



# Byron Shire Development Control Plan 2014

## Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones



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# Chapter D2 – Residential Accommodation and Ancillary Development in Rural Zones

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## D2.1 Introduction

Byron Shire Council recognises the need to plan for and control the form of residential accommodation and other forms of development in the Shire's rural zones. Such development will need to be in harmony with its surroundings, both natural and constructed, and enhance the physical context valued by the local community and by the Shire's increasing number of visitors.

This Section complements the provisions of Byron LEP 2014. The aim has been to develop controls that provide flexibility to promote innovative and imaginative building forms, whilst ensuring development outcomes consistent with the character of the Shire and its rural lands. Building forms need to be related to each other and to their surroundings by careful attention to design, orientation, forms, scale, materials and landscaping.

### D2.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To promote a high standard of design for development in rural lands that is sensitive to and enhances the natural and physical environment and the social fabric particular to Byron Shire.
2. To accommodate a variety of residential forms and **dwelling** sizes to reflect the growing diversity of household types, sizes, incomes, lifestyles and needs.
3. To promote energy efficiency and consideration of the Shire's climatic characteristics in the design process.
4. To promote sustainable food and agriculture production.
5. To minimise conflict between developments, including conflict with agricultural activities in farming lands.
6. Where possible to limit potential for additional traffic on the road system and to reduce car dependence through facilitation of public transport, cycling and walking.

### D2.1.2 Application of this Chapter

This Chapter applies to development applications seeking consent for various forms of residential accommodation and associated development in rural zoned lands, namely Zones RU1 and RU2. The types of development to which this Chapter applies include the following:

- **Dual occupancies (attached and detached)**
- **Dwelling houses**
- **Expanded houses**
- **Farm buildings**
- **Rural worker's dwellings**
- **Secondary dwellings**
- **Studios**



The definitions of various residential and associated development types are contained in the Byron LEP 2014 Dictionary, or in the Dictionary to this DCP. The provisions in this Chapter supplement those provisions of Byron LEP 2014.

## D2.2 General Provisions

### D2.2.1 Location and Siting of Residential Accommodation and other Buildings

#### Objectives

- ~~1. To implement the relevant Aims, Guiding Principles and provisions of the Byron Rural Settlement Strategy 1998.~~
2. To ensure that decisions relating to siting of development are consistent with the objectives and provisions of Chapter B6 Buffers and Minimising Land Use Conflict.
3. **To site dwellings and other buildings in appropriate locations that meet the needs of the residents and minimises the impact on the environment.**

#### Performance Criteria

- ~~1. All development to which this Section applies must be consistent with the relevant Aims, Guiding Principles, Best Practice Guidelines and Performance Standards contained in the Byron Rural Settlement Strategy 1998 (the Strategy). The Strategy's relevant Aims are:~~
  - ~~i) To ensure that ecological, social and economic considerations are successfully integrated into the decision-making process for all future rural settlement in Byron Shire.~~
  - ~~ii) ...~~
  - ~~iii) To ensure future rural settlement is directly linked to the repair, enhancement and protection of the natural environment, thereby increasing the shire's natural capital.~~

The Strategy's relevant Guiding Principles are:

- ~~i) overriding principle -- all new rural settlement must meet the needs of Byron's residents today while conserving the shire's ecosystems, agricultural viability, lifestyles, heritage and culture for the benefit of future generations;~~
- ~~ii) sustainability -- development meets the needs of today without compromising the ability of future generations (long timeframes) to meet their own needs and enjoy a quality life resulting from clean air, water and soils;~~
- ~~iii) planning -- shire wide planning identifies potential rural settlement areas integrated with catchment-based (geographical, water and social) planning;~~
- ~~iv) consultation -- there is full community consultation and participation with the local community prior to decision-making, and support for participatory settlement planning;~~
- ~~v) environment -- existing habitat areas are identified, protected and enhanced, environmental repair is undertaken and corridors of native vegetation linking habitat areas are provided;~~



- ~~vi) *water quality* – natural watercourses and the riparian lands, wetlands and groundwater systems are protected from sources of pollution and the water quality is maintained and improved;~~
- ~~vii) *identity* – Byron Shire's unique image, diverse lifestyle and local character are maintained;~~
- ~~viii) *facilities* – adequate community facilities to meet the needs of rural settlement areas are provided; *and*~~
- ~~ix) *land use* – existing and potential agricultural and horticultural land uses and extractive resources on-site are protected; and off-site, on adjacent and nearby areas, their landuses and resources are not adversely impacted by rural settlement.~~

~~The relevant Best Practice Guidelines and Performance Standards are contained in Chapters 6 and 8 respectively of the Strategy.~~

~~Determination of siting, extent and nature of development must be consistent with the provisions of Chapter B6 Buffers and Minimising Land Use Conflict.~~

- 1) Buildings should be sited to minimise impact on areas with environmental conservation values. Applications for proposals located in or near ecologically sensitive areas, areas of high environmental values and/ or important natural features or sites must include a full description of those ecological, conservation and natural values and systems, together with a comprehensive, professional assessment of the impact of the proposed development.
- 2) Determination of siting, extent and nature of development must be consistent with the provisions of Chapter B6 Buffers and Minimising Land Use Conflict.
- 3) Developments proposed in visually prominent locations shall be accompanied by a visual impact statement justifying the proposed location in accordance with Chapter C3 Visually Prominent Sites, Visually Prominent Development & View Sharing.

### Prescriptive Measures

There are no Prescriptive Measures.

## D2.2.2 Setbacks from Boundaries

### Objectives

1. *To achieve varied and interesting landscapes that preserve and complement the rural and scenic character and amenity of the Shire's rural and environmental protection areas.*
2. *To achieve good orientation and spacing of developments in rural and environmental protection areas that achieve high quality living environments relative to privacy, sunlight, shade, wind and weather protection, and proximity of neighbouring development.*
3. *To minimise potential for land use conflict between rural land uses and activities.*

### Performance Criteria

1. **Setback** requirements may be flexible provided they are demonstrated to achieve the Objectives and Performance Criteria. Determination of **setbacks** will also depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.



2. The **setbacks** and design of **dwellings** and other buildings must contribute to the locality's rural character and attractiveness by means of siting, good design, appropriate materials and effective landscaping.
3. The **setback** from a road frontage or side boundaries for **dwellings** and other buildings will be determined on its merits, having regard to:
  - a) the Objectives;
  - b) any provisions of this development control plan applying to the specific location;
  - c) consistency with the rural and scenic character of the locality;
  - d) the position and **setback** of any existing buildings in the locality;
  - e) the siting and nature of nearby rural landuses and potential for creation of conflict with those uses;
  - f) the siting and nature of nearby **residential accommodation** buildings or other development and the potential for intrusion on privacy, amenity, solar access or climate characteristics of those buildings.
  - g) the effect on vehicular safety and visibility on a public road;
  - h) the orientation of the **allotment** and the proposed **dwelling** with regard to the sun and prevailing winds;
  - i) the location and treatment of any car parking areas and car parking structures on the site.

### Prescriptive Measures

1. **Minimum Road Frontage Setbacks:** 55 metres from the boundary of a **classified road** and 15 metres from the boundary of other roads. (Note. The provisions of SEPP Infrastructure 2007 apply to development with frontage to a **classified road**). The "Byron Shire Roads Hierarchy" maps are available on Council's website and show **classified roads** such as the Pacific Highway and other main roads.

No development is permitted within the building **setback** other than garbage storage facilities, mail boxes, landscaping, driveways and car parking spaces.

2. **Minimum Side and Rear Boundary Setbacks:** Based on consistency with the Objectives and Performance Criteria. Must comply with the requirements of the Building Code of Australia.

Determination of **setbacks** will also depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.

## D2.2.3 Character and Visual Impact

### Objectives

1. *To retain and enhance the unique character of Byron Shire and its distinctive landscapes, ecology, rural and natural areas.*
2. *To ensure that new development contributes to the character of its locality by respecting and complementing the natural and built environment.*





## Performance Criteria

The following principles shall be applied to all development:

- a) site, building and landscaping design must address the climate;
- b) where a building is visible from a public road, it must contribute to the rural and scenic character of the locality by means of good design, appropriate materials and effective landscaping;
- c) there must be a reasonable degree of integration with the existing built, rural and natural environment, balanced with the desirability of providing for variety in the landscape;
- d) the provision of verandahs, **balconies**, pergolas and other protective outdoor elements will be encouraged for visual, climatic and energy efficiency reasons;
- e) well-designed overhanging eaves should be provided where feasible to protect against heavy rainfall and summer sun, while allowing winter sun penetration;
- f) no roof may have a highly reflective surface. Any metal roof must have a colorbond or equivalent finish in a colour approved by council. White or light-coloured roofing will not be approved where likely to be visually intrusive or would result in significant glare for neighbouring properties;
- g) details of building materials and surface colours must be submitted for assessment with a development application. All building materials must be compatible in character with their surrounding environment;
- h) consistent with the NSW Coastal Council's February 2003 publication 'Coastal Design Guidelines for NSW', namely the recommended design principles for buildings and development located in various categories of coastal and inland settlements, and for isolated coastal **dwelling**s.
- i) rural character and rural environment is not adversely affected by over development

## Prescriptive Measures

1. The total number of residential buildings per property in RU1 and RU2 zones, including **dwelling house**, **expanded house**, **dual occupancies** and **secondary dwellings** is not to exceed six (6). This excludes multiple occupancy, community title, **farm buildings**, sheds and other structures meant for rural activities.

## D2.2.4 Multi Storey Dwellings

### Objectives

1. *To ensure connectivity between the floors of dwelling houses.*

### Performance Criteria

1. Dwellings with more than one habitable storey must demonstrate how the residents can easily access both levels of the dwelling in all weather conditions.

### Prescriptive Measures

1. Each habitable floor of a multi-storey dwelling house must be connected by an internal staircase (garage and laundry excluded).



## D2.3 Dwelling Houses

This Section outlines the controls applicable specifically to single **dwelling houses** in rural lands. It must be read in conjunction with the general provisions set out in Sections D2.1 and D2.2 of this Chapter.

In this Section, a reference to a **dwelling house** also includes a reference to an **expanded house**.

### D2.3.1 On-Site Car Parking and Vehicle Access

#### Objectives

1. *To provide adequate and visually compatible accommodation for vehicles.*

#### Performance Criteria

1. Car parking must be provided on the site in a manner that provides convenient access for residents of the **dwelling**; safe and accessible in terms of visibility, turning and manoeuvring capabilities; and visually compatible with the site and its locality.
2. Car parking structures, including garages and carports, which are visible from the road must be compatible with the **dwelling** in terms of design and materials, and may form part of the **dwelling** structure.

#### Prescriptive Measures

Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding car parking and vehicle access.

### D2.3.2 Recycling and Waste Management and On-site Sewage Management

#### Objectives

1. *To facilitate the storage and collection of garbage and recyclable products.*
2. *To ensure responsible management of sewage on the site.*

#### Performance Criteria

1. Garbage and recyclable storage and collection facilities must be provided to meet residents' needs and collections service requirements where roadside collection is available.
2. On-site sewage management is to comply with Chapter B3 Services.

#### Prescriptive Measures

There are no Prescriptive Measures.



## D2.3.3 Expanded House

### Objectives

- ~~1. To facilitate the provision of a **dwelling house** comprising a number of separate building components.~~
2. To allow for variation in the built form of dwelling houses comprising of separate building components.
3. To minimise the development footprint within environmentally sensitive areas

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

The design and use of the **expanded house** must conform to the following criteria:

- a) No **expanded house** habitable outbuilding is to be located more than 20m from the wall of the main building, measured from wall to wall at the closest point;
- b) the main building must contain an identifiable living area including the kitchen;
- c) a maximum of three outbuildings may be connected to the main building by paths with an all-weather surface;
- d) outbuildings are to be connected to the main building by paths with an all weather surface;
- e) no separate driveway, car parking area, garage or carport structure is to be provided to service any outbuilding;
- f) one outbuilding must be limited to a maximum floor area of 45m<sup>2</sup> excluding decks, verandahs, patios, **balconies** and the like; and the others must be limited to a maximum 30m<sup>2</sup> floor area excluding decks, verandahs, patios, **balconies** and the like;
- g) none of the outbuildings is to contain facilities (e.g. kitchen, sink or the like) that would enable the preparation of food or beverages;
- h) each separate outbuilding may incorporate a maximum of two bedrooms (including rooms with an ensuite or bathroom);
- i) a maximum of one laundry per **dwelling**.

## D2.4 Rural Worker's Dwellings

### D2.4.1 Rural Worker's Dwellings

#### Objectives

1. To meet the genuine long term needs of viable agricultural enterprises for housing for workers on the land.



2. To ensure that **rural worker's dwellings** are located to avoid potential for conflicts with agricultural activities on adjoining land, to avoid adversely affecting the sustainability of the land for agriculture, and to ensure compatibility with the rural character of the locality and the shire.
3. To specify the evaluation criteria and development requirements that apply to establishment of **rural worker's dwellings**.

Note: Pursuant to the statutory definition in Byron LEP 2014, a **rural worker's dwelling** means a building or place that is additional to a dwelling house on the same lot and that is used predominantly as a place of residence by persons employed, whether on a long-term or short-term basis, for the purpose of agriculture or a rural industry on that land.

### Performance Criteria

1. Development applications must demonstrate that there is a genuine need and justification for a rural worker to live on the land, based on an existing/established legitimate agricultural activity.
2. The **rural worker's dwelling** must be located so that it does not create potential for conflict with adjoining land uses. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
3. **Rural worker's dwellings** must be located and retained on the same legal title as the principal **dwelling house** on the farm property, and may not be excised by subdivision.
4. The **rural worker's dwelling** to be commensurate in size, area and number of bedrooms to accommodate the rural worker(s) and immediate family.

### Prescriptive Measures

1. The property must have at least the minimum land area specified for that land by the **lot size map**.
2. The **rural worker's dwelling** must be erected within 160m of the existing principal **dwelling house** on the site, and must share the same vehicular access to the adjoining public road.
3. A development application must be accompanied by the following information that demonstrates:
  - a) property details, including legal description, area, zoning, existing use of all parts of the site;
  - b) property plan showing existing and proposed infrastructure (including buildings, sheds, services, etc) and land use;
  - c) labour requirements, including the number of persons required to conduct the farming operation, the times that labour is required (e.g. seasonal, daily), a description of the work to be undertaken by all personnel, and the critical components of the operation that require an on-site residence and rural worker/s;
  - d) potential conflicts, including the distance from the proposed **rural worker's dwelling** to adjoining land holdings and potentially conflicting landuses (e.g. intensive horticulture, pesticide use, intensive livestock activities and the like).
  - e) access and site details, including a plan showing the location of the principal **dwelling** and the proposed **rural worker's dwelling**; and proposed access



arrangements from the public road to the principal **dwelling** on the site and the proposed **rural worker's dwelling**.

- f) justification demonstrating why it is not feasible to accommodate the rural worker offsite, e.g. in a nearby village, rural property or urban area.

Note: Council may impose a condition requiring that the dwelling must not be occupied as a dwelling other than by a rural worker employed for the purpose of agriculture or rural industry on the land.

## D2.5 Dual Occupancies and Secondary Dwellings

This Section outlines requirements for the provision of **dual occupancies (attached and detached)** and **secondary dwellings** in rural areas where permitted under the provisions of Byron LEP 2014.

### Objectives

1. To ensure that **dual occupancies** and **secondary dwellings** in rural areas are located to avoid potential for conflicts with agricultural activities on adjoining land, to avoid adversely affecting the sustainability of the land for agriculture, **minimise impacts on adjoining residents**, and to ensure compatibility with the rural character of the locality and the shire.
2. To specify the evaluation criteria and development requirements that apply to establishment of **dual occupancies** and **secondary dwellings** in rural areas.

### Performance Criteria

1. **Dual occupancy** and **secondary dwelling** development in rural areas must be located so that it does not create potential for conflict with adjoining land uses. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
2. **Dual occupancies** and **secondary dwellings** in rural areas must be located and retained on the same legal title as the principal **dwelling house** on the property, and may not be excised by subdivision.

### Prescriptive Measures

A development application must be accompanied by information that demonstrates:

- a) property details, including legal description, area, zoning, existing use of all parts of the site;
- b) property plan showing existing and proposed infrastructure (including buildings, sheds, services, onsite wastewater disposal, etc) and land use;
- c) potential conflicts, including the distance from the proposed **dual occupancy** and **secondary dwelling** to adjoining land holdings and potentially conflicting landuses (e.g. intensive horticulture, pesticide use, intensive livestock activities, rural industry and the like).
- d) access and site details, including a plan showing the location of the principal dwelling and the proposed **dual occupancy** and **secondary dwelling**; and



proposed access arrangements from the public road to the principal dwelling on the site and the proposed **dual occupancy** and **secondary dwelling**.

## D2.5.1 On-Site Car Parking

### Objective

1. *To provide adequate and visually compatible on-site accommodation of vehicles for residents and visitors.*

### Performance Criteria

Vehicular access to a **dual occupancy** and **secondary dwelling** development should comprise a shared driveway. Driveways must be located and designed to minimise danger to pedestrians and cyclists using the public road and to ensure that vehicles do not need to reverse into or out of the driveway.

### Prescriptive Measures

1. Car parking shall satisfy the requirements for on-site car parking for **dual occupancy** development as set out in Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.
2. There is no car parking requirement for **secondary dwellings**.

## D2.5.2 Character and Siting of Dwellings

### Objectives

1. *To ensure that **dual occupancy** and **secondary dwelling** development is compatible in character with development in the locality, provides adequate private open space and addresses environmental, slope and drainage issues.*
2. *To minimise the footprint of **dual occupancy** and **secondary dwelling** development through location of **dwellings** and the use of shared services and common areas.*

### Performance Criteria

1. In assessing any proposal for **dual occupancy** and **secondary dwelling** development, particular consideration will be given to the topography and slope of the site, design to minimise loss of privacy, bushfire and environmental constraints, the visual impact of the proposal and the likely impact on water flows and drainage.
2. To encourage better visual quality and greater public acceptance, **dual occupancy** and **secondary dwelling** development must be designed to be responsive to its location. It could look like a single **dwelling** or be sited in a clustered arrangement with other **farm buildings**, garages, car ports or farm sheds.
3. Separate private open space must be provided for each **dwelling** in accordance with Section D2.5.4, and must be designed to be easily accessible to the **dwelling** it serves.
4. The applicant must demonstrate that the design of the development and the siting of the two **dwellings** will not generate additional adverse environmental impacts through excessive vegetation removal for bushfire protection or detract from the visual amenity of the locality.



### Prescriptive Measures

1. **Dual occupancy (attached) dwellings** are to be attached to each other by a common dividing wall, this may include garage walls. The **dwellings** must be serviced by a common vehicle access.
2. **Dual occupancy (detached) dwellings** shall be located not more than 100 metres apart between the closest points. The **dwellings** must be serviced by a common vehicle access.
3. **Secondary dwellings** can be either attached to or detached from the principle dwelling as per the controls for **dual occupancy (attached and detached)** above.

Note: Clause 4.6 of Byron LEP 2014 (Exceptions to Development Standards) allows for flexibility in applying certain LEP 2014 development standards if it is justified in the circumstances. A merit case for development standards (except the floor space of a **secondary dwelling**) can be submitted to Council where it can be demonstrated to achieve better development outcomes.

## D2.5.3 Sound Proofing

### Objectives

1. *To ensure an acceptable acoustic environment for residents.*

### Performance Criteria

1. Where the **dual occupancy (attached)** is separated by a common dividing wall, that wall must be designed and constructed to resist sound and to ensure acoustic privacy and amenity between rooms.
2. Development must be designed to minimise noise and vibration impacts upon occupants of nearby **dwellings**. Where practicable, sources of noise must be sited away from adjoining properties, and where necessary must be screened by acoustic treatments.

### Prescriptive Measures

There are no Prescriptive Measures.



## D2.5.4 Private Open Space

### Objectives

1. *To ensure that adequate accessible and useable open space is provided to meet the recreational, gardening and landscape needs of residents.*

### Performance Criteria

1. Private open space areas must be of dimensions to suit the projected requirements of the occupants and guests and to accommodate outdoor recreation needs, as well as providing space for service functions such as clothes drying and domestic storage.
2. Part of the private open space must be capable of enabling an extension of the function of the **dwelling** for relaxation, dining, entertainment, recreation and children's play, and be directly accessible from the **dwelling**. Provision must be made for space for private gardening such as vegetable gardens.
3. Location of private open space must take account of outlook, natural features of the site and neighbouring buildings or open space. Orientation of private open space must provide for maximum year round use in terms of sunlight.
4. Private recreational facilities must not adversely affect the amenity of adjacent properties.

### Prescriptive Measures

1. Each **dwelling** must have a minimum landscaped area of private open space at ground level, not located in the front **setback**. The minimum private open space area will be 30m<sup>2</sup> and will have a minimum length and width each of 4m, excluding any area used for vehicle circulation or parking.
2. The private open space area must not include any areas used for the management of on-site sewage effluent.

## D2.5.5 Adjoining and Nearby Development

### Objective

1. *To ensure that rural **dual occupancies** and **secondary dwellings** are located to avoid potential for conflicts with agricultural activities on adjoining land, **minimise impacts on adjoining properties** and to ensure compatibility with the rural character and scenic amenity of the locality and the shire.*
1. **Dual occupancy** and **secondary dwelling** development must be located so that it does not create potential conflict with adjoining agricultural activities or other legitimate land uses. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
2. **Dual occupancies** and **secondary dwellings** must be compatible with the bulk, scale, height and character of the locality and nearby development. The site characteristics, including slope and aspect, must be taken into consideration in assessing the appropriate height and number of storeys.
3. **Dual occupancies** and **secondary dwellings** must be compatible with the scenic amenity of the locality.
4. Adequate provision must be made for:





- a) solar access and privacy of the proposed **dwelling(s)** and any adjacent **dwelling(s)**;
- b) reasonable protection of existing views and privacy from neighbouring houses;
- c) access to natural light and solar access for the proposed **dwelling(s)** and any adjacent **dwelling(s)**.

### Prescriptive Measures

There are no Prescriptive Measures.

1. Dual occupancies and secondary dwellings must be set back a minimum of 10m from side and rear boundaries. Larger setbacks may be required to minimise land use conflicts.

## D2.6 Multiple Occupancy Development

Multiple Occupancy has historically been a preferred way of living in the rural areas of Byron Shire. The following controls have been prepared to implement the Aims, Guiding Principles, Best Practice Guidelines and Performance Standards of the *Byron Rural Settlement Strategy 1998* relating to Multiple Occupancy Development.

### D2.6.1 Multiple Occupancy Development of Rural Land

#### Objectives

1. To reflect the objectives and provisions of Byron LEP 2014 relating to Multiple Occupancy Development.
2. To enable:
  - a) people to collectively own a single property and use it as their principal place of residence, and
  - b) the erection of multiple **dwelling(s)** on the lot and the sharing of facilities and resources, and
  - c) the collective environmental repair and management of the lot, and
  - d) the pooling of resources to economically develop a wide range of communal rural living opportunities.
3. To facilitate closer rural settlement in a clustered style in a manner that:
  - a) protects the environment, and
  - b) does not create an unreasonable demand for the provision of services or a demand for the uneconomic provision of services, and
  - c) does not involve subdivision under Community Title, Torrens Title or Strata Title, or any other form of separate land title, and
  - d) to implement the aims, guiding principles, guidelines and performance standards for rural settlement in the *Byron Rural Settlement Strategy 1998*, available from the office of the council.

#### Performance Criteria



1. The location of **dwelling houses**, including any existing **dwelling house(s)**, are to be sited in a clustered style to facilitate social interaction between residents, to limit the cost of construction for residents in terms of the provision of services and access roads, and minimising environmental impacts from unnecessary earthworks and vegetation removal.
2. The siting of **dwelling houses** shall have regard to the physical characteristics of the land, including topography, drainage lines, existing vegetation, bushfire constraints and other hazards and accessibility by vehicle.
3. Suitable detail, reports and management plans to be submitted with the application demonstrating:
  - a) the proposal will have a positive impact upon the environment through environmental repair and enhancement;
  - b) measures for the management of the land by various landowners setting out rights and responsibilities, dispute resolution and collective use of resources;
  - c) how effluent will be disposed of on site, water will be managed and hazards such as bushfire mitigated.

### **Prescriptive Measures**

#### **1. Siting and Clustering of House Sites**

- a) **Dwelling houses** must be clustered in three (3) or more houses or future house sites. Separate clustering must demonstrate that the environmental and social impact or impacts of a number of **dwelling houses** and building clusters is less than a single clustering of **dwelling houses** and buildings. Clustering is defined to be **dwelling houses**, community buildings, garages, farm sheds and any other buildings located within close proximity and easy walking distance to each other. The distances apart must average 80 metres in a cluster but not exceeding 160 metres between any two **dwelling houses** in a cluster.
- b) The Council shall not grant consent where the proposed development is in a dispersed style. A dispersed style is a style in which the **dwelling houses** are located throughout the developable land resulting in longer than necessary road access arrangements or longer than necessary power supply arrangements or adverse social or environmental impacts.
- c) All **dwelling houses**, or sites for future **dwelling houses** to be located with floor levels above the **flood planning level** of any natural waterbody, watercourse, river, creek or wetland.
- d) No building or future **dwelling house** site envelope to be within 55 m of a **classified road**.
- e) **Dwelling houses**, future house sites, farm sheds and other structures to be sited in accordance with the requirements of Chapter C3 Visually Prominent Sites, Visually Prominent Development & View Sharing.

#### **2. Environmental Impact Assessment Report**

An Environmental Impact Assessment Report should be prepared to Council's satisfaction to determine the area and location of developable land. It should address the following matters:

- a) A full description of the development and the existing environment likely to be affected, including a concept plan and land capability and suitability report which identifies the following:



- i) lands subject to bushfire hazards (Vegetation Category 1 and 2), flooding (land affected by 1:100 ARI flood event) and slopes greater than 20 percent;
- ii) prime agricultural lands, (classes 1, 2 and 3);
- iii) **High environmental value vegetation and habitats** and existing habitat areas for flora, fauna or ecological communities listed under the *Threatened Species and Conservation Act 1995* and associated buffers;
- iv) areas identified for environmental repair, weeding and plantings;
- v) watercourses, natural drainage lines, permanent creeks, streams, wetlands and associated buffers;
- vi) areas of visual significance as seen from public roads, parks and elsewhere in the general public domain;
- vii) land slip areas and soil erosion areas;
- viii) adjoining or surrounding land uses, including **intensive livestock agriculture**, extensive agricultural activities, **intensive plant agriculture** and **extractive industries** (including potential areas of extractive resources) which may produce a conflict with the proposed multiple occupancy having regard to the buffers needed to protect future residential amenity;
- ix) any contaminated sites such as dip sites, sawmills, quarries or chemical storage dumps and associated buffers;
- x) directions, distances and standard of roads to local shops, halls, schools, parks and community facilities;
- xi) school bus services and capacity to meet any likely increase in demand;
- xii) internal access roads both existing and proposed;
- xiii) indicative footprints of all proposed and existing **dwelling houses** and other building sites including community buildings, sheds and any other farm structures.

Note: Any required buffers to be calculated in accordance with Chapter B6 Buffers and Minimising Land Use Conflict.

- b) As a result of the above, an assessment is to be made to calculate the area and location of developable land which is relatively unconstrained and potentially suitable for the location of **dwelling houses**, community buildings and other buildings. It is this developable land area where Council will expect to see the proposed **dwelling**s clustered.

The decision as to whether or not land is unsuitable for development must take into account the combined effect of each of the matters described in Prescriptive Measure 2(a)(i) to (ix) above on all parts of the property, together with any proposed management or impact amelioration measures.

### 3. Rural Landsharing Management Plan

A Rural Landsharing Management Plan should be prepared to Council's satisfaction and clearly address the following issues:

- a) the degree of recognition and understanding among the community regarding collective land ownership and use of resources;
- b) the designated theme for the respective Multiple Occupancy Community;
- c) the aims and objectives of the respective Multiple Occupancy Community;



- d) any intentions of the respective Multiple Occupancy Community in terms of social cohesion, development of community, cooperation and sharing, development of rural living opportunities, the construction of buildings, the use of land, and any economic or business development or other activities which are intended to take place on the land;
- e) how ownership 'shares' or an individuals entitlements are to be allocated including the means proposed for establishing land ownership, **dwelling house** occupancy rights, environmental and community management and the internal enforcement provisions of the Rural Landsharing Management Plan are deemed by the Council to be adequate and workable;
- f) how shareholders or owners in the Multiple Occupancy Development are to reach decisions on matters affecting the Multiple Occupancy Community;
- g) how shareholders or owners can dispose of their interest in the Multiple Occupancy Community;
- h) provisions for mediation and dispute resolution provisions;
- i) the type of behaviour which is permissible on the Multiple Occupancy Community in terms of what is acceptable regarding:
  - i) use of the land for housing, commercial agriculture, domestic food production and other purposes;
  - ii) visitors and tourists;
  - iii) noise;
  - iv) use of chemicals;
  - v) keeping of cats, dogs and other animals;
  - vi) lifestyle;
  - vii) Landcare;
  - viii) disposal of sewage;
  - ix) disposal of domestic waste and recycling;
  - x) environmental repair; and
  - xi) any other appropriate matters.

#### 4. Access roads

All internal access roads

- a) must have a minimum width of 4.0m;
- b) gradients in excess of 12% are to be bitumen or concrete sealed;
- c) must be constructed and drained to provide all-weather access for two wheel drive vehicles; and
- d) in bushfire prone areas must be designed and constructed to comply with the requirements of the Rural Fire Service (for further detail see Planning for Bushfire Protection 2006).

#### 5. Bushfire Management

In areas mapped as **bushfire prone land** a detailed Bushfire Assessment Report, prepared by a suitably qualified professional to be submitted with the development application. The report is to include as a minimum the following details:



- a) a description (including the address) of the property on which the development the subject of the application is proposed to be carried out;
- b) a classification of the vegetation on and surrounding the property (out to a distance of 140 metres from the boundaries of the property) in accordance with the system for classification of vegetation contained in Planning for Bush Fire Protection;
- c) an assessment of the slope of the land on and surrounding the property (out to a distance of 100 metres from the boundaries of the property);
- d) identification of any significant environmental features on the property;
- e) the details of any threatened species, population or ecological community identified under the *Threatened Species Conservation Act 1995* that is known to the applicant to exist on the property;
- f) the details and location of any Aboriginal object (within the meaning of the *National Parks and Wildlife Act 1974*) or Aboriginal place (within the meaning of that Act) that is known to the applicant to be situated on the property;
- g) a bush fire assessment for the proposed development (including the methodology used in the assessment) that addresses the following matters:
  - i) the extent to which the development is to provide for setbacks, including asset protection zones for each **dwelling house** or future house site within the multiple occupancy;
  - ii) the siting and adequacy of water supplies for fire fighting;
  - iii) the capacity of public roads in the vicinity to handle increased volumes of traffic in the event of a bush fire emergency, and any upgrading that may be required;
  - iv) whether or not public roads in the vicinity that link with the fire trail network have two-way access;
  - v) the adequacy of proposed arrangements for access to and egress from the Multiple Occupancy for the purposes of an emergency response;
  - vi) the adequacy of bush fire maintenance plans and fire emergency procedures for the multiple occupancy;
  - vii) the construction standards to be used for building elements in the development, including details on any upgrading of existing buildings in terms of the Australian Standard 3959 – 2009 Construction of Buildings in Bushfire Prone Areas, or construction standards for new buildings;
  - viii) the adequacy of sprinkler systems and other fire protection measures to be incorporated into the development;
- h) an assessment of the extent to which the proposed development conforms with or deviates from the standards, specific objectives and performance criteria set out in Planning for Bush Fire Protection 2006 or as amended.

## 6. Vegetation Management Plan

- a) Multiple Occupancy development is to include an element of environmental repair and enhancement based on 900 trees per **dwelling house**. Such repair is to be focused on the expansion of wildlife corridors, restoring and reconnecting vegetation remnants, and enhancing riparian areas and habitat for threatened species and endangered plant communities. Other measures as appropriate may be recommended by Council in lieu of this.



- b) Where properties are significantly infested by woody weeds (e.g. camphor laurel, lantana etc) Council will consider requests to undertake environmental repair and enhancement activities based on weed control and assisted natural regeneration and a lesser number of trees to be planted where it can be demonstrated that the proposal will have a similar positive environmental impact to planting 900 trees per dwelling house.
- c) Council will also consider requests to undertake environmental repair and enhancement activities on other rural sites within the Shire (instead of on the land the subject of the application) where it can be demonstrated that the subject land:
  - i) contains adequate native vegetation cover not threatened by competitive/ inhibiting weed or noxious plant invasion and requires no further environmental repair and enhancement activities; or
  - ii) contains existing reforestation works undertaken as part of a long term program and where such works can be substantiated to Council's satisfaction; or
  - iii) notwithstanding the vegetation attributes of the land, the applicant identifies a higher priority location in the same local catchment area requiring urgent environmental repair and enhancement and that Council agrees to such a location.

Note: Where an applicant seeks to carry out environmental repair and enhancement work on another rural property, the consent from the land owner is to be submitted with the Development Application.

- d) Applications for Multiple Occupancy Development are to include a **vegetation management plan** detailing the revegetation and/or restoration program to be carried out over a period of at least five (5) years, with ongoing maintenance, protection and management in perpetuity thereafter.

The **vegetation management plan (VMP)** must detail where 900 local native trees per dwelling or share are to be planted as environmental repair and enhancement for development. **VMP's** must be prepared by a qualified and experienced bush regenerator (Certificate 4 in Natural Area Restoration/Conservation and Land Management) or ecologist with specific knowledge and experience in Restoration Ecology and in accordance with the *Guidelines for VMP/Biodiversity Conservation Management Plan (BCMP)/Environmental Enhancement Management Plan (EEMP)*, available on Council's website. Baseline monitoring and permanent monitoring points must be included with the **VMP** and restored or planted areas will have conditions imposed that the BMP area must be retained in perpetuity.

Equivalent ecological restoration may be provided where existing native vegetation occurs on site. It is preferred that remnant vegetation on site is restored to a local native plant community type before additional planting is undertaken. Weed control should prioritise invasive species and weeds of national significance (WONS). The area of restoration to be completed in place of planting is to be calculated as follows.

- i) Calculate the area required to plant 900 trees per residence/share using the appropriate plant spacings for the vegetation community to be established. For example, rainforest species are generally planted 2 to 3m apart, thus 900 trees would occupy an area of some 0.56ha at spacings of 2.5m (using the table below); while koala habitat restoration or eucalypt/sclerophyll plant communities naturally have spacings between 4m and 6m apart so that 900 trees would occupy an area of 1.44ha.



**Table D2.1 - Tree Spacing Numbers / Hectare (Ha)**

No of Trees per Ha	Spacing
10,000	@ 1.0metre spacing
4,444	@ 1.5metre spacing
2,500	@ 2.0metre spacing
1,600	@ 2.5metre spacing
1,111	@ 3.0metre spacing
816	@ 3.5metre spacing
625	@ 4.0metre spacing
400	5 metre spacings
25	20 metre spacings
16	25 metre spacings
11	30 metre spacings
4	50 metre spacings

- ii) For areas that are clearly dominated by weed species (greater than 50% cover over all stratum), the total restoration area is double that calculated in point a) above. For areas that are weedy, but not weed-dominated (less than 50% cover all stratum), the restoration area worked is four times that calculated above. These calculations ensure that equivalent effort is expended whether planting or restoring existing plant communities.

## 7. Water Management Plan

- a) A Water Management Plan to be submitted with the development application addressing the following:
- i) location, source and capacity of water supply for domestic, agricultural and fire prevention uses;
  - ii) how the layout of the multiple occupancy and location of **dwelling houses** and future house sites, will protect drainage lines and water courses;
  - iii) where a reliable dam supply is necessary to satisfy irrigation and stock requirements, that a quantifiable criteria of water catchment area has been established based on rainfall data, runoff data, expected consumption and a connecting formulae;
  - iv) minimum water tank storage for domestic use is 40,000 litres per dwelling house plus any additional requirements of the Rural Fire Service for fire fighting purposes; and
  - v) adequate water conservation measures (dual flush toilets, aerated shower roses and bathroom taps, water reuse, etc.) to be implemented as part of the development.
- b) An assessment of the impact on groundwater and surface water according to the NSW State Groundwater Policy and Framework Document 1997.
- c) Multiple use of dams and pumps to supply water for any purpose must be authorised under the provisions of the *Water Management Act 2000* or the *Water Act 1912*

## 8. Effluent Disposal



Details to be submitted with the development application by a suitably qualified professional that effluent can be disposed of on site in accordance with Council requirements for rural dwelling houses. The report is to be prepared in accordance with the requirements of Chapter B3 Services.

## 9. Dwelling houses

- a) Individual **dwelling houses** to comply with the relevant provisions contained within this Chapter for single **dwelling houses**, including D2.2 and D2.3.
- b) **Dual occupancies** and **secondary dwellings** are not permitted unless otherwise specified in the multiple occupancy approval or in Schedule 1 of Byron LEP 2014.

## D2.7 Studios and Farm Buildings

Studios are meant for activities which may not be suitable in the **dwelling house**. This could include for example painting, pottery, playing music, writing, other artistic pursuits or an office space for a home office. The **studio** is not meant to be used a separate bedroom, nor is meant to be a **secondary dwelling** or for other habitable purposes.

Farm buildings, sheds and other structures are meant for rural activities such as a farm workshop, and the storage of farm equipment, stock, feed, and the like. Like **studios** they are not meant to be used for separate habitable purposes.

### D2.7.1 Studios

#### Objectives

1. *To enable construction and use of a detached building that is ancillary to and compatible in character with a **dwelling** where, because of its nature or space requirements the proposed use of the building is not practical within the confines of the **dwelling**.*
2. *To limit the number of **studios** allowed per property.*

#### Performance Criteria

1. The proponent must demonstrate that the **studio** is required for a purpose that, because of its nature or space requirements is not practical to undertake within the confines of the **dwelling**.
2. The **studio** must not be used for separate habitation and be compatible in design and character with the **dwelling** and its environment.

#### Prescriptive Measures

Studios are limited to one per property, or in the case of multiple occupancy and community title, one per **dwelling**. The **studio** must:

- a) be situated on the same site as the **dwelling**;
- b) not exceed 60m<sup>2</sup> **gross floor area**;
- c) not contain internal partitions other than those necessary for ablution facilities or demonstrably required for the use of the studio (e.g. photography darkroom);
- d) not contain a kitchen;





- e) not be used for separate habitation;
- f) the **studio** to be contained in a circle with a diameter no greater than 100 metres around the **dwelling house**;
- g) not require additional clearing of native vegetation, or the provision of additional public services infrastructure over and above that required by the dwelling.

## D2.7.2 Farm Buildings, Sheds and other Structures

### Objectives

1. To specify criteria for establishment of **farm buildings**.
2. To maintain the character and amenity of the Shire's Rural Zones.
3. To minimise conflicts between developments in Rural Zones.

### Performance Criteria

1. **Farm buildings** must observe the road and boundary **setback** requirements specified in Section D2.2.2 and the character and visual impact requirements specified in Section D2.2.3.
2. Determination of siting, extent and nature of development must be consistent with the provisions of Chapter B6 Buffers and Minimising Land Use Conflict.
3. Fencing, particularly adjoining E-zones, should aim to reduce negative impacts on native wildlife by complying with the Wildlife Friendly Fencing guidelines.
4. Fencing in flood prone areas should aim to meet the guidelines set out in the "Riparian Fences Guides".
5. Dwelling house to shed conversions should include at a minimum the removal of the kitchen cooking and washing facilities to facilitate use for agricultural needs which may include the addition of a roller door. This should include the removal of any non-structural internal partitions.
6. Sheds should be open, have minimal dividing walls and plumbing and be suitable for machinery and vehicle storage. Plans of decommissioning should be included with Development Applications seeking to change the use of the building from a dwelling to a shed.

### Prescriptive Measures

There are no Prescriptive Measures.



## D2.8 Community Title Development of Rural Land

### Objectives

1. To reflect the objectives and provisions of Byron LEP 2014 relating to Rural Community Title Development.
2. To maintain the character and amenity of the Shire's Rural Zones
3. To specify development requirements that apply to the establishment of **dwelling**s in Rural Community Title Developments.

### Performance Criteria

There are no Performance Criteria

### Prescriptive Measures

1. Individual **dwelling houses** are to comply with the relevant provisions contained within this Chapter for single **dwelling houses**, including D2.2 and D2.3.
2. **Dual occupancies** and **secondary dwellings** are not permitted unless otherwise specified in the community title approval or in Schedule 1 of Byron LEP 2014.
3. Vegetation Management Plan
  - a) Rural Community Title Development is to include an element of environmental repair and enhancement based on 900 trees per **dwelling house**. Such repair is to be focused on the expansion of wildlife corridors, restoring and reconnecting vegetation remnants, and enhancing riparian areas and habitat for threatened species and endangered plant communities. Other measures as appropriate may be recommended by Council in lieu of this.
  - b) Where properties are significantly infested by woody weeds (e.g. camphor laurel, lantana etc) Council will consider requests to undertake environmental repair and enhancement activities based on weed control and assisted natural regeneration and a lesser number of trees to be planted where it can be demonstrated that the proposal will have a similar positive environmental impact to planting 900 trees per dwelling house.
  - c) Council will also consider requests to undertake environmental repair and enhancement activities on other rural sites within the Shire (instead of on the land the subject of the application) where it can be demonstrated that the subject land:
    - iv) contains adequate native vegetation cover not threatened by competitive/ inhibiting weed or noxious plant invasion and requires no further environmental repair and enhancement activities; or
    - v) contains existing reforestation works undertaken as part of a long term program and where such works can be substantiated to Council's satisfaction; or
    - vi) notwithstanding the vegetation attributes of the land, the applicant identifies a higher priority location in the same local catchment area requiring urgent environmental repair and enhancement and that Council agrees to such a location.

Note: Where an applicant seeks to carry out environmental repair and enhancement work on another rural property, the consent from the land owner is to be submitted with the Development Application.



- d) Applications for Rural Community Title Developments are to include a **vegetation management plan** detailing the revegetation and/or restoration program to be carried out over a period of at least five (5) years, with ongoing maintenance, protection and management in perpetuity thereafter.

The **vegetation management plan (VMP)** must detail where 900 local native trees per dwelling or share are to be planted as environmental repair and enhancement for development.

**VMP's** must be prepared by a qualified and experienced bush regenerator (Certificate 4 in Natural Area Restoration/Conservation and Land Management) or ecologist with specific knowledge and experience in Restoration Ecology and in accordance with the *Guidelines for VMP/Biodiversity Conservation Management Plan (BCMP)/Environmental Enhancement Management Plan (EEMP)*, available on Council's website.

Baseline monitoring and permanent monitoring points must be included with the **VMP** and restored or planted areas will have conditions imposed that the BMP area must be retained in perpetuity.

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- i) Calculate the area required to plant 900 trees per residence/share using the appropriate plant spacings for the vegetation community to be established. For example, rainforest species are generally planted 2 to 3m apart, thus 900 trees would occupy an area of some 0.56ha at spacings of 2.5m (using the table below); while koala habitat restoration or eucalypt/sclerophyll plant communities naturally have spacings between 4m and 6m apart so that 900 trees would occupy an area of 1.44ha.

**Table D2.2 - Tree Spacing Numbers / Hectare (Ha)**

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1,111	@ 3.0metre spacing
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- ii) For areas that are clearly dominated by weed species (greater than 50% cover over all stratum), the total restoration area is double that calculated in point a) above. For areas that are weedy, but not weed-dominated (less than 50% cover all stratum), the restoration area worked is four times that



calculated above. These calculations ensure that equivalent effort is expended whether planting or restoring existing plant communities.

