uses.

## Performance Criteria

1. Development is sited and designed to minimise the transmission of external noise to other buildings on the site and on adjacent land.
2. The internal layout of rooms, courtyards, terraces and balconies, the use of openings, screens and blade walls, and choice of materials, are designed to minimise the transmission of noise externally.
3. The bedroom areas are separated, by way of barriers or distance, from on-site noise sources such as active recreation areas, car parks, vehicle access-ways and service equipment areas.
4. Noise impacts associated with goods delivery and garbage collection are minimised, particularly early morning.
5. Visual privacy is protected by providing adequate distance between opposite windows of neighbouring dwellings, where a direct view is not restricted by screening or planting.
6. Balconies are located and designed to provide privacy for occupants of the building when viewed from the street or nearby public space.

## Prescriptive Measures

1. Where a development involves two or more separate buildings, the minimum distance between windows facing each other is:
  - a. 6m between non-habitable rooms;
  - b. 9m between habitable and non-habitable rooms; and
  - c. 12m between habitable rooms.
2. A rear courtyard for a restaurant or café in a mixed use building will only be permitted if Council is satisfied that the use and hours of operation will not have an unreasonable impact on residential amenity.
3. Views to adjacent private spaces must be protected and screened.

**Note:** Council may require a Noise Impact Statement as part of the development application.

### E10.2.6 Car parking

The Byron Bay Town Centre Masterplan adopts a principle of “cars out – people in” to address significant issues of traffic congestion in the town. For the Town Centre, this means moving away from a policy of addressing car parking by satisfying parking demand on individual sites, to a Centre-wide policy that seeks to manage parking demand, the distribution of parking spaces and other measures to reduce the need for cars to enter and move through the Centre.

## Objectives

1. To promote and ensure a Town Centre that is people focused.
2. To encourage and facilitate sustainable transport options for the Town Centre.

## Performance Criteria

1. On-site car parking is not visible from the primary street frontage.
2. Parking areas include electric vehicle charging points or the capacity for electric vehicle charging points to be installed at a later time.
3. Where a car share scheme operates locally, car share parking spaces with car share cars are provided within the development, or in a suitable location off-site – at no cost to Council.
4. Where car share spaces with car share cars are provided on site, parking rates may be discounted by a maximum of 3 car spaces per car share vehicle.
5. Where car share parking spaces with car share cars are provided on-site, the spaces are:
  - publicly accessible 24 hours a day seven days a week;
  - located together;
  - located near and with access from a public road and integrated with the streetscape through appropriate landscaping where the space is external; and
  - clearly designated by signs as being for car share scheme use.
6. Car share parking spaces located on private land are retained as common property by the Owners Corporation of the site and not sold or leased to an individual owner or occupier.
7. Actions and strategies are employed to create incentives to use sustainable transport modes, including consideration of:
  - on-site parking, availability and costs;
  - building design and/ or rules that might impact on transport choice – ability to transport bicycles in lifts; storage for bikes in common areas, security etc.

### E10.2.7 Waste and recycling management

Management of wastes and recycling (including food waste), particularly the regular collection, is an important design consideration for mixed use buildings in the Byron Bay Town Centre.

## Objectives

1. Ensure that each dwelling has adequate space to manage waste and recycling, with allowance for multiple resource recovery streams including co-mingled recycling, cardboard, and food waste.
2. Ensure that buildings provide appropriate facilities to manage waste and maximise recovery of resources.
3. Ensure that building design allows for appropriate storage of wastes and recycling and that adequate provision is made for vehicular access to storage/ collection areas.
4. Ensure that residential amenity is not impacted by waste systems and collection.

## Performance Criteria

1. The waste handling, storage and collection systems for residential and non-residential waste are separate and self-contained, including separate keys and locking systems.
2. Easy access is provided from each central waste and recycling storage area to the nominated collection point.
3. The Waste Management and Recycling Plan separately identifies the collection points and management systems for both residential and non-residential waste streams.
4. Noise and odour from the non-residential waste and recycling management system does not impact on other occupants within the development.

**Note:** Individual businesses are encouraged to liaise with Councils Resource Recovery team to ensure sound waste management and minimisation practices are incorporated on an ongoing basis which is supported by the design.

## Prescriptive Measures

1. Storage facilities for separated waste, such as paper, cardboard, containers and food waste are to be included in all non-residential developments and indicated on the plans. The storage of paper and cardboard is to be in a dry, vermin proof area.
2. Kitchens, office tearooms, service and food preparation areas are to be designed with sufficient space for the interim storage of recycling, food and general waste in separate receptacles and are to be indicated on plans. Signage and information in accordance with Council guidelines should be provided and be consistent with bins in storage area.
3. A dedicated undercover, enclosed space is to be provided for storing bulky waste and problem waste for recycling as an interim storage area. As a guide, this space should be no less than:
  - a. 2m<sup>2</sup> for developments under 100m<sup>2</sup> ;
  - b. 4m<sup>2</sup> for developments between 100m<sup>2</sup> and 2,000m<sup>2</sup>; and
  - c. An additional 4m<sup>2</sup> for each retail, accommodation or entertainment development over 2,000m<sup>2</sup> and for every 20,000m<sup>2</sup> of office space.

However, these guidelines are dependent on the type and usage of development and will be review in accordance with Chapter B8 of this DCP.

4. Bulky waste storage areas must:
  - be readily accessible to all residents;
  - be located at ground level (screened from the street) or in a basement (can be incorporated with the bin storage area);
  - be secure and caged to allow the contents to be visible from the outside; and
  - have a minimum doorway width of 1.5 metres to allow for easy movement of large waste items.
5. Where communal composting areas are proposed, it is preferred they are managed by a gardener or caretaker and located:
  - a. in an accessible and visible area to increase awareness and so that it is well maintained;



- b. away from dwellings on site and on adjacent properties, so they are not affected by potential odours; and
  - c. so that potential run-off is away from site drainage points.
- 6. Waste and recycling storage facilities are to be easily accessible to building occupants and removal vehicles and of a sufficient size and capacity to service the building.
- 7. Bins in storage facilities need to be clearly labelled with waste disposal information consistent with council guidelines and educational materials.
- 8. Screen storage facilities from any public place or adjoining property.
- 9. In addition to the standard provision for wastes and recyclables, premises are to allocate sufficient space for the separate storage of:
  - a. reusable items such as crates, pallets, kegs so that storage in a public place is avoided; and
  - b. liquid wastes such as oils with storage areas bounded, and drained to a grease trap, in accordance with the requirements of state government authorities and agencies.

## E10.2.8 Heritage conservation

Properties located in the Heritage Conservation Area or listed as a Heritage Item under the BLEP 2014, require further consideration in relation to their anticipated bulk and scale.

Development proposed for such sites must comprehensively and clearly address the heritage significance of the place, prior to a DA being lodged.

Any development of Heritage Items must be assessed via a comprehensive Conservation Management Plan (CMP) that aligns with the item's historical significance and enhances the protection of the heritage item. Streetscape photomontages and views and vistas plans may also be required.

The CMP must demonstrate that the heritage significance of the property is enhanced by the proposed works and indicate how the proposed works assist with creating a strong heritage connection throughout the town.

Adaptive reuse of existing buildings is strongly encouraged.

Council encourages early consultation with a suitably qualified heritage expert and Council staff, prior to lodging any plans for re-development of heritage items in the Byron Bay town centre.

Further information on requirements for development of heritage items and properties in the Heritage Conservation Area can be found in Chapter C1: Non-Indigenous Heritage of this DCP.

## E10.2.9 Roof form, access and use

Roof form, access and usage can have implications for the street feel and design outcomes of buildings.

## Objectives

1. Encourage a diversity of roof forms as appropriate to each building.
2. Encourage the provision of green roofs to reduce urban heat island effect and create ecological amenity.
3. Reduce adverse impacts from roof-top activities on surrounding properties.
4. Encourage solar collectors and photovoltaic cells to be integrated into the overall design of roof terraces.

## Performance Criteria

1. Roof form creates visual interest, and compliments the architectural features of the development.
2. Roofs provide space for greening.
3. Roofs achieve articulation from neighbouring buildings, and reinforce visual interest.
4. Green roofs provide adequate substrate to support the long term growth of vegetation.
5. Roofs boost sustainable outcomes, through installation of elements such as rain water tanks, solar panels and the like.

## Prescriptive Measures

1. Roof-top recreation spaces must be located so that they are not visible from adjoining streets.
2. Applications proposing roof-top recreation spaces are to be supported by a site specific acoustic assessment, prepared by a suitably qualified person, quantifying existing background noise levels and noise levels predicted for the likely use of the space, in relation to all nearby residential areas, and demonstrating that the use of the roof top for functions and/ or events will not result in the generation of offensive noise, as defined in the *Protection of the Environment Operations Act 1997*.
3. Roof-top lighting is to be orientated inwards, and should not adversely impact on neighbouring properties.
4. The design of roof plant rooms and lift overruns is to be integrated into the overall architecture of the building.
5. Roof-top recreation spaces should be intended primarily for the occupants of that building, and should not be readily accessible to the general public.
6. Hours of operation/ access to rooftop areas should be limited by the owner's corporation to minimise any potential adverse impacts on neighbouring properties.

## E10.2.10 Green Infrastructure

Where possible, building construction should be complimented with the inclusion of appropriate and well maintained green infrastructure, including vertical plantings, green roofs and green walls.

The addition of green infrastructure will add to the architectural quality of the overall design and should be designed in such a way as to be easy to maintain with appropriate substrate levels and species selection.

## E10.2.11 Design Excellence

### Objectives

1. Ensure that new development within the Byron Bay Town Centre exhibits the highest standard of architectural and urban design.
2. Achieve buildings that respond appropriately to the environmental and built characteristics of the Town Centre.
3. Improve the quality and amenity of the public domain.

### Performance Criteria

Development in the Byron Town Centre achieves Design Excellence, as articulated in the Byron Local Environmental Plan 2014 Clause 6.13.

### Prescriptive Measures

New development proposed to be carried out in the area identified in the Design Excellence Map in the Byron LEP 2014, must be referred to the Design Excellence Panel prior to the lodgement of a Development Application.