



# Byron Shire Development Control Plan 2014

## Chapter D1 Residential Accommodation in Urban, Village and Special Purpose Zones



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# Chapter D1 – Residential Accommodation in Urban, Village and Special Purpose Zones

## Contents

<b>D1.1</b>	<b>Introduction.....</b>	<b>7</b>
D1.1.1	Aims of this Chapter .....	7
D1.1.2	Application of this Chapter .....	7
<b>D1.2</b>	<b>General Provisions .....</b>	<b>8</b>
D1.2.1	Building Height Plane .....	8
D1.2.2	Setbacks from Boundaries .....	9
D1.2.3	Screening the Underfloor Space of Buildings.....	12
D1.2.4	Character & Visual Impact .....	13
D1.2.5	Fences.....	14
D1.2.6	Balconies.....	15
D1.2.7	Pedestrian and Cycle Access .....	16
D1.2.8	– Garage to Habitable Space Conversions .....	16
D1.2.9	Energy Efficiency .....	16
<b>D1.3</b>	<b>Dwelling Houses .....</b>	<b>17</b>
D1.3.1	On-Site Car Parking.....	17
D1.3.2	Landscaping .....	18
D1.3.3	Expanded House .....	18
<b>D1.4</b>	<b>Secondary Dwellings.....</b>	<b>19</b>
D1.4.1	Private Open Space.....	19
D1.4.2	Access and Car Parking .....	20
D1.4.3	Siting, Design and Character .....	20
<b>D1.5</b>	<b>Dual Occupancy and Semi-Detached Dwellings .....</b>	<b>21</b>
D1.5.1	On-Site Car Parking.....	21
D1.5.2	Character.....	22
D1.5.3	Adjoining and Adjacent Development .....	22
D1.5.4	Private Open Space.....	23
D1.5.5	Landscaping .....	24
D1.5.6	Sound Proofing.....	24
<b>D1.6</b>	<b>Multi Dwelling Housing, Residential Flat Buildings and Attached Dwellings ..</b>	<b>24</b>
D1.6.1	Private Open Space Courtyards .....	25
D1.6.2	Open Space Balcony .....	25
D1.6.3	Landscaping .....	26
D1.6.4	On-Site Car Parking.....	26
D1.6.5	Sound Proofing.....	26
D1.6.6	Clothes Drying Facilities .....	27
D1.6.7	Equity of Access and Mobility .....	27
D1.6.8	Pipes and Vents .....	28
D1.6.9	TV Antennae.....	28
<b>D1.7</b>	<b>Affordable Housing .....</b>	<b>28</b>
D1.7.1	Affordable Housing in R2, R3, B2 and B4 Zones .....	28
<b>D1.8</b>	<b>Boarding Houses .....</b>	<b>29</b>
<b>D1.9</b>	<b>Hostels .....</b>	<b>29</b>



<b>D1.10 Shop Top Housing</b>	<b>29</b>
D1.10.1 Density Control	30
D1.10.2 Accessibility	30
D1.10.3 Private Open Space	30
D1.10.4 Sound Proofing	31
D1.10.5 Clothes Drying Area	32
D1.10.6 Site Facilities	32
<b>D1.11 Ancillary Dwellings in Business Park and Industrial Zones</b>	<b>33</b>
D1.11.1 Ancillary Dwellings in Zones IN1, IN2 and B7	33
<b>D1.12 Studios</b>	<b>34</b>
D1.12.1 Studios	34

## Figures

Figure D1.1 – Setbacks	11
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## Tables

Table D1.1 – Height of Fences	14
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## D1.1 Introduction

Byron Shire is one of the most desirable residential locations in New South Wales, as much for its unique natural environment as for its lifestyle and climate attractions. The form of the built environment and its relationship to the natural environment will remain crucial factors in determining the future character and attractiveness of the Shire.

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

Council also recognises that there is a growing diversity in residential needs, reflecting changing household types and incomes, lifestyles and recreational pursuits. It is aware of the need to promote a higher quality of design within a more cost-efficient development framework.

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

### D1.1.1 Aims of this Chapter

The Aims of this Chapter are:

1. To implement and expand on the provisions of Byron LEP 2014 relating to residential development.
2. To promote a high standard of design for residential development that is sensitive to and enhances the natural and physical environment and the social fabric particular to Byron Shire.
3. To accommodate a variety of residential forms and **dwelling** sizes to reflect the growing diversity of household types, sizes, incomes, lifestyles and needs.
4. To promote energy efficiency and consideration of the Shire's climatic characteristics in the design process.
5. Where possible, to limit potential for additional traffic on the road system and to reduce car dependence through facilitation of public transport, cycling and walking.

### D1.1.2 Application of this Chapter

This Chapter specifies the controls that apply to Development Applications seeking consent for various forms of **residential accommodation** development that is located in Residential, Village, Mixed Use, Business, Industrial and Special Purpose zones throughout the Shire, ie Zone Nos. R2, R3, R5, RU5, B1, B2, B4, B7, IN1, IN2, SP1, SP2 and SP3.



The types of residential development to which this Chapter applies include the following:

1. **Attached dwellings**
2. **Dual occupancies**
3. **Dwelling houses**
4. **Expanded houses**
5. **Multi dwelling housing**
6. **Residential flat buildings**
7. **Secondary dwellings**
8. **Semi-detached dwellings**
9. **Shop top housing**
10. **Studios**

The definitions of those various housing types are contained in the Byron LEP 2014 Dictionary, or in the Dictionary contained in Part A (Appendix A1) of this DCP. The provisions in this Chapter supplement those provisions of Byron LEP 2014 that apply to residential development.

This Chapter does not apply to **residential accommodation** development in Rural Zones, or to **tourist and visitor accommodation** – those forms of development are addressed in Chapters D2 Residential Accommodation and Ancillary Development in Rural Zones and D3 Tourist Accommodation, respectively.

## **D1.2 General Provisions**

### **D1.2.1 Building Height Plane**

#### **Objectives**

1. *To ensure that residential development is designed to minimise impacts on solar access and privacy on adjoining properties, and on the views from adjacent existing buildings.*
2. *To ensure that the occupants of the building or buildings will enjoy the optimum use of winter sunlight and summer shade.*

#### **Performance Criteria**

1. Developments must be set back progressively from the site boundaries as height increases so that they do not adversely affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy or obstructing views.
2. Developments must be designed so that they will promote energy efficiency and so that residents may enjoy optimum use of winter sunlight and summer shade.
3. Development applications must demonstrate that the windows of living areas (decks, living rooms, bedrooms, kitchens, etc.) of development on adjoining properties will, as a minimum, retain full solar access between the hours of 9.00am to 3.00pm on any day.





## Prescriptive Measures

1. The **building height plane** in combination with boundary **setbacks** prescribed in this DCP, and **building height** prescribed in the Byron LEP 2014, form the maximum building envelope for all residential development other than for **shop top housing** and ancillary **dwellings** in Zones IN1, IN2 and B7.
2. An exemption from the **building height plane** may be considered in relation to one or more boundaries in the following circumstances:
  - a) where the floor level is required to be above ground level to comply with Council's requirements for flood protection; or
  - b) for the zero lot line boundaries of **semi-detached dwellings** and **attached dwellings**; or
  - c) in circumstances referred to in Prescriptive Measure 2. of Section D1.2.2.

## D1.2.2 Setbacks from Boundaries

### Objectives

1. *To achieve varied and interesting streets that complement and harmonise with existing and planned streetscapes and development in the locality.*
2. *To achieve good orientation and spacing of residential developments that achieve high quality living environments relative to sunlight, shade, wind and weather protection, residential amenity and proximity of neighbouring development.*
3. *To achieve effective use of **allotments** to create useable and liveable private open space and courtyards.*
4. *To provide flexibility in siting and design of **dwelling house** development in urban residential areas.*
5. *To ensure that development in residential areas seeks to minimise any negative impacts on neighbours caused by siting.*

### Performance Criteria

1. **Setback** requirements may be flexible provided they are demonstrated to achieve the above Objectives and Performance Criteria.
2. The street façade of a building, and any open space between it and the street must contribute to the general attractiveness of the streetscape by means of good design, appropriate materials and effective landscaping. A reasonable degree of integration with the existing pattern of **setbacks** must be balanced with the need to provide variety in the streetscape.
3. Private open space and common landscaped areas of the site must be useable as part of the living environment available for the occupants of the development. Council will discourage the provision of bare spaces between buildings and the street which are unusable because they lack privacy, or because they are inappropriately planned or treated for climate control.
4. The **setback** from a street frontage for a building that is part of a residential development will be determined on its merits, having regard to:
  - a) the Objectives;
  - b) any provisions of this DCP applying to the specific location;



- c) the position of any existing buildings in the locality;
  - d) the size and shape of the **allotment**;
  - e) the effect on vehicular safety and visibility, particularly on corner sites;
  - f) the orientation of the **allotment** and the proposed **dwelling** with regard to the sun and prevailing winds;
  - g) the proposed location of any private open space, courtyard or landscaped areas;
  - h) the facade of the proposed building or buildings which will face the street and the proposed landscape treatment of that part of the **allotment** which is visible from the street;
  - i) the location and treatment of any car parking areas or car parking structures on the site.
5. Notwithstanding any of the above criteria, buildings must comply with the **building height plane** as detailed in Section D1.2.1.
  6. **Dwelling house** development may be permitted to encroach into the side **setback** and **building height plane** where it enhances the design of buildings, complements the streetscape and does not adversely affect privacy, solar access, microclimate, traffic safety or amenity of adjoining development.
  7. When considering applications for variations to minimum **setbacks** nominated below in the Prescriptive Measures, Council will have regard to:
    - a) the Objectives;
    - b) compliance with the Performance Criteria;
    - c) the visual impact of the variation on the streetscape;
    - d) the impact of the variation on the amenity, privacy, views and access of surrounding properties;
    - e) the existing and future status of the road;
    - f) potential traffic impacts and required sight lines as per AS2890; and
    - g) compliance with the Building Code of Australia.
  8. The Development must seek to minimize any impacts on neighbouring properties through considerate siting and design

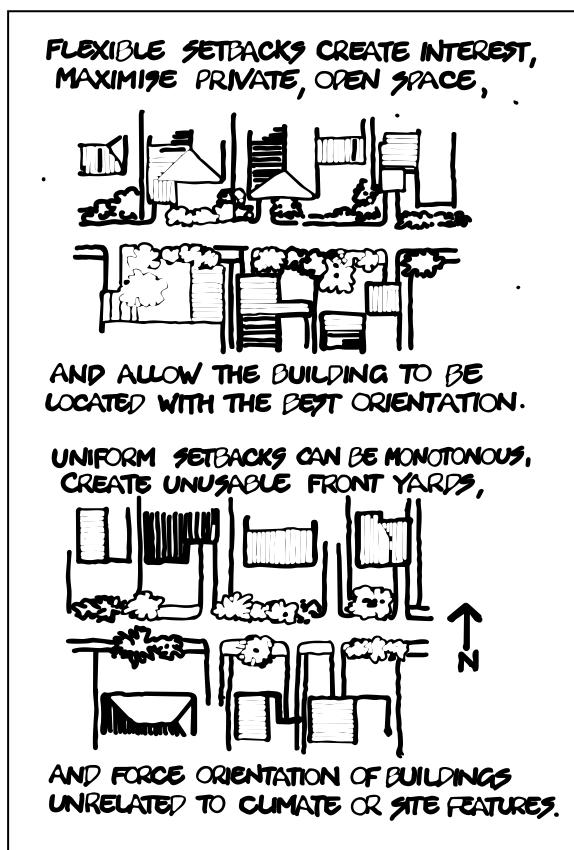


Figure D1.1 – Setbacks

### Prescriptive Measures

Strict compliance with the following minimum **setback** prescriptive measures will not necessarily be sufficient by itself to meet the Objectives.

#### 1. Minimum Street Frontage **Setbacks**

- a) Local Roads - A minimum **setback** of 4.5 metres must be maintained from the primary front boundary.
- b) **Classified roads**- A minimum **setback** of 9 metres applies to these roads from the primary front boundary. A variation to 6.5 metres may be sought for single storey **dwelling**s or single storey elements of two storey **dwelling**s. (NB. The provisions under SEPP Infrastructure 2007 apply to such developments)
- c) Garages and carports are to be set back 5.5m from the front boundary except from **classified roads** where the **setbacks** under (b) are to apply.
- d) Corner **allotments** on local or secondary roads - **setbacks** may be reduced to 3m on one frontage.
- e) Rear Lane or unformed roads - 3 metres, unless it is the primary frontage to the development (eg. Shirley Lane, Byron Bay) in which case a **setback** of 4.5 metres applies including to garages and carports. Consideration may be given to **setback** variations in **Heritage Conservation Areas** where strict compliance with these provisions would result in conflict with the Chapter and Section Objectives specified in Chapter C1 Non-Indigenous Heritage.

No development is permitted within the building **setbacks** other than garbage storage facilities, mail boxes, landscaping and driveways. Car parking must not be provided

within **setbacks**, other than informal parking within the driveway (i.e. parking not required by the DCP). Stacked car parking is not permitted within **setbacks**.

2. Minimum Side and Rear Boundary **Setbacks**

- a) Side and rear **setbacks** are to be a minimum 900mm, with all **dwellings** also complying with the requirements of the **building height plane**.
- b) In urban residential areas, Council may consent to the construction of one or more building walls set back less than 900mm from a side or rear boundary, such that the building/s cannot comply with the **building height plane**, where:
  - i) such wall or walls contain no openings; and
  - ii) it is demonstrated to Council's satisfaction that the development, if carried out, would improve the siting or orientation of the **dwelling/s** or the provision of private open space; and would not significantly:
    - increase the overshadowing of adjoining properties; or
    - reduce the level of privacy enjoyed by adjoining properties.
- c) Applications for zero lot line development will only be considered where the relevant lot or lots are part of an integrated design, and where all buildings set to a zero lot line are constructed prior to issue of a Subdivision Certificate.

3. Minimum **Setbacks** for **Dual Occupancies** and **Secondary Dwellings**

- a) Side and rear **setback** – 1.5 metres for single storey, and **must comply with** the **building height plane**

4. Minimum **Setbacks** for **Residential Flat Buildings** and **Multi-Dwelling Housing**

- b) Side and rear **setback** – 1.5 metres for single storey, otherwise governed by the **building height plane**.
- c) Between buildings on a site – 3 metres.

5. Minimum **Setbacks** for **Swimming Pools** and Spas

- a) The outer edge of the pool concourse or coping must be set back a minimum of one (1) metre from the side or rear boundaries, with the water line being a minimum of 1.5 metres from those boundaries.
- b) Pools should not be located within the street frontage **setback**, except on sites where private open space can be accommodated only in this location or other site attributes support this outcome.
- c) Pool pumps shall be located as far back from a side or rear boundary as practical and if closer than 3 m from either it shall be acoustically shielded.

## D1.2.3 Screening the Underfloor Space of Buildings

### Objectives

- 1. *To improve the external appearance of elevated buildings.*
- 2. *To provide for compatibility in appearance and character between buildings in the locality.*



### Performance Criteria

1. The underfloor space of elevated buildings must be provided with infill panelling, advanced landscaping or other forms of visual screening to improve the external appearance of the building and to ensure compatibility with other development in the locality.
2. In **flood liable land** the screening of the underfloor space of elevated buildings may not be appropriate. Screening below the **flood planning level** must have openings to allow for entry and exit of flood water and must be structurally adequate and not reduce the structural capacity of the building during a 1 in 100 year flood event.
3. Where buildings are proposed on **bush fire prone land**, underfloor screening may be required to comply with specific requirements prescribed by the Building Code of Australia and Australian Standard AS3959 - Construction of Buildings in Bushfire Prone Areas.

### Prescriptive Measures

There are no Prescriptive Measures.

## D1.2.4 Character & Visual Impact

### Objectives

1. *To retain and enhance the unique character of Byron Shire and its distinctive landscapes, ecology, towns, villages, rural and natural areas.*
2. *To ensure that new development respects and complements those aspects of an area's natural and built environment that are important to its existing character.*

### Performance Criteria

1. Site, building and landscaping design must address the climate;
2. The street face of a building, together with any open space between it and the street, must contribute to the general attractiveness of the streetscape by means of good design, appropriate materials and effective landscaping;
3. Development should be designed to minimise loss of privacy;
4. There must be a reasonable degree of integration with the existing built and natural environment, balanced with the desirability of providing for variety in streetscapes;
5. Long, straight wall areas will be discouraged and must be broken up visually by a combination of building materials and/or changes in the wall plane;
6. The provision of verandahs, balconies, pergolas and other protective outdoor elements will be encouraged for visual, climatic and energy efficiency reasons;
7. Well-designed overhanging eaves should be provided where feasible to protect against heavy rainfall and summer sun, while allowing winter sun penetration;
8. All building materials must be compatible in character with their surrounding environment. Any metal roof must have a colorbond or equivalent finish and no roof may be highly reflective. White or light-coloured roofing may be approved where it is demonstrated that it is not likely to be visually intrusive. Details of building materials and surface colours must be submitted for assessment with a development application.



## Prescriptive Measures

There are no Prescriptive Measures.

### D1.2.5 Fences

#### Objectives

1. *To enable residents to erect fences to provide for a sense of privacy, noise reduction and security.*
2. *To ensure that fences do not remove the sense of safety in the street that pedestrians gain from the casual observation by residents.*
3. *To ensure that fences do not unduly reduce opportunities for casual social interaction in the community.*
4. *To ensure that fences do not become a dominant built element in the streetscape.*
5. *To exclude unwanted light from vehicles in particular circumstances.*
6. *To ensure that the design and placement of fences do not adversely impact traffic or pedestrian safety.*
7. *To ensure provision for access by safety and emergency vehicles and personnel.*

#### Performance Criteria

1. Fences must not:
  - a) impair driver or pedestrian visibility at road intersections;
  - b) prevent residents of a **dwelling** from casually observing the adjacent street;
  - c) detract from the streetscape in terms of fencing design, materials, scale or colours;
  - d) prevent emergency access by safety and emergency vehicles and personnel.
2. Gates or openings in fences must facilitate safe entry and exit conditions for vehicles to and from public roads. Fences must not create or contribute to unsafe sight distance restrictions for vehicles entering or exiting neighbouring properties.
3. Fencing of corner **allotments** must allow for reasonable enclosure of rear yard areas for privacy and security, while minimising the impact of the fence on the street scene, safe sight distance and traffic and pedestrian safety.

## Prescriptive Measures

1. Height of Fences
  - a) The height of fences should not exceed:

**Table D1.1 – Height of Fences**

Fence Location	Height
Front Fence	1.2 metres.
Side Fence	1.2 metres within the building line <b>setback</b> and 1.8 metres for the remainder.
Rear Fence	1.8 metres. Where the rear fence is the primary frontage front fence height provisions may apply.



**Note:** A front fence is any fence or like barrier erected forward of the building line setback, whether it is erected on the boundary or not.

- b) Front fences and side fences within the building line **setback** higher than 1.2 metres but not higher than 1.8 metres may be permitted for properties:
  - i) adjoining land used for business or commercial purposes, in cases where screening from the adjoining business activity is necessary to protect residential amenity;
  - ii) where it is demonstrated that traffic noise and light impacts from car headlights on a public road will create adverse impacts on residential amenity in the absence of the higher fence;
  - iii) necessary for safety, noise mitigation purposes or to enclose the primary open space area.
- c) Any front fence higher than 1.2 metres must be:
  - i) located not less than 50cm inside the front boundary with the area in front of the fence to be landscaped; or
  - ii) articulated with recessed sections of a minimum 0.9 x 0.9 metres at a maximum interval of 5 metres to allow planting of vegetation to reduce the impact of the fence.

## 2. Corner Allotments

Fencing of the secondary frontage will be allowed up to 1.8m high on the boundary, up to either of the following alignment **setbacks** from the primary street:

- a) the established building line **setback** to the street; or
- b) if the existing **dwelling** is forward of the established building line **setback**, in line with the existing **dwelling**.

Fencing forward of this alignment must comply with the front fence requirements.

## 3. Sight Lines at Intersections

Where a visually solid fence is proposed at the intersection of two public roads, satisfactory sight distance must be provided for traffic using the road. A minimum corner splay of 4m x 4m must be provided in the fence. Landscaping or planting in the splay area must not impede driver visibility and must contain low shrubs and ground covers and/or clear trunked canopy shade trees to maintain sight lines.

## D1.2.6 Balconies

### Objectives

1. To ensure that the visual character of **balconies** is consistent with and does not dominate the design of residential buildings.

### Performance Criteria

**Balconies** must not dominate the visual character of buildings or development. The design of **balconies** must be consistent in character with the building and development in terms of materials, colours, dimensions, bulk, scale and proportion.





### **Prescriptive measures**

There are no Prescriptive Measures.

## **D1.2.7 Pedestrian and Cycle Access**

### **Objectives**

- 1. To reduce car dependence through the promotion of alternative forms of transport.*
- 2. To assist in the delivery of Council's adopted bike plan where possible.*
- 3. To provide an expansion of the existing pedestrian/ cycleways to improve connectivity throughout the Shire.*

### **Performance Criteria**

1. Development applications for **residential accommodation** of more than 3 **dwelling**s must demonstrate that the pedestrian/cycleway network detailed in Council's adopted **Byron Shire Bike Strategy and Action Plan** will be incorporated into new development.
2. Refer to Chapter B5 Providing for Cycling and Chapter B13 Access and Mobility.

### **Prescriptive Measures**

Refer to Chapter B5 Providing for Cycling and Chapter B13 Access and Mobility.

## **D1.2.8 Garage to Habitable Space Conversions**

### **Objectives**

- 1. To ensure that adequate parking is provided when garages are converted to habitable space.*

### **Performance Criteria**

1. Development applications seeking to convert a garage to a habitable space must provide an alternate parking solution in accordance with Chapter B4 and Chapter D1.2.2.
2. Applicants at the head of a cul-de-sac should seek to retain garages and carparking and look for alternate solutions when siting a secondary dwelling or developing habitable space.

### **Prescriptive Measures**

There are no prescriptive measures.

## **D1.2.9 Energy Efficiency**

### **Objectives**

- 1. To reduce greenhouse gas emissions created from residential development*
- 2. To increase thermal comfort and efficiency for residential development*

### **Performance Criteria**

1. Buildings for habitable purposes should seek to incorporate measures to reduce





energy consumption, reduce reticulated water consumptions and improve thermal comfort.

2. Where possible, development should seek to fit or retrofit energy efficient fixtures and fittings to reduce greenhouse gas emissions.

### Prescriptive Measures

1. Long term residential accommodation exempt from BASIX must incorporate measures to reduce energy consumption, reduce reticulated water consumption and improve thermal comfort. Details are to be provided on development application plans. Measures are to include but are not limited to:
  - a) Minimum R2.5 ceiling insulation when access is available.
  - b) Hot water system must not be an electric storage tank that is connected to mains power.
  - c) Minimum 3 stars taps and fixtures to be installed in all kitchen, laundry And bathrooms.
  - d) Minimum 4 star air conditioning (if proposed)
  - e) Minimum 5000 litre rainwater tank collecting at least 30% of the development's roof water. 1 garden tap connected to rainwater tank.

## D1.3 Dwelling Houses

This Section outlines the controls applicable specifically to **dwelling house** development. It must be read in conjunction with the general provisions set out in Sections D1.1 and D1.2.

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

### D1.3.1 On-Site Car Parking

#### Objectives

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

#### Performance Criteria

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

#### Prescriptive Measures

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



2. Council may consent to the location of a carport such that it does not comply with the **building height plane** in relation to a boundary, having regard to the matters contained in Section D1.2.1 and to the adequacy and safety of vehicular access.

### D1.3.2 Landscaping

#### Objectives

1. *To enhance the visual quality of residential areas and to improve the residential amenity of the Shire.*
2. *To limit stormwater runoff from residential areas.*

#### Performance Criteria

To enhance the visual quality and improve the residential amenity of the Shire, Council encourages the landscaping of **dwelling house allotments** in accordance with the principles contained in Chapter B9 Landscaping.

#### Prescriptive Measures

1. In cases where a **dwelling** is to be erected closer than 4.5 metres to the front boundary, Council will require, as a condition of approval, adequate landscaping to be provided to the street frontage of the lot prior to occupation of the **dwelling**. Landscaping must be consistent with the principles contained in Chapter B9 Landscaping.
2. At least 25% of the site must consist of **deep soil areas**. The **deep soil area** must not include any areas used for the management of on-site sewage effluent.

### D1.3.3 Expanded House

#### Objectives

1. *To facilitate the provision of a **dwelling house** comprising a number of separate building components.*

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

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

1. No **expanded house** habitable outbuilding is to be located more than 20m from the wall of the main building, measured from wall to wall at the closest point;
2. The main building must contain an identifiable living area including the kitchen;
3. A maximum of three outbuildings may be connected to the main building by paths with an all-weather surface;
4. No separate driveway, car parking area, garage or carport structure is to be provided to service any outbuilding;

5. One outbuilding must be limited to a maximum floor area of 45m<sup>2</sup> excluding decks, verandahs, patios, balconies and the like; and the others must be limited to a maximum 30m<sup>2</sup> floor area excluding decks, verandahs, patios, balconies and the like;
6. None of the outbuildings are to contain facilities (e.g. kitchen, sink or the like) that would enable the preparation of food;
7. Each separate outbuilding may incorporate a maximum of two bedrooms (including rooms with an ensuite or bathroom);
8. A maximum of only one laundry is permitted per **dwelling**.

## D1.4 Secondary Dwellings

Both Byron LEP 2014 and *State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPP) permit the erection of **secondary dwellings** in some zones to which this Chapter applies. **Secondary dwellings** may be complying development under certain circumstances.

Consistent with the hierarchy of environmental planning instruments if development for a secondary dwelling is proposed and can comply with SEPP (Affordable Rental Housing) then the application should be lodged pursuant to those provisions.

This Section nominates further standards (to support the provisions in SEPP (Affordable Rental Housing) 2009 and Byron LEP 2014) for development of **secondary dwellings** where permitted with consent.

### D1.4.1 Private Open Space

#### Objectives

1. To ensure that residents of **secondary dwellings** have access to useable private open space.

#### Performance Criteria

1. An open space courtyard (which may include decking) must be provided for a **secondary dwelling**, with dimensions to suit the projected requirements of the residents and to accommodate outdoor recreation needs.
2. The courtyard must be capable of enabling an extension of the living area of the **secondary dwelling**.
3. Location of courtyards must take account of outlook and natural features of the site without impacting on neighbouring buildings or open space.
4. Orientation and shading of courtyards must provide for maximum year round use in terms of sunlight.



### Prescriptive Measures

1. **Secondary dwellings** must have access to an individual courtyard at ground level having a minimum area of 15m<sup>2</sup> and a minimum length and width each of 2.5 metres, not including any area used exclusively for the circulation or parking of vehicles. The courtyard should be designed to facilitate access to winter sunshine.
2. The private open space area must not include any areas required for the management of on-site sewage effluent.
3. Decks and verandahs for **secondary dwellings** not to exceed 20m<sup>2</sup> in area.

## D1.4.2 Access and Car Parking

### Objectives

1. *To ensure that the provision of access to **secondary dwellings** does not adversely impact pedestrian, cycle and vehicle safety in urban streets, and is compatible with urban streetscape and character.*

### Performance Criteria

1. Where feasible and where pedestrian and traffic safety will be improved, vehicular access to a **secondary dwelling** should be shared with the driveway access serving the principal **dwelling**. Driveways must be located and designed to minimise danger to pedestrians and cyclists using the street as a result of vehicles entering or leaving the driveway.
2. Consistent with the provisions of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, no additional parking is required for a **secondary dwelling**, over and above the requirements for the principal **dwelling**.
3. **Secondary dwellings** should not be sited so as to remove car parking servicing the principal **dwelling**.

### Prescriptive Measures

There are no Prescriptive Measures.

## D1.4.3 Siting, Design and Character

### Objectives

1. *To ensure that the siting and design of **secondary dwellings** do not detract from the streetscape and the residential character of urban areas.*

### Performance Criteria

The siting and design of development comprising a principal **dwelling** and a **secondary dwelling** must:

- a) ensure compatibility in character between the **dwellings** on the site, the site itself and the surrounding urban environment;
- b) ensure visual and acoustic privacy between **dwellings** on the site, and between the site and the adjoining neighbourhood;



- c) ensure that the development is suited to the site in terms of topography, slope, water flows and drainage;
- d) ensure that the development on the site will be visually compatible with the surrounding neighbourhood.
- e) ensure that the siting of the development does not externalize impacts of noise, overshadowing, or compromises to privacy onto neighbouring properties.

### **Prescriptive Measures**

1. Secondary Dwellings are not permitted on strata-titled lots
2. Secondary Dwellings are to comply with the Building Height Plane requirements under Chapter D1.2.1 of Byron DCP 2014

## **D1.5 Dual Occupancy and Semi-Detached Dwellings**

Council recognises the role of **dual occupancy** development in contributing to infill development, making fuller use of existing services, adding to the stock of rental accommodation and widening the range of housing options. Council wishes to encourage **dual occupancy** and **semi-detached dwelling** developments which suit the differing needs of the community and which enhance the residential character of the Shire.

In addition to the controls in this Chapter applying to **dual occupancy** and **semi-detached dwelling** development, proposals which have rear lane access with one of the **dwellings** fronting that lane are to comply with the provisions under Chapter D6 Subdivision (Section D6.4.3).

### **D1.5.1 On-Site Car Parking**

#### **Objective**

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

#### **Performance Criteria**

1. On corner lots there may be an advantage in providing access to each **dwelling** from a different street frontage, paying particular attention to the need to make the best use of the site, to promote traffic safety and to orient buildings and landscaped areas to maximise climatic advantages.
2. In other cases, where feasible and where pedestrian and traffic safety will be improved, vehicular access to **dwellings** should comprise a shared driveway.
3. Driveways must be located and designed to minimise danger to pedestrians and cyclists using the street as a result of vehicles reversing into or out of the driveway.

### **Prescriptive Measures**



1. Generally 2 car parking spaces will be required for a **dwelling** and 2 for each **dual occupancy**.
2. Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding car parking and vehicle access.

## D1.5.2 Character

### Objectives

1. *To ensure that **dual occupancy** and **semi-detached dwelling** development is compatible in character with development in the locality, provides adequate private open space and addresses slope and drainage issues.*

### Performance Criteria

1. In assessing any proposal for **dual occupancy** or **semi-detached dwelling** development, particular consideration will be given to the topography and slope of the site, the use of design to minimise loss of privacy, the visual impact of the proposal and the likely impact on water flows and drainage.
2. To encourage better visual quality and greater public acceptance, any **dual occupancy (attached)** or **semi-detached dwelling** development must be designed as far as possible to look like a **dwelling house**. Mirror-image **dwellings** must be avoided.
3. Private open space must be specifically designed to be easily accessible to each **dwelling**.

### Prescriptive Measures

There are no Prescriptive Measures.

## D1.5.3 Adjoining and Adjacent Development

### Objectives

1. *To ensure that new development is consistent with the character and amenity of existing development in the locality.*

### Performance Criteria

1. Development must be compatible with the bulk, scale, height and character of adjoining and adjacent development. The site characteristics, including slope and aspect, must be taken into consideration in assessing the appropriate height and number of storeys.
2. Adequate provision must be made for solar access and privacy of the proposed **dwelling(s)** and any adjacent **dwelling**.

### Prescriptive Measures



Council will only consider **dual occupancy** and **semi-detached dwelling** development in urban areas where, in its opinion, it has been demonstrated that the following objectives have been met:

1. Adequate provision for reasonable protection of existing views from neighbouring houses;
2. Adequate provision for privacy of the proposed **dwelling(s)** and any adjacent **dwelling(s)**;
3. Adequate provision for access to natural light and solar access for the proposed **dwelling(s)** and any adjacent **dwelling(s)**;
4. Maintenance of the character and neighbourhood amenity of the adjoining residential area.

## D1.5.4 Private Open Space

### Objectives

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

### Performance Criteria

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

### Prescriptive Measures

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



## D1.5.5 Landscaping

### Objectives

1. *To provide attractive landscapes that reinforce the function of the street and enhance the amenity of **dwelling**s and the built environment.*

### Performance criteria

Refer to Chapter B9 Landscaping.

### Prescriptive Measures

Refer to Chapter B9 Landscaping.

## D1.5.6 Sound Proofing

### Objectives

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

### Performance Criteria

1. Division walls between separate occupancy areas of **dual occupancy (attached)** and **semi-detached dwelling** development must be of sound resisting construction to ensure acoustic privacy and amenity between rooms.
2. Development must be designed to minimise noise and vibration impacts upon occupants of surrounding **dwelling**s. Where practicable, sources of noise must be sited away from adjoining properties, and where necessary must be screened by acoustic treatments.

### Prescriptive Measures

There are no Prescriptive Measures.

## D1.6 Multi Dwelling Housing, Residential Flat Buildings and Attached Dwellings

Council wishes to encourage variation in medium density housing development by providing simple, flexible controls that are intended to produce more attractive and innovative residential buildings, more imaginative use of outdoor spaces, more privacy and better access to sunlight and shade.

This Section applies to medium density housing development, including **multi-dwelling housing**, **residential flat buildings** and **attached dwellings**. To facilitate good design a Context and Site Analysis Plan will be required as per Part A13.1.1.



## D1.6.1 Private Open Space Courtyards

### Objectives

1. *To ensure that residents have access to private, useable, landscaped open space.*

### Performance Criteria

1. Open space courtyards must be provided for each **dwelling**, with dimensions to suit the projected requirements of the residents and to accommodate outdoor recreation needs.
2. Courtyards must be capable of enabling an extension of the living area of the **dwelling**.
3. Location of courtyards must take account of outlook and natural features of the site without impacting on neighbouring buildings or open space.
4. Orientation and shading of courtyards must provide for maximum year round use in terms of sunlight.

### Prescriptive Measures

1. Each **dwelling** must have access to an individual courtyard at ground level having a minimum area of 30m<sup>2</sup> and a minimum length and width each of 4 metres, not including any area used exclusively for the circulation or parking of vehicles. The courtyard must be designed to facilitate access to winter sunshine and must be landscaped to Council's satisfaction.
2. The private open space area must not include any areas used for the management of on-site sewage effluent.

## D1.6.2 Open Space Balcony

### Objectives

1. *To ensure that residents of above-ground **dwellings** have immediate access to outdoor private open space.*

### Performance Criteria

Where **dwellings** are situated or have access entirely above the ground level of the development, Council may consent to the provision of private open space by means of a **balcony** which is of sufficient size and which is located so as to provide a usable private outdoor area to Council's satisfaction.

### Prescriptive Measures

1. This provision is only activated when it is not possible to allocate private open space at ground level.
2. A private open space **balcony** must have a minimum area of 15m<sup>2</sup> and a minimum length and width of 2.4 metres. A private open space **balcony** must be demonstrated to have appropriate orientation and adequate provision for winter sun and summer shade.
3. **Balconies** and/or eaves may overhang minimum length or width dimensions of private courtyards or other private open space **balconies**, subject to compliance with the **building height plane**, and provided that adequate access to winter sun and summer shade is demonstrated for all potentially shaded **balconies** and/or courtyards.



### D1.6.3 Landscaping

#### Objectives

1. *To provide attractive landscapes that reinforce the function of the street, enhance the amenity of dwellings and the built environment, and allow preservation of significant vegetation.*

#### Performance Criteria

Refer to Chapter B9 Landscaping.

#### Prescriptive Measures

Refer to Chapter B9 Landscaping.

### D1.6.4 On-Site Car Parking

#### Objectives

1. *To provide sufficient convenient car parking for residents and visitors.*
2. *To maintain the amenity of adjoining properties and the efficiency of the road network by providing for car parking on-site.*
3. *To ensure that vehicle access to and from development is safe, effective and enhances visual amenity.*

#### Performance Criteria

1. Driveway design must provide safe and efficient ingress/egress to and from the site.
2. Resident and visitor car parking must be provided according to projected needs.
3. The design of driveways and parking areas must minimise the visual impact of hard paved areas and long straights, eg by incorporating curves and landscaping.

#### Prescriptive measures

1. Refer to Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access for detailed provisions regarding vehicle access, numbers, dimensions and layout of car parking spaces.
2. Large areas of car parking must be broken up by variation in layout, pavement treatment, landscaping, mounding and/or other means to Council's satisfaction.

### D1.6.5 Sound Proofing

#### Objectives

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



### Performance Criteria

1. Development must be designed to provide a reasonable acoustic environment within **dwelling**s and to minimise the potential for noise impact on the occupants of surrounding **dwelling**s.
2. Where practicable, sources of noise must be sited away from adjoining properties and where necessary must be screened by effective acoustic treatments.
3. Development must be designed to minimise noise and vibration impacts on occupants of surrounding **dwelling**s or buildings.

### Prescriptive measures

1. Division walls between **dwelling**s must be of sound-resisting construction to Council's satisfaction.
2. The floors in single storey **multi-dwelling housing**, **residential flat buildings** and **attached dwelling**s must be so constructed or treated as to minimise the conduct of sound between **dwelling**s.

## D1.6.6 Clothes Drying Facilities

### Objectives

1. *To ensure that adequate, effective space is provided and provision is made for clothes drying.*

### Performance Criteria

Outdoor clothes drying facilities must be provided to meet projected needs and located to facilitate privacy and sunlight access.

### Prescriptive measures

The minimum provision of clothes drying facilities must be at the rate of 7.5 metres of line per **dwelling**, located in suitably screened external drying areas.

## D1.6.7 Equity of Access and Mobility

### Objectives

1. *To ensure equity of access and mobility to all members of the community.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive measures

Provision for access and mobility must be made pursuant to Chapter B13 Access and Mobility.

## D1.6.8 Pipes and Vents

### Objectives

1. *To optimise the aesthetic appeal of development and to minimise visual impacts of external pipes and vents.*

### Performance Criteria

External pipes and vents must be concealed.

### Prescriptive measures

1. All service pipes and vents must be concealed within the walls of **residential flat buildings**, **multi-dwelling housing** and **attached dwellings**. Provision of recessed service pipes in external walls may be acceptable where it is demonstrated that the proposal is consistent with the Objectives.
2. Access to pipes and vents must be provided as required by relevant authorities.

## D1.6.9 TV Antennae

### Objectives

1. *To minimise adverse visual impacts of TV antennae and dishes, and to ensure the availability of television reception for all **dwellings**.*

### Performance Criteria

Common television antennae and/or dishes must be provided to meet the expected needs of residents.

### Prescriptive measures

Each development must be provided with a common television reception system designed to minimise adverse visual impacts whilst enabling high quality reception for each **dwelling**.

## D1.7 Affordable Housing

### D1.7.1 Affordable Housing in R2, R3, B2 and B4 Zones

### Objectives

1. *To provide guidance regarding the implementation clause 6.7 Affordable housing in residential and business zones of Byron LEP 2014.*
2. *To ensure the provision of a diverse range of **dwelling** types and sizes that meet the needs of a wide range of family and household types and provides greater availability of **affordable housing**.*

## Performance Criteria

1. Council shall consider the matters listed in clause 6.7 Affordable housing in residential and business zones of LEP 2014 when considering development applications in Zones R2, R3, B2 or B4 for:
  - a) subdivision of 25 or more lots where a diversity of lot sizes can be provided;
  - b) **residential accommodation** of 25 or more **dwellings** where a diversity of **dwelling** types can be provided;
  - c) redevelopment of existing housing where a reduced number of **dwellings** and/or a reduced diversity of **dwelling** types are proposed.
2. Council may consider applying a condition to the development consent for **affordable housing** requiring that the development not be used for the purposes of **tourist and visitor accommodation** including holiday letting.
3. Council may consider varying density controls for subdivision to allow additional lots to be created for dedication to a public housing provider.
4. The meaning of 'very low income household', 'low income household' and 'moderate income household' is the same as provided in clause 6 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

## Prescriptive measures

There are no Prescriptive Measures.

## D1.8 Boarding Houses

Division 3 (Boarding Houses) of *State Environmental Planning Policy (Affordable Rental Housing) 2009* governs the provision of **boarding houses** in various Residential and Business Zones. Those provisions and standards will be applied to all **boarding house** development to which this Section applies.

## D1.9 Hostels

*State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* governs the provision of **hostels**. Those provisions and standards will be applied to all **hostel** development to which this Section applies.

## D1.10 Shop Top Housing

This Section applies to **shop top housing**, which includes **dwellings** located above ground floor **retail premises** or **business premises**.



## D1.10.1 Density Control

### Objectives

1. *To provide affordable **shop top housing** accommodation close to transport, employment and services.*

### Performance Criteria

The siting, design and density of the **dwelling** component of the development must be consistent with the character of the surrounding area and must provide a mix of **dwelling** sizes to accommodate different family profiles.

### Prescriptive Measures

1. The density of the **dwelling** component of the development must not be greater than one (1) **dwelling** per 150 square metres of **site area** where no **floor space ratio** restriction applies under Byron LEP 2014.
2. A minimum of 25% of the floor space of the entire development, not including car parking, must be set aside for commercial/ retail purposes. All ground floor space fronting the street must be devoted to **retail premises** and/or **business premises**.

## D1.10.2 Accessibility

### Objectives

1. *To ensure accessible and direct entrance to and exit from the residential component of a development.*

### Performance Criteria

Development must be designed to ensure that adequate direct resident access is provided to the residential component of the development.

### Prescriptive Measures

Each **dwelling** must have direct access from the main street frontage of the premises (or side street where located on a corner). This may be by means of a separate, isolated passage or stairway connecting to the street frontage, which would allow unrestricted access to the **dwelling** without the need to pass through any associated **retail premises** or **business premises**. Alternatively, such an access arrangement may be shared with development on adjoining land with a similar residential component, provided suitable arrangements are made to ensure that legal access is available and guaranteed in perpetuity.

## D1.10.3 Private Open Space

### Objectives

1. *To ensure that the residential component of a development contains adequate, accessible and well designed private open space to meet the needs of occupants.*



### Performance Criteria

Each **dwelling** must be provided with an adequate area of private open space for sole use by the occupants of that **dwelling**. The private open space must be located to provide solar access and a sense of territory, privacy and safety for residents.

### Prescriptive Measures

1. Each **dwelling** must be provided with private open space for sole use by the occupants of that **dwelling**. Where the private open space cannot be provided at ground level the **dwelling** must be provided with a **balcony** or roof terrace.
2. The private open space, whether at ground level or not, must have a minimum area of 15m<sup>2</sup> and a minimum width of 2.5 metres. Part of the private open space must be a minimum of 10 square metres and directly accessible from a living area.
3. The private open space must have solar access to 50% of its area for at least 3 hours per day. Enclosure of **balconies** that provide private open space to a **dwelling** will not be permitted.
4. The private open space area must be located to maximise privacy for residents. If necessary the area must be screened by vegetation, a wall or fence, to ensure that the area is private.
5. The private open space must be located to ensure that residents are provided with an outlook to public areas rather than overlooking directly onto adjoining buildings, and must not diminish the commercial/retail character of the street frontage at ground level.

## D1.10.4 Sound Proofing

### Objectives

1. *To ensure that an adequate acoustic environment is provided for residents.*

### Performance Criteria

Development must be designed to minimise the potential for noise impact upon the occupants of the **dwelling**s, both from within the development and from adjoining developments, public areas and streets.

### Prescriptive Measures

1. Development must be designed to minimise external noise impacts on residents and to ensure that noise sensitive areas are screened from noise sources. This can be facilitated through the design process, eg by locating noise tolerable areas towards noise sources (e.g. kitchens, laundries etc located toward major frontages with sleeping areas screened from road frontages, garbage collection areas, accessways and parking areas). Noise transmission between **dwelling**s can be minimised by not locating living areas or garages adjacent to bedrooms of other **dwelling**s.
2. Walls or ceilings of **dwelling**s that are attached must have a sound transmission class (STC) of not less than that required by the Building Code of Australia.
3. Applicants must demonstrate to Council's satisfaction that the design of **dwelling**s in **shop top housing** adequately addresses the issue of sound proofing. A specialist acoustic report may be required to demonstrate that the development adequately achieves acceptable sound proofing for residential amenity.





## D1.10.5 Clothes Drying Area

### Objectives

1. *To ensure that adequate, effective space is provided for clothes drying.*

### Performance Criteria

1. Where feasible, outdoor clothes drying facilities must be provided to meet projected needs and located to facilitate privacy and sunlight access. The clothes drying area must be screened from view from the street.
2. **Dwellings** without private open space at ground level must provide internal laundry facilities in each unit and must provide either a clothes drying area on site, or a space for a clothes dryer in each unit.

### Prescriptive Measures

There are no Prescriptive Measures.

## D1.10.6 Site Facilities

### Objectives

1. *To ensure that adequate site facilities are provided for the development and its residents.*
2. *To ensure that sediment and nutrient laden car wash runoff does not impact on the water quality of the Shire's waterways.*

### Performance Criteria

There are no Performance Criteria.

### Prescriptive Measures

1. Mailboxes must be provided for each **dwelling**, located to ensure convenient access for residents and Australia Post. The street number must be clearly displayed and all mailboxes must be clearly identified with the unit number. Where an Owners' Corporation or equivalent has been created an additional mailbox must be provided for Corporation correspondence.
2. All **dwellings** must be wholly independent of the commercial portion of the building in respect of such amenities and facilities as toilets, laundries, kitchens, bathrooms and the like.
3. Common television antennae and/or dishes must be provided to meet the expected needs of residents.
4. A separate water meter must be provided for each **dwelling**.
5. A lockable storage facility of 8 cubic metres for each **dwelling** must be provided. This may form part of a carport or garage.
6. A car washing area must be provided at a general rate of 1 per every 10 **dwelling** units, with a minimum of one wash area being provided for each multi-unit housing development containing more than 10 residential units. The car wash area must have minimum dimensions of 7.6m x 3m. This may be part of a visitor car space, driveway





or turning area where it can be shown that it will not cause undue conflict of use. This area must have water and electricity available and must be drained by on site disposal. Where there are separate internal driveway systems within a site, each must have a car washing area.

## D1.11 Ancillary Dwellings in Business Park and Industrial Zones

This Section applies to the development of ancillary **dwellings** in Industrial zones and the B7 Business Park Zone. The only **dwellings** permitted in Zones IN1, IN2 and B7 are **dwellings** that are ancillary to other development that is permissible in those zones and which is situated on the same site as that other development. Other types of **residential accommodation** are not permitted in these zones. Such residential development must be designed and constructed to provide the resident with a suitable level of amenity having regards to the industrial and business activities on surrounding properties. As an example, this could include late night/ early morning noise from loading and unloading of vehicles, odours and fumes from a manufacturer, noise from refrigeration plant and equipment, dust from a landscape garden supplier. In some instances an ancillary **dwelling** may not be suitable due to the business and industrial activities on surrounding properties.

### D1.11.1 Ancillary Dwellings in Zones IN1, IN2 and B7

#### Objectives

1. *To ensure that residential development remains subordinate to industrial development in industrial zones, and other development in the Business Park Zone.*
2. *To ensure that an adequate level of amenity is provided for residents of ancillary **dwellings**.*

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

1. Applications seeking consent for establishment of an ancillary **dwelling** in Zones IN1, IN2 and B7 must demonstrate that the **dwelling** will be used in conjunction with other development that is permissible in those zones on the same site, and that the **dwelling** will be ancillary to that other development.
2. The ancillary **dwelling** component of a development must not be greater than one (1) **dwelling** for each **allotment**, whether or not that **allotment** is created via Torrens Title, Strata or Community Title.
3. The total floor area of an ancillary **dwelling** must not exceed 60m<sup>2</sup>.
4. An ancillary **dwelling** must not have street frontage when located at ground level.
5. Ancillary **dwellings** must be designed to minimise external noise, dust, fumes and odour impacts on residents. A specialist acoustic report may be required to demonstrate that the development adequately achieves acceptable sound proofing for residential amenity.



## D1.12 Studios

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

### D1.12.1 Studios

#### Objective

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

#### Performance Criteria

1. The proponent must demonstrate that the **studio** is required for a purpose that, because of its nature or space requirements is not practical to undertake within the confines of the principal **dwelling**.
2. The **studio** must not be used for separate habitation.
3. The **studio** must be situated on the same lot and located close to the **dwelling** and be compatible in design and character with the **dwelling** and its environment.
4. The **studio** must not require additional clearing of native vegetation, additional vehicle access or the provision of additional public services infrastructure over and above that required by the **dwelling**.

#### Prescriptive Measures

Only one **studio** is permitted for each **dwelling**. The **studio** must:

- a) be situated on the same lot as the **dwelling**;
- b) not exceed 60m<sup>2</sup> **gross floor area**;
- c) not contain internal partitions other than those necessary for ablution facilities or demonstrably required for the use of the **studio** (eg photography darkroom);
- d) not contain facilities (e.g. kitchen, sink or the like) that would enable the preparation of food;
- e) not be used for separate habitation;
- f) be located not more than 40 metres from the main building of the **dwelling**.