

WEST BYRON LEP CHANGES

Division 1 Preliminary		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>65 Application of Part (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the West Byron Bay site. (2) No other provisions of this plan (other than clause 7) apply to land within the West Byron Bay site.</p>	No equivalent clause within this instrument	<p><u>Changes proposed</u> Deletion of this clause as the West Byron Bay site will be subject to the controls of the Byron LEP 2014 and a specific clause to identify the part is required.</p> <p><u>Intent of changes</u> The land is to be rezoned to land that is zoned under the Byron Local Environmental Plan 2014 and the land application map is no longer relevant as the entire 2014 LEP will apply to the West Byron Bay site.</p> <p>Recommendation Clause 65 be deleted.</p>
<p>66 Interpretation (1) In this Part— Acid Sulfate Soils Map means the Byron Local Environmental Plan 1988—West Byron Bay—Acid Sulfate Soils Map. Council means the Byron Shire Council.</p> <p>designated State public infrastructure means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds— (a) State and regional roads, (b) bus interchanges and bus lanes, (c) land required for regional open space, (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).</p> <p>Flood Planning Map means the Byron Local Environmental Plan 1988—West Byron Bay—Flood Planning Map.</p> <p>Height of Buildings Map means the Byron Local Environmental Plan 1988—West Byron Bay—Height of Buildings Map.</p> <p>Land Application Map means the Byron Local Environmental Plan 1988—West Byron Bay—Land Application Map.</p> <p>Land Reservation Acquisition Map means the Byron Local Environmental Plan 1988—West Byron Bay—Land Reservation Acquisition Map.</p>	No equivalent clause within this instrument	<p><u>Changes proposed</u> Deletion of Clause 66</p> <p><u>Intent of changes</u> The definitions within Clause 66 are otherwise defined within the dictionary of the LEP 2014, or are controlled by the State Environmental Planning Policy Transport and Infrastructure (2021).</p> <p>The definitions that reference West Byron Bay Maps can be retained and can be utilised as is, or combined with exiting maps published under Section 1.7 of the LEP 2014.</p> <p>The West Byron Bay Site maps can be found at the following link. Byron Local Environmental Plan 1988 Planning Portal - Department of Planning and Environment (nsw.gov.au)</p>

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Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>Land Zoning Map means the Byron Local Environmental Plan 1988—West Byron Bay—Land Zoning Map.</p> <p>Lot Size Map means the Byron Local Environmental Plan 1988—West Byron Bay—Lot Size Map.</p> <p>public utility infrastructure, in relation to an urban release area, includes infrastructure for any of the following—</p> <p>(a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage.</p> <p>urban release area means the area of land identified as “Urban Release Area” on the Urban Release Area Map.</p> <p>Urban Release Area Map means the Byron Local Environmental Plan 1988—West Byron Bay—Urban Release Area Map.</p> <p>(2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the Standard Instrument (Local Environmental Plans) Order 2006 unless it is otherwise defined in this Part.</p>		<p>Recommendation</p> <p>a) Clause 66 be deleted b) adopt the following West Byron maps from 1988 LEP into the 2014,</p> <p>1) Land Application Map LAP_001 2) Land Reservation Acquisition Map LRA_0011 3) Urban Release Area Map URA_001</p> <p>c) combine the following maps into the existing LEP 2014 maps.</p> <p>1) Land zoning Map LNZ_001 (as amended) 2) Height of Buildings Map HOB_001 3) Lot Size Map LSZ_001 (as amended) 4) Acid Sulfate Soils Map</p>
<p>67 Maps</p> <p>(1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name—</p> <p>(a) approved by the Minister when the map is adopted, and (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.</p> <p>(2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Part to any such map is a reference to the relevant part or aspect of the single map.</p> <p>(3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.</p> <p>(4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.</p>	<p>1.7 Maps</p> <p>(1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name—</p> <p>(a) approved by the local plan-making authority when the map is adopted, and (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the local plan-making authority when the instruments are made.</p> <p>(1AA) (Repealed)</p> <p>(2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.</p> <p>(3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.</p> <p>(4) For the purposes of this Plan, a map may be in, and may be kept and made available in, electronic or paper form, or both.</p> <p>Note— The maps adopted by this Plan are to be made available on the NSW Planning Portal. Requirements relating to the maps are set out in the documents entitled Standard technical requirements for LEP maps and Standard requirements for LEP GIS data which are available on the website of the Department of Planning and Environment.</p>	<p><u>Changes proposed</u> Deletion of Clause 67</p> <p><u>Intent of changes</u> Clause 67 is a duplicate of Section 1.7 in the 2014 LEP. As the Section is relevant to the entire shire which will include any Map that covers the West Byron Bay site there is no benefit in retaining Clause 67.</p> <p>Recommendation Clause 67 be deleted</p>

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Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>68 Savings provision relating to development applications If a development application has been made before the commencement of this Part in relation to land to which this Part applies and the application has not been finally determined before that commencement, the application must be determined as if this Part had not commenced.</p> <p>Note— However, under Division 4B of Part 3 of the Act, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable.</p>	<p>1.8A Savings provision relating to development applications If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.</p> <p>Note— However, under Division 3.5 of the Act, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable.</p>	<p><u>Changes Proposed</u> Deletion of Clause 68. The changes to the wording within the Note of section 1.8A have been updated to reflect the current legislation reference to the Environmental Planning & Assessment Act when compared to clause 68.</p> <p><u>Intent of changes</u> To ensure that there is a single Section relating to savings provisions for development applications. .</p> <p>Recommendation Clause 68 be deleted</p>
<p>69 Repeal of planning instruments applying to land (1) All local environmental plans and deemed environmental planning instruments applying only to the West Byron Bay site are repealed.</p> <p>(2) All local environmental plans and deemed environmental planning instruments applying to the West Byron Bay site and to other land cease to apply to the West Byron Bay site.</p>	<p>1.8 Repeal of planning instruments applying to land (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.</p> <p>(2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.</p>	<p><u>Changes proposed</u> Deletion of clause 69. As the clause is duplicated within the 2014 Byron LEP. The changes remove the specific reference to the West Byron Bay site as the Section 1.8 applies to the entire Shire.</p> <p><u>Intent of changes</u> To ensure that there is a single section relating to the repeal of planning instruments</p> <p>Recommendation Clause 69 be deleted.</p>
<p>70 Relationship with this Part and other environmental planning instruments The only other environmental planning instruments that apply, according to their terms, to land within the West Byron Bay site are all State environmental planning policies, except the following— (a) (Repealed) (b) State Environmental Planning Policy No 71—Coastal Protection, (c) North Coast Regional Environmental Plan.</p>	<p>There is no equivalent clause within the 2014 LEP.</p>	<p><u>Changes Proposed</u> Deletion of Clause 70. Clause 70 is not required as the west Byron site would be affected by the 2014 LEP provisions. Development within the west Byron site are affected generally by the in-force State Environmental Planning policies. State Environmental Planning Policy No 71—Coastal Protection has been repealed and superseded with a State Planning Policy</p>

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		<p>(Resilience and Hazards) 2021 that applies to the State.</p> <p><u>Intent of Changes</u> To ensure the West Byron Bay site is consistent with Environmental Planning Instruments and State Policies.</p> <p>Recommendation Clause 70 be deleted.</p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>71 Land use zones For the purposes of this Part, land within the West Byron Bay site is in a zone as follows if the land is shown on the Land Zoning Map as being in that zone—</p> <p>(a) Zone R2 Low Density Residential, (b) Zone R3 Medium Density Residential, (c) Zone B1 Neighbourhood Centre, (d) Zone IN2 Light Industrial, (e) Zone RE1 Public Recreation, (f) Zone E2 Environmental Conservation, (g) Zone E3 Environmental Management.</p>	<p>2.1 Land use zones The land use zones under this Plan are as follows—</p> <p>Rural Zones RU1 Primary Production RU2 Rural Landscape RU5 Village</p> <p>Residential Zones R2 Low Density Residential R3 Medium Density Residential R5 Large Lot Residential</p> <p>Employment Zones E1 Local Centre E3 Productivity Support E4 General Industrial</p> <p>Mixed Use Zones MU1 Mixed Use</p> <p>Special Purpose Zones SP1 Special Activities SP2 Infrastructure SP3 Tourist</p> <p>Recreation Zones RE1 Public Recreation RE2 Private Recreation</p> <p>Conservation Zones</p>	<p><u>Changes Proposed</u> Deletion of Clause 71 as the Clause is no longer required as the proposed rezoning of the West Byron Urban release area will be zones listed within Section 2.1 of the 2014 LEP.</p> <p>An amended land zoning map has been prepared to reflect the proposed zones within the area.</p> <p>The zones that clause 71 references are standard instruments zones specified within clause 2.1 of the 2014 LEP.</p> <p>The wording of the clause 2.1 will supersede this requirement.</p> <p><u>Intent of changes</u> To ensure that the permissible development within the West Byron Bay site is consistent with the current Standard instrument permissibility.</p> <p>Recommendation Clause 71 be deleted</p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
	C1 National Parks and Nature Reserves C2 Environmental Conservation C3 Environmental Management C4 Environmental Living Waterway Zones W1 Natural Waterways W2 Recreational Waterways	
72 Zone objectives and control of development (1) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. (2) In this Division, a reference to a type of building or other thing does not include (despite any definition in this plan or the standard instrument prescribed by the Standard Instrument (Local Environmental Plans) Order 2006) a reference to a type of building or other thing referred to separately in the same clause.	2.3 Zone objectives and Land Use Table (1) The Land Use Table at the end of this Part specifies for each zone— (a) the objectives for development, and (b) development that may be carried out without development consent, and (c) development that may be carried out only with development consent, and (d) development that is prohibited. (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. (3) In the Land Use Table at the end of this Part— (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone. (4) This clause is subject to the other provisions of this Plan. Notes— 1 Schedule 1 sets out additional permitted uses for particular land. 2 Schedule 2 sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the land use table that may be carried out without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act. 3 Schedule 3 sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent). 4 Clause 2.6 requires consent for subdivision of land. 5 Part 5 contains other provisions which require consent for particular development.	<u>Changes proposed</u> Deletion of Clause 71 as the Clause is duplicated within the 2014 LEP as Section 2.3 and is taken from the Standard order instrument LEP. <u>Intent of changes</u> To ensure that the West Byron Bay site zone objectives will be consistent with standard instrument zones and the objectives of the zone. Recommendation Clause 72 is deleted
73 Zone R2 Low Density Residential (1) The objectives of Zone R2 Low Density Residential are as follows— (a) to provide for the housing needs of the community within a low density residential environment, (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents. (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential— environmental protection works; home-based child care; home occupations. (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential—	Zone R2 Low Density Residential 1 Objectives of zone <ul style="list-style-type: none"> To provide for the housing needs of the community within a low density residential environment. To enable other land uses that provide facilities or services to meet the day to day needs of residents. 2 Permitted without consent Environmental protection works; Home-based child care; Home occupations 3 Permitted with consent Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business identification signs; Centre-based child care facilities; Dual occupancies; Dwelling	<u>Changes proposed</u> Deletion of Clause 73. The zone permissibility is identical between Clause 73 and the zone Land use Table for R2 Low Density Residential within the 2014 LEP. <u>Intent of changes</u> To prevent duplication of controls within the R2 zoned land within the West Byron Bay site

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>attached dwellings; bed and breakfast accommodation; boarding houses; business identification signs; dual occupancies; dwelling houses; group homes; health consulting rooms; home industries; multi dwelling housing; neighbourhood shops; roads; seniors housing; any other development not specified in subclause (2) or (4).</p> <p>(4) Development for any of the following purposes is prohibited on land within Zone R2 Low Density Residential— agriculture; air transport facilities; airstrips; amusement centres; animal boarding or training establishments; biosolids treatment facilities; boat building and repair facilities; boat launching ramps; boat sheds; camping grounds; car parks; caravan parks; cemeteries; charter and tourism boating facilities; commercial premises; correctional centres; crematoria; depots; eco-tourist facilities; electricity generating works; entertainment facilities; exhibition villages; extractive industries; farm buildings; forestry; freight transport facilities; function centres; health services facilities; heavy industrial storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industrial training facilities; industries; information and education facilities; jetties; marinas; mooring pens; moorings; mortuaries; open cut mining; passenger transport facilities; public administration buildings; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; research stations; residential accommodation; residential care facilities; restricted premises; rural industries; service stations; sewage treatment plants; sex services premises; signage; storage premises; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; veterinary hospitals; warehouse or distribution centres; waste or resource management facilities; water recreation structures; water recycling facilities; water supply systems; wharf or boating facilities; wholesale supplies.</p>	<p>houses; Group homes; Health consulting rooms; Home industries; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Pond-based aquaculture; Respite day care centres; Roads; Secondary dwellings; Seniors housing; Tank-based aquaculture; Any other development not specified in item 2 or 4.</p> <p>4 Prohibited Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Local distribution premises; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Residential care facilities; Restricted premises; Rural industries; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies</p>	<p>Recommendation That clause 73 is deleted</p>
<p>74 Zone R3 Medium Density Residential (1) The objectives of Zone R3 Medium Density Residential are as follows— (a) to provide for the housing needs of the community within a medium density residential environment, (b) to provide a variety of housing types within a medium density residential environment, (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.</p> <p>(2) Development for any of the following purposes is permitted without development consent on land within Zone R3 Medium Density Residential— environmental protection works; home-based child care; home occupations.</p> <p>(3) Development for any of the following purposes is permitted only with development consent on land within Zone R3 Medium Density Residential—attached dwellings; bed and breakfast accommodation; boarding houses; business identification signs; child care centres; community facilities; group homes; home industries; multi dwelling housing; neighbourhood shops; places of public worship; respite day care centres; roads; seniors housing; serviced apartments; any other development not specified in subclause (2) or (4).</p> <p>(4) Development for any of the following purposes is prohibited on land within Zone R3 Medium Density Residential— agriculture; air transport facilities; airstrips; amusement centres; animal boarding or training establishments; biosolids treatment facilities; boat building and repair facilities; boat launching ramps; boat sheds; camping grounds; car parks; cemeteries; charter and</p>	<p>Zone R3 Medium Density Residential 1 Objectives of zone • To provide for the housing needs of the community within a medium density residential environment. • To provide a variety of housing types within a medium density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents.</p> <p>2 Permitted without consent Environmental protection works; Home-based child care; Home occupations.</p> <p>3 Permitted with consent Attached dwellings; Bed and breakfast accommodation; Boarding houses; Business identification signs; Centre-based child care facilities; Community facilities; Group homes; Home industries; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Respite day care centres; Roads; Seniors housing; Serviced apartments; Tank-based aquaculture; Any other development not specified in item 2 or 4.</p> <p>4 Prohibited Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities;</p>	<p><u>Changes proposed</u> Deletion of Clause 74. The zone permissibility is identical between Clause 74 and the zone Land use Table for R3 Medium Density Residential within the 2014 LEP.</p> <p><u>Intent of changes</u> To prevent duplication of controls within the R3 zoned land within the West Byron Bay site</p> <p>Recommendation That clause 74 is deleted</p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>tourism boating facilities; commercial premises; correctional centres; crematoria; depots; eco-tourist facilities; electricity generating works; entertainment facilities; exhibition villages; extractive industries; farm buildings; forestry; freight transport facilities; function centres; heavy industrial storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industrial training facilities; industries; information and education facilities; jetties; marinas; mooring pens; moorings; mortuaries; open cut mining; passenger transport facilities; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; research stations; restricted premises; rural industries; rural workers' dwellings; service stations; sewage treatment plants; sex services premises; signage; storage premises; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; veterinary hospitals; warehouse or distribution centres; waste or resource management facilities; water recreation structures; water recycling facilities; water supply systems; wharf or boating facilities; wholesale supplies.</p>	<p>Boat launching ramps; Boat sheds; Camping grounds; Car parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Local distribution premises; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities; Wholesale supplies.</p>	
<p>75 Zone B1 Neighbourhood Centre (1) The objective of Zone B1 Neighbourhood Centre is to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood. (2) Development for any of the following purposes is permitted without development consent on land within Zone B1 Neighbourhood Centre— environmental protection works; home-based child care; home occupations. (3) Development for any of the following purposes is permitted only with development consent on land within Zone B1 Neighbourhood Centre— boarding houses; business premises; child care centres; community facilities; health consulting rooms; home industries; hostels; hotel or motel accommodation; medical centres; neighbourhood shops; respite day care centres; roads; shop top housing; any other development not specified in subclause (2) or (4). (4) Development for any of the following purposes is prohibited on land within Zone B1 Neighbourhood Centre— agriculture; air transport facilities; airstrips; animal boarding or training establishments; biosolids treatment facilities; boat building and repair facilities; boat launching ramps; boat sheds; bulky goods premises; camping grounds; caravan parks; cellar door premises; cemeteries; charter and tourism boating facilities; correctional centres; crematoria; depots; eco-tourist facilities; electricity generating works; exhibition homes; exhibition villages; extractive industries; farm buildings; forestry; freight transport facilities; health services facilities; heavy industrial storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industrial training facilities; industries; jetties; landscaping material supplies; marinas; mooring pens; moorings; mortuaries; open cut mining; passenger transport facilities; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); research stations; residential accommodation; resource recovery facilities; restricted premises; roadside stalls; rural industries; rural supplies; sewage treatment plants; sex services premises; storage premises; timber yards; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; warehouse or distribution centres; waste disposal facilities; water recreation structures; water recycling facilities; water supply systems; wharf or boating facilities; wholesale supplies.</p>	<p>Zone E1 Local Centre 1 Objectives of zone • To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. • To encourage investment in local commercial development that generates employment opportunities and economic growth. • To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. • To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. • To maximise public transport patronage and encourage walking and cycling. 2 Permitted without consent Environmental protection works; Home-based child care; Home occupations 3 Permitted with consent Amusement centres; Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Function centres; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation facilities (indoor); Respite day care centres; Service stations; Shop top housing; Tank-based aquaculture; Veterinary hospitals; Any other development not specified in item 2 or 4. 4 Prohibited Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads;</p>	<p><u>Changes proposed</u> Clause 75 is deleted as there is no current zone within the 2014 LEP. This area is proposed to be rezoned to E1 Local Centre. <u>Intent of changes</u> The zone B1 was removed from the 2014 LEP as part of the Department of Plannings' Employment Zone reforms. These reforms allow for a two (2) year transitional period to utilise the previous zone permissibility provided a development application is lodged, and determined before 26 April 2025. The zone objectives of E1 Local Centre include the objective of the B1 – Neighbourhood Centre and expands upon that objective. The land uses permitted within the E1 zone are similar to those permitted within the B1 zoned land E1 – Local Centre is the new equivalent land zoning within the current LEP framework and generally allows for the same uses to occur with some exceptions.</p>

Division 2 Provisions applying to development in West Byron Bay site		
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	Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Recreation facilities (major); Research stations; Residential accommodation; Rural industries; Sewerage systems; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water supply systems; Wharf or boating facilities; Wholesale supplies.	<p>This change in zoning will not impact, or prohibit any use within the land to be rezoned that has a valid development consent.</p> <p>Recommendation That clause 75 is deleted The area previously zoned B1 Neighbourhood Centre is to be rezoned to E1 Local Centre.</p>
<p>76 Zone IN2 Light Industrial</p> <p>(1) The objectives of Zone IN2 Light Industrial are as follows—</p> <p>(a) to provide a wide range of light industrial, warehouse and related land uses,</p> <p>(b) to encourage employment opportunities and to support the viability of centres,</p> <p>(c) to minimise any adverse effect of industry on other land uses,</p> <p>(d) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area,</p> <p>(e) to support and protect industrial land for industrial uses.</p> <p>(2) Development for any of the following purposes is permitted without development consent on land within Zone IN2 Light Industrial— environmental protection works.</p> <p>(3) Development for any of the following purposes is permitted only with development consent on land within Zone IN2 Light Industrial— agricultural produce industries; depots; garden centres; general industries; hardware and building supplies; industrial training facilities; landscaping material supplies; light industries; liquid fuel depots; neighbourhood shops; plant nurseries; roads; rural supplies; take away food and drink premises; timber yards; vehicle sales or hire premises; warehouse or distribution centres; any other development not specified in subclause (2) or (4).</p> <p>(4) Development for any of the following purposes is prohibited on land within Zone IN2 Light Industrial— agriculture; air transport facilities; airstrips; amusement centres; animal boarding or training establishments; biosolids treatment facilities; boat launching ramps; boat sheds; camping grounds; caravan parks; cemeteries; charter and tourism boating facilities; child care centres; commercial premises; correctional centres; eco-tourist facilities; exhibition homes; exhibition villages; extractive industries; farm buildings; forestry; health services facilities; heavy industrial storage establishments; helipads; highway service centres; home-based child care; home businesses; home occupations; home occupations (sex services); industries; jetties; marinas; mooring pens; moorings; open cut mining; passenger transport facilities; recreation areas; recreation facilities (major); recreation facilities (outdoor); registered clubs; research stations; residential accommodation; resource recovery facilities; respite day care centres; rural industries; sewage treatment plants; tourist and visitor accommodation; waste disposal facilities; water recreation structures; water recycling facilities; water supply systems; wharf or boating facilities.</p>	<p>Zone IN2 Light Industrial no longer exists within the 2014 LEP zones. The proposed zoning of the West Byron site (Harvest) no longer contains industrial or equivalent land use zone.</p>	<p><u>Changes proposed</u> Clause 76 be deleted as Zone IN2 Light Industrial no longer exists within the 2014 LEP instrument.</p> <p><u>Intent of changes</u> The zone IN2 was removed from the 2014 LEP as part of the Department of Plannings' Employment Zone reforms. These reforms allow for a two (2) year transitional period to utilise the previous zone permissibility provided a development application is lodged, and determined before 26 April 2025.</p> <p>E4 – General Industrial is the new equivalent land zoning within the current LEP framework and generally allows for the same uses to occur with some exceptions.</p> <p>This change in zoning will not impact any existing use within the land to be rezoned that has a valid development consent.</p> <p>Recommendation That clause 76 is deleted.</p>
<p>77 Zone RE1 Public Recreation</p> <p>(1) The objectives of Zone RE1 Public Recreation are as follows—</p> <p>(a) to enable land to be used for open space or recreational purposes,</p> <p>(b) to provide a range of recreational settings and activities and compatible land uses,</p> <p>(c) to protect and enhance the natural environment for recreational purposes.</p>	<p>Zone RE1 Public Recreation</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> • To enable land to be used for public open space or recreational purposes. • To provide a range of recreational settings and activities and compatible land uses. • To protect and enhance the natural environment for recreational purposes. 	<p><u>Changes proposed</u> The 1988 clause is replicated within the 2014 LEP and is identical in permissibility.</p> <p><u>Intent of changes</u></p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>(2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation—environmental protection works.</p> <p>(3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation—boat launching ramps; boat sheds; camping grounds; caravan parks; child care centres; community facilities; emergency services facilities; entertainment facilities; environmental facilities; flood mitigation works; function centres; horticulture; information and education facilities; jetties; kiosks; markets; recreation areas; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); respite day care centres; restaurants or cafes; roads; signage.</p> <p>(4) Except as otherwise provided by this Part, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).</p>	<p>2 Permitted without consent Environmental protection works</p> <p>3 Permitted with consent Aquaculture; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; Emergency services facilities; Entertainment facilities; Environmental facilities; Flood mitigation works; Function centres; Horticulture; Information and education facilities; Jetties; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Signage</p> <p>4 Prohibited Any development not specified in item 2 or 3</p>	<p>To ensure consistency of permitted land uses on land zoned RE1 throughout the shire. And to remove duplicated clauses between the 1988 and 2014 LEP.</p> <p>Recommendation That clause 77 is deleted</p>
<p>78 Zone E2 Environmental Conservation</p> <p>(1) The objectives of Zone E2 Environmental Conservation are as follows—</p> <p>(a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,</p> <p>(b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.</p> <p>(2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation— environmental protection works.</p> <p>(3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation—boat sheds; environmental facilities; recreation areas; roads.</p> <p>(4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E2 Environmental Conservation—business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; restricted premises; retail premises; seniors housing; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).</p>	<p>Zone C2 Environmental Conservation</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values. To prevent development that could destroy, damage or otherwise have an adverse effect on those values. <p>2 Permitted without consent Environmental protection works</p> <p>3 Permitted with consent Environmental facilities; Extensive agriculture; Oyster aquaculture; Recreation areas; Roads</p> <p>4 Prohibited Business premises; Hotel or motel accommodation; Industries; Local distribution premises; Multi dwelling housing; Pond-based aquaculture; Recreation facilities (major); Residential accommodation; Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Tank-based aquaculture; Warehouse or distribution centres; Any other development not specified in item 2 or 3</p>	<p><u>Changes proposed</u> Deletion of Clause 78 The 1988 clause is replicated within the 2014 LEP and is identical in the permitted land uses.</p> <p>The Code of the zone has changed from “E2” to “C2”</p> <p><u>Intent of changes</u> . To ensure consistency of permitted land uses on land zoned C2 throughout the shire. And to remove duplicated clauses between the 1988 and 2014 LEP.</p> <p>Recommendation That clause 78 is deleted</p>
<p>79 Zone E3 Environmental Management</p> <p>(1) The objectives of Zone E3 Environmental Management are as follows—</p> <p>(a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,</p> <p>(b) to provide for a limited range of development that does not have an adverse effect on those values.</p> <p>(2) Development for any of the following purposes is permitted without development consent on land within Zone E3 Environmental Management—environmental protection works; home-based child care; home occupations.</p> <p>(3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management— bed and breakfast accommodation; boat launching ramps; building identification signs; business identification signs; camping grounds; community facilities; dual occupancies (attached); dwelling houses; eco-tourist facilities;</p>	<p>Zone C3 Environmental Management</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values. To provide for a limited range of development that does not have an adverse effect on those values. To encourage passive recreation and environmental education where there is no detrimental effect to land. <p>2 Permitted without consent Environmental protection works; Extensive agriculture; Home-based child care; Home occupations</p> <p>3 Permitted with consent</p>	<p><u>Changes proposed</u> Deletion of Clause 79 The 1988 clause is replicated within the 2014 LEP and is identical in the permitted land uses.</p> <p>The Code of the zone has changed from “E3” to “C3”</p> <p><u>Intent of changes</u> To ensure consistency of permitted land uses on land zoned C3 throughout the shire. And to</p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>emergency services facilities; environmental facilities; extensive agriculture; farm buildings; farm stay accommodation; flood mitigation works; home businesses; home industries; horticulture; jetties; places of public worship; recreation areas; roads; veterinary hospitals; wharf or boating facilities.</p> <p>(4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E3 Environmental Management— industries; multi dwelling housing; residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).</p>	<p>Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Community facilities; Dual occupancies; Dwelling houses; Eco-tourist facilities; Emergency services facilities; Environmental facilities; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Home businesses; Home industries; Horticulture; Jetties; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Roads; Tank-based aquaculture; Veterinary hospitals; Wharf or boating facilities</p> <p>4 Prohibited Industries; Local distribution premises; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3</p>	<p>remove duplicated clauses between the 1988 and 2014 LEP.</p> <p>Recommendation That clause 79 is deleted.</p>
<p>80 Subdivision—consent requirements (1) Land within the West Byron Bay site may be subdivided, but only with development consent. Notes— 1 If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this plan or <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>, the Act enables it to be carried out without development consent. 2 Part 6 of <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> provides that the strata subdivision of a building in certain circumstances is complying development. (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land. Note— The definition of secondary dwelling requires the dwelling to be on the same lot of land as the principal dwelling.</p>	<p>2.6 Subdivision—consent requirements (1) Land to which this Plan applies may be subdivided, but only with development consent. Notes— 1 If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this Plan or <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>, the Act enables it to be carried out without development consent. 2 Part 6 of <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> provides that the strata subdivision of a building in certain circumstances is complying development. (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land. Note— The definition of secondary dwelling in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.</p>	<p><u>Changes Proposed</u> Clause 80 is duplicated within Section 2.6 of the 2014 LEP.</p> <p>The change to use Section 2.6 for the West Byron Bay Site is that the Section does not specifically reference the West Byron Bay Site.</p> <p><u>Intent of changes</u> To ensure consistency around the consent requirements for the future subdivision of land that is affected by the 2014 LEP.</p> <p>Recommendation That clause 80 is deleted</p>
<p>81 Minimum subdivision lot size (1) The objectives of this clause are as follows— (a) to establish a minimum lot size for Zone R2 Low Density Residential and Zone R3 Medium Density Residential, (b) to encourage small residential lots in appropriate locations in West Byron Bay. (2) This clause applies to a subdivision of any land within the West Byron Bay site shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Part. (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land. (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.</p>	<p>4.1 Minimum subdivision lot size (1) The objectives of this clause are as follows— (a) to ensure that lot sizes are compatible with local environmental values and constraints, (b) to facilitate efficient use of land resources for residential and other human purposes. (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan. (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land. (4) This clause does not apply in relation to the subdivision of any land— (a) by the registration of a strata plan or strata plan of subdivision under the <i>Strata Schemes Development Act 2015</i>, or (b) by any kind of subdivision under the <i>Community Land Development Act 2021</i>.</p>	<p><u>Changes Proposed</u> Deletion of Clause 81.</p> <p>The adoption of Section 4.1 will remove the objective 1(b) which is specific to encourage small residential lots in appropriate locations in West Byron Bay.</p> <p><u>Intent of changes</u> To ensure lots will comply with the minimum lot size permitted within the area. The intention of objective 1(b) of Clause 81 that is to be deleted is retained by virtue of the Minimum</p>

Division 2 Provisions applying to development in West Byron Bay site			Byron 2014 Clause	Comment																																																			
Byron LEP 1988 Clause				Lot Size Map that is applicable to the West Byron Bay. Recommendation That clause 80 is deleted.																																																			
<p>82 Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings</p> <p>(1) The objective of this clause is to achieve planned residential density in certain zones. (2) Despite clause 81, development consent may be granted to development on a lot in a zone shown in Column 2 of the Table to this clause for a purpose shown in Column 1 of the Table opposite that zone, only if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the Table</p> <table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> <th>Column 3</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Dual occupancy (attached)</td> <td>Zone R2 Low Density Residential</td> <td>600m²</td> </tr> <tr> <td>Zone R3 Medium Density Residential</td> <td>300m²</td> </tr> <tr> <td rowspan="2">Dual occupancy (detached)</td> <td>Zone R2 Low Density Residential</td> <td>700m²</td> </tr> <tr> <td>Zone R3 Medium Density Residential</td> <td>400m²</td> </tr> <tr> <td rowspan="2">Multi dwelling housing</td> <td>Zone R2 Low Density Residential</td> <td>1,000m²</td> </tr> <tr> <td>Zone R3 Medium Density Residential</td> <td>450m²</td> </tr> <tr> <td>Residential flat building</td> <td>Zone R3 Medium Density Residential</td> <td>1,000m²</td> </tr> </tbody> </table>			Column 1	Column 2	Column 3	Dual occupancy (attached)	Zone R2 Low Density Residential	600m ²	Zone R3 Medium Density Residential	300m ²	Dual occupancy (detached)	Zone R2 Low Density Residential	700m ²	Zone R3 Medium Density Residential	400m ²	Multi dwelling housing	Zone R2 Low Density Residential	1,000m ²	Zone R3 Medium Density Residential	450m ²	Residential flat building	Zone R3 Medium Density Residential	1,000m ²	<p>4.1E Minimum lot sizes for certain residential accommodation</p> <p>(1) The objective of this clause is to achieve planned residential density in certain zones. (2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the table to this clause for a purpose shown in Column 1 of the table opposite that zone, if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the table. (3) In this clause, manor house has the same meaning as in clause 1.5 of <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>.</p> <p>Note— Clause 3B.1A of <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> provides that development for the purposes of manor houses is permitted with development consent in Zones R2 and R3.</p> <table border="1"> <thead> <tr> <th>Column 1</th> <th>Column 2</th> <th>Column 3</th> </tr> </thead> <tbody> <tr> <td>Attached dwelling</td> <td>Zone R2 Low Density Residential</td> <td>1,000 square metres</td> </tr> <tr> <td>Attached dwelling</td> <td>Zone R3 Medium Density Residential</td> <td>800 square metres</td> </tr> <tr> <td>Dual occupancy (attached)</td> <td>Zone R2 Low Density Residential, Zone R3 Medium Density Residential</td> <td>800 square metres</td> </tr> <tr> <td>Dual occupancy (attached)</td> <td>Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU5 Village, Zone R5 Large Lot Residential</td> <td>4,000 square metres</td> </tr> <tr> <td>Dual occupancy (detached)</td> <td>Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone R5 Large Lot Residential</td> <td>4,000 square metres</td> </tr> <tr> <td>Dual occupancy (detached)</td> <td>Zone R2 Low Density Residential, Zone R3 Medium Density Residential</td> <td>800 square metres</td> </tr> <tr> <td>Manor house</td> <td>Zone R2 Low Density Residential</td> <td>1,000 square metres</td> </tr> <tr> <td>Manor house</td> <td>Zone R3 Medium Density Residential</td> <td>800 square metres</td> </tr> <tr> <td>Multi dwelling housing</td> <td>Zone R2 Low Density Residential</td> <td>1,000 square metres</td> </tr> </tbody> </table>	Column 1	Column 2	Column 3	Attached dwelling	Zone R2 Low Density Residential	1,000 square metres	Attached dwelling	Zone R3 Medium Density Residential	800 square metres	Dual occupancy (attached)	Zone R2 Low Density Residential, Zone R3 Medium Density Residential	800 square metres	Dual occupancy (attached)	Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU5 Village, Zone R5 Large Lot Residential	4,000 square metres	Dual occupancy (detached)	Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone R5 Large Lot Residential	4,000 square metres	Dual occupancy (detached)	Zone R2 Low Density Residential, Zone R3 Medium Density Residential	800 square metres	Manor house	Zone R2 Low Density Residential	1,000 square metres	Manor house	Zone R3 Medium Density Residential	800 square metres	Multi dwelling housing	Zone R2 Low Density Residential	1,000 square metres	<p><u>Changes Proposed</u> Deletion of Clause 82.</p> <p>The Lot sizes within the West Byron Urban Release area have been set by the subdivision layout of the Development Consents issued for the West Byron Bay Site. The development consents were issued on the basis that smaller minimum lot sizes for dual occupancy, and multi dwelling housing development would be permissible on R3 medium density residential or R2 Low Density residential respectively.</p> <p>A review of the approved subdivision lot layout plan for development consents 10.2017.201.1 & 10.2017.661.1 shows that</p> <p>Clause 82 is more restrictive for residential flat buildings and Multi dwelling housing within R3 zoned land. But is less restrictive for Dual occupancy (attached) or (detached) within R2 and R3 zoned land. when compared with Section 4.1E.</p> <p><u>Intent of changes</u> To ensure consistency with the Ministerial Direction, Focus Area 6: Housing, Direction 6.1 states that "A planning proposal must, in relation to land to which this direction applies" (b) not contain provisions which will reduce the permissible residential density of land.</p>
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Division 2 Provisions applying to development in West Byron Bay site				
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	Multi dwelling housing	Zone R3 Medium Density Residential	800 square metres	The table within Clause 82 is to be inserted into Section 4.1E as (4) with the table only applying to the West Byron Urban Release Area. Recommendation Delete Clause 82 and amend Section 4.1E to insert the table within Clause 82.
	Residential flat building	Zone R3 Medium Density Residential	800 square metres	
<p>83 Exceptions to minimum subdivision lot sizes for certain residential development</p> <p>(1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.</p> <p>(2) This clause applies to development on land in the following zones—</p> <p>(a) Zone R2 Low Density Residential,</p> <p>(b) Zone R3 Medium Density Residential.</p> <p>(3) Development consent may be granted for a single development application for development to which this clause applies that is both of the following—</p> <p>(a) the subdivision of land into 3 or more lots,</p> <p>(b) the erection of a dwelling house, an attached dwelling or a semi-detached dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than—</p> <p>(i) for the erection of a dwelling house—300 square metres for land in Zone R2 Low Density Residential and 200 square metres for land in Zone R3 Medium Density Residential, or</p> <p>(ii) for the erection of an attached dwelling—250 square metres for land in Zone R2 Low Density Residential and 150 square metres for land in Zone R3 Medium Density Residential, or</p> <p>(iii) for the erection of a semi-detached dwelling—250 square metres for land in Zone R2 Low Density Residential and 150 square metres for land in Zone R3 Medium Density Residential.</p>	There is no equivalent section within the 2014 LEP.			<p><u>Changes proposed</u></p> <p>This clause is unique to the West Byron Bay Site and should be brought forward as an additional local provision.</p> <p>Add new Clause 6.X to the Byron LEP 2014 with no changes to the wording of Clause 83.</p> <p><u>Intent of changes</u></p> <p>There is no equivalent of this section within the 2014 LEP, The intent of retaining this clause is to enable Integrated Housing¹ within the West Byron Bay Site, but not within the remainder of the shire.</p> <p>Further the intention is to encourage and permit greater density within the West Byron Bay Site.</p> <p>The retention of this clause is consistent with Ministerial Direction 6: Housing and would retain the current permissible residential density of the West Byron Site.</p> <p>¹Integrated 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</p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
		<p>LEP 1988. (this term is defined within the Byron Development Control Plan 2014).</p> <p>Recommendation A new Section is included within Part 6 of the BLEP 2014 as Section 6.X as a new local provision for the West Byron Urban Release Area.</p>
<p>83A Boundary adjustments between lots in Zones E2 and E3</p> <p>(1) The objective of this clause is to facilitate boundary adjustments between adjoining lots where one or more resulting lots do not meet the minimum lot size but the objectives of the relevant zone can be achieved.</p> <p>(2) This clause applies to land in the following zones—</p> <p>(a) Zone E2 Environmental Conservation,</p> <p>(b) Zone E3 Environmental Management.</p> <p>(3) Despite clause 81, development consent may be granted to subdivide land to which this clause applies by way of a boundary adjustment between adjoining lots where one or more resulting lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land, if the consent authority is satisfied that—</p> <p>(a) the subdivision will not create additional lots or the opportunity for additional dwellings, and</p> <p>(b) the potential for land use conflict will not be increased as a result of the subdivision, and</p> <p>(c) the subdivision will result in the continued protection and long-term maintenance of the land.</p>	<p>There is no equivalent section within the 2014 LEP.</p>	<p><u>Changes proposed</u> Deletion of Clause 83A.</p> <p><u>Intent of changes</u> The objectives and intent of the clause are similar to 4.1C Minimum subdivision lot size for boundary adjustments in certain rural and residential zones, without the specific restriction to zones E2 or E3.</p> <p>It is also noted that the naming convention for both E2 and E3 have been changed to C2 and C3. And to avoid confusion with the now renamed (E) / employment zoned land, the clause should be deleted.</p> <p>Clause 4.1C will achieve the same purpose as clause 83A.</p> <p>Recommendation Clause 83A is deleted</p>
<p>83B Exceptions to minimum lot size for split zone lots</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to permit the creation of lots that support urban development in planned urban growth areas,</p> <p>(b) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 81,</p> <p>(c) to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.</p> <p>(2) This clause applies to each lot (an original lot) that contains—</p> <p>(a) land in a residential, business or industrial zone, and</p>	<p>4.1D Exceptions to minimum subdivision lot sizes for certain split zones</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,</p> <p>(b) to ensure that the subdivision occurs in a manner that promotes suitable land use and development.</p> <p>(2) This clause applies to each lot (an <i>original lot</i>) that contains—</p> <p>(a) land in a residential, employment or mixed use zone, and</p>	<p><u>Changes Proposed</u> Deletion of Clause 83B</p> <p>Clause 83B is similar to Section 4.1D however it is more restrictive in its scope. As the Section 4.1D also permits the exception for Land zoned RU1, RU2 and SP3.</p> <p>It is also noted that the naming convention for both E2 and E3</p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>(b) land in Zone E2 Environmental Conservation or Zone E3 Environmental Management, or both.</p> <p>(3) Despite clause 81, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if—</p> <p>(a) one of the resulting lots will contain all of the land in Zone E2 Environmental Conservation or Zone E3 Environmental Management that was in the original lot, and</p> <p>(b) each of the other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.</p>	<p>(b) land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone SP3 Tourist, Zone C2 Environmental Conservation or Zone C3 Environmental Management.</p> <p>(3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if—</p> <p>(a) one of the resulting lots will contain—</p> <p>(i) land in a residential, employment or mixed use zone that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and</p> <p>(ii) all of the land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone SP3 Tourist, Zone C2 Environmental Conservation or Zone C3 Environmental Management that was in the original lot, and</p> <p>(b) all other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.</p>	<p>have been changed to C2 and C3 and the existing clause 83B now references the incorrect zone title.</p> <p><u>Intent of changes</u> To allow subdivision of land within certain split zoned land within the West Byron Bay Site to be consistent with the remainder of the Shire.</p> <p>Recommendation Clause 83B is deleted</p>
<p>84 Height of buildings</p> <p>(1) The objective of this clause is to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.</p> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p>	<p>4.3 Height of buildings</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to achieve building design that does not exceed a specified maximum height from its existing ground level to finished roof or parapet,</p> <p>(b) to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located,</p> <p>(c) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.</p> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p>	<p><u>Changes proposed</u> Deletion of Clause 84 as it is a duplicate of Section 4.3 of the 2014 LEP.</p> <p>The height of buildings map applies a 9m height limit to the West Byron Bay Site and is consistent with the General Height of Buildings Control throughout much of the Shire.</p> <p><u>Intent of Changes</u> To ensure that the considerations for building height are consistent between West Byron Bay Site and the rest of the Shire zoned under the 2014 LEP.</p> <p>The adoption of Section 4.3 for the West Byron Bay Site provides greater clarity on the objectives of the Height of Building Section than the current Clause 84.</p> <p>Recommendation Clause 84 is deleted.</p>
<p>85 Exceptions to development standards</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>4.6 Exceptions to development standards</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p><u>Changes proposed</u> Deletion of Clause 85.</p> <p>Clause 85 is a duplicate of Section 4.6. Section 4.6 is a compulsory clause within the standard instrument Local Environmental Plan.</p>

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<p>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p> <p>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</p> <p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>(4) Development consent must not be granted for development that contravenes a development standard unless—</p> <p>(a) the consent authority is satisfied that—</p> <p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p> <p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p> <p>(b) the concurrence of the Director-General has been obtained.</p> <p>(5) In deciding whether to grant concurrence, the Director-General must consider—</p> <p>(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</p> <p>(b) the public benefit of maintaining the development standard, and</p> <p>(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.</p> <p>(6) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation or Zone E3 Environmental Management if—</p> <p>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</p> <p>(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</p> <p>(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).</p> <p>(8) This clause does not allow development consent to be granted for development that would contravene any of the following—</p> <p>(a) a development standard for complying development,</p> <p>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,</p> <p>(c) clause 87 (Controls relating to miscellaneous permissible uses),</p> <p>(d) clause 99 or 100.</p>	<p>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</p> <p>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</p> <p>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</p> <p>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</p> <p>(4) Development consent must not be granted for development that contravenes a development standard unless—</p> <p>(a) the consent authority is satisfied that—</p> <p>(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</p> <p>(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and</p> <p>(b) the concurrence of the Planning Secretary has been obtained.</p> <p>(5) In deciding whether to grant concurrence, the Planning Secretary must consider—</p> <p>(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and</p> <p>(b) the public benefit of maintaining the development standard, and</p> <p>(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.</p> <p>(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—</p> <p>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</p> <p>(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</p> <p>Note— When this Plan was made it did not include all of these zones.</p> <p>(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).</p> <p>(8) This clause does not allow development consent to be granted for development that would contravene any of the following—</p>	<p><u>Intent of Changes</u> To make the consideration of exceptions to development standards consistent between the West Byron Bay Site and the rest of the Shire zoned under the 2014 LEP.</p> <p>The deletion of Clause 85 will also reduce duplication controls within the applicable planning instruments.</p> <p>Recommendation Clause 85 is deleted</p>

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	(a) a development standard for complying development, (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> applies or for the land on which such a building is situated, (c) clause 5.4, (caa) clause 5.5, (ca) clause 6.11.																			
<p>86 Relevant acquisition authority (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the <i>Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions)</i>.</p> <p>Note— If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> requires the authority to acquire the land.</p> <p>(2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the <i>Land Reservation Acquisition Map</i> (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).</p> <table border="0"> <thead> <tr> <th>Type of land shown on Map</th> <th>Authority of the State</th> </tr> </thead> <tbody> <tr> <td>Zone RE1 Public Recreation and marked “Local open space”</td> <td>Council</td> </tr> <tr> <td>Zone RE1 Public Recreation and marked “Regional open space”</td> <td>The corporation constituted under section 8 of the Act</td> </tr> </tbody> </table> <p>(3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.</p>	Type of land shown on Map	Authority of the State	Zone RE1 Public Recreation and marked “Local open space”	Council	Zone RE1 Public Recreation and marked “Regional open space”	The corporation constituted under section 8 of the Act	<p>5.1 Relevant acquisition authority (1) The objective of this clause is to identify, for the purposes of section 3.15 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the <i>Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions)</i>.</p> <p>Note— If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> requires the authority to acquire the land.</p> <p>(2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the <i>Land Reservation Acquisition Map</i> (or, if an authority of the 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compulsory clause within the Standard Instrument Local Environmental Plan.</p> <p>Recommendation Clause 86 is deleted</p>
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<p>87 Controls relating to miscellaneous permissible uses (1) Bed and breakfast accommodation If development for the purposes of bed and breakfast accommodation is permitted under this Part, the accommodation that is provided to guests must consist of no more than 3 bedrooms.</p>	<p>5.4 Controls relating to miscellaneous permissible uses (1) Bed and breakfast accommodation If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 5 bedrooms.</p>	<p><u>Changes proposed</u> The Section 5.4 allows for an additional 2 bedrooms to be utilised for the purposes of a Bed</p>																		

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<p>Note— Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the <i>Building Code of Australia</i>.</p> <p>(2) Home businesses If development for the purposes of a home business is permitted under this Part, the carrying on of the business must not involve the use of more than 40 square metres of floor area.</p> <p>(3) Home industries If development for the purposes of a home industry is permitted under this Part, the carrying on of the home industry must not involve the use of more than 40 square metres of floor area.</p> <p>(4) Industrial retail outlets If development for the purposes of an industrial retail outlet is permitted under this Part, the retail floor area must not exceed— (a) 40% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or (b) 250 square metres, whichever is the lesser.</p> <p>(5) Farm stay accommodation If development for the purposes of farm stay accommodation is permitted under this Part, the accommodation that is provided to guests must consist of no more than 12 bedrooms.</p> <p>(6) Kiosks If development for the purposes of a kiosk is permitted under this Part, the gross floor area must not exceed 50 square metres.</p> <p>(7) Neighbourhood shops If development for the purposes of a neighbourhood shop is permitted under this Part, the retail floor area must not exceed 200 square metres.</p> <p>(8) Roadside stalls If development for the purposes of a roadside stall is permitted under this Part, the gross floor area must not exceed 20 square metres.</p> <p>(9) Secondary dwellings If development for the purposes of a secondary dwelling is permitted under this Part, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater— (a) 60 square metres, (b) 35% of the total floor area of the principal dwelling.</p>	<p>Note— Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the <i>Building Code of Australia</i>.</p> <p>(2) Home businesses If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.</p> <p>(3) Home industries If development for the purposes of a home industry is permitted under this Plan, the carrying on of the home industry must not involve the use of more than 50 square metres of floor area.</p> <p>(4) Industrial retail outlets If development for the purposes of an industrial retail outlet is permitted under this Plan, the retail floor area must not exceed— (a) 40% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or (b) 250 square metres, whichever is the lesser.</p> <p>(5) Farm stay accommodation If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 12 bedrooms in buildings.</p> <p>(6) Kiosks If development for the purposes of a kiosk is permitted under this Plan, the gross floor area must not exceed 50 square metres.</p> <p>(7) Neighbourhood shops If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 200 square metres.</p> <p>(7AA) Neighbourhood supermarkets If development for the purposes of a neighbourhood supermarket is permitted under this Plan, the gross floor area must not exceed 1,000 square metres.</p> <p>(8) Roadside stalls If development for the purposes of a roadside stall is permitted under this Plan, the gross floor area must not exceed 20 square metres.</p> <p>(9) Secondary dwellings on land other than land in a rural zone If development for the purposes of a secondary dwelling is permitted under this Plan on land other than land in a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater— (a) 60 square metres, (b) 35% of the total floor area of the principal dwelling.</p> <p>(10) Artisan food and drink industry exclusion If development for the purposes of an artisan food and drink industry is permitted under this Plan in Zone E3 Productivity Support, Zone E4 General Industrial, Zone E5 Heavy Industrial, Zone W4 Working Waterfront or a rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed— (a) 40% of the gross floor area of the industry, or (b) 250 square metres,</p>	<p>and Breakfast accommodation. (increased from 3).</p> <p>Section 5.4(2) and (3) also permits an additional 10m² to be utilised for the purposes of a home business, home occupation or home industry, to a maximum of 50m² for each. As these uses are constrained within the footprint of a dwelling, or ancillary structure, there will be no additional environmental constraints for imagined future residential development within the West Byron Site that would reasonably require the lesser floor area for home businesses, occupations or industries.</p> <p>A current planning proposal that is to be finalised shortly (Reference Number 26.2022.5.1) will alter Section 5.4(5) to reduce the number of bedrooms from 12 to 8 permitted for farm stay accommodation.</p> <p><u>Intent of change</u> To enable the controls applicable to miscellaneous permissible uses be consistent with the remainder of the Shire</p> <p>Recommendation Clause 87 is deleted.</p>

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	whichever is the lesser.	
<p>88 Development within the coastal zone</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,</p> <p>(b) to implement the principles in the NSW Coastal Policy, and in particular to—</p> <p>(i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and</p> <p>(ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and</p> <p>(iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and</p> <p>(iv) recognise and accommodate coastal processes and climate change, and</p> <p>(v) protect amenity and scenic quality, and</p> <p>(vi) protect and preserve rock platforms, beach environments and beach amenity, and</p> <p>(vii) protect and preserve native coastal vegetation, and</p> <p>(viii) protect and preserve the marine environment, and</p> <p>(ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</p> <p>(x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and</p> <p>(xi) protect Aboriginal cultural places, values and customs, and</p> <p>(xii) protect and preserve items of heritage, archaeological or historical significance.</p> <p>(2) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered—</p> <p>(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to—</p> <p>(i) maintaining existing public access and, where possible, improving that access, and</p> <p>(ii) identifying opportunities for new public access, and</p> <p>(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account—</p> <p>(i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and</p> <p>(ii) the location, and</p> <p>(iii) the bulk, scale, size and overall built form design of any building or work involved, and</p> <p>(c) the impact of the proposed development on the amenity of the coastal foreshore including—</p> <p>(i) any significant overshadowing of the coastal foreshore, and</p> <p>(ii) any loss of views from a public place to the coastal foreshore, and</p> <p>(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and</p> <p>(e) how biodiversity and ecosystems, including—</p> <p>(i) native coastal vegetation and existing wildlife corridors, and</p> <p>(ii) rock platforms, and</p> <p>(iii) water quality of coastal waterbodies, and</p> <p>(iv) native fauna and native flora, and their habitats, can be conserved, and</p>	There is no equivalent clause within the LEP 2014	<p><u>Changes proposed</u> Deletion of Clause 88</p> <p><u>Intent of Changes</u> To remove duplicate clauses within the 1988 LEP. And to prevent inconsistencies with State Planning Policies.</p> <p>Clause 88 was made prior to the commencement of State Environmental Planning Policy Resilience and Hazards (2021) and the previous iteration SEPP Coastal Management 2018. Clause 88 has been superseded by that state policy.</p> <p>The State policy will override the LEP Clause, to the extent of any inconsistency. Future development within the urban release area will consider the requirements of the State Environmental Planning Policy Resilience and Hazards (2021).</p> <p>Recommendation Clause 88 is deleted.</p>

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<p>(f) the cumulative impacts of the proposed development and other development on the coastal catchment.</p> <p>(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that—</p> <p>(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and</p> <p>(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</p> <p>(c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</p> <p>(d) the proposed development will not—</p> <p>(i) be significantly affected by coastal hazards, or</p> <p>(ii) have a significant impact on coastal hazards, or</p> <p>(iii) increase the risk of coastal hazards in relation to any other land.</p>		
<p>89 Conversion of fire alarms</p> <p>(1) This clause applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.</p> <p>(2) The following development may be carried out, but only with development consent—</p> <p>(a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,</p> <p>(b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,</p> <p>(c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.</p> <p>(3) Development to which subclause (2) applies is complying development if it consists only of—</p> <p>(a) internal alterations to a building, or</p> <p>(b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm x 100mm x 100mm.</p> <p>(4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.</p> <p>(5) In this clause—</p> <p>private service provider means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.</p>	<p>5.8 Conversion of fire alarms</p> <p>(1) This clause applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.</p> <p>(2) The following development may be carried out, but only with development consent—</p> <p>(a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,</p> <p>(b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,</p> <p>(c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.</p> <p>(3) Development to which subclause (2) applies is complying development if it consists only of—</p> <p>(a) internal alterations to a building, or</p> <p>(b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm x 100mm x 100mm.</p> <p>(4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.</p> <p>(5) In this clause—</p> <p>private service provider means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.</p>	<p><u>Changes proposed</u> Deletion of Clause 89 and utilisation of Section 5.8 for the West Byron Bay Site.</p> <p><u>Intent of Changes</u> Clause 89 is duplicated as Section 5.8 of the of the LEP 2014. Deletion of the Clause would remove the duplicate clause.</p> <p>Section 5.8 is a compulsory clause within the Standard instrument Local Environmental Plan.</p> <p>Clause 89(4) requires a condition on be imposed on complying development certificates issued in the West Byron Bay site.</p> <p>Hours of works undertaken as part of a Complying Development Certificate are controlled under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</p> <p>Recommendation Clause 89 is deleted.</p>

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Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>90 Preservation of trees or vegetation</p> <p>(1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.</p> <p>(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.</p> <p>Note— A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.</p> <p>(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by—</p> <p>(a) development consent, or</p> <p>(b) a permit granted by the Council.</p> <p>(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.</p> <p>(5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.</p> <p>(6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.</p> <p>(7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation—</p> <p>(a) that is or forms part of a heritage item or that is within a heritage conservation area, or</p> <p>(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,</p> <p>unless the Council is satisfied that the proposed activity—</p> <p>(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and</p> <p>(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.</p> <p>Note— As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 92 will be applicable to any such consent.</p> <p>(8) This clause does not apply to or in respect of—</p> <p>(a) the clearing of native vegetation—</p> <p>(i) that is authorised by a development consent or property vegetation plan under the <i>Native Vegetation Act 2003</i>, or</p> <p>(ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or</p> <p>(b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the <i>Native Vegetation Act 2003</i>) that is authorised by a development consent under the provisions of the <i>Native Vegetation Conservation Act 1997</i> as continued in force by that clause, or</p> <p>(c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the <i>Forestry Act 1916</i>, or</p> <p>(d) action required or authorised to be done by or under the <i>Electricity Supply Act 1995</i>, the <i>Roads Act 1993</i> or the <i>Surveying and Spatial Information Act 2002</i>, or</p> <p>(e) plants declared to be noxious weeds under the <i>Noxious Weeds Act 1993</i>.</p> <p>Note— Permissibility may be a matter that is determined by or under any of these Acts.</p> <p>(9) Subclause (8)(a)(ii) does not apply in relation to land in Zone E2 Environmental Conservation or Zone E3 Environmental Management.</p>	<p>There is no equivalent clause within the 2014 LEP.</p>	<p><u>Change proposed</u> Deletion of Clause 90.</p> <p><u>Intent of change</u> Clause 90 is no longer required as the preservation of trees or vegetation is managed by other state legislation and the Development Control Plan 2014.</p> <p>In particular chapter 2 of State Environmental Planning Policy Biodiversity and Conservation (2021) allows the issuing of tree permits in combination with Chapter B2 of Council's Development Control Plan 2014.</p> <p>Or, where development consent is required for tree removal works, Chapter B1 of the Development Control Plan 2014 sets out the considerations where development requiring the removal of trees or vegetation is required.</p> <p>Recommendation Clause 90 is deleted</p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>91 Trees or vegetation not prescribed by development control plan</p> <p>(1) This clause applies to any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 90 by a development control plan made by the Council.</p> <p>(2) The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.</p>	<p>There is no equivalent clause within the 2014 LEP.</p>	<p>Refer to comments under Clause 90.</p> <p>Recommendation Clause 91 is deleted</p>
<p>92 Heritage conservation</p> <p>(1) Objectives The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental heritage of the West Byron Bay site,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p> <p>(2) Requirement for consent Development consent is required for any of the following—</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object,</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 2 in relation to the item,</p> <p>(c) 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,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(f) subdividing land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p> <p>(3) When consent not required However, development consent under this clause is not required if—</p> <p>(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—</p> <p>(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and</p> <p>(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or</p> <p>(b) the development is in a cemetery or burial ground and the proposed development—</p>	<p>5.10 Heritage conservation</p> <p>Note—</p> <p>Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.</p> <p>(1) Objectives The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental heritage of Byron,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p> <p>(2) Requirement for consent Development consent is required for any of the following—</p> <p>(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—</p> <p>(i) a heritage item,</p> <p>(ii) an Aboriginal object,</p> <p>(iii) a building, work, relic or tree within a heritage conservation area,</p> <p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) 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,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(f) subdividing land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p> <p>(3) When consent not required However, development consent under this clause is not required if—</p>	<p><u>Change proposed</u></p> <p>Delete Clause 92 as Section 5.10 of the LEP 2014 will supersede Clause 92.</p> <p><u>Intent of Change</u></p> <p>Clause 92 is replicated as section 5.10 of the 2014 LEP and can be deleted to allow for the utilisation of Section 5.10 instead.</p> <p>This change is consistent with Ministerial Direction 3.2 Heritage Conservation. Heritage conservation is covered by a compulsory clause in the Standard Instrument (Local Environmental Plans) Order 2006.</p> <p>Section 5.10 is no more restrictive, or permissive than Clause 92. And will remove a duplicated control within the 1988 LEP.</p> <p>Recommendation Clause 92 is deleted</p>

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Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and</p> <p>(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or</p> <p>(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or</p> <p>(d) the development is exempt development.</p> <p>(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p> <p>(5) Heritage assessment The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p> <p>(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p> <p>(7) Archaeological sites The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <i>Heritage Act 1977</i> applies)—</p> <p>(a) notify the Heritage Council of its intention to grant consent, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p> <p>(8) Aboriginal places of heritage significance The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—</p> <p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p> <p>(9) Demolition of nominated State heritage items The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—</p> <p>(a) notify the Heritage Council about the application, and</p>	<p>(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—</p> <p>(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and</p> <p>(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or</p> <p>(b) the development is in a cemetery or burial ground and the proposed development—</p> <p>(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and</p> <p>(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or</p> <p>(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or</p> <p>(d) the development is exempt development.</p> <p>(4) Effect of proposed development on heritage significance The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p> <p>(5) Heritage assessment The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b), require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p> <p>(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p> <p>(7) Archaeological sites The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <i>Heritage Act 1977</i> applies)—</p> <p>(a) notify the Heritage Council of its intention to grant consent, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p> <p>(8) Aboriginal places of heritage significance The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—</p>	

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<p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p> <p>(10) Conservation incentives The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that—</p> <p>(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and</p> <p>(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and</p> <p>(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and</p> <p>(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and</p> <p>(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.</p>	<p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p> <p>(9) Demolition of nominated State heritage items The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—</p> <p>(a) notify the Heritage Council about the application, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p> <p>(10) Conservation incentives The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—</p> <p>(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and</p> <p>(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and</p> <p>(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and</p> <p>(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and</p> <p>(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.</p>	
<p>93 Bush fire hazard reduction Bush fire hazard reduction work authorised by the <i>Rural Fires Act 1997</i> may be carried out on any land without development consent.</p> <p>Note— The <i>Rural Fires Act 1997</i> also makes provision relating to the carrying out of development on bush fire prone land.</p>	<p>5.11 Bush fire hazard reduction Bush fire hazard reduction work authorised by the <i>Rural Fires Act 1997</i> may be carried out on any land without development consent.</p> <p>Note— The <i>Rural Fires Act 1997</i> also makes provision relating to the carrying out of development on bush fire prone land.</p>	<p><u>Changes proposed</u> Deletion of Clause 93</p> <p><u>Intent of Changes</u> The clause is identical between the 1988 and 2014 LEP. And the deletion of Clause 93 will remove the duplicated control.</p> <p>Recommendation Delete clause 93.</p>
<p>94 Infrastructure development and use of existing buildings of the Crown (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>, Chapter 2.</p>	<p>5.12 Infrastructure development and use of existing buildings of the Crown (1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>, Chapter 2.</p>	<p><u>Changes proposed</u> Deletion of Clause 94</p> <p><u>Intent of Changes</u> The clause is identical between the 1988 and 2014 LEP. And the</p>

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Byron LEP 1988 Clause	Byron 2014 Clause	Comment
(2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.	(2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.	deletion of Clause 94 will remove the duplicated control. Recommendation Delete clause 94.
<p>95 Eco-tourist facilities</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,</p> <p>(b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.</p> <p>(2) This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Part.</p> <p>(3) The consent authority must not grant consent under this Part to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that—</p> <p>(a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and</p> <p>(b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and</p> <p>(c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and</p> <p>(d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and native flora and fauna will be minimal, and</p> <p>(e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and</p> <p>(f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and</p> <p>(g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours, materials and landscaping with local native flora, and</p> <p>(h) any infrastructure services to the site will be provided without significant modification to the environment, and</p> <p>(i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and</p> <p>(j) the development will not adversely affect the agricultural productivity of adjoining land, and</p> <p>(k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment—</p> <p>(i) measures to remove any threat of serious or irreversible environmental damage,</p> <p>(ii) the maintenance (or regeneration where necessary) of habitats,</p> <p>(iii) efficient and minimal energy and water use and waste output,</p> <p>(iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,</p> <p>(v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.</p>	<p>5.13 Eco-tourist facilities</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,</p> <p>(b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.</p> <p>(2) This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Plan.</p> <p>(3) The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that—</p> <p>(a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and</p> <p>(b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and</p> <p>(c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and</p> <p>(d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and native flora and fauna will be minimal, and</p> <p>(e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and</p> <p>(f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and</p> <p>(g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours, materials and landscaping with local native flora, and</p> <p>(h) any infrastructure services to the site will be provided without significant modification to the environment, and</p> <p>(i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and</p> <p>(j) the development will not adversely affect the agricultural productivity of adjoining land, and</p> <p>(k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment—</p> <p>(i) measures to remove any threat of serious or irreversible environmental damage,</p> <p>(ii) the maintenance (or regeneration where necessary) of habitats,</p> <p>(iii) efficient and minimal energy and water use and waste output,</p> <p>(iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,</p> <p>(v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.</p>	<p><u>Changes proposed</u> Deletion of Clause 95.</p> <p><u>Intent of Changes</u> The clause is identical between the 1988 and 2014 LEP. And the deletion of Clause 95 will remove the duplicated control.</p> <p>Recommendation Delete clause 95.</p>

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Byron LEP 1988 Clause	Byron 2014 Clause	Comment																						
<p>96 Suspension of covenants, agreements and instruments</p> <p>(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Part or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.</p> <p>(2) This clause does not apply—</p> <p>(a) to a covenant imposed by the Council or that the Council requires to be imposed, or</p> <p>(b) to any relevant instrument within the meaning of section 13.4 of the Crown Land Management Act 2016, or</p> <p>(c) to any conservation agreement within the meaning of the National Parks and Wildlife Act 1974, or</p> <p>(d) to any Trust agreement within the meaning of the Nature Conservation Trust Act 2001, or</p> <p>(e) to any property vegetation plan within the meaning of the Native Vegetation Act 2003, or</p> <p>(f) to any biobanking agreement within the meaning of Part 7A of the Threatened Species Conservation Act 1995, or</p> <p>(g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.</p> <p>(3) This clause does not affect the rights or interests of any public authority under any registered instrument.</p> <p>(4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).</p>	<p>1.9A Suspension of covenants, agreements and instruments</p> <p>(1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.</p> <p>(2) This clause does not apply—</p> <p>(a) to a covenant imposed by the Council or that the Council requires to be imposed, or</p> <p>(b) to any relevant instrument within the meaning of section 13.4 of the Crown Land Management Act 2016, or</p> <p>(c) to any conservation agreement within the meaning of the National Parks and Wildlife Act 1974, or</p> <p>(d) to any Trust agreement within the meaning of the Nature Conservation Trust Act 2001, or</p> <p>(e) to any property vegetation plan within the meaning of the Native Vegetation Act 2003, or</p> <p>(f) to any biobanking agreement within the meaning of Part 7A of the Threatened Species Conservation Act 1995, or</p> <p>(g) to any planning agreement within the meaning of Subdivision 2 of Division 7.1 of the Act.</p> <p>(3) This clause does not affect the rights or interests of any public authority under any registered instrument.</p> <p>(4) Under section 3.16 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).</p>	<p><u>Changes proposed</u> Deletion of Clause 96.</p> <p><u>Intent of Changes</u> The clause is identical between the 1988 and 2014 LEP. And the deletion of Clause 96 will remove the duplicated control.</p> <p>Recommendation Delete clause 96.</p>																						
<p>97 Acid sulfate soils</p> <p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p> <p>(2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <p>Class of land Works</p> <table border="0"> <tr> <td>1</td> <td>Any works.</td> </tr> <tr> <td>2</td> <td>Works below the natural ground surface. Works by which the water table is likely to be lowered.</td> </tr> <tr> <td>3</td> <td>Works more than 1 metre below the natural ground surface. Works by which the water table is likely to be lowered more than 1 metre below the natural ground surface.</td> </tr> <tr> <td>4</td> <td>Works more than 2 metres below the natural ground surface. Works by which the water table is likely to be lowered more than 2 metres below the natural ground surface.</td> </tr> <tr> <td>5</td> <td>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</td> </tr> </table>	1	Any works.	2	Works below the natural ground surface. Works by which the water table is likely to be lowered.	3	Works more than 1 metre below the natural ground surface. Works by which the water table is likely to be lowered more than 1 metre below the natural ground surface.	4	Works more than 2 metres below the natural ground surface. Works by which the water table is likely to be lowered more than 2 metres below the natural ground surface.	5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	<p>6.1 Acid sulfate soils</p> <p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p> <p>(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.</p> <table border="0"> <thead> <tr> <th>Class of land</th> <th>Works</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Any works.</td> </tr> <tr> <td>2</td> <td>Works below the natural ground surface. Works by which the water table is likely to be lowered.</td> </tr> <tr> <td>3</td> <td>Works more than 1 metre below the natural ground surface. Works by which the water table is likely to be lowered more than 1 metre below the natural ground surface.</td> </tr> <tr> <td>4</td> <td>Works more than 2 metres below the natural ground surface. Works by which the water table is likely to be lowered more than 2 metres below the natural ground surface.</td> </tr> <tr> <td>5</td> <td>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</td> </tr> </tbody> </table>	Class of land	Works	1	Any works.	2	Works below the natural ground surface. Works by which the water table is likely to be lowered.	3	Works more than 1 metre below the natural ground surface. Works by which the water table is likely to be lowered more than 1 metre below the natural ground surface.	4	Works more than 2 metres below the natural ground surface. Works by which the water table is likely to be lowered more than 2 metres below the natural ground surface.	5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	<p><u>Changes proposed</u> Deletion of Clause 97.</p> <p><u>Intent of Changes</u> The clause is identical between the 1988 and 2014 LEP. And the deletion of Clause 97 will remove the duplicated control.</p> <p>Recommendation Delete Clause 97</p>
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Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</p> <p>(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if—</p> <p>(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and</p> <p>(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.</p> <p>(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—</p> <p>(a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,</p> <p>(b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),</p> <p>(c) minor work, being work that costs less than \$20,000 (other than drainage work).</p> <p>(6) Despite subclause (2), development consent is not required under this clause to carry out any works if—</p> <p>(a) the works involve the disturbance of less than 1 tonne of soil, and</p> <p>(b) the works are not likely to lower the water table.</p> <p>(7) Despite subclause (2), development consent is not required under this clause for the carrying out of works for the purpose of agriculture if—</p> <p>(a) a production area entitlement is in force in respect of the land when the works are carried out, and</p> <p>(b) the works are carried out in accordance with a drainage management plan, and</p> <p>(c) the works are not carried out in respect of a major drain identified on the Acid Sulfate Soils Map, and</p> <p>(d) the works are not carried out on land to which State Environmental Planning Policy No 14—Coastal Wetlands applies.</p> <p>(8) In this clause—</p> <p>drainage management plan means an irrigation and drainage management plan that—</p> <p>(a) is prepared in accordance with the <i>NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005)</i>, and</p> <p>(b) is endorsed by the Sugar Milling Co-operative as being appropriate for the land.</p> <p>NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005) means the guidelines approved by the Director-General of the Department of Infrastructure, Planning and Natural Resources on 25 May 2005.</p> <p>production area entitlement means a contractual arrangement between the Sugar Milling Co-operative and a grower member of that cooperative for the production of sugar cane for milling.</p> <p>Sugar Milling Co-operative means the New South Wales Sugar Milling Co-operative Limited or its successor.</p> <p>Note— The <i>NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005)</i> is available on the Department of Planning and Infrastructure’s website.</p>	<p>(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</p> <p>(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if—</p> <p>(a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and</p> <p>(b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.</p> <p>(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—</p> <p>(a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,</p> <p>(b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),</p> <p>(c) minor work, being work that costs less than \$20,000 (other than drainage work).</p> <p>(6) Despite subclause (2), development consent is not required under this clause to carry out any works if—</p> <p>(a) the works involve the disturbance of less than 1 tonne of soil, and</p> <p>(b) the works are not likely to lower the water table.</p> <p>(7) Despite subclause (2), development consent is not required under this clause for the carrying out of works for the purpose of agriculture if—</p> <p>(a) a production area entitlement is in force in respect of the land when the works are carried out, and</p> <p>(b) the works are carried out in accordance with a drainage management plan, and</p> <p>(c) the works are not carried out in respect of a major drain identified on the Acid Sulfate Soils Map, and</p> <p>(d) the works are not carried out on land identified as “coastal wetlands” on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i>, within the meaning of State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2.</p> <p>(8) In this clause—</p> <p>drainage management plan means an irrigation and drainage management plan that—</p> <p>(a) is prepared in accordance with the <i>NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005)</i>, and</p> <p>(b) is endorsed by the Sugar Milling Co-operative as being appropriate for the land.</p> <p>NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005) means the guidelines approved by the Director-General of the Department of Infrastructure, Planning and Natural Resources on 25 May 2005.</p> <p>production area entitlement means a contractual arrangement between the Sugar Milling Co-operative and a grower member of that co-operative for the production of sugar cane for milling.</p>	

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
	<p>Sugar Milling Co-operative means the New South Wales Sugar Milling Co-operative Limited or its successor.</p> <p>Note— The NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005) is available on the Department of Planning and Infrastructure’s website.</p>	
<p>98 Flood planning</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the land’s flood hazard, taking into account projected changes as a result of projected sea level rise,</p> <p>(c) to avoid significant adverse impacts on flood behaviour and the environment.</p> <p>(2) This clause applies to—</p> <p>(a) land identified as “Flood planning area” on the Flood Planning Map, and</p> <p>(b) other land at or below the flood planning level.’</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</p> <p>(a) is compatible with the flood hazard of the land, and</p> <p>(b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) incorporates appropriate measures to manage risk to life from flood, and</p> <p>(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</p> <p>(4) A word or expression used in this clause has the same meaning as it has in the <i>Floodplain Development Manual</i> (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.</p> <p>(5) In this clause—</p> <p>flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.</p> <p>projected sea level rise means the 2050 and 2100 sea level rise planning benchmarks as specified in the <i>NSW Coastal Planning Guideline: Adapting to Sea Level Rise</i> (ISBN 978-1-74263-035-9) published by the NSW Government in August 2010.</p>	<p>5.21 Flood planning</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid adverse or cumulative impacts on flood behaviour and the environment,</p> <p>(d) to enable the safe occupation and efficient evacuation of people in the event of a flood.</p> <p>(2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p> <p>(3) In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p> <p>(4) A word or expression used in this clause has the same meaning as it has in the <i>Considering Flooding in Land Use Planning Guideline</i> unless it is otherwise defined in this clause.</p> <p>(5) In this clause—</p> <p>Considering Flooding in Land Use Planning Guideline means the <i>Considering Flooding in Land Use Planning Guideline</i> published on the Department’s website on 14 July 2021.</p> <p>flood planning area has the same meaning as it has in the <i>Floodplain Development Manual</i>.</p>	<p><u>Change proposed</u> Clause 98 to be deleted as the clause is now superseded by Section 5.21 within the 2014 LEP.</p> <p><u>Intent of changes</u> To adopt the Section 5.21 to the West Byron Bay site is consistent with Ministerial direction 4.1 Flooding. Development Consents issued on the West Byron Bay Site for the subdivision of the land have considered the flood risk of developing the urban release area for residential purposes.</p> <p>Section 5.21 is also consistent with the NSW Flood Prone Land Policy, the principles of the <i>Floodplain Development Manual 2005</i>, the <i>Considering flooding in land use planning guideline 2021</i>, and the adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the <i>Floodplain Development Manual 2005</i> and adopted by council.</p> <p>Recommendation Delete Clause 98</p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
	Floodplain Development Manual means the <i>Floodplain Development Manual</i> (ISBN 0 7347 5476 0) published by the NSW Government in April 2005.	
<p>98A Development for the purpose of stormwater management systems and water reticulation systems</p> <p>(1) The objective of this clause is to ensure that any person can carry out development for the purpose of stormwater management systems or water reticulation systems with development consent on any land if the consent authority has considered the environmental impacts of the development and opportunities to avoid, minimise or mitigate those impacts.</p> <p>(2) Development consent may be granted to development for the purpose of a stormwater management system or a water reticulation system that is not ancillary to any other development (even if the development is associated with existing development or development on adjoining land) on any land.</p> <p>(3) Despite subclause (2), development consent must not be granted under that subclause for development on land in Zone E2 Environmental Conservation or Zone E3 Environmental Management, or on any land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone IN2 Light Industrial that is adjacent to that land, unless the consent authority has taken into consideration—</p> <p>(a) the likely impact of the development on threatened species, native aquatic and terrestrial fauna and flora and their habitat, the ecological role of the land and any waterways, riparian land and wetland, and</p> <p>(b) whether the design and siting of the development is located so as to avoid, or minimise the impacts on, significant native vegetation and habitats, and</p> <p>(c) if the impacts cannot be avoided, whether the impacts can be mitigated by restoring any existing disturbed or modified areas on the site or on adjacent land.</p> <p>(4) In this clause—</p> <p>stormwater management system has the same meaning as in <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>, Part 2.3, Division 25.</p> <p>water reticulation system has the same meaning as in <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>, Part 2.3, Division 29.</p> <p>Note— Development for the purpose of stormwater management systems and water reticulation systems may be carried out by or on behalf of a public authority without consent on any land under <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>, sections 2.138 and 2.160.</p>	There is no equivalent Section within the LEP 2014.	<p><u>Change proposed</u> Clause 98A is relevant only for the construction of Stormwater management systems and / or water reticulation systems. As Development consents for the subdivision of land included conditions to provide these systems. The objective of the clause has been satisfied.</p> <p>The legislation references within Clause 98A are incorrect.</p> <p><u>Intent of change</u> The development consents issued for the subdivision of the West Byron Bay site includes measures that consider the construction of stormwater management system and water reticulation systems.</p> <p>The State Environmental Planning Policy (Transport and Infrastructure) 2021 now controls the development for the purposes of stormwater management systems or water reticulation systems. The SEPP will override clause 98A.</p> <p>Recommendation Delete Clause 98A</p>
<p>98B Earthworks</p> <p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions or processes (including waterways, riparian land and groundwater), neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>(2) Development consent is required for earthworks unless—</p> <p>(a) the earthworks are exempt development under this Part or another applicable environmental planning instrument, or</p>	<p>6.2 Earthworks</p> <p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>(2) Development consent is required for earthworks unless the earthworks are exempt development under this Plan or another applicable environmental planning instrument.</p>	<p><u>Changes proposed</u> It is proposed to adopt the wording of Section 6.2 for the West Byron Bay Site and delete clause 98B in its entirety.</p> <p><u>Intent of changes</u> This clause has been replaced by section 6.2 within the 2014 LEP with the exception of 2(b) and 3(h).</p>

Division 2 Provisions applying to development in West Byron Bay site		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>(b) the earthworks are ancillary to development that is permitted without consent under this Part or to development for which development consent has been given.</p> <p>(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) whether the development minimises cut and fill and the use and location of cut and fill on the site,</p> <p>(e) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(f) the source of any fill material and the destination of any excavated material,</p> <p>(g) the likelihood of disturbing relics,</p> <p>(h) whether the location of the earthworks is appropriate, taking into account land that has previously been cleared in response to site characteristics,</p> <p>(i) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive land and measures to prevent sediment, building materials, waste or other pollutants from leaving the site and entering adjoining land, street gutters, drains or watercourses,</p> <p>(j) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>Note— The <i>National Parks and Wildlife Act 1974</i>, particularly section 86, deals with harming Aboriginal objects.</p>	<p>(3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>Note— The <i>National Parks and Wildlife Act 1974</i>, particularly section 86, deals with harming Aboriginal objects</p>	<p>which are specific within the Clause 98B for the West Byron Site area.</p> <p>Consent for earthworks is controlled by both the State Environmental Planning Policy Exempt and Complying Codes (2008) Subdivision 15 for exempt development earthworks, or Section 6.2 of the Byron LEP 2014 in combination with Chapter B14 of the Development Control Plan 2014 will control earthworks where development consent is required and this section could be deleted.</p> <p>3(b) consideration of the earthworks is either exempt development, or where consent is required consideration of the appropriateness of the cut and fill is captured within chapter B14 of the DCP 2014 and can be deleted accordingly.</p> <p>Recommendation Delete Clause 98B.</p>

Division 3 Urban release areas		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>99 Arrangements for designated State public infrastructure</p> <p>(1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.</p> <p>(2) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements</p>	<p>There is no equivalent section within the LEP 2014</p>	<p><u>Changes proposed</u> Deletion of Clause 99</p> <p><u>Intent of changes</u> Development Consent has been granted for the subdivision of the West Byron Bay Site for the urban purposes. In granting those development consents, this clause was satisfied.</p>

Division 3 Urban release areas		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>have been made to contribute to the provision of designated State public infrastructure in relation to that lot.</p> <p>(3) Subclause (2) does not apply to—</p> <p>(a) any lot identified in the certificate as a residue lot, or</p> <p>(b) any lot to be created by a subdivision of land that was the subject of a previous development consent granted in accordance with this clause, or</p> <p>(c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or</p> <p>(d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.</p> <p>(4) This clause does not apply to land in an urban release area if all or any part of the land is in a special contributions area (as defined by section 93C of the Act).</p>		<p>The arrangements to provide the state public infrastructure were also made at that time.</p> <p>The West Byron Bay Site is not identified as a Special Contributions Area.</p> <p>As the arrangements have been made and the completion of the subdivision consent will ensure that the objective is achieved. The clause may be deleted.</p> <p>Recommendation Delete Clause 99.</p>
<p>100 Public utility infrastructure</p> <p>(1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.</p> <p>(2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.</p>	There is no equivalent section within the LEP 2014	<p><u>Change proposed</u> To delete clause 100</p> <p><u>Intent of changes</u> Where future work to provide, extend, augment, maintain or repair public infrastructure is required, these works are controlled by the State Environmental Planning Policy Transport and Infrastructure (2021).</p> <p>The Development Consents issued for the subdivision of the West Byron Bay site required the construction and extension of the public utility infrastructure for the subdivision of the West Byron Bay Site</p> <p>Recommendation Delete Clause 100</p>
<p>101 Development control plan</p> <p>(1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.</p> <p>(2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.</p>	There is no equivalent section within the LEP 2014	<p><u>Change proposed</u> Deletion of Clause 101</p> <p><u>Intent of Changes</u> There is a current Development Control plan that applies to the West Byron Bay Site as chapter E8 of the Byron Development Control</p>

Division 3 Urban release areas		
Byron LEP 1988 Clause	Byron 2014 Clause	Comment
<p>(3) The development control plan must provide for all of the following—</p> <p>(a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,</p> <p>(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,</p> <p>(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,</p> <p>(d) a network of active and passive recreation areas,</p> <p>(e) stormwater and water quality management controls,</p> <p>(f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,</p> <p>(g) detailed urban design controls for significant development sites,</p> <p>(h) measures to encourage higher density living around transport, open space and service nodes,</p> <p>(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,</p> <p>(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.</p> <p>(4) Subclause (2) does not apply to development for any of the following purposes—</p> <p>(a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,</p> <p>(b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,</p> <p>(c) a subdivision of land in a zone in which the erection of structures is prohibited,</p> <p>(d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.</p>		<p>Plan 2014. The objective of the clause is achieved as a result.</p> <p>Recommendation Delete Clause 101</p>

History of R5 zoned land for Harvest Estate.

- The court approval documents for the subdivision does not reference any R5 zoned land.
- There is a reference that ecological restoration / protection is to occur on the large lots.
- E2022/75989 – email discussion around residual 4x large lots being zoned R5.
- Condition 91(p) – no further subdivision (includes strata?)
- Condition 91(q) restriction on use to the large lots – ecological protection.

