

Benjamin Howard-Bath



Binna Burra

04/12/22

Mr Sam Tarrant

Byron Bay Council

Response to the proposed amendments to Byron Bay DCP 210 and 2014

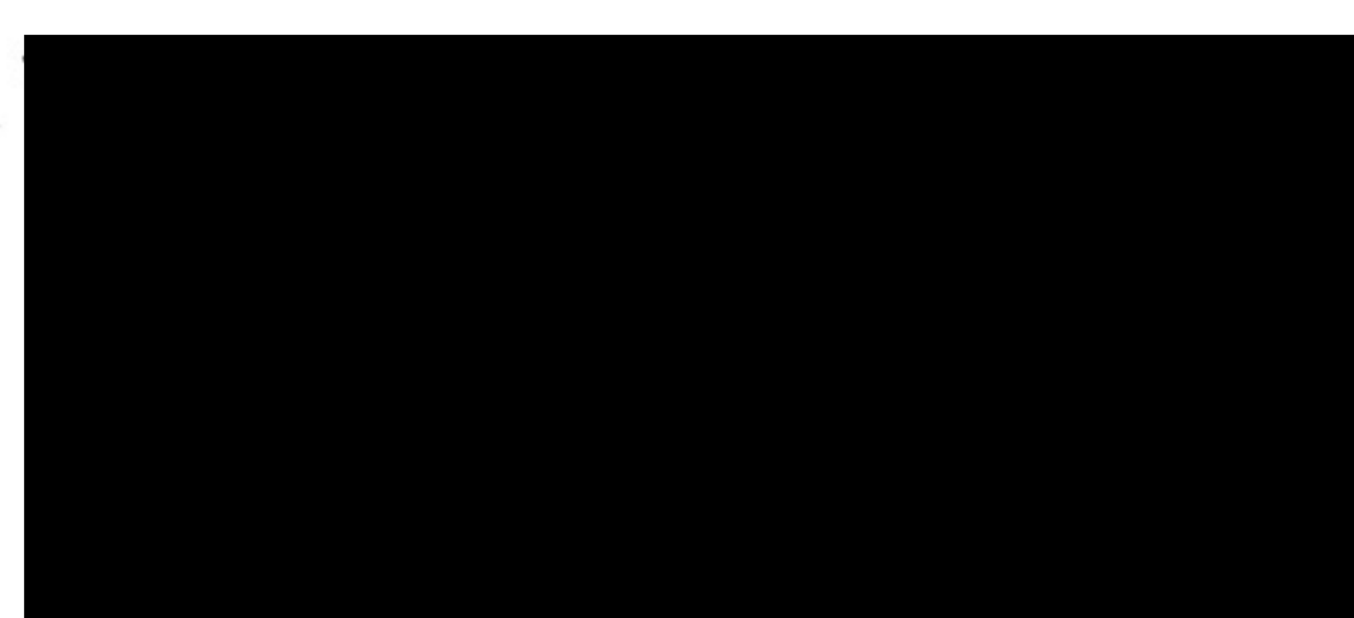
As a concerned local resident I am writing this to express my strong objection to the proposed amendment to the DCP, specifically D1 that imposes maximum density limitations to all future development in R2.

Over the years we have seen the transformation of Byron Bay and whilst most of them have been received really well the biggest threat we face is the housing affordability. I have 3 young children who love the area as much as I do, but Byron Bay is very quickly running out of space. The key to keeping these kids close to parents like myself is housing affordability, and historically subdivision has been the most effective solution especially in Australia.

Currently a 1,000m² R2 lot in Byron Bay can cater for 4 reasonably sized dwellings that are perfect for a young family. However, by reducing this to 3 because the FSR stays the same each dwelling will naturally become larger and more expensive by in theory 33% which I believe is enough to price out most young Australians especially in what's already a very expensive market like Byron Bay. This is very alarming and frankly will have a catastrophic effect on the future of our children which we need to avoid at all costs.

The most recent development in the West Byron Precinct was a major changes we had in years and many of us have planned our movements, including ideas of selling and buying around this. To introduce another change after not even 24 months later in this manner is confusing only and it is just not fair. While I do support the intentions of the council to do what they think is good for Byron Bay, I must say D1.6.11 is a huge mistake and I strongly encourage the council to scrap the idea altogether.

Yours Sincerely



Benjamin Howard-Bath

04/12/22

Mr Sam Tarrant
Byron Bay Council

Submission - Proposed amendments to Byron Bay DCP 210 and 2014

We are writing in response to the proposed amendments to Byron Bay DCP 2010 and 2014, in particular section D1.6.11 which proposes to adopt a maximum density control in the R2 zones. We strongly object to this for the following reasons:

1. Conflicting purposes & fails to differentiate with Torrens title homes

Byron LEP defines R2 zoning to accommodate various types of housing including multi-dwellings. A minimum lot size of 333m² is excessively large for a multi-dwelling especially when the maximum buildable internal floor space is already limited to FSR 0.5:1.

The new density control means on a 1,000m² lot the average internal size of each dwelling will be 166m². If built to the height limit which allows a 3-storey building, the ground floor footprint will be 70m² meaning the dwelling will have a 263m² private open space which is no different to most Torrens title homes. This defeats the whole purpose of having different built forms and options for the residents in the first place, because most people who choose to live in multi-dwelling homes need a low-maintenance home.

2. Overlapping parameters

R2 in Byron Bay already has a limitation of FSR 0.5:1 to ensure consistency with the surrounding dwellings. This parameter is the single most effective deterrent to overdevelopment so to add a maximum density control on top is excessive and it will pose unnecessary confusions and limitations to the future development of Byron Bay.

3. Fails to provide various sized dwellings for different needs

The proposed max density means on a 1,000m² block the minimum average size of the dwelling will become 166m². Most multi-dwellings in Byron Bay are under 140m² and 166m² seems very out of character in Byron Bay.

While this may suit a large family there are thousands of families who require a much smaller dwelling for both practicality and financial reasons, but with the new density control these families in need of smaller dwellings will have less and less options to live in years to come.

4. Negatively impact housing affordability

Current control allows 4 x 125m² to be built on a 1,000m² lot, which will naturally be cheaper to buy or rent than a 166m² dwelling as described above. The importance of this cannot be stressed enough, as providing affordable housing for the locals is one of the most important topics in the area. The council has proposed introducing a 90-day cap to holiday rentals as one of the tools to fight this problem, but the motion to introduce max density control in this manner will do exactly the opposite.

To put it into perspective, if a 125m² two to three bedroom townhouse costs \$1,625,000 (\$13k/m²) to buy, 166m² four to five bedroom townhouse will cost \$2,158,000. The 125m² will cost \$1,000 a week to rent, but the 166m² will cost \$1,400. If max density control is introduced, young local families who can't afford this will be forced to move out of the area and replaced by non-local A-listers with deep pockets which destroys the lives of generations of local families.

Based on these reasons we believe the proposed maximum density control will have a significantly negative impact to the residents of Byron Bay so it should not proceed.

Daichi Somehara

Director – Development Division

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Feedback for amendments to Development Control Plan 2014



Submission date: 5 December 2022, 5:33PM

Receipt number: DCPAM10

Related form version: 1

Name David Chegwyn

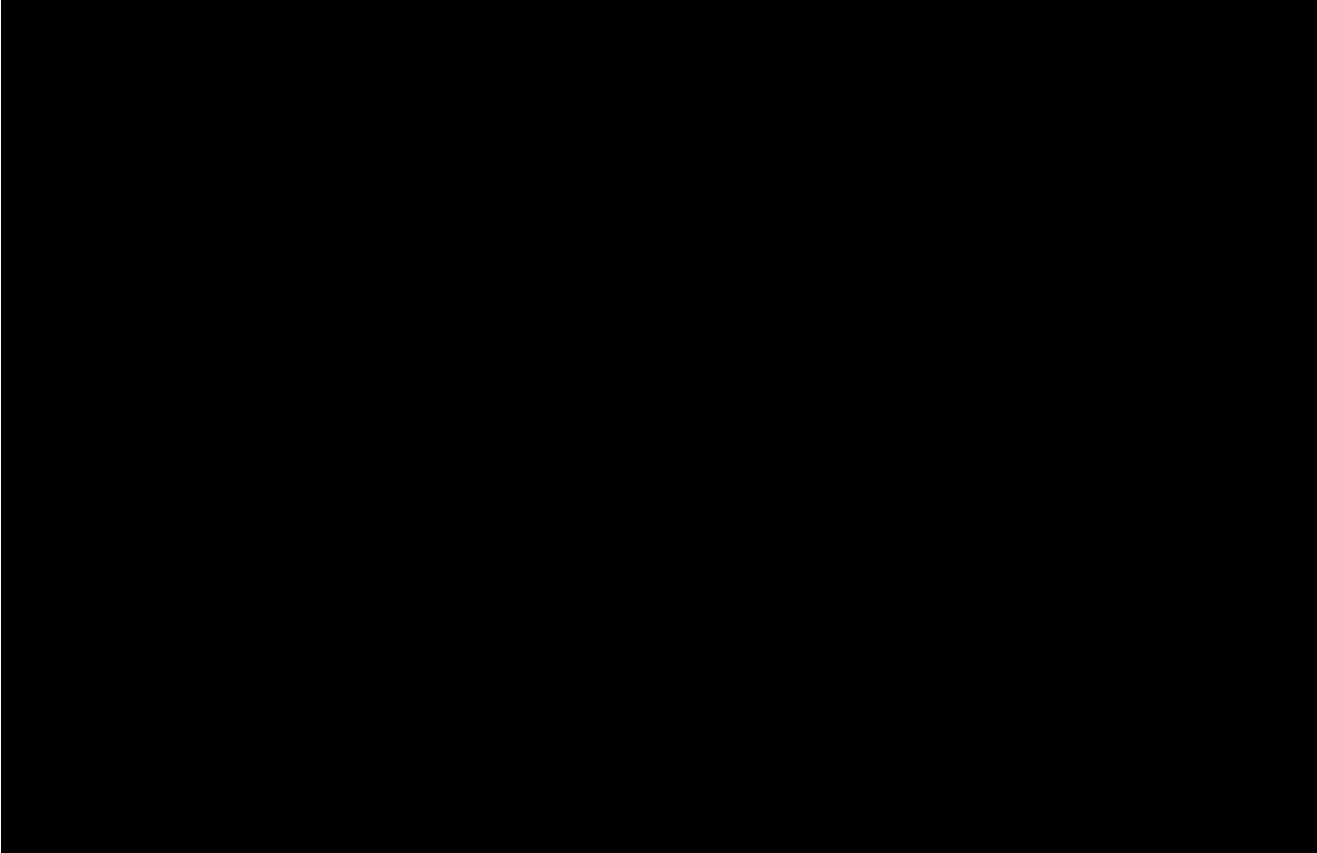
Email

Provide your feedback

To whom it may concern I wish to make a submission on the proposed changes to the Amendments to the DCP in Byron Bay Industrial Estate. My wife and I, (via our Super Fund), own a property at 63 Centennial Circuit Byron Bay, 2481, NSW As I understand that there is a currently a review process whereby the current Zone B7 may be amended to E4. I also understand that one particular site currently Zoned B7 may be amended to Zone E3. That particular site is known as Lot 12 DP1189646 - I understand that the site Lot 12 DP1189646 was owned until recently by Byron Council It is my understanding that an E3 zoning would represent a significantly more valuable and flexible use Zone than that of E4. I would question why a property related to Council would be beneficiary of a more valuable Zoning over the rest of the landholders within Zone B7? I would also question whether the usage rights within Zone E4 would represent a downgrade of the present usage rights of the B7 zoning? If so that would be unfair. My point really is that if one property within B7 is to be embellished to E3 , so therefore, should other properties within B7. There would seem to be a basic lack of fairness to any other approach. I did make a similar submission when the Byron Bay Industrial Estate Master Plan was being considered

Regards David Chegwyn

Upload your feedback



From: john lazarus [REDACTED]

Sent: Monday, 5 December 2022 4:29 PM

To: Tarrant, Sam <starrant@byron.nsw.gov.au>

Cc: Arnold, Mark <MArnold@byron.nsw.gov.au>; Cr. Michael Lyon <michael.lyon@byron.nsw.gov.au>; Cr. Mark Swivel <mark.swivel@byron.nsw.gov.au>; Cr. Alan Hunter <alan.hunter@byron.nsw.gov.au>; Cr. Cate Coorey <cate.coorey@byron.nsw.gov.au>; Cr. Sama Balson <sama.balson@byron.nsw.gov.au>; Cr. Peter Westheimer <peter.westheimer@byron.nsw.gov.au>; Cr. Duncan Dey <duncan.dey@byron.nsw.gov.au>; Cr. Sarah Ndiaye <sarah.ndiaye@byron.nsw.gov.au>; Cr. Asren Pugh <asren.pugh@byron.nsw.gov.au>

Subject: Submission in Objection - Amendments to multiple chapters of the Development Control Plan 2014

Submission in Objection - Amendments to multiple chapters of the Development Control Plan 2014

Sam Tarrant
02 6626 7216
starrant@byron.nsw.gov.au

John Lazarus
[REDACTED]
Byron Bay 2481

Amendments to multiple chapters of the Development Control Plan 2014

- ***Part A: Preliminary*** (PDF, 609KB)

- [**Chapter B3: Services**](#)(PDF, 314KB)
- [**Chapter B4: Traffic Planning, Vehicle Parking, Circulation and Access**](#)(PDF, 566KB)
- [**Chapter B8: Waste Minimisation and Management**](#)(PDF, 566KB)
- [**Chapter B10: Signage**](#)(PDF, 916KB)
- [**Chapter C2: Areas Affected by Flood**](#)(PDF, 7MB)
- [**Chapter D1: Residential Accommodation in Urban, Village & Special Purpose Zones**](#)(PDF, 847KB)
- [**Chapter D2: Residential Accommodation and Ancillary Development in Rural Zones**](#)(PDF, 388KB)
- [**Chapter D8: Public Art**](#)(PDF, 288KB)
- [**Chapter E2: Bangalow**](#)(PDF, 21MB)
- [**Chapter E4: Brunswick Heads**](#)(PDF, 878KB)
- [**Chapter E5: Certain locations in Byron Bay and Ewingsdale**](#)(PDF, 3MB)

Dear Mr Sam Tarrant

I Object to the proposed Amendments Chapter 5 (and with subsequent alignment of changes to the Introductory Chapter)

[**Chapter E5: Certain locations in Byron Bay and Ewingsdale**](#)

1) I object to Chapter E5 being included in a "Housekeeping" DCP Amendment list.

Chapter E5 should be deleted from the list, and I Request three individual Reports be provided on the North Beach, Habitat, and Hospital sites, dealt with in Chapter E5

The Chapter E5 proposes giving new development capacity for the North Beach, Habitat, and Byron Hospital environs sites. The proposals are for major development changes, not minor amendments. All three sites have been controversial and remain as high public interest.

The DCP would create new development areas, including new future greenfield redevelopment, and should be independently subject to separate specific Planning Reports put to an Ordinary Planning Meeting.

This Chapter E5 DCP Report, and attachments, fails to be informed by either of Habitats or North Beach's present development status, or inform of the increased development framed by an Amended DCP.

This DCP fails to rationalise the various DCPs over the North Beach site. This DCP Amendment refers to the separate DCP10 which covers a part of the site. DCP10 is a **Tourist** development DCP, which incoherently covers a part of the site recently rezoned to C4 for **Residential** living. Noting that the LEP C4 Environmental Living Zone is for residential development compatible to sites with environmental values, but the site is virtually all exotic weed grass.

The North Beach DCP changes fails to assess existing development Consents,

including the State Govt Becton Consent, which appears to have been Commenced, with a Condition of that Consent being 'That a minimum of 57 hectares be given to the adjacent Nature Reserve', noting that the DCP Amendment proposes further tourist site development of the area that the Becton Consent appears to be required to be given to the adjacent Nature Reserve. Accessing Council Records identifies that a number of the Becton DA Consent Conditions have been actioned, and Commencement appears confirmed by a later subsequent Council Rejection of provision of a Construction Certificate for some development works.

The proposed part North Beach site DCP is completely confused with references to the separate part of the site which has a Tourist DCP 10 over present newly rezoned Residential C4 zone

The sites' Tourist DCP 10, covering the new part site Urban Release area of a Residential C4 zone, is meaningless as the LEP has legal hierarchy over a DCP, leaving no DCP framing any constraints on any LEP C4 Zone development uses, and a confusion of mixed DCPs and LEP land release areas on the whole site. The Draft DCP does not comply with prior Becton DA and Masterplan Conditions of Consent for 57 HA to be handed to a public authority.

The sites present development is also appears, confusedly, either based on an extinct DA that wasn't acted upon within 5 years, leaving some existing development as Unauthorised, or has ignored the DA's relevant Conditions of Consent of provision of 57 hectares to the public estate, and ignored other Becton DA Consent Conditions, and ignores the DA required Masterplan, if it was Commenced. The Becton Masterplan was a requirement of the State Govt Planning Consent. Council advises that they do not have a copy of the Masterplan, and as such I Request Council gets a copy from the State Govt. I allege that the Becton DA was Commenced and that the associated Masterplan is the top legal hierarchy Planning document governing all of the North Beach site development.

The Draft Amendment attachment states:

"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." - the C4 Residential Zone part of the North Beach site is still covered by the 1988 LEP and thus still covered by the Tourist DCP 10 over the recent Residential Zoning, leaving a quagmire of various DCPs and Zones over different parts of the same site.

2) a) The Habitat site was given Consent as a light industrial live/work development with an internal cafeteria. The private Planner that put the DA to Council then became employed by Council as the Major Projects officer, who then provided the Planning Reports that have effectively turned it into a Shopping Centre, with attached live/work areas now separated by Council DA Consents and used for holiday letting, and with now Council Consents for multiple public restaurants, stand alone shops, real estate agents and non industrial uses. Neither the Developer or the Council Planner declared the Conflicts of Interest from their previous and ongoing association. In addition, two Councillors, and their associates, received Political donations from the developer, with one of the

Councillors, when on Council, joining the developer in a property development business. Development on the Habitat site should be subject to a thorough Review and should not be given further DCP development capacity prior to existing development uses rationalised.

b) The subsequent changes post DA Consent for Habitat

Re: "E5.5.2 Objectives of this Section

3. Define a compatible mix and density of business, office, residential, retail, light industry and other development on parts of the site;" -

Habitats Development was defined in the DA. The DA has not been complied with, and the DA appears to be just a foot in the door to develop a shopping centre with apartments from a light industrial area. Council appears to be just retrofitting this development for the developers wishes. Council has not provided appropriate governance over this development, and the public can have no confidence in Council assessing any Habitat development.

c) The redevelopment of the site into a Shopping Centre has already adversely affected existing town centre retail and office businesses, and adversely affects an actual Shopping Centre opposite Habitat

d) The subdivision of the site was to be by Strata subdivisions, which require a Strata Management body, but I cannot find any such Strata management body (which is required to be Registered with NSW Fair Trading), which raises the question on who is managing the Strata obligations.

3) Proposed development of the Byron Hospital site and environs has been controversial, and publicly hotly contested. Any new development framed by a new or Amended DCP should be subject to an Individual Planning Report tabled at an Ordinary Planning Meeting, for the benefit of the public who retain a high interest in development of the site and environs.

4) Re: A13.3 Re-sited buildings

b) "Hot water system must not be an electric storage tank that is connected to mains power."

This unfairly and inappropriately restricts a hot water system to a gas fired boiler where solar is unavailable due to tree cover restricting sufficient direct sun.

Personally after 3 solar investigations that rejected solar due to tree cover, I have an electric storage tank but purchase 100% green hydroelectricity, i.e a green energy powered electric tank is more environmentally friendly than a gas fired tank, and that option should be included

5) Appendix A1 Dictionary

a) Opposed to including commercial premises, restaurant or café and shops, as new listed permissible uses in Habitat Live/work light industrial development that this Dictionary calls Bayshore Village.

b) Opposed to allowing "residential uses" that are not attached to work spaces as per the Habitat sites original DA

c) The DA for Habitat was for a light industrial area which is inconsistent with it progressing to become a Shopping Centre, as per this DCPs dictionary description:

"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."

I oppose inclusion of E5 Bayshore Village in the Amended DCP statement:
"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."

6) Chapter E5 is not a minor housekeeping DCP Amendments. Alleging that they are, and burying these significant new development capabilities within a list of 12 other minor housekeeping DCP Amendments, appears to be an attempt to slip through these falsely alleged 'Minor Housekeeping Amendments' unnoticed, to hide these new proposed development capabilities from the public.

Yours

John Lazarus

3rd December 2022

Byron Bay Council
Mr Sam Tarrant

RE: Response to proposed amendments to Byron Bay DCP 2014

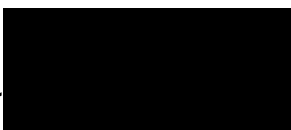
We write in response to the proposed amendments to Byron Bay DCP 2014 and in particular the amendments to density (D1.6.11).

The proposed DCP change seeks to introduce a maximum density control for R2 zones which we do not support for the following reasons:

1. the proposal is identified as “house keeping” when in effect, the changes will be far more impactful to development potential and property values throughout the region;
2. the proposed changes seek to circumvent the correct planning process of amending the LEP following appropriate community and state planning feedback to differentiate R2 from R3. The state government only recently undertook a planning overhaul to address such matters and Byron Bay Council had the opportunity to propose appropriate R3 zones suitable for increased density development but did not;
3. the changes will require developers to seek R3 spot rezonings throughout the LGA requiring significant additional resource by Council and unnecessary cost and time delays to developers leading to increased housing cost and lack of supply;
4. the proposed changes are not consistent with the state governments “missing middle” strategy and rather than promoting diversity and affordability in the Byron Bay area, these proposed changes will actually create more larger homes as land owners and developers seek to maximise sellable floor area on each lot;
5. the proposed 333sqm per dwelling is far too large for medium density product. There are single torren’s title lots in metropolitan areas with smaller land size than that proposed, whilst still achieving satisfactory density and built form outcomes;
6. There are numerous R2 zoned area throughout Byron Bay Council that should be encouraging land owners to develop medium density product. This proposed change would preclude development from both an investment return perspective;
7. Council’s LEP determines that R2 zones are to accommodate medium density product and appropriate bulk and scale can be controlled without prescribing yield controls.

We encourage Council to put in place correct planning procedures to identify and bulk rezone R3 zones appropriate for medium density development before restricting it in R2 areas through density controls.

Your sincerely,

A black rectangular redaction box covering the signature of Matthew Curnow.

Matthew Curnow
Director

5 December 2022

Byron Shire Council

Via email: starrant@byron.nsw.gov.au, council@byron.nsw.gov.au

**Byron Development Control Plan 2014 Amendments
Chapter D1 - Submission**

Dear Sir/Madam,

We submit this correspondence as a formal submission to the draft amendments to multiple chapters of the Development Control Plan 2014 presently on public exhibition, specifically, as they relate to Chapter D1 and its density provisions. This submission is made on behalf of Planit Consulting Pty Ltd, whom take an active interest in strategic and development assessment planning within the North Coast region of NSW.

Firstly, we commend Byron Shire Council for pursuing a suite of DCP amendments as part of a best practice review. Planit also acknowledges and appreciates the desire to support greater delineation between low and medium density areas within the Byron Shire. Whilst we see merit to recalibrating controls to achieve the desired built form and character outcomes desired in the R2 Low Density Residential zone, specific to the proposed density provision, we encourage:

- reconsideration of the line of sight between Objectives, Performance Criteria and Prescriptive Measures, and
- exploring alternate prescriptive measures to achieving best practice and the desired future character of the low density zone across Byron Shire.

These matters are discussed further below.

- **Line of Sight – Objectives, Performance Criteria and Prescriptive Measures**

Draft section D1.6.11 of Chapter D1 is currently drafted as follows:

Objectives

1. *To ensure that medium density housing development, including multi-dwelling housing (including Manor Houses and Terraces) and attached dwellings are compatible in bulk and scale with development in the locality and is consistent with objectives of the zone.*
2. *To enable a variety of housing types within the Shire.*

Performance Criteria

1. *To provide a range of housing options that are compatible with locality that is suitable within the Low Density Residential Zone.*

Prescriptive measures

1. *Multi-dwelling housing and attached dwellings within the R2 Low Density Residential Zone are to have a maximum of 3 dwellings per 1000m² of lot size. Any additional dwellings require a site area of 333m² per dwelling.*

Prescriptive measure one for this part does not apply if the proposal includes the provision of affordable housing.

As detailed above, the 2x stated objectives are specific to bulk, scale, zone objectives and enabling housing types. The Performance criteria maintains a line of sight to the objectives by providing housing options suitable to the zone. The Prescriptive Measure, typically interpreted and enforced as 'the control', then establishes maximum density provisions, tied to lot sizes, as opposed to bulk, scale or enabling housing variety. In this regard, the prescriptive measure is void of a direct nexus with the preceding objective and performance criteria, fracturing the sections' line of sight.

We raise concern that introduction of the prescriptive measure, particularly without supporting calibration with other DCP guidelines, encourage outcomes that are counteractive to the desire to enable housing variety in the Shire. As is discussed in greater detail in the following section, we encourage stronger focus on establishing the desired bulk, scale and character elements per locality and allow density to be resolved as a by-product of the urban form. This approach allows greater opportunity to deliver diverse housing types and mitigates the potential for homogenous residential outcomes and price points from continual larger homes.

In light of the above, we encourage retention of the stated objective and performance criteria and either amendment or removal of the prescriptive measure.

- **Best Practice Opportunities**

The core objective of the draft section is articulated as establishing suitable building bulk and scale. Understandably, these matters form a key provision residential areas and distinguishing desired future character. Achieving desired building bulk and scale are best governed by a calibrated suite of built form provisions, including but not limited to site coverage, setbacks, building envelope, floor space ratio and building articulation (which may be coupled with architectural detail, colours, materials, roof form and the like). At present, several of these matters are embedded within Chapter D1, as well as the locality specific content of Part E of the Byron DCP 2014.

The calibration of these planning tools needs to ensure a symbiotic relationship between each other, as well as an appreciation of the various neighbourhood characters found throughout the Byron Shire. In this regard, we encourage a framework that facilitates a performance focus, coupling building bulk and scale with planning and design principles such as:

- Landscape oriented design – which encourages a relationship between form, density, scale of vegetation and access to areas of amenity.
- Transit oriented design – to encourage a relationship with the Shire's active and public transport network to encourage sustainable transport modes.
- Housing diversity and affordability through varied dwelling size, form and tenure.

Realising these principles and a performance approach through a prescriptive measure is often problematic unless locality, precinct or neighbourhood specific. In this regard, we generally support a bolstered suite of performance criteria either in Chapter D1 and/or Part E, facilitating the investigation of site and neighbourhood responsive outcomes. Again, we implore for the removal of the current prescriptive measure as density does not directly or effectively govern character, bulk or development scale. Removal of a maximum density measure is identified as being able to assist enabling housing diversity, affordability and the 'salt and peppering' of residential neighbourhoods, as expressly desired within the Byron Residential Strategy.

We trust the abovementioned information assists Council ensure a successful final suite of DCP amendments, which reflects best practice planning and dovetails with the key elements of the Byron Residential Strategy. Should you require any further particulars related to this correspondence, please do not hesitate to contact Josh Townsend of our office via email (josh@planitconsulting.com.au) or telephone (02) 6674 5001 during business hours.

Yours sincerely



Josh Townsend
PLANIT CONSULTING



PROPERTYBUYER

4 December 2022

Attn: Mr Sam Tarrant
Town Planner
Byron Shire Council
starrant@byron.nsw.gov.au

Dear Mr Tarrant,

Proposed amendments to Byron Bay DCP 2014

I write to strongly object to the proposed amendments to the Byron Bay DCP 2014 and which changes the density control for R2 zonings (as outlined in D1.6.11), and replicated below:

Prescriptive measures 1. Multi-dwelling housing and attached dwellings within the R2 Low Density Residential Zone are to have a maximum of 3 dwellings per 1000m2 of lot size. Any additional dwellings require a site area of 333m2 per dwelling.

The proposed DCP change seeks to introduce a maximum density control for R2 zones which we do not support for the following reasons:

1. The proposal is identified as “house keeping” when in effect, the changes will be far more deleterious to development potential and property values throughout the region;
2. The proposed changes seek to circumvent the correct planning process of amending the LEP following appropriate community and state planning feedback to differentiate R2 from R3. The state government only recently undertook a planning overhaul to address such matters and Byron Bay Council had the opportunity to propose appropriate R3 zones suitable for increased density development but did not. Has the Council informed the NSW Planning Minister of your intentions?;
3. The changes will require developers to seek R3 spot rezonings throughout the LGA requiring significant additional resource by Council and unnecessary cost and time delays to developers leading to increased housing cost and lack of supply;
4. The proposed changes are not consistent with the state governments “missing middle” strategy and rather than promoting diversity and affordability in the Byron Bay area, these proposed changes will actually create more larger homes as land owners and developers seek to maximise sellable floor area on each lot;
5. The proposed 333sqm per dwelling is far too large for medium density product. There are single Torren’s title lots in metropolitan areas with smaller land size than that proposed, whilst still achieving satisfactory density and built form outcomes;
6. There are numerous R2 zoned area throughout Byron Bay Council that should be encouraging land owners to develop medium density product. This proposed change would preclude development from both and investment return perspective;

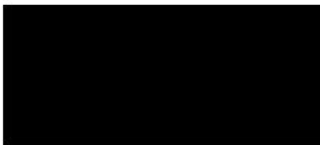


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7. Council's LEP determines that R2 zones are to accommodate medium density product and appropriate bulk and scale can be controlled without prescribing yield controls.

We encourage Council to put in place correct planning procedures to identify and bulk rezone R3 zones appropriate for medium density development before restricting it in R2 areas through density controls.

Your sincerely,



Rich Harvey
Chief Executive Officer

Immediate past President, Real Estate Buyers Agent Association of Australia

Immediate past Chairman, Buyers Agent Chapter, Real Estate Institute of New South Wales

Feedback for amendments to Development Control Plan 2014



Submission date: 5 December 2022, 2:33PM

Receipt number: DCPAM9

Related form version: 1

Name	Robin Ormerod
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Email	[REDACTED]
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Provide your feedback

Submission from Wategos Beach Protection Association is attached. It contains reference to a section of the Woollahra DCP which is also attached.

Upload your feedback

[WBPA Submission on DCP Amendments.pdf](#)
[Woollahra DCP Sec B3_4.pdf](#)

Submission from The Wategos Beach Protection Association (Inc) on Proposed Amendments to Byron Development Control Plan 2014 – Multiple chapters

To the General Manager, Byron Shire Council – by email

Date 6 Dec 2022

From: Robin Ormerod, President Wategos Beach Protection Association

On behalf of the Wategos Beach Protection Association, we offer the following comments on the proposed amendments to the Byron DCP 2014

Item No 1 - Definition: Gross Floor Area

We support this amendment to synchronize the GFA definition in the LEP and DCP. We also request that Council cure the anomaly whereby dual occupancy at Wategos Beach has a higher FSR than the single dwelling FSR of 0.4:1

Item No15 - Include open space requirements for dwelling houses

We support this amendment – open space requirements to be the same as currently for dual occupancies

Item No 25 - Introduce controls specific to Wategos Beach

We support these proposed amendments to Section E5.10 BSDCP 2014.

1. Basements and subterranean car parks be limited to 50 m² – we support this amendment
2. Reductions in front setbacks – we support this amendment
Historically Council allowed for reduced setbacks in order to minimize excavations on steep plots at Wategos Beach
3. Limits on excavation – we support this amendment
We consider that Council may be better advised to limit excavation overall by introducing a scheme similar to that contained in the Woollahra Council DCP – see Section B3.4 Woollahra DCP attached. This specifies the maximum volume of excavation for the site depending on Site Area with no excavation permitted into the required side and rear setbacks or natural landscaped areas.
4. Detailed Geotechnical Reports required with Development Applications – We support this amendment
Development applications for large scale structures on steep lands ought to be accompanied by detailed geotechnical, hydrogeological and structural reports demonstrating that the works will not have any adverse effect on neighbouring structures. There should also be a detailed analysis of construction methods including buildability of the proposed design, excavation volumes, truck movements, and vibration, noise and dust controls proposed. These requirements for steep sites should not be limited to Wategos Beach but should be for urban residential areas shire-wide.

5. Material selection – We support this amendment
Buildability and material selection are critical assessment criteria in a high scenic area such as Wategos Beach and the Cape Byron Lighthouse precinct. Council should conduct in depth analysis of proposals to measure construction traffic types and movements into this small residential suburb with restricted road access (e.g., no caravans allowed). Last week 3 semi-trailers blocked Marine Parade for many hours waiting to deliver large precast wall sections to a site which already had a crane and concrete pumps and concrete delivery truck working there. For over 3 years, recent approvals have permitted B-Double semi-tipper trucks to operate on the depleted road network at Wategos Beach and Lighthouse Road. Apart from local disruption, the local road network is nowhere near capable of handling this type and volume of truck movement. Council should also have greater regard to sustainability impacts and carbon footprints in assessing these large structures.
6. Landscaping plans to be submitted with the development application – we support this amendment
7. Visual Impact Assessment and view sharing – we support this amendment
8. Stormwater concept plan — We support this amendment
The lands above Wategos Beach contain a number of springs as well some intermittent watercourses which play a vital role during any significant precipitation. Applications for large scale structures should be accompanied not just by a detailed stormwater investigation and detailed design proposal but also by hydrogeological studies in areas where there are springs and watercourses. Designs should promote continuation of overland flows with sediments traps and rocked open channels similar to that constructed alongside No 39 Marine, albeit with improved design for water retention and runoff retardation.

B3.4 Excavation

Excavation is an accepted part of development in the Woollahra Municipality where the topography varies. Excavation allows buildings on the sloping sites to be designed to step down and sit into the hillside, and it also enables cars and storage to be accommodated on site in an unobtrusive manner.

However, there are significant environmental impacts associated with extensive excavation, as well as external impacts, such as amenity impacts to adjoining properties during the excavation process.

Council has determined that the volume excavated from a given site should be limited to that which might reasonably be required for car parking and domestic storage requirements, and to allow the building to respond to the site topography in an appropriate manner.

B3.4 Excavation			
Objectives		Controls	
O1	To allow buildings to be designed and sited to relate to the topography.	C1	For a dwelling house, dual occupancy or semi-detached dwelling (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 14A.
O2	To minimise excavation.		
O3	To ensure the cumulative impacts of excavation do not adversely impact land stabilisation, ground water flows and vegetation.	C2	For a residential flat building, multi dwelling housing, or attached dwelling development (including attached and detached garaging)—the maximum volume of excavation permitted is no greater than the volume shown in Figure 14B.
O4	To minimise structural risks to adjoining structures.		
O5	To minimise noise, vibration, dust and other amenity impacts to adjoining and adjacent properties.	C3	For any other use (including attached and detached garaging) not addressed in C1 and C2 above—the maximum volume of excavation permitted is no greater than the volume shown in Figure 14B.
		C4	A variation to the volume shown in Figures 14A and 14B will be considered, however the maximum volume of excavation permitted will only be the amount needed to accommodate: <ul style="list-style-type: none"> a) car parking to comply with the maximum rates in Part E1 of this DCP and any reasonable access thereto, if the maximum car parking rates are required by the Council; and b) storage at a rate of 20m³ (cubic metres) per dwelling if for a dwelling house, dual occupancy, semi-detached dwelling or attached housing; or

B3.4 Excavation

Objectives	Controls
	<p>c) storage at a rate of 8m³ (cubic metres) per dwelling if for a residential flat building or multi dwelling housing development.</p>
	<p>C5 The volume controls in C1 and C2 above do not apply to backyard swimming pools and tennis courts located outside the building envelope. (Note: Separate controls apply which limit excavation, refer to Section 3.7.4 Ancillary development - swimming pools, tennis courts and outbuildings).</p>
	<p>C6 Basement walls are no closer to the boundary than permitted by the setback controls (refer to Figure 15).</p>
	<p>C7 Notwithstanding C6, basement walls for residential flat buildings, multi dwellings housing and attached dwellings are no closer to the boundary than 1.5m (see Figure 16).</p>
	<p>C8 Excavation in relation to an existing attached dwelling, semi-detached dwelling, or attached dual occupancy is not to occur under:</p> <ul style="list-style-type: none"> a) common party walls; b) footings to common party wall; c) freestanding boundary walls; d) footings to freestanding boundary walls.
	<p>C9 Excavation below 2m and/or within 1.5m of the boundary may be accompanied by a geotechnical and hydrogeological report and a structural report demonstrating that the works will not have any adverse effect on neighbouring structures.</p> <p>Note: Council may identify other circumstances where these reports are required. All reports must be prepared in accordance with Council's guidelines. As a condition of a development consent, Council may also require the preparation and submission of a dilapidation report for properties neighbouring the development.</p>

FIGURE 14A

Maximum volume of excavation for the site of:

- a dwelling house
- dual occupancy development
- a semi-detached dwelling

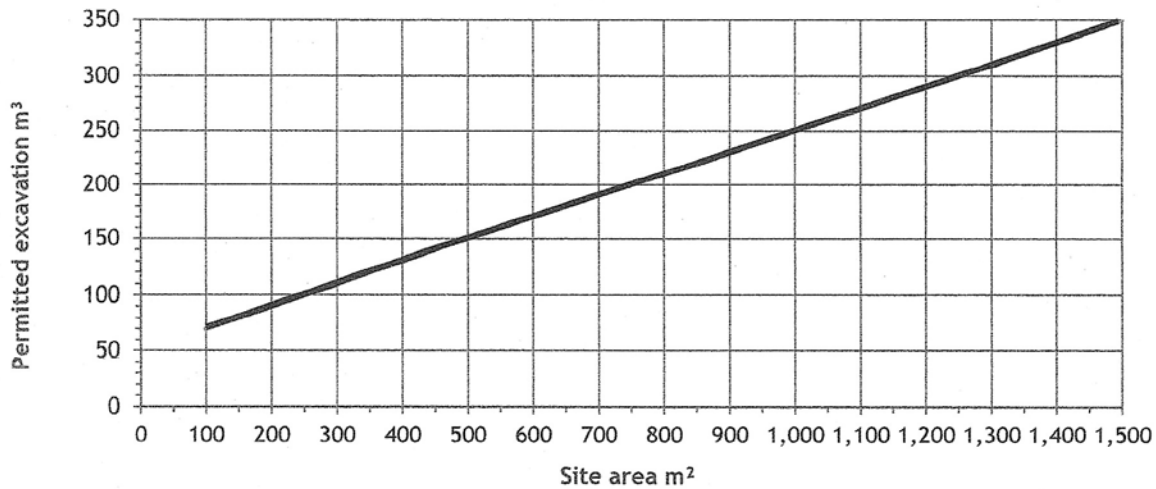
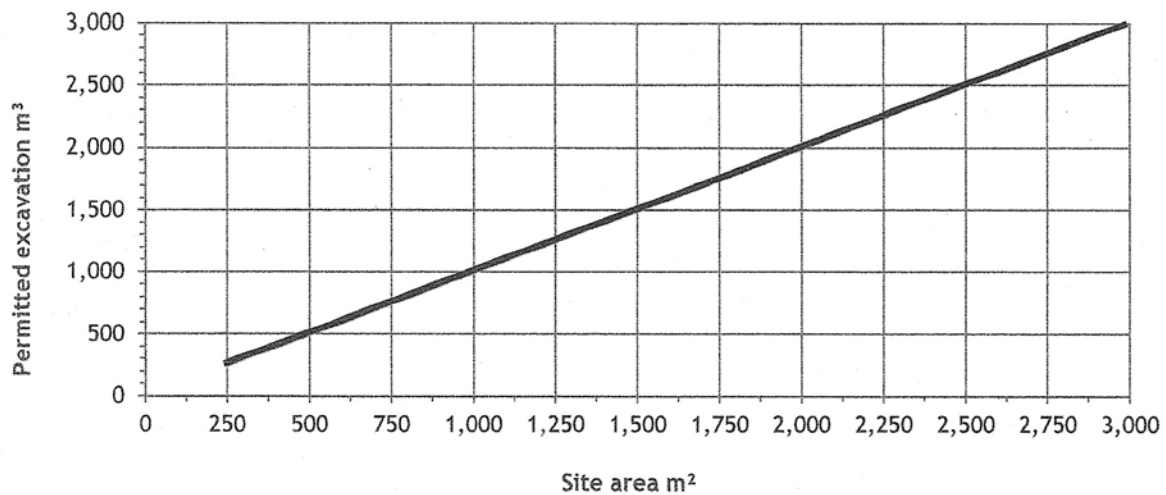
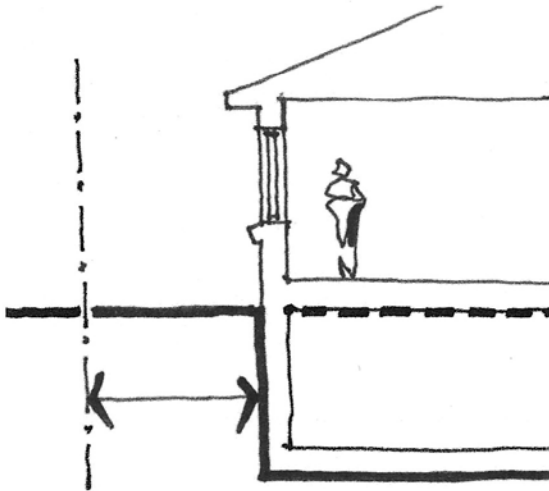


FIGURE 14B

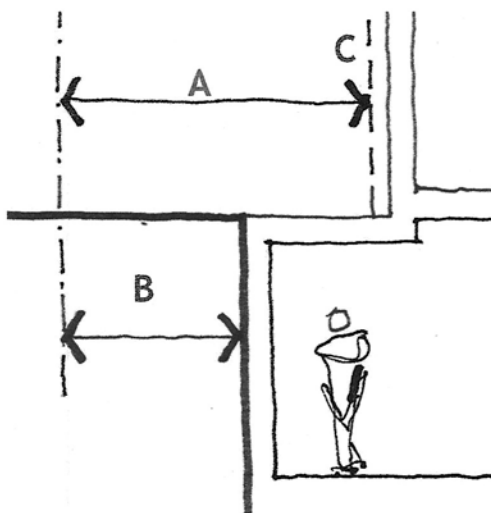
Maximum volume of excavation for the site of:

- a residential flat building
- multi dwelling housing
- attached dwellings
- any other land use not addressed in controls C1 to C2 of Section B3.4 Excavation



**FIGURE 15**

For a dwelling house, dual occupancy development and semi-detached dwellings basement walls can be no closer to the boundary than the required setback (refer to Figure 5).

**FIGURE 16**

For a residential flat building, multi dwelling housing, attached dwellings and any other land use not addressed in controls C1 to C2 of Section B3.4 Excavation, basement walls can be no closer to the boundary than 1.5m.

A- Refer Figure 6

B- Minimum excavation setback 1.5m

C- Building envelope