



BYRON SHIRE COUNCIL



# Byron Shire Development Control Plan 2014

Byron Shire  
Development Control Plan  
2014  
Part A  
Preliminary



## Part A – Preliminary

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## Document History

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



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



## A1 Introduction

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

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

### Dual Path Assessment

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

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

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

## A2 Name of this DCP

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

## A3 Purpose and Objectives of this DCP

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



The objectives of this plan are to:

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

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



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

### **Part A**      **Preliminary**

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

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

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

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

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

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

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

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



## A5 Where this DCP Applies

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

## A6 Relationship to other Plans and Legislation

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

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

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

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

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

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



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

### Objectives

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

### Performance Criteria

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

### Prescriptive Measures

There are no Prescriptive Measures.

## A7 Operation and Amendment of this DCP

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

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

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

**Table A1 – Schedule of Amendments**

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

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

Amendment No.	Date	Provisions Amended
		<ul style="list-style-type: none"> <li>Chapter D1: Residential Accommodation in Urban, Village and Special Purpose Zones</li> </ul>
12	10/12/2020	New Chapter B1 Biodiversity
13	11/03/2021	Chapter B2 Tree and Vegetation Management
14	25/08/2021	New Chapter E10 Byron Bay Town Centre following LEP 2014 Amendment 27 (Res 21-187)
15	25/11/2021	Amendment to Chapter E2 Bangalow and C1 Non-Indigenous Heritage and new definitions Part A. (Res 21-479)
16	12/01/2022	Amends Chapter E5 Certain Locations in Byron Bay and Ewingsdale following publication of LEP 2014 Amendment 31 The Farm 26.2016.6.1
		<b>Housekeeping 2022</b>

## A8 Repeal of Various DCPs and Savings Provisions

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

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

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

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

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

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

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

## A10 When a Development Application is not Required

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

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

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

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

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

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

## A11 When a Development Application is Required

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

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

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



## A12 The Development Application Process and DCP Controls

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

This DCP is structured to specify:

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

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

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

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

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



development application. Your development application must demonstrate compliance with each of the relevant Sections.

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

## Dual Path Assessment

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

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

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

## A13 Information Required to Submit a Development Application

The information and documents that must accompany a development application are specified in Clause ~~50 24~~ and ~~Schedule 4~~ of the Environmental Planning and Assessment Regulation, ~~2000~~ **2021 and the approved form**. The Council's Development Application Help Guide nominates the way that information and those documents must be submitted for a development application in Byron Shire. The Development Application Help Guide is available on request from the Council, or may be downloaded from Council's website.

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

### A13.1 Context and Site Analysis

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





and character of the individual towns and localities and improves the quality of the environment for the community.

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

### A13.1.1 Context and Site Analysis

#### Objectives

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

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

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

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



- g) a synopsis of opportunities and constraints for the proposed development, having regard to the results of the Site and Context Analysis process.

## A13.2 Perspectives and Models

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

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

#### Objectives

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

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

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

## A13.3 Re-sited buildings

Applications submitted for re-sited buildings (e.g. Dwellings) are to include the following additional information:

1. A structural engineer's report
2. A report addressing compliance of the dwelling with the Building Code of Australia
3. A report on the condition of the building in relation to termites and other borers
4. Energy efficiency and water conservation upgrades including
  - a) Minimum R 2.5 ceiling insulation to be installed.
  - b) Hot water system must not be an electric storage tank that is connected to mains power.
  - c) Minimum 3 stars taps and fixtures to be installed in all kitchen, laundry and bathrooms.
  - d) Minimum 4 star air conditioning (if proposed).
  - e) Minimum 5000 litre rainwater tank collecting at least 30% of the developments roof water.
  - f) 1 garden tap connected to rainwater tank.
  - g) BASIX where required for alterations and additions.

Refer to Councils Re-sited building fact sheet for more information or contact our Development Support Officers.

## A13.4 Online Development Application Templates

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

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

## A13.5 Community Consultation Prior to Development Application Lodgement

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

These requirements are detailed within Byron Community Participation Plan

## A14 Public Notification and Exhibition of Development Applications

All public notification requirements are now contained within Byron Community Participation Plan which is available on Council's website. Byron Community Participation Plan sets out the levels of public exhibition and notification for certain development, the methods of exhibition and the requirements for pre-lodgement consultation for **community significant development**.

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

Applicants should review the exhibition requirements for their application prior to lodgement

## A15 How Council will consider your Development Application

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



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



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

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

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

This will include:

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

## Appendix A1 Dictionary

### **Accommodation unit**

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

### **Active street frontage**

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

### **Adaptable housing**

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

### **Adjoining landowner**

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

### **Access**

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

### **AEP**

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

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

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

### **Animated sign**

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

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

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

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

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

### **Aquifer**

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

### **Balcony**

means:

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



2. any deck or verandah covered by a roof.

### **Bangalow Urban Area**

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

### **Bangalow Urban Area DCP Map**

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

### **Bangalow Urban Release Area**

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

### **Best management practice**

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

### **Bicycle storage space**

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

### **Billboard sign**

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

### **Biodiversity Conservation Management Plan (BCMP)**

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

### **Biodiversity offset**

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

### **Biodiversity values**

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

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

### **Blackwater**

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

### **Brunswick Heads Urban Area**

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



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

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

### **BSC**

means Byron Shire Council.

### **Building height plane**

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

### **Building elevation**

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

### **Bunting**

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

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

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

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

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

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

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

### **Caretakers dwelling:**

means a dwelling that is ancillary to an industrial use on the site which provides residential accommodation for an onsite caretaker or manager to provide general security for the associated industrial use. A caretakers dwelling is a type of **dwelling**.

### **Coastal hazard**

means the following:

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

### **Coastal zone**

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

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





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

Means the same as it does in the Coastal Management Act 2016 i.e.

- (a) the coastal wetlands and littoral rainforests area
- (b) the coastal vulnerability area
- (c) the coastal environment area
- (d) the coastal use area

### **Collection area**

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

### **Collection point**

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

### **Common landscaped area**

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

### **Community significant development**

means:

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

### **Compost**

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

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

means a written document that outlines the circumstances of the intended activities or uses that may create conflict in the context of the surrounding environment. It also outlines locations, separation distances and use of all adjoining and other lands likely to create or influence potential for conflict between the proposed development and existing or proposed land use. Additionally, it



details the proposed management measures, buffers and other planning or operational strategies to be incorporated in the proposed development to manage potential land use conflicts, together with an evaluation of the nature, extent and quantum of mitigation expected to be achieved.

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

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

### **Core koala habitat**

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

### **Creative industry**

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

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

### **Critical facilities**

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

### **Deep soil area**

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

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

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

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

### **Development envelope / footprint**

means an area of land inclusive of all existing or proposed buildings and other associated infrastructure including but not limited to roads, driveways, waste water systems, landscaping, bushfire protection zones, ecological setbacks, other development setbacks and easements for



telephone, electricity and other services. It does not include lands retained for extensive agriculture or nature conservation.

### **Development setback**

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

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

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

### **Disability**

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

### **Display area**

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

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

### **Drinking water catchment**

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

### **Dual key**

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

### **Dual key arrangement**

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

### **Ecological setback:**

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

### **Effluent**

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

### **Environmental management buffer**



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

#### ***Erosion escarpment***

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

#### ***Essential worker***

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

#### ***Expanded house***

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

#### ***Fabric***

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

#### ***Federal Village Map***

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

#### ***Federal Village***

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

#### ***Fine grain***

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

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

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

#### ***Flood compatible material***

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

#### ***Flood liable land***

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

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

has the same meaning as in Byron LEP 2014.

#### ***Flood planning matrix***

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

#### ***Floodplain Development Manual 2005***

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



### ***Flood prone land***

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

### ***Freeboard***

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

### ***Garage***

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

### ***Garbage***

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

### ***Garbage chute***

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

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

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

### ***Garden waste***

means surplus vegetation material.

### ***Gross floor area***

has the same meaning as in Byron LEP 2014.

### ***GDD***

means Greywater Diversion Device.

### ***Greywater***

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

### ***Ground water and groundwater***

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

### ***Gross leasable floor area***

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

### ***GTD***

means Greywater Treatment Device.

### ***Guidelines***

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



### **Habitable room**

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

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

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

### **Indirect impact**

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

### **Integrated Housing**

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

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

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

### **Koala habitat**

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

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

### **Koala use trees**

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

### **Landscaped area**

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



### **Lawful point of discharge**

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

### **Lawful structure**

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

### **Locally indigenous**

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

### **Low scale**

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

### **Liquid trade waste**

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

### **Main Arm Village Map**

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

### **Main Arm Village**

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

### **Manufactured home**

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

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

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

### **Manufactured home estate**

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

### **Medium density housing**

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

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

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



### **Mixed use development**

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

### **Mixed waste**

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

### **Mullumbimby Urban Area**

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

### **Mullumbimby Urban Area Map**

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

### **Mural**

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

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

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

### **Neon sign**

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

### **New release areas**

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

### **Ongoing management**

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

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

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

### **Pathogen reduction**

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

### **Permeability**

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

### **PMF**





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

#### **Primary treatment**

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

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

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

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

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

#### **Public art**

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

#### **Recyclable**

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

#### **Refugia**

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

#### **Remnant vegetation**

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

#### **Riparian corridor**

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

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

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

#### **Riparian vegetation**

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



### **Riparian land**

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

### **Roof advertisement**

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

### **Rural tourist accommodation**

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

### **Secondary treatment**

means a process or processes that remove dissolved and suspended organic material by biological treatment and sedimentation. Some biodegradable organics, volatile organics, nitrogen and phosphorus are removed [e.g. activated sludge/ aerated treatment devices, sand filters, constructed wetlands].

### **Setback**

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

### **Sewage**

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

### **Sewered land**

means land within the urban reticulated sewerage catchment.

### **Shared accommodation**

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

### **Shared zones**

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

### **Shelterbelt**

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

### **Shopping centre**

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

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

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

### **Site waste bins**

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

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

means a written document, usually including graphics, that outlines measures to minimise and manage **waste** generated during various stages of a development, including demolition,



construction and ongoing use of the development. In doing so the SWMMP specifies the method of recycling or disposal and the **waste** management service provider. It nominates for each stage:

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

### **Small Lots**

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

### **Social impact assessment scope**

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

### **Social impact management plan**

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

### **Sorted waste**

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

### **Special purpose facilities**

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

### **Special waste**

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

### **Spot assessment technique**

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

### **Stockpile**

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

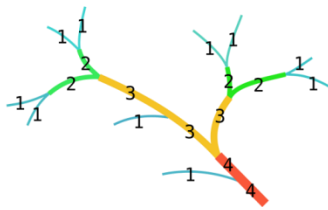
### **Stratum lot**

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

### **Stream order**



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



Strahler stream order

### **Studio**

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

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

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

### **Suffolk Park Urban Area**

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

### **Surrounding Landowner**

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

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

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

### **Tertiary treatment**

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

### **Threatened ecological communities**

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

### **Threatened population**

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

### **Threatened species**

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

### **Tourist accommodation**

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

### **Trade waste**

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

### **Transport corridor land**

means the following land:

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

### **Tweed Street Masterplan**

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

### **Unsewered land**

means land outside the urban reticulated sewerage catchment.

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

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

### **Vegetation removal**

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

### **Visually prominent development**

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

### **Visually prominent site**

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

### **Volume reduction equipment**

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

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

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



### **Waste**

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

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

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

### **Waste/ recycling cupboard**

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

### **Wastewater**

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

### **Weatherproof area**

means the gross floor area of habitable rooms with floor levels below the 2050 flood planning level

### **Wet bar**

means a half bowl sink with bench space no more than 500mm x 500mm and with no connected drying rack. (where proposed in studios, outbuildings, rumpus rooms etc.)

### **Wildlife corridor**

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

### **Workspace**

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

## Appendix A2 Development Application Process

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

### 1. Pre-lodgment

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

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

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

### 3. Referrals and Public Notification

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

### 4. Assessment

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

### 5. Determination

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

### 6. Development commencement

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

