

# Chapter 14:

## South Ocean Shores

### **Document History**

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## CHAPTER 14 – SOUTH OCEAN SHORES

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## **Section 1 GENERAL**

### **1.1 Introduction**

Byron Shire DCP 2010 Chapter 1 applies to this land. Byron Shire DCP 2010 Chapter 14 - Ocean Shores contains special provisions which relate specifically to Ocean Shores and objectives for the future development of Ocean Shores.

Should any discrepancies exist between DCP 2010 Chapter 14 and 1, then Chapter 14 will prevail.

### **1.2 Citation**

This plan may be cited as Byron Shire Development Control Plan 2010 Chapter 14 - South Ocean Shores. It constitutes a DCP as provided by section 74C of the Environmental Planning and Assessment Act 1979.

### **1.3 Commencement date**

This plan was first made effective on 27 March 1990, being the date on which it was formally adopted by Council.

### **1.4 Application**

This plan shall apply from commencement date to all development consents and building approvals relating to the land shown on the map accompanying this plan within the area edged heavy black.

### **1.5 Overall Aims**

To protect the visual amenity of South Ocean Shores, particularly its backdrop of hills and internally its golf course, ocean and Brunswick River views.

To discourage inappropriate development of land subject to natural hazards, particularly flooding and landslip and ensure ongoing development does not increase the nature of these hazards for existing development.

To provide for adequate and varied community facilities and open space for the area, interconnected by a series of pedestrian walkways and with good vehicle access and park.

To promote a clearly defined, safe and efficient road hierarchy to ensure local access roads are not used as main through-routes; that proper provision is made for cyclists and pedestrians, buses and service vehicles; and that the residential amenity of the area is not detrimentally affected by through traffic.

To make adequate provision for any required upgrading of utility and other engineering and community services and facilities that may be necessary due to development occurring both within and adjacent to the area.

### **1.6 Objectives**

To delineate those areas most suitable for medium density, dual occupancy and single detached housing.

To ensure the ongoing development of the subject lands maintains the established low density residential nature of the area, recognising:

- i) the steep slopes within much of the area;
- ii) the slip prone nature of the more steeply sloping land;
- iii) the visual significance of the ridge lines and the golf course-open space corridor in the basin;
- iv) the inability of the existing water and sewerage systems to meet demand generated by any increase in population density;
- v) limitations on the existing road system to handle any significant increase in traffic caused by increasing the population density;

- vi) the expectations of existing single dwelling land owners in the South Ocean Shores area;
- vii) the proximity of areas of regionally significant natural habitat to residential areas; and
- viii) the need to minimise any additional loading on the drainage infrastructure.

To protect existing vegetation and fauna and promote further planting, particularly of appropriate native flora to provide for visual amenity and fauna habitat.

## **Section 2 SPECIAL PROVISIONS**

### **2.1 Area No. 1 – the ‘Roundhouse’**

Deferred

### **2.2 Area No. 2 – ex-primary school site**

This land was originally identified as a potential primary school site but is no longer required by the Department of Education for this purpose. It presents opportunities for development taking advantage of the size of the site and its proximity to parkland. However its topography and situation on a minor street reduce its suitability for community purposes. However, given that site 7.3 (referred to in section 2.7 of this chapter) is used for open space then this site will be considered for a suitably located, designed and serviced community centre; and with ancillary facilities such as seating, suitable access and car parking.

The community facility land is to be dedicated to Council for public use. Section 94 contributions will be required from development of the remainder of the site to help embellish the dedicated land with necessary facilities, and will be required to provide road access into the site area subject to the direction and satisfaction of Council's Community Infrastructure Executive Manager.

### **2.3 Area No. 3 – the proposed ‘marina site’**

In the Development Area Plan for Ocean Shores prepared by the estate developers in the 1970s, a boat marina was proposed for land served by Rajah Road and adjacent and to the south of the existing commercial shopping centre. The proposed marina was to be serviced by the construction of a dredged boat channel in the North Arm of the Brunswick River. The Byron Shire local environmental study (1986) subsequently identified the land (including water) and vegetation in the eastern half of this site as important wildlife and flora habitat. Reflecting this value, the subject land was zoned 7(b) Coastal Habitat in the Byron Shire Local Environmental Plan (1988) which prohibits the clearing of land and development that is likely to have a detrimental effect on habitat and landscape qualities.

Council will not consider any marina development proposal for the subject site. Development proposals for the residential zoned land adjacent to the coastal habit zone shall be designed to properly consider the nature of the adjacent environment.

Large boat access to the Brunswick River system is more appropriate from the Brunswick Heads vicinity and Council will use development contributions in the subregion to further embellish this access.

Small boat access, particularly punts, canoes, etc., is to be encouraged at locations such as Casons Road, New Brighton, where existing access without ecological constraints is available.

Open space contributions from development in the area may be used to promote and embellish this river use access.

The western portion of this site, identified as Residential 2(a), may be developed for medium density development being generally suited to this type of residential purpose due to the nature of the site, proximity to existing medium density and business areas. Being a large single parcel, the site suits cluster type development of high architectural merit.

As much as possible of the remaining vegetation on-site should be retained.

### **2.4 Area No. 4 – Pacific Highway deviation**

Deferred

## 2.5 Area No. 5 – deferred planning area off Balemo Drive

This area has a number of recognised constraints, reducing its potential for development. These are:

- the site is flood prone, in close proximity to a high hazard (flood liable) zoned area and contains recognised wetland vegetation complexes;
- the site is isolated between three fairways of the existing golf course and development may significantly reduce the visual amenity and essential core design of the course; and
- right of way access requires considerable upgrading and, as a private or public road, may compromise internal golf course access between a number of holes.

Council will consider these issues in reviewing land use planning options for the site. It is generally considered the appropriate use is to retain the site as it is, as part of the natural golf course landscaping and/or include open space development suitable for recreation purposes.

## 2.6 Area No. 6 – deferred planning area adjacent to Marshall' Creek

This site presently has no access. It is heavily forested with layered wet forest species such as flooded gum (*Eucalyptus grandis*) and pink bloodwood (*E.intermedia*), is flood prone and being adjacent to Marshall's Creek, is an integral part of the river reserve and fauna habitat.

In the light of this information it is considered that appropriate use of the site is to retain the majority as protected coastal habitat with the south-western corner of the site, being covered mainly in carpet grass, retained as part of the tenth hole fairway of the golf course. In reviewing the site's land use status Council will consider these matters with the intention of zoning the land accordingly.

## 2.7 Area No. 7 – deferred planning area within golf course

This deferred planning area has three distinct land units which have been correspondingly marked 7.1, 7.2 and 7.3 on Map 1 at Schedule 1 in this chapter. Until zoning is determined, adoption of any proposals below in relation to these areas is deferred.

They are accordingly referred to separately below.

### **Site 7.1 between Fairways 7 and 2**

This site has major flood constraints and was identified in a number of studies, including Council's 1987 Planning Study, as unsuitable for development. The recommended land use option by this study report was 6(a) Open Space zoning. This would provide for further necessary flat open space in the plan area suitable for active recreation. Council, in viewing land use for the site will favour this option.

### **Site 7.2 between Fairways 10, 17 and 18**

This site is visually prominent within the golf course with layered forest cover on most of the area, including brushbox (*Lophostemon confertus*), pink bloodwood and flooded gum, the latter on the steep sloping western part of the site. Due to its position the site is not considered appropriate for general residential development, however may be considered for a range of development options ancillary to the golf course development. The recommended land use status by this plan is 6(b) Private Open Space. Council will require any development and building application to properly assess and consider retention of tree cover and visual amenity as well as golf ball hazard and vehicle access to the site.



### **Site 7.3 between Fairways 2 and 11: access from Terrara Court**

This part of Site 7, as identified on the plan map, is the largest of the deferred planning areas being some 12 hectares in area.

The site contains substantial areas of wetland vegetation and is mainly flat. It is presently flood prone (most of the area being less than 3 metres (AHD)) and is dissected by modified drainage lines. This land unit is significant because of its visual prominence as seen from the residential development areas on the surrounding slopes. In early development area plans the site was included in open space zones.

The general area has been identified as highly suitable, due to location and general environmental amenity, for open space.

The issues of:

- (a) vehicle movements across the golf course and routes used by golfers between holes 1 and 2; 7 and 8; and
- (b) potential hazard from errant golf balls,

must be addressed and potential conflict overcome or reduced to an acceptable level in any land use design and management for the site as an open space area.

### **2.8 Area No. 8 - Zone 1(d) site adjacent to Ocean Shores Golf Club**

Council in considering appropriate land use and development options for this site will take into consideration its visual prominence, position adjacent and just below the golf course clubhouse and height above a number of single dwelling allotments.

Its position and access to the country club suit a form of accommodation use in conjunction with the nearby country club and/or low rise strata title attached-semi detached villa style units.

Council in reviewing subsequent zoning and development/building applications for the site will require a geotechnical report from a qualified consultant and may restrict building height and form to that appropriate to the site's position and visual prominence in the surrounding area. All vehicle parking will be required to be retained on-site.

### **2.9 Area No. 9 - Medium Density Development Land off Rajah Road: boundary delineation with adjacent nature reserve**

The Byron Shire Local Environmental Plan amended the general boundaries of this residential area to reflect the protection of rainforest as required by State Conservation Orders and the National Parks and Wildlife Service (in particular, one species *Acronychia littoralis*). However the definitive boundaries of the nature reserve - zone 8(a) are yet to be set. These boundaries need to reflect the adequate protection of the vegetation including buffer area.

Council therefore requires development proponents of this site to liaise with the National Parks and Wildlife Service in this regard before submitting development/building applications to Council. Council will expect written confirmation of this liaison and applications will be required to adhere to any conditions of approval that reflect the environmental considerations involved.

### **2.10 Lots 550 and 533, Wirree Drive**

#### **Lot 550**

A large part of this is zoned 7(a) and 7(b) and is affected by SEPP No. 26 – Littoral Rainforests, reflecting the environmental features of the land. This site has potential for single residential use

only.

### **Lot 533**

Adjacent to lot 550, this large lot is zoned 7(b) in the Byron LEP 1988 and is recognised as a protected littoral rainforest area under SEPP No. 26. This site has potential for single residential use only.

#### **2.11 Areas identified for medium density, dual occupancy and single detached dwellings**

In order to achieve the objectives in Chapter 1 Part C5 and, in particular Elements C5.1 and C5.2, only the areas identified for medium density, detached dual occupancy and single detached with or without attached dual occupancy dwellings will be used for that purpose. Higher densities than that indicated on the development control plan map will not be approved.

#### **2.12 Landscaping**

Planting of exotic or inappropriate native species will be discouraged in or near any environmentally sensitive areas, including existing rainforest, wet forest gullies, parklands, riverbank areas and wetlands. Planting of native endemic species is encouraged.

#### **2.13 Single Dwelling Areas**

##### ***House Design and size***

Housing should be designed to fit into the existing residential environment. Council will assess each building application on its merits, considering factors such as building design and materials, its function, the land parcel's attributes and size, and how the proposed building relates to the visual integrity of the townscape.

##### ***External Walls***

Dwellings shall not be constructed with flat sheet external walls.

##### ***Roofing Material***

All roofing materials should be non-reflective and in earth tones, suitably integrated to compliment the area. Suitable colours include browns, greens, greys, dark beige, gold tones and autumn reds.

##### ***Building Setbacks***

New development should be designed to fit into the existing environment where there are established dwellings with a consistent setback of at least 3 metres from side or rear boundaries and 7.6 metres from road frontage. Exception will be considered for cases involving solar access considerations. New development should retain the visual integrity of the townscape and should be considered on merit.

##### ***Erection of Fences***

All fences erected along any boundary line of allotments shall not have a height in excess of 2 metres from the natural ground surface level unless a special case is approved by Council. Definitions of private open space in medium density development should preferably be by way of landscaping rather than fencing.

##### ***Fence Setbacks***

Fences are not permitted along street frontage of allotments (nor any part thereof), nor along any side boundary extending from the front allotment boundary to the front alignment of a dwelling-

house.

In the case of an allotment having frontage to two or more streets, the frontage setback shall apply to each roadway frontage (excluding right of ways and laneways).

### **Excavation for Home Sites, Driveways, etc.**

When excavation of the natural ground surface is required and/or takes place for the construction of a dwelling or other building, access road, driveway and ancillary landscaping purposes, the owner of the allotment shall rehabilitate and appropriately landscape the excavated area and other areas affected by the excavated material to the satisfaction of the Works and Services Director. No works should be commenced until a building approval has been issued by Council.

Also see Chapter 1, section K4.1, of this DCP.

### **Geotechnical Report for all Building Lots**

All building applications require a geotechnical assessment and certificate by a qualified geotechnical expert, stating that:

- (a) the site is stable and will not be affected by land slip or subsidence above or below the site when the building is erected; and
- (b) identifies existing subsurface conditions and specifies foundation details appropriate for these conditions and building proposed.

## **2.14 Impact of Development and Landscaping on Visual Amenity**

Council will require all buildings and works adjacent to the golf course to consider the development's impact on:

- residential views into the golf course area; and
- views from the golf course of the subject development.

Council will expect building and landscape design to protect this visual amenity.

## **2.15 Type 4 Intersection - Pacific Highway**

New development will be required to contribute by way of section 94 contributions towards the necessary construction of a Type 4 intersection roadworks and realignment at the conjunction of Balemo Drive and the Pacific Highway.

## **2.16 Footpath/Walk Trail System**

The planning and co-ordinated development of a footpath and walk trail system within Ocean Shores and connecting the area to the beach villages of Brunswick Heads and New Brighton-South Golden Beach shall be provided. The emphasis shall be on implementing a cost effective and functional system following easy grades, existing paths and connecting recognised community facilities such as shops, open space, community buildings, etc. The map at Schedule 2 indicates the general movement concept identified in consultation with residents.

All walking trails in public reserves shall be in accordance with National Parks and Wildlife Service design and construction guidelines. They should include interpretative material, seating and viewing points where appropriate.

Trails shall be developed for a range of recreational uses, including fitness, nature and scenic values, bicycle riding, etc. These shall be determined in consultation with the local community, plans drawn up and displayed for public comment before implementation.

## 2.17 Open Space-Recreation Areas

### ***Flora and Fauna Reserves***

Many of the steep gullies and slopes reserved as open space are suitable for Council to retain and promote as areas of flora development and fauna protection with the assistance of the local community. Wherever possible vegetation planted in these areas should be native endemic species (refer to the Plant List in Chapter 1 Part H of this DCP).

### ***River Reserves***

As with the Flora and Fauna Reserves described above, these will be managed for the protection of flora and habitat. In suitable locations, access to the river for low key non-motorised boating such as canoeing may be provided.

Walk trail development which may include boardwalk sections to reduce impact on the environment may also be provided.

### ***Public Access to, and Use of Coastal Reserves***

Council will require open space and beach amenity contributions to be put towards upgrading public reserves at New Brighton with public amenities, car parking, surf lifesaving and picnic facilities, beach and dune protection works, landscaping and the preparation of beach/reserves management plans.

### ***'Water Lily' Park***

This park is a focus point of open space in the plan area. It requires further development funded by developer contributions and in consultation with land owners in the general vicinity of the park involving:

- upgrading of the existing playing field;
- provision of an amenity block, including change rooms and kiosk area, and ancillary seating;
- embellishment of the park with seating, picnicking facilities and landscaping such as weather shelter, barbecues, appropriate tree and shrub planting; and
- walk and bicycle paths and a fitness trail connected to the residential streets, with direct access to the park.

### ***Provision of Further Open Space - 'Deferred Areas'***

The large "deferred planning areas" within the golf course core provide the opportunity to further embellish the plan area with public open space. Due to the flood prone nature of these sites, their preferred use is of this nature. They are also visually significant to the higher rim of residential land surrounding the golf course.

There may be the potential for some other uses in conjunction with community facilities (see section 2.7 of this chapter).

The large area suits the provision of community facilities and other development set in landscaped surrounds with the balance of the site retained as habitat and environment protection area. This could provide an important focus for the settlement and it gives an opportunity for integration of the golf course with the urban area.

Residents of the area utilise access trails through the golf course and these deferred areas for general recreation such as walking and exercising domestic pets. This use should be formalised in

consultation with the Ocean Shores Golf and Country Club to promote pedestrian safety from potential golf ball hazard and ensure public access through the area. Some access trails may need to be rerouted around the golf course to avoid trespassing, vandalism and golf ball hazard.

Council will require dedication of open space from these deferred areas subject to determination of land use options for the sites (see section 2.7).

Council will require the dedication of pedestrian access connecting these open space areas with residential neighbourhoods.

## **2.18 Development of Community Centre**

Council will promote the location and development of a centrally located multi purpose community centre complex which will contain a wide range of required facilities and services. (see sections 2.2 and 2.7 – Site 7.3 between Fairways 2 and 11: access from Terrara Court).

The complex will be adequately serviced by vehicle, bicycle and pedestrian access and car parking, and capable of servicing a number of community requirements at the same time.

On the basis that the complex will serve existing and future development in the Ocean Shores-New Brighton-Golden Beach area, contributions will be required from development occurring in these areas to help provide and further embellish the community centre complex and other ancillary services.

## **2.19 Flood Liable Land: Building Minimum Floor Level Requirements**

In February 1987, Council resolved to remove the 500 mm freeboard requirement and buildings within the backwater areas of Ocean Shores are now required to have a minimum habitable floor level not less than the 1% flood level, as identified in the Marshall's Creek Flood Study. Note: Flood levels vary from place to place to allow for the stream flood gradient.

"Habitable rooms" are defined as all living areas, bathrooms, bedrooms and kitchen, but do not include garages, carports, storage space or laundry.

Development applications are required for all works (including houses) which are situated within flood prone areas.

"Flood prone" is defined as any area inundated by the 1% flood and will be assessed by levels provided in the Marshall's Creek Flood Study and information available to Council.

## **2.20 Sizes of Lots Subject to Land Slip**

It should be noted that the allotments originally identified as having stability problems were generally made larger than usual in order to provide a stable dwelling site.

Council will not approve applications to resubdivide these lots unless a fully demonstrated merits based case is made to the satisfaction of the Council's Community Infrastructure Executive Manager.

## Section 3 CONTRIBUTIONS

### 3.1 Section 94 contributions

Section 94 contributions will be levied and are payable per lot created for the following purposes. Rates of contribution will be set by Council each year.

#### ***Movement Systems***

Roads:

General road upgrading, including drainage.  
Type 4 intersection - roadworks and realignment Balemo Drive/Pacific Highway.  
Local traffic management plans and works.

Pedestrian/Bikeways

Integrated system, including walking trails as per concept at Schedule 2.

#### ***Parks Acquisition and Embellishment***

Coastal Reserves - New Brighton

Water Lily Park:

Passive space - seating, picnicking facilities; landscaping, including all-weather shelter barbecues.

Playing field - amenity block, including changerooms/kiosk area; ancillary seating, upgrading of field and landscaping.

Provision of walking/bicycle paths and fitness trail integrated into the whole park area.

Sporting Facilities:

Provision of land and/or local level facilities as required.

Community Facilities

Including provision of land and community facilities as required, possibly including:

- health care service centre, including visiting specialists;
- child care and play group facilities;
- youth and aged persons' activity centre(s);
- aged accommodation, such as hostel;
- meeting rooms and public hall;
- meals on wheels kitchen facility;
- library facility;
- indoor sports and general recreation;
- stage area with ancillary requirements for drama shows and other productions, including video/film.



