



Byron Shire

Development Control Plan  
2014

Chapter E5

Certain Locations in Byron Bay  
and Ewingsdale



BYRON  
SHIRE  
COUNCIL

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## E5.1 Introduction

Byron Bay is an iconic coastal town characterised by spectacular beaches and coastline. It is a relatively low density urban place with a compact, walkable CBD and a predominance of one and two **storey** development in residential areas with three **storeys** in the business area. It is partly affected by **coastal hazards** and flooding.

## E5.2 Application of this Chapter

This Chapter applies to certain land at Byron Bay and Ewingsdale that is subject to Byron LEP 2014. The land to which this Chapter applies is only that land identified in this Chapter.

## E5.3 Aims of this Chapter

The Aims of this Chapter are:

1. To identify land in Byron that may be affected by future **coastal hazards** and to apply development controls proportionate to the hazards affecting that land.
2. To identify land on Bayshore Drive, Byron Bay that is suitable for an innovative suite of land uses that will result in a compatible mix and density of business, office, residential, retail, **light industry** and other development on the site.
3. To facilitate the development of a new **hospital** for Byron Bay on Ewingsdale Road and ensure that it fits well with its surrounding rural locality.
4. To facilitate the responsible development of land at the Eastern end of Bayshore Drive for **tourist and visitor accommodation** and related uses while preserving and regenerating the vegetation on the site.

## E5.4 Development Controls

### E5.4.1 Development and servicing of land affected by predicted coastal hazards

#### Objectives

1. To define how public utility services may be provided to development which is potentially threatened by **coastal hazards**.
2. To ensure the impact of **coastal hazards** on potential development is minimised by ensuring any development ceases as the **erosion escarpment** approaches the development.

#### Performance Criteria

1. Vehicular access, water, sewerage, electricity, telephone and other services must be located so as to minimise the impact from actual or predicted **coastal hazards**.

2. Development on land marked as 'Coastal Erosion Hazard Area' on the **Byron Bay Coastal Hazards Map** (Map E5.1) must be designed to be relocated or demolished, or to cease operation, should the **erosion escarpment** come within 50 metres.

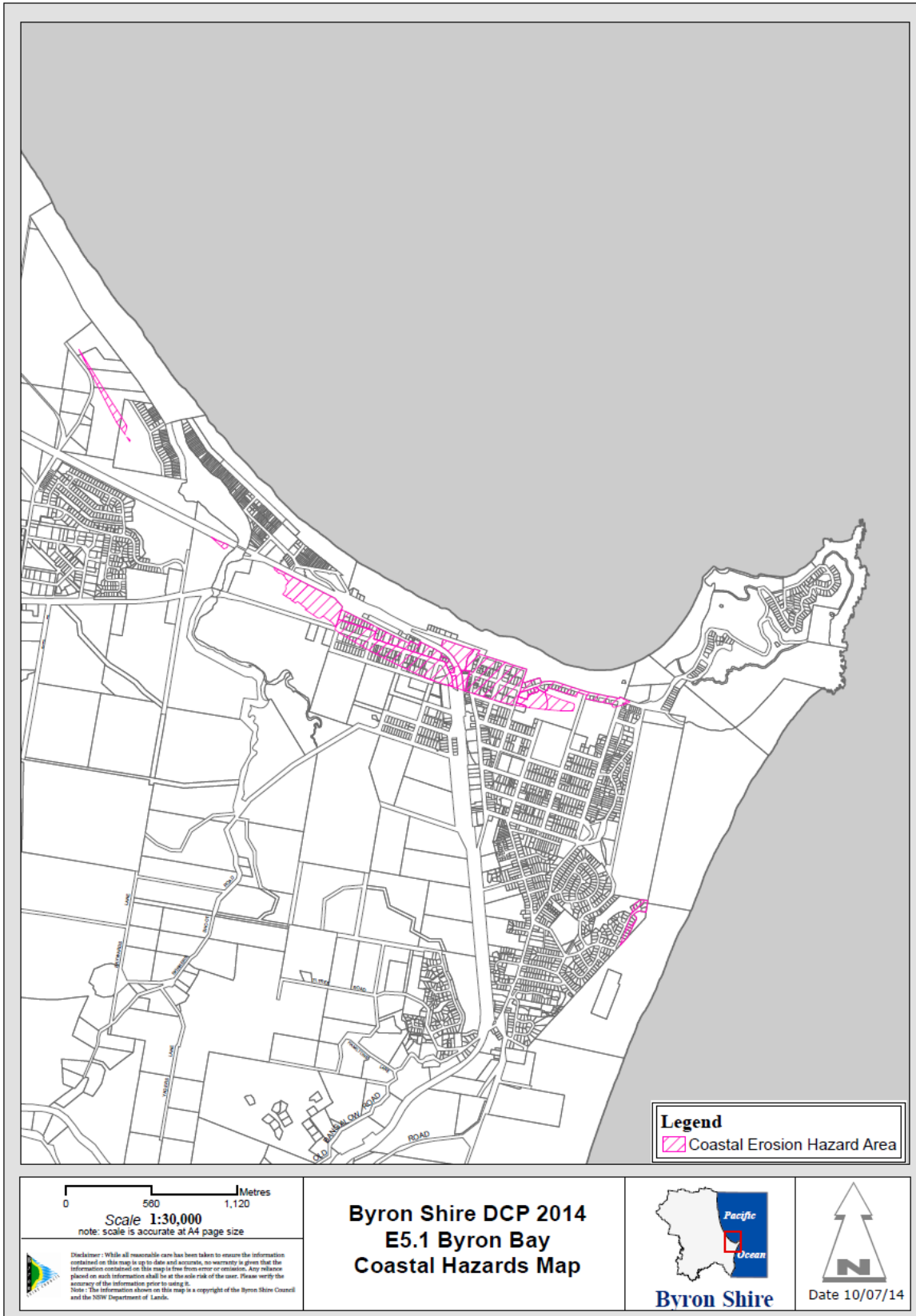
### **Prescriptive Measures**

1. All services must be provided from the landward side of the development such that the building is between the services and the **erosion escarpment**.
2. Development within the 'Coastal Erosion Hazard Area' on the **Byron Bay Coastal Hazards Map** (E5.1) will be considered on the understanding that any consent granted will be subject to the proviso that should the **erosion escarpment** come within 50 metres of any building then the development consent will cease.
3. If the development consent does cease then the owner of the land will be responsible for the removal of all buildings.
4. The option of demolition as the means of removal will be available to all buildings.
5. Prior to the issue of a Construction Certificate a restriction as to user *must be placed on the title pursuant to the provisions of section 88E of the Conveyancing Act 1919*, stating:

*"The subject land and any improvements erected thereon must not be used for the purpose of (land use) in the event that the erosion escarpment as defined by the Works and Services Director of the Council of the Shire of Byron from time to time comes to within 50 metres of any buildings or any part thereof at any time erected on the said land".*



**Map E5.1 – Byron Bay Coastal Hazards Map**



## E5.5 Habitat

### E5.5.1 Where this Section Applies

This section applies to the land defined by a heavy black line on Map E5.2 known as Habitat, and identified as Lot 3 DP1004514, Bayshore Drive, Byron Bay. It is bounded by the Byron Bay Arts and Industry Estate to the south, the West Byron Sewage Treatment Plant to the west, regenerating heathland, shrubland and low woodland to the north, and the Sunrise Beach residential estate to the east.

In the event of any inconsistency between Section E5.5 and other Chapters of this DCP, the provisions of Section E5.5 shall prevail.

### E5.5.2 Objectives of this Section

The primary purpose of this Section is to provide standards for the future development of the site. To assist in this regard, the objectives of this Section are to:

1. Promote and implement the principles of ecologically sustainable development identified in aims of Byron LEP 2014, in the planning, development and management of the site;
2. Contribute to the implementation of Byron Shire Affordable Housing Initiatives, the Biodiversity Conservation Strategy, the Byron Shire Cultural Policy and applicable objectives as outlined in the Community Strategic Plan 'Our Byron, Our Future'.
3. Define a compatible mix and density of business, office, residential, retail, light industry and other development on parts of the site;
4. Seek to increase the range of housing choice and further promote affordable living opportunities.
5. Enhance and protect the bio-physical environment, particularly the Wallum vegetation and wildlife habitat adjacent to the site;
6. Enhance and protect ground water and surface water quality and hydrology;
7. Ensure that the siting, scale and intensity of development enhance and protect Byron Bay's social and cultural qualities by:
  - a) responding to local and regional values, community needs and aspirations;
  - b) reflecting Byron Bay's character and scale;
  - c) ensuring that development of the site contributes to the range of services available and the identity of West Byron; and
  - d) ensuring that site access does not compromise the amenity or safety of adjacent residential areas.

## E5.5.3 Desired Future Character and Development Principles

### E5.5.3.1 Statement of Desired Future Character

Habitat provides a vibrant and sustainable urban environment, which enhances social equity, economic vitality, environmental performance and sustainability, and cultural expression within the Byron Bay community.

It provides a wide range of housing and employment choice and has strong connections to nearby shops, industry, town services, facilities and transport corridors.

A mix of housing types and small scale creative enterprises contribute to the neighbourhood's vitality and the town's identity. **Dwelling** types reflect the household profile of Byron Bay. Smaller **dwelling**s and multiple dwelling types cater for Byron's higher than average proportion of group households and lone person households. Integrated work and living spaces provide affordable and flexible opportunities for small scale businesses. Commercial ventures provide for local employment, **creative industries** and an outlet for goods and services produced on the site.

Land is used efficiently and energy and water use is minimised. The community actively contributes to the enhancement and maintenance of important habitats on adjoining land. Buffers are provided to these adjoining habitats, and to bushfire hazards and the West Byron Sewage Treatment Plant. Edges are well defined, the public domain is safe and permeable and amenity is fostered by transitions between uses and by integrated site planning.

### E5.5.3.2 Planning Principles

The desired future character reflects the following planning principles:

1. Social Equity
  - a) Enables the co-location of uses to provide housing close to employment opportunities while ensuring potential conflict between the different land uses is minimised;
  - b) Provides a range of low cost residential and live/ work solutions that will enable creative artisans/business people to establish an economically achievable base; and
  - c) Includes a mix of housing, ownership patterns, prices and building types for a diverse community.
2. Economic Vitality
  - a) Provides a mix of employment opportunities with particular emphasis on **creative industries**;
  - b) Facilitates a density of development (with amenity) which makes cost effective use of scarce land; and

- c) Embraces the concept of shared opportunities and synergies within the surrounding neighbourhood, which contributes to overall efficiencies.
3. Environmental Performance
- a) Facilitates a smaller environmental footprint than traditional suburban development;
  - b) Utilises a site sensitive approach which provides filters and buffers protecting the ecological values of adjoining lands;
  - c) Provides for habitat enhancement that integrates with work previously undertaken on adjoining land to restore significant new wetland habitat.
4. Cultural Expression
- a) Encourages a clustering of artistic and lifestyle based small scale industries; and
  - b) Promotes the cultural identity of the area by building upon the commercial / services and industrial base in the surrounding neighbourhood.

### E5.5.3.3 Achieving the Desired Future Character

This Plan aims to achieve the Desired Future Character of the site as described in Section E5.5.3.1 by:

- 1. Providing a Precinct Plan for the major elements of Habitat (refer to Map E5.3);
- 2. Specifying Principles that must apply to development of the site;
- 3. Specifying objectives, performance criteria and prescriptive measures for a number of environmental elements relevant to the future development of Habitat; and
- 4. Specifying ecological enhancement measures that are to be undertaken in adjoining habitats.

### E5.5.3.4 Precinct Plan

- 1. The Habitat Precinct Plan (Map E5.3) identifies the major bio-physical elements that will make up the structure of the developed site. These elements include:
  - a) Major entries/ exits;
  - b) Internal access connections;
  - c) Land use 'precincts', including:
    - i) Precinct 1A - Mixed use, commercial premises, hotel or motel accommodation, residential flat building, serviced apartments, high technology industry, function centre, information and education facility, medical centre, recreation facility (indoor), and food and drink premises.
    - ii) Precinct 1B - Mixed use, retail / business / food and drink / recreation facility (indoor).

- iii) Precinct 2 - pocket living.
- iv) Precinct 3 - warehouse lofts.
- v) Precinct 4 - mixed use, retail / business / residential / café / community recreation facilities / commercial terraces.
- vi) Precinct 5 - ecological enhancement.

2. The Precinct Plan provides a framework for development in Habitat. It will assist developers and designers to obtain an understanding of the context for their proposed development. Components of the plan include the following:

a) Major entries/ exits

The major entries / exits for Habitat will be from Wallum Place, at the northern frontage of the site. Entry-only service access and entry-only access to car parking areas within the site will be from Bayshore Drive, at the eastern frontage of the site.

b) Precinct 1

i. Precinct 1A: Mixed Use

Mixed use entails commercial premises, hotel or motel accommodation, residential flat building, serviced apartments, high technology industry, function centre, information and education facility, medical centre, recreation facility (indoor), and food and drink premises.

ii. Precinct 1B: Mixed Use

The Precinct will offer a mix of business, retail, recreation facilities (indoor) and food and drink, including: approx.. 450m<sup>2</sup> of retail space; approx.. 900m<sup>2</sup> of commercial office space; 615m<sup>2</sup> of recreation facilities (indoor) and 105m<sup>2</sup> of food and drink premises space.

c) Precinct 2: Pocket Living

The Pocket Living Precinct consists of 4x two-and-a-half **storey** buildings along the north western edge of the site and an amenities block (half **storey** comprised of a mezzanine or loft that utilises the roof space). This precinct offers the opportunity for high quality, small scale living units at an affordable price point and is comprised of 56x one bedroom units and 4x two bedroom units.

d) Precinct 3: Warehouse Lofts

The Warehouse Lofts consist of 4x two **storey** buildings along the southern edge of the site. Each building is comprised of six ground floor commercial/retail spaces with a one-bedroom apartment above. There is also an option for a second bedroom on the ground floor. This integrated solution will suit many creative industries.

e) Precinct 4: Retail / Business / Residential / Café / Community Recreation Facilities

This area offers a mix of business, retail and living spaces including; approx. 1200m<sup>2</sup> of retail space; approx. 1700m<sup>2</sup> of commercial office space plus a

café/restaurant, gym and pilates studio, as well as 10x two bedroom apartments, with attached retail or commercial workspaces. The recreational precinct includes a swimming pool, change rooms, barbecue areas, bicycle storage and shaded lawn.

f) Precinct 5: Ecological Enhancement

Existing low lying areas or swales on adjoining lands will be extended and revegetated with freshwater wetland and heath plant species of local provenance to improve wetland habitats and increase important habitat components for local fauna species, particularly the Wallum frogs (Wallum Sedge frog, *Litoria olongburensis*, Wallum froglet *Crinia tinnula*). Appropriate restrictions on the title of the property (Lot 3) will ensure that the community will continue to contribute to the maintenance of these important Wallum frog habitats.

## E5.5.4 Design and Development Controls

Section E5.5.4 contains a range of controls which reflect environmental and design aspects of the future development of Habitat.

### E5.5.4.1 Land Use, Management and Environmental Assessment

#### Background

A key characteristic of villages is the mix of uses that occur throughout them. Mixing uses facilitates a vibrant and safe environment by day and by night. The close proximity of workplaces and housing reduces travel distances and creates affordable and accessible urban environments. The economic viability of the development is supported over its life cycle by the provision of both housing and productive uses. Provision of a variety of housing types and configurations supports a diversity of households and reflects local demands for differentiated and affordable housing options.

The site has a number of constraints which will require detailed environmental assessment as part of any future development application for the site. These constraints include proximity to the West Byron Sewage Treatment Works and its primary access road, potential **acid sulfate soils**, and various ecological constraints.

#### Objectives

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1;
2. To facilitate the creation of a **mixed use development** with a diversity of housing and employment choice and optimum density that reflects the environmental capability of the site and the socio-economic and cultural context; and
3. To assess and mitigate potential environmental impacts.

### Performance Criteria

1. Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings;
2. In Precinct 1, utilise front fences and walls to enable use of private open space abutting Wallum Place to provide an acoustic barrier to vehicle movements;
3. In **mixed use development**, ensure loading bays, garbage collection areas etc are located away from bedrooms and other quiet areas in the residential component;
4. Provide diverse **dwelling** types within Precincts 1, 2, 3 and 4;
5. In Precinct 1, provide **spaces** to be used for a home office, **creative industry** or as an additional bedroom.

### Prescriptive Measures

1. Land Use and Density
  - a) Distribute land uses across the site in accordance with the Precinct Plan (Map E5.3) and the consistent land uses and densities outlined in Table E5.1; and
  - b) Provide for a maximum of 152 residential **dwelling**s within the site.

**Table E5.1 – Land Uses Consistent with Desired Future Character**

Precinct	Consistent Land Uses*	Maximum Densities*
<p><u>Precinct 1A</u></p> <p>Land Area: Approximately <b>8,419m<sup>2</sup></b></p> <p>Built Gross Floor Area: Approximately <b>6,700m<sup>2</sup></b></p> <p>Bedroom Total: <b>126</b></p>	<ul style="list-style-type: none"> <li>- Commercial premises,</li> <li>- Co-working,</li> <li>- Food and drink premises,</li> <li>- Hotel or motel accommodation,</li> <li>- Serviced apartments,</li> <li>- High technology industry,</li> <li>- Function centre,</li> <li>- Information and education facility,</li> <li>- Medical centre, Recreation facility (indoor) and food and drink premises.</li> </ul>	<p>Mixed Use</p> <ul style="list-style-type: none"> <li>- 1, 2 &amp; 3 bedroom serviced apartments / residential apartments to support the live/work concept',</li> <li>- 1 &amp; 2 bedroom hotel or motel rooms to meet the needs of business tourism,</li> <li>- Retail and commercial premises (class 5/6) to various levels,</li> <li>- Medical centre and recreation facility (indoor) to various levels,</li> <li>- Function centre, information and education facility , high technology industry,</li> <li>- Food and drink premises,</li> <li>- Shared meeting rooms, WC's, garbage facilities,</li> <li>- Back of house,</li> <li>- Underground car parking.</li> </ul>



Precinct	Consistent Land Uses*	Maximum Densities*
<p><u>Precinct 1B</u></p> <p>Land Area: Approximately <b>3,710m<sup>2</sup></b></p> <p>Built Gross Floor Area: <b>2,160m<sup>2</sup></b></p>	<ul style="list-style-type: none"> <li>- Retail</li> <li>- Business</li> <li>- Food and Drink</li> <li>- Recreation Facilities (indoor)</li> </ul>	<ul style="list-style-type: none"> <li>- Retail (class 6) to the lower level.</li> <li>- Commercial (class 5) to the upper two levels.</li> <li>- Food and drink and Recreation Facilities (indoor) to the lower level.</li> <li>- Shared meeting rooms, WC's, storage and garbage facilities.</li> </ul>
<p><u>Precinct 2</u></p> <p>Land Area: Approximately <b>10,255m<sup>2</sup></b></p> <p>Built Gross Floor Area: <b>3,655m<sup>2</sup></b></p> <p>Bedroom Total: <b>64</b></p>	<p>Pocket Living (PL)</p>	<p><u>Pocket Living</u></p> <ul style="list-style-type: none"> <li>- Mix of 1 + 2 bedroom units to ground floor</li> <li>- 1 bedroom units to first floor</li> </ul>
<p><u>Precinct 3</u></p> <p>Land Area: Approximately <b>7,360m<sup>2</sup></b></p> <p>Built Gross Floor Area: <b>3,200m<sup>2</sup></b></p> <p>Bedroom Total: <b>48</b></p>	<p>Warehouse Lofts (WL)</p>	<p><u>Warehouse Lofts</u></p> <ul style="list-style-type: none"> <li>- Commercial / retail to the ground floor (class 5 / 6)</li> <li>- Generally residential to the first floor with additional bedroom permissible to ground floor</li> <li>- Able to be configured with 1 or 2 beds</li> </ul>
<p><u>Precinct 4</u></p> <p>Land Area: Approximately <b>16,740m<sup>2</sup></b></p> <p>Built Gross Floor Area: <b>5,325m<sup>2</sup></b></p>	<ul style="list-style-type: none"> <li>- Retail</li> <li>- Business</li> <li>- Residential</li> <li>- Café</li> <li>- Community / Recreation Facilities</li> </ul>	<p><u>Commercial Precinct</u> B1 / C1 / C2 / C3 / C4 / C5</p> <ul style="list-style-type: none"> <li>- Retail (class 6) to lower level with the exception of C5 (dentist)</li> <li>- Commercial (class 5) to upper level with the exception of C1 (gym) C3 and C5 (pilates studio)</li> <li>- Shared meeting rooms and wc's</li> </ul>



Precinct	Consistent Land Uses*	Maximum Densities*
Bedroom Total: <b>20</b>		<u>Recreation Precinct</u> - Swimming pool and change facilities  <u>Commercial Terraces</u> - Part of the ground floor is commercial/retail (class 5/6) - Rear portion of the ground floor and all upstairs is residential (class 2) - 2 bedrooms
<u>Precinct 5</u>  Land Area: Approximately <b>2,728m<sup>2</sup></b>	Ecological enhancement, restoration, management and monitoring.	No buildings allowed

2. Setback

Provide **setbacks** within the development consistent with the minimum distances outlined in Table E5.2.

**Table E5.2 – Setbacks**

Land Use	Minimum Setback	Distance (m)
Precinct 1	External Property (lot) Boundary	2
	External road	7
	Internal roads	0
	Adjoining buildings	0
Precincts 2 & 3	External Property (lot) Boundary	4
	Internal roads	0.5
	Adjoining Buildings	0
Precinct 4	Bayshore Drive	7
	Wallum Place	4
	Internal Roads	0

### 3. Buffering

- a) Provide a minimum 20m **setback** between **dwelling**s and the western and north-western site boundaries, where these adjoin the adjacent Wallum frog habitats;
- b) Provide a minimum 5m **setback** between **dwelling**s and the internal boundary between Precincts 2 and 5, located in the north-western corner of the site as denoted by the approved Acid Frog Management Plan (Geolink, 2017) for the site; and
- c) Provide buffering from the Byron Bay Sewerage Treatment Works in the form of a minimum 20m buffer along the north western boundary of the site (this acknowledges the buffer provided in the original subdivision of the land, by the creation of Lot 12 DP 1189646).

### 4. Environmental Assessment

The following environmental assessment reports must be prepared as part of any development application for the site:

- a) Preliminary Acoustic Report;
- b) **Site Waste Minimisation and Management Plan** and assessment consistent with the requirements of Chapter B8 Waste Minimisation and Management.

## E5.5.4.2 Car Parking

### Background

An integrated 'live/work' approach to development, characterized by the inclusion of **workspaces** in detached and attached residential **dwelling**s, presents the opportunity for *dual use* of parking spaces, thereby reducing the overall parking demand of the proposed development.

Dual use of parking spaces occurs when the same parking space can serve more than one component of a development, such as where residents of living areas also operate businesses in the attached workplaces. In circumstances where the parking demand generated by residents is satisfied by parking provided to serve the living areas, there is no need to satisfy the parking demand generated by residents' use of the workplaces.

A **mixed use development** also provides the potential for *complementary use* of parking spaces. This occurs when the peak parking demand of one component of the proposed development does not coincide with the peak parking demand of another.

### Objectives

1. To provide sufficient parking to satisfy the needs of the proposed development taking into account the potential for dual and complementary use of parking spaces; and

2. To assist in achieving the Desired Future Character for the site as defined by Section E5.5.3.1 by minimising the total area of hard stand car parking within the site.

### Performance Criteria

1. Provide on-site car parking appropriate to the needs of both residents and off-site workers, with consideration to potential for dual use and complimentary use of spaces;
2. **Dual Use Parking** - apply the concept of dual use parking, as described above, as appropriate to the nature of the proposed site development. In this regard it is not unreasonable to expect that the actual parking demand generated by the workplace floorspace in the commercial precinct (most notably the office floorspace), and in the industrial precinct, will be up to 30% less than the parking requirement which is calculated without regard to the duplication of parking provision, which is a consequence of the integrated “live/work” approach to the development. It should be noted, however, that it is possible that not all of the workforce employed by businesses that occupy the workplaces incorporated in integrated ‘live/work’ components of a **mixed use development** will also be residents of that development. For example, a resident operating a business from a workplace could employ a non-resident/residents to assist in the operation of the business;
3. **Complementary Use** - seek to reduce the total number of car parking spaces associated with a **mixed use development** proposal by comparing peak demands of each use by time of day, day of the week, and season. Where the varied parking demand for proximate uses allows joint use of a single parking space or facility, a reduced number of spaces is strongly encouraged;
4. Located shared parking spaces to be convenient to all users;
5. Provide non-residential parking on internal streets and accessways, providing that such parking does not affect the capacity of the internal access system to allow efficient internal movement of vehicles and pedestrians; and
6. Provide cycle access and facilities within the site, consistent with the requirements of Chapter B5 Providing for Cycling.

### Prescriptive Measures

Provide on-site car parking in accordance with standards outlined in Table E5.3. Total provision of car parking is to consider potential for *dual use* and *complementary use*, as described above.

**Table E5.3 – Car Parking Standards**

Type of Development	Minimum Car Parking Provision	Special Requirements	Precinct Requirements
<b><i>Precinct 1A –Mixed Use</i></b>			
Apartment	1 space per room +1 per 4 for visitor	1 space to be provided for people with a <b>disability</b> for each accessible room.	Where car share is provided the maximum car parking credit

Type of Development	Minimum Car Parking Provision	Special Requirements	Precinct Requirements
Bike shop	1 space per 20m <sup>2</sup> GFA		shall be on the basis of 1 car share space per 5 spaces. Car share cannot account for more than 10% of the overall required parking.  1 per cent of spaces to be provided for people with a disability (generally – does not apply hotel/ serviced apartments)
Co-retail	1 space per 20m <sup>2</sup> GFA		
Commercial Kitchen	1 space per 20m <sup>2</sup> GFA		
Hotel	1 space per room	1 space to be provided for people with a <b>disability</b> for each accessible room	
Networking	1 space per 20m <sup>2</sup> GFA		
New retail - Office premises	1 space per 40m <sup>2</sup> GFA x 70%		
- Retail Premises	1 space per 20m <sup>2</sup> GFA		
Office	1 space per 40m <sup>2</sup> GFA x 70%		
Restaurant	1 space per 20m <sup>2</sup> GFA		
Retail	1 space per 20m <sup>2</sup> GFA		
Sauna	Ancillary to Hotel		
Special function centre	1 space per 20m <sup>2</sup> GFA		
Studio	1 space per 20m <sup>2</sup> GFA		
Wellness Centre	1 space per 40m <sup>2</sup> GFA x 70%		
Hotel Staff	1 per 2 employees		
Delivery/Service Vehicles	Provide Specific Loading Bay		
<b><i>Precinct 1B –Mixed use, retail / business / food and drink / recreation facility (indoor)</i></b>			
Retail	1 space per 20m <sup>2</sup> gross floor area		1 per cent of spaces to be provided for people with a <b>disability</b>
Office / professional rooms / business premises	1 space per 40m <sup>2</sup> gross floor area x 70%		
Recreation facility (indoor)	1 space per 20m <sup>2</sup> gross floor area		
delivery / service vehicles	1 space per 400m <sup>2</sup>		

Type of Development	Minimum Car Parking Provision	Special Requirements	Precinct Requirements
<b>Precinct 2 – Pocket Living</b>			
small <b>dwelling</b> s – 1 bedroom	1 space per <b>dwelling</b>		1 per cent of spaces to be provided for people with a <b>disability</b>
small <b>dwelling</b> s – 2 bedroom	1.5 spaces per <b>dwelling</b>		
delivery/ service vehicles	1 space per 800 m <sup>2</sup> gross floor area	Visitor parking can be used if designed for dual use	
<b>Precinct 3– Warehouse Lofts</b>			
small <b>dwelling</b> s (1bedroom)	1 space per <b>dwelling</b>		1 per cent of spaces to be provided for people with a <b>disability</b>
small <b>dwelling</b> s – 2 bedroom	1.5 spaces per <b>dwelling</b>		
visitor car parking	1 space per 4 <b>dwelling</b> s		
<b>Workspace</b>	1 space per <b>workspace</b>		
delivery / service vehicles	1 space per 800 m <sup>2</sup> gross floor area	Visitor parking can be used if designed for dual use	
<b>Precinct 4 – Mixed Use</b>			
retail	1 space per 20 m <sup>2</sup> gross floor area		1 per cent of spaces to be provided for people with a <b>disability</b>
office / professional rooms/ business premises	1 space per 40m <sup>2</sup> gross floor area x 70%		
spa	1 space per 20m <sup>2</sup> gross floor area		
small <b>dwelling</b> s (1 or 2 bedrooms)	1.5 spaces per <b>dwelling</b>		
large <b>dwelling</b> s (3 or 4 bedrooms)	2 spaces per <b>dwelling</b>		
visitor car parking	1 space per 4 <b>dwelling</b> s		
delivery / service vehicles	1 space per 400 m <sup>2</sup>		

### E5.5.4.3 Building Design

#### Background

The climate, coastal location and the evolving culture of Byron Bay has given rise to a 'Byron style' which can be characterised as informal, light weight construction and is referred to in this Section as the 'Byron vernacular' and the 'Byron style'. Achieving the Byron vernacular will be reinforced within the developments' residential precincts, with the development as a whole characterised by lush vegetation, open spaces and linked landscaped areas, a mix of flat and sloping rooflines, timber, masonry and glass structures typical of the local Byron style (refer to Figure E5.1).

An opportunity exists for Habitat to be an intense living and working environment of a considerably higher density than suburbia. Consequently, a high degree of detailed design resolution is required in the architecture and urban design.

The density proposed for the site means that the form and layout of each building needs to consider its relationship to its immediate neighbour and its context in the street. It means that the creation of identifiable and well defined space in the public domain is more important than the individual building and garden. Further, it means that gardens and the landscaping on private lots need to contribute to the public domain. The issue of overshadowing will also need to be carefully considered in any design for the site.

Building design should:

1. Reinforce the structure of the public domain;
2. Respond to climate and local 'Byron vernacular';
3. Ensure privacy and amenity are maintained;
4. Contribute to high environmental performance; and
5. Ensure an adequate level of solar access is provided to living areas.



Figure E5.1 – Indicative examples of Byron vernacular

### Objectives

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1;
2. To ensure that buildings on the site reinforce the structure of the public domain, respond to climate and the 'Byron vernacular', ensure that privacy and amenity are maintained, and contribute to high environmental performance;
3. To ensure that residential development will not significantly increase the overshadowing of adjoining properties; and
4. To ensure that occupants of buildings will enjoy the optimum use of winter sunlight and summer shade.

### Performance Criteria

1. Provide low-rise) two and three storey building forms that are in proportion to street trees or existing built form. Two and (half **storey** comprised of a mezzanine or loft that utilises the roof space) are also possible.
2. Where possible, provide rear lane vehicular access to housing sites to facilitate a coherent, safe and visually pleasing streetscape and negate the need for private hard surfaced driveways;
3. Provide articulation and variety in building forms and utilise screening features to facilitate visual interest, privacy and energy efficiency;
4. Ensure that the width and internal layout of buildings facilitate natural cross ventilation;
5. Design entrances so that they are a clearly identifiable element of the building in the street;
6. Utilise durable materials and finishes;
7. No roof should 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 it's likely to be intrusive;
8. Locate habitable rooms and open spaces away from noise sources and utilise car parking areas and zero side building **setbacks** to provide a buffer to noise sources;
9. In Precinct 1, design and construct development adjoining Wallum Place to ensure that acceptable living conditions can be created within **dwellings**, particularly in relation to noise and odour;
10. Incorporate lush vegetation to provide shade and screening; and
11. Orientate **dwellings** and design building roof and shade structures to maximise solar access into private open space areas and internal living spaces during winter months.

### Prescriptive Measures

1. Provide details of building materials and surface colours for assessment with the development application;
2. External materials must complement the 'Byron vernacular' and can include various forms of cladding including pre-painted corrugated steel, fibrous cement, weatherboard, masonry, concrete and timber;



3. Allow zero side **setbacks** and boundary walls to efficiently utilise the site, create an urban edge to streets, minimise building material and energy usage, and enable the provision of private internal open space;
4. Design buildings to ensure a minimum of 3 hours of sunshine to the living area of **dwelling**s between 9am and 3pm mid winter;
5. Coordinate and integrate building services, such as drainage pipes and air conditioners, with overall façade and **balcony** design;
6. Coordinate security grills/ screens, ventilation louvres and **car park** entry doors with the overall façade design;
7. Provide operable walls and large openings to allow for windows and doors to be opened during summer and closed in winter;
8. Incorporate mosquito mitigation devices;
9. Locate living areas with direct access to private outdoor spaces; and
10. Avoid large expanses of any single material.
11. Design buildings to ensure that building heights do not exceed the maximum height shown for the land on the Byron LEP 2014 [Height of Buildings Map](#).
12. Design buildings to ensure that the maximum floor space ratio for a building is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

## E5.5.4.4 Site and Open Space Design

### Background

The flat topography and high water table of the site and the sensitive wetland habitats of its context mean that managing stormwater runoff will be important. Minimising impervious surfaces across the site is critical to the reduction of stormwater runoff. This issue will also be supported by building design and infrastructure design elements of this Section.

The provision of areas for communal exchange, relaxation, education and contemplation will support the village concept. At the same time, territorial reinforcement of public and private space will facilitate efficient utilisation of the land and discourage crime opportunities.

Universal **access** will need to be built into the design of the site at ground level in order to produce a village that is supportive of people with the range of physical and mental functionality.

The mixed use nature and density of the proposed land use pattern and the availability and augmentation of existing cycling and walking networks delivers an opportunity to provide wide transport choice. Minimising and integrating vehicular parking is a demand management measure that can further support, walking, cycling and public transport. Locating visitor parking within the street system reduces the footprint of **dwelling** sites.

### Objectives

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1; and



2. To minimise the impervious footprint of the site, provide communal and private open space, delineate the public or private role of space and facilitate universal **access**.

### Performance Criteria

1. Provide common open space to facilitate communal exchange and foster a sense of community;
2. Locate communal open space so that it exists as a focal point for the development;
3. Provide private outdoor open space areas in **dwelling** sites as an extension of living spaces, to allow yards to be fully planted as landscaped **deep soil areas** and to maximise pervious areas;
4. Provide private open space for **workspaces** by way of open space **balconies** as an extension of living spaces;
5. Provide adequate facilities for storage, clothes drying and waste management while minimising their visual and amenity impacts;
6. Provide universal **access** throughout the site by providing **continuous accessible paths of travel** and some housing and car parking specifically designed to support persons who have reduced physical or cognitive function;
7. Ensure communal open space areas are useable and accessible to all including those persons with a **disability**;
8. Ensure passive surveillance of the communal open space area;
9. Improve the amenity of open space with landscape design by:
  - a) providing appropriate shade in the form of **locally indigenous** trees or structures;
  - b) providing accessible routes through the space and between buildings; and
  - c) screening cars, communal drying areas, swimming pools and the courtyards of ground floor residential buildings;
10. Contribute to streetscape character and the amenity of the public domain by:
  - a) relating landscape design to the desired proportions and character of the streetscape;
  - b) using planting and landscape elements appropriate to the scale of the development; and
  - c) allowing for locating **public art** where they can be viewed by users of open space and/ or from within courtyards and the public domain;
11. Improve the energy efficiency and solar efficiency of **dwelling**s and the microclimate of private open spaces. Planting design solutions include:
  - a) **locally indigenous** trees for shading low-angle sun on the eastern and western sides of a buildings;
  - b) locating **locally indigenous** dense-foliaged trees well away from the building to permit winter sun access;

- c) varying heights of different species of **locally indigenous trees** and shrubs to shade walls and windows; and
- d) locating pergolas on **balconies** and courtyards to create shaded areas in summer and private areas for outdoor living.

### **Prescriptive Measures**

#### 1. Public Open Space

- a) Provide a minimum of 2,000m<sup>2</sup> of public / communal open space, with at least one central location having an area of not less than 450m<sup>2</sup>; and
- b) Orientation of communal open spaces to the north with a minimum of three hours of sunlight between 9am and 3pm mid winter provided to at least 50% of the communal open space area.

#### 2. Private Open Space

- a) A private open space balcony must be provided for each **dwelling** where the residential component is not located on the ground floor (note this includes **dwelling** that contain a **dwelling** on the first floor and **workspaces** / office on the ground floor). Within the commercial precinct, such private open space **balconies** must have a minimum area of 10m<sup>2</sup> and a minimum length and width of 2.5m. Within the Pocket Living precinct, private open space balconies must have a minimum area of 11m<sup>2</sup>. In all other precincts, the private open space **balconies** must have a minimum area of 15m<sup>2</sup> and a minimum length and width of 2.5m;
- b) Private open space **balconies** must have appropriate orientation and adequate provision for winter sun and summer shade; and
- c) Each **dwelling** that has a residential component on the ground floor must have a minimum private **landscaped area** of 49m<sup>2</sup> (including terrace) plus additional common outdoor area.

#### 3. Universal Access

- a) Provide a minimum of one **dwelling** as **adaptable housing**, designed in accordance with AS4299, for every 10 **dwellings** or part thereof;
- b) Design facilities for disabled persons (including car parking) to comply with the Australian Standard 1428 (Part 1 and 2), the Building Code of Australia and the *Disability Discrimination Act 1992* (as amended);
- c) Provide **continuous accessible paths of travel** from all public roads and public spaces, as well as throughout the ground level internal spaces of **adaptable housing dwellings**; and
- d) Design **adaptable housing dwellings** in accordance with AS 1428 Parts 1, 2 and 4 and AS 4299 Adaptable Housing.

## E5.5.4.5 Lot Size and Subdivision

### Objectives

1. To provide lots of sufficient size to satisfy the needs of future residents and occupants, and which will accommodate well designed and innovative development;
2. To encourage diversity in lot size and opportunities for a variety of housing/building choice; and
3. To ensure that lot design takes into account the natural features of the site and locality.

### Performance Criteria

1. Lots must be of sufficient area to allow for the siting of  **dwellings**  / buildings including provisions for private open space,  **landscaped area** , vehicle access and car parking and to permit solar access; and
2. Lot sizes and design must enable  **dwellings**  / buildings and driveways to be sited to protect natural or cultural features, and respond to site constraints including topography, bushland, soil, erosion, drainage, and bushfire risk.

### Prescriptive Measures

1. The minimum lot size requirements for the site (including residential community title) shall be in accordance with Byron LEP 2014.
2. Lots must enable the construction of a built form which is sympathetic to the established character of the area.
3. Subdivision of the site is to occur only through strata and/or community title subdivision.
4. There is no minimum  **allotment**  size for strata subdivision provided the  **allotment**  boundaries substantially correspond with parts of any building intended for separate ownership. Demonstration of compliance with the Building Code of Australia with regard to fire separation and egress will be required prior to subdivision approval.
5. In the case of strata or community-title subdivisions, car spaces are not to be given separate lot numbers, and all visitor spaces are to be included within common property where possible. All private landscape area attached to a  **dwelling**  shall be identified on the subdivision plan as being part of the appropriate  **dwelling**  unit/ lot. All common  **landscaped areas**  and community facilities shall be identified as being within the common property.

## E5.5.4.6 Water Cycle Management

### Background

The wetland systems to the south-west and west of the site demand a water management regime that ensures that water leaving the site is appropriately treated and managed.

## Objectives

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1;
2. To ensure that management of surface water and **ground water** on the site is consistent with the principles of Integrated Water Cycle Management and **water sensitive urban design**; and
3. To protect the area's sensitive ecological and geophysical environment, particularly by ensuring that water released into the **ground water** and adjacent swales is low in pH and nutrients.

## Performance Criteria

1. Utilise uncontaminated, low pH, low nutrient fill to provide for drainage of stormwater within and from the site;
2. Minimise building footprints by including three **storey** building forms in order to maximise pervious open space areas;
3. Minimise impervious surfaces dedicated to vehicular access and manoeuvring by minimising the length of driveways and parking provided within individual house sites;
4. Incorporate water use minimisation measures, such as water saving devices, into building designs;
5. Minimise filling of the site by adopting above-surface drainage regime with the use of swales;
6. Council may consider variations to its engineering standards to allow swale drainage, as an alternative to standard kerb and gutter drainage, if it can be demonstrated that the swale drainage design could be adapted to conform to standard kerb and gutter drainage in the event of system failure;
7. Avoid the need for deep basins or permanent pools for the detention of stormwater by incorporating shallow detention areas or swales across the site which fully drain following rainfall events;
8. Utilise car parking areas for the detention and treatment of stormwater runoff from roads;
9. Ensure that stormwater leaving the site is treated to a quality equal or better to pre-development quality;
10. Ensure that stormwater flow rates leaving the site are no greater than pre-development flow rates;
11. Manage the flow and quality of water leaving the site to avoid adverse impacts upon adjoining sensitive wetland areas, particularly in relation to maintaining low pH and low nutrient levels;
12. Maximise the reuse of treated wastewater and stormwater for non potable purposes such as garden watering and toilet flushing within site capability and public health limits; and

### Prescriptive Measures

1. Requirements of the site wide Integrated Water Cycle and Soil Management Plan (Geolink, 2011) as amended by Stormwater Management Plan (Ardill Payne & Partners, 2013) are to be adhered to;
2. Provide dual reticulation within the site for the reuse of recycled water from the West Byron sewage treatment plant (STP) for toilet flushing and watering of open spaces where suitable;
3. Rainwater tanks to be provided as required by the approved Stormwater Management Plan (Ardill Payne and Partners, 2013);
4. Private courtyards are to minimise surfaces with impervious materials. Where timber decking is provided, water must be capable of infiltrating into the soil beneath the deck;
5. Contribute to water and stormwater efficiency by integrating landscape design with water and stormwater management, by:
  - a) using **locally indigenous** plants with low water demand to reduce water consumption;
  - b) using **locally indigenous** plants with low fertiliser requirements;
  - c) using **locally indigenous** plants with high water demand, where appropriate, to reduce run off from the site;
  - d) utilising permeable surfaces; and
  - e) incorporating wetland filter systems using **locally indigenous** plant species;
6. Employ sub-surface irrigation for watering of public spaces, using recycled water with scheduling to avoid over-watering and adverse impacts to soils and **groundwater**;
7. Employ swale drainage within drainage systems to promote infiltration and treatment of stormwater. Swales shall be designed to minimise maintenance requirements with the use of **locally indigenous** plant species or alternative coverings such as river pebble;
8. Council will require the body corporate of Habitat to enter into an appropriate management agreement for the maintenance of any drainage swale on the public roads (Bayshore Drive and Wallum Place) fronting the site;
9. Drainage systems are to be maintained to ensure that ongoing stormwater quality is achieved.
10. Design car parking areas to facilitate stormwater detention and treatment; and
11. Carry out all **excavation** above the existing water table and in a way that does not change the natural characteristics of the water table.

## E5.5.4.7 Ecological Enhancement

### Background

Habitat is almost devoid of non-grass vegetation, having been slashed for decades. Three (3) vegetation communities occur on the site. These are swamp forest (small clump on southern boundary), sedgeland (located in depressions across the site) and grassland (majority of the site). No threatened plant species have been identified on the site.

The threatened Wallum Froglet (*Crinia tinnula*) has been recorded on and adjacent to the site and the threatened Wallum Sedge frog *Litoria olongburensis* occurs adjacent to the site. The site itself offers marginal habitat for the Wallum froglet as a result of degradation due to past disturbance.

A Compensatory Habitat Agreement exists between the land owner and Council, which will substantially enhance Wallum frog habitats and provide linkages between existing habitats of importance for these species. The development of the Habitat site will implement and inform the development of this compensatory habitat agreement.

### **Objectives**

1. To achieve the Desired Future Character for the site as defined by Section E5.5.3.1; and
2. To assist and increase ecological restoration being undertaken to the west of the site and extend ecological restoration into the site.

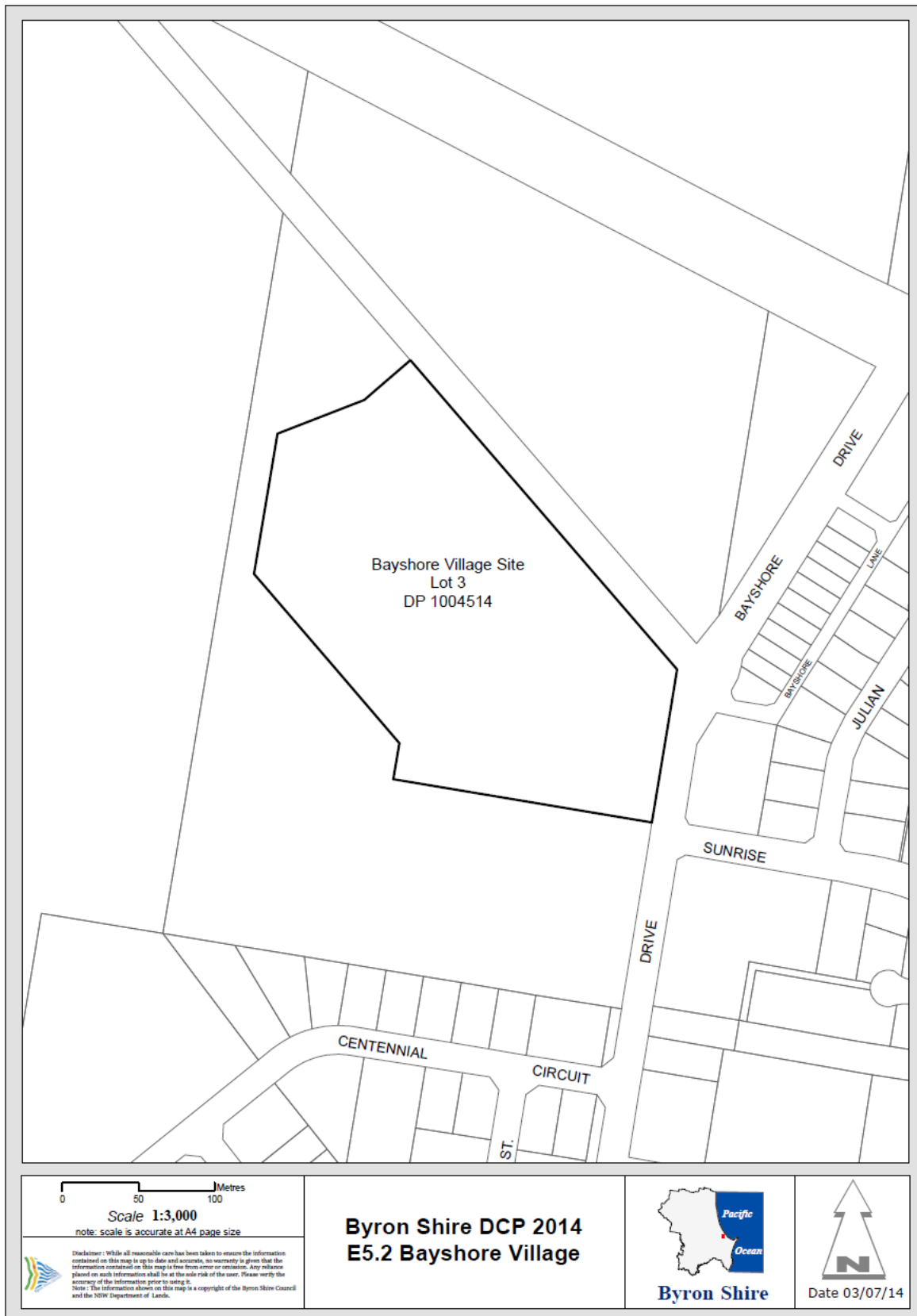
### **Performance Criteria**

1. Continue to contribute to the establishment and maintenance of Wallum frog habitats being created on adjoining land; and
2. Provide restored Wallum frog habitat in accordance with the Council approved *Acid Frog Management Plan: Habitat North Beach, Byron Bay* by Geolink Environmental Management and Design, Version 4 dated 4/5/17.

### **Prescriptive Measures**

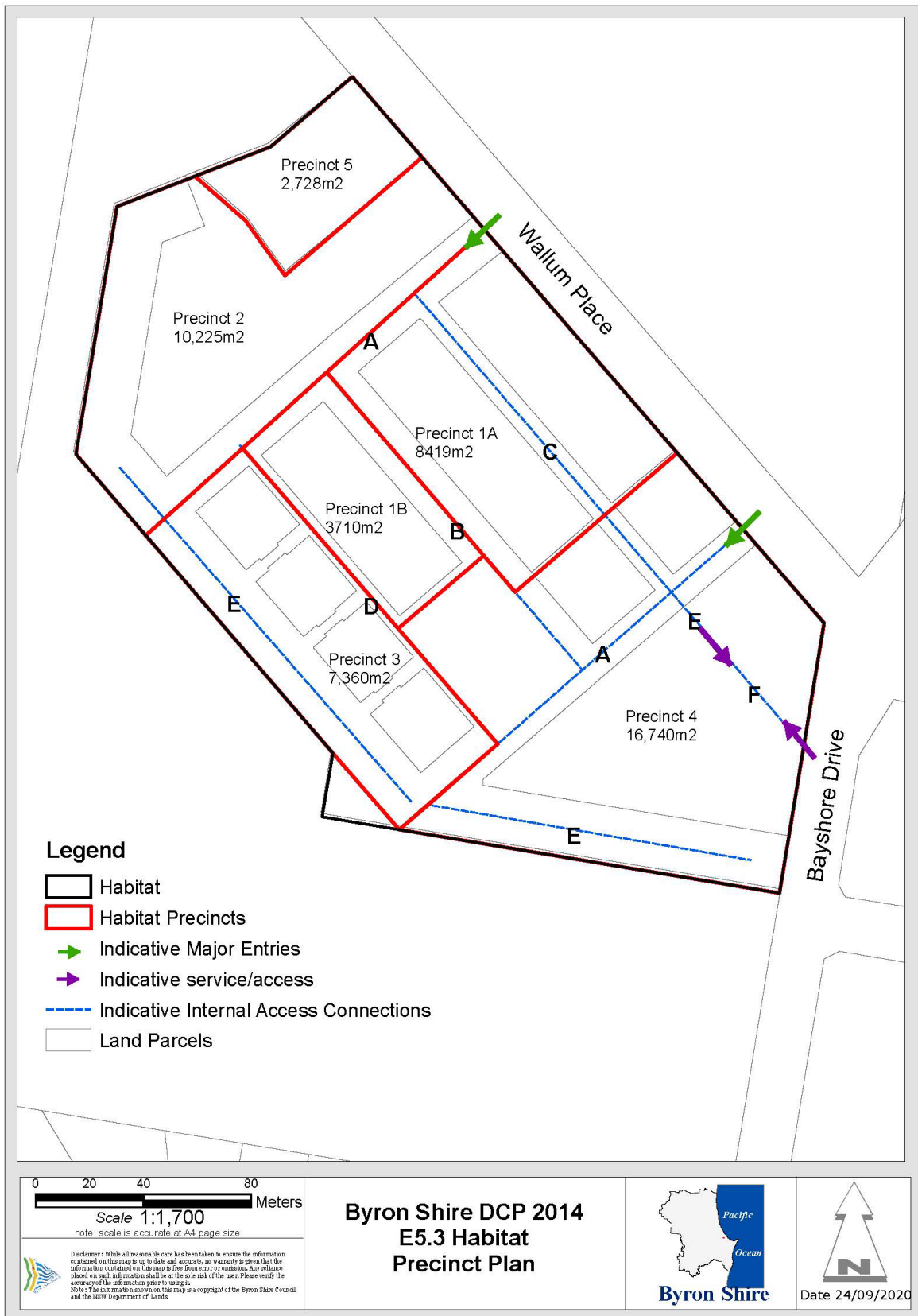
Habitat restoration within the site and adjoining lands is to be in accordance with the Council approved *Acid Frog Management Plan: Habitat North Beach, Byron Bay* by Geolink Environmental Management and Design, Version 4 dated 4/5/17.

**Map E5.2 –Habitat**





**Map E5.3 – Habitat Precinct Plan**





## E5.6 Byron Central Hospital Locality

### E5.6.1 Where this Section Applies

This Section applies to land within Zone 'SP2 Hospital' at Ewingsdale, described as Lot 100 DP 1140936, Ewingsdale Road.

### E5.6.2 Objectives of this Section

The objectives of this Section are:

1. To facilitate achievement of the objectives of R5 zone on land adjoining development to which this Section applies.
2. To minimise conflict between land uses within the SP2 Hospital zone and land uses within adjoining zones.
3. To promote retention of a semi-rural landscape in the locality.

### E5.6.3 Landscaped Buffer

#### Objectives

1. To provide an effective acoustic and visual buffer between the proposed **hospital** site and adjoining land within the R5 zone; and
2. To achieve a semi rural landscape character in and around the proposed **hospital** site.

#### Performance Criteria

Development applications must incorporate landscape and management measures to ensure that the proposed development will not create adverse visual, noise, lighting or residential character impacts on the existing or potential residential amenity of adjoining land within the R5 zone.

#### Prescriptive Measures

Development applications must be accompanied by a landscape plan consistent with the requirements of Chapter B9 Landscaping. The landscape plan must include (but is not limited to) construction of a mounded and landscaped buffer a minimum of 20m wide between the proposed development and adjoining land within the R5 zone. The buffer must be designed, located, intensively planted and maintained in perpetuity as a visual and acoustic screen. All planting must utilise **locally indigenous** species.

## E5.7 The North Byron Beach Site

### E5.7.1 Where this Section Applies

This Section applies to land at the eastern end of Bayshore Drive identified as the North Byron Beach Site on Map E5.4.

In the event of any inconsistency between Section E5.7 and other Chapters in this DCP, the provisions of Section E5.7 shall prevail.

### E5.7.2 Objectives of this Section

The objectives of this Section are:

1. To promote and implement the principles of ecologically sustainable development, as identified in the aims of Byron LEP 2014, in the planning, development and management of the site.
2. To define controls on location, form, character and density of permissible development on the site.
3. To define those parts of the site that require protection from development because of their inherent habitat or biodiversity values, visual characteristics, hazard characteristics, community values or other environmental values or characteristics.
4. To maintain, protect and enhance wildlife corridors to facilitate the movement and dispersal of species between Tyagarah Nature Reserve and significant areas of native vegetation on and beyond the site.
5. To define the remediation, environmental repair and ongoing management measures that are required in order to ensure appropriate environmental restoration and improvement of specific areas and characteristics of the site.
6. To protect and enhance the visual and scenic quality of the site.
7. To ensure that the siting, scale and intensity of development protect and enhance Byron Bay's social and cultural qualities by:
  - a) protecting areas and features of cultural significance;
  - b) accounting for local and regional values, community needs and aspirations;
  - c) reflecting Byron Bay's character and scale;

### E5.7.3 Statement of Desired Future Character

The site is characterised by a mix of native bushland, coastal dune systems, wetlands and low intensity, low-rise and low scale **tourist accommodation** and ancillary uses. The integrity of native vegetation, wildlife habitats and waterbodies will be enhanced through active management and strategic revegetation. Natural areas will be separated from development by vegetated buffers and fire protection areas that are designed to minimise impacts on the integrity and quality of ecologically sensitive areas. The buffers also define the boundary of the development footprint and provide a transition between the two.

The textures, colours and design of new development will complement the existing bushland and coastal landscapes, both within and adjoining the site. Buildings will be designed to optimize energy and water efficiency. A public **car park** and cycle racks will be provided within the Bayshore Drive road reserve for beach users not accommodated on the site.

The land has four distinct components, each with a particular desired future character:

1. Ecologically sensitive wetlands, habitat and corridor areas, beaches and waterbodies that provide foraging and nursery areas for shorebirds and other conservation priority species. These areas also include an important habitat corridor adjoining the railway line, which is presently partly developed with holiday **accommodation units** but which provides a connective wildlife corridor between the Belongil Creek estuary and the Tyagarah Nature Reserve. Development (including re-development) in these areas will maximise the retention of native vegetation and habitats and provide opportunities for further revegetation over time to enhance the effectiveness of the wildlife corridor.
2. Dunes and adjacent lands that are susceptible to shoreline recession and coastal processes. These lands are characterised by vegetated and grassed dunes, hind-dune littoral rainforests and wetlands. Development in these areas will be limited to low-impact environmental facilities, coastline access and environmental management activities, and surf lifesaving facilities (note: such land is not subject to this DCP however the provisions of DCP 2010 will apply to these areas).
3. A development area central to the site containing low scale **tourist accommodation** and associated facilities and waterways in a landscaped setting of grassed areas and **locally indigenous** trees and vegetation. Within the development area:
  - a) the perimeter adjoining ecologically sensitive areas provides a transition between the natural environment and the central development area. It will be characterised by low building densities and open areas landscaped with grassed areas and local endemic species. The only buildings that will be located in this transition area are tourist **accommodation units** and environmental facilities; and

- b) the centre of the developable area will contain a range of tourist facilities including a **function centre** and may contain shops, **restaurants or cafes** and related facilities.
4. Cleared grassland areas characterised by areas disturbed by previous golf course use and manmade waterbodies. This area is zoned to permit low scale residential subdivision for single dwelling houses.

**Note:** A number of existing approvals are applicable to the subject site (i.e. for the areas subject to Byron LEP 2014 and this DCP and adjoining areas that remain subject to Byron LEP 1988 and Byron DCP 2010). Those approvals include Development Application 82/479 and DA 83/513 for what was initially called Belongil Woods and now referred to as Bayshore Bungalows; and Development Application 5.1987.208.3 relating to the tourism development on the Byron Bay side of Bayshore Drive.

Development will be designed to respect and protect the ecological values, coastal processes, natural hazards and access limitations of the locality. Development will be designed to respect the relationship of the site to the adjoining Sunrise Beach residential neighbourhood, Tyagarah Nature Reserve, Cape Byron Marine Park and Belongil Beach.

Areas of natural vegetation and important wildlife habitats will be retained, protected and managed to maintain and enhance their biodiversity values. Wildlife corridors that facilitate the movement and dispersal of native species between Tyagarah Nature Reserve and significant areas of native vegetation on and beyond the site will be enhanced.

To ensure protection of native fauna species, no cats or dogs will be kept on, or brought to or through the resort site.

Cats and dogs are to be prohibited within the residential lots.

The areas that are subject to potential coastal processes will be managed in a way that ensures protection of the natural dunal and hind-dune systems. Development will be cognisant of coastal processes and will not be designed or located so as to create demands for protection from coastal erosion.

Public pedestrian access to the beach will be provided comprising a width of 10 metres, increasing to a width of 20 metres at the boundary with Crown land. The access will be ~~and~~ situated so as to avoid the shorebird nesting area and to respect coastal and dune system processes.

Public car parking and cycle racks will be provided within the Bayshore Drive road reserve for beach users not accommodated on the site.

## E5.7.4 Planning Principles

The desired future character shall also reflect the following planning principles:

1. Transport, Access and Parking
  - a) There is no significant increase in stress on the Byron Bay community in terms of access to transport infrastructure, and in particular, transport time, parking availability, traffic congestion or access to local services.

- b) Additional demand on existing transport infrastructure and networks is addressed.
- c) Pedestrian, bicycle and alternative transport systems (including bus and rail where feasible) connect the site to local community facilities, reducing dependence on car use.
- d) Access infrastructure avoids locations of ecological or conservation value.
- e) A public road is provided through the site and includes provision of a public car parking area.

## 2. Land Use

- a) A mix of tourist, commercial /retail, residential, community, recreational, environmental /conservation and open space uses is provided.
- b) Land uses recognise, protect and enhance conservation values and coastal processes.
- c) New development reflects the unique character and scale of Byron Bay.
- d) The design and arrangement of resort buildings discourages permanent residential occupation.

## 3. Tourist Development

- a) The type and amount of permissible development reflects the environmental, social and economic capacity of the site and Byron Bay.
- b) Areas of high environmental value or cultural significance are left largely undeveloped and protected for present and future generations.
- c) Natural, landscape, archaeological and cultural features are protected and enhanced.
- d) Low-rise **accommodation units** will be the basis of any tourist accommodation, with central resort facilities incorporating a **function centre**.
- e) Public access is provided to the beach.

## 4. Conservation and Habitat Protection

- a) Sensitive areas are protected and enhanced.
- b) Only those areas with low ecological value are used for residential or tourism purposes.
- c) The State and Regional significance of existing wildlife corridor values of the site are protected and enhanced.
- d) The habitats of threatened or endangered terrestrial and aquatic species are protected and enhanced.

## 5. Coastal Processes and Environmental Hazards

- a) Structures and facilities are designed and located to account for climate change including potential sea level rise, storm tide, flooding and other associated impacts.

- b) Buildings and activities are located away from areas of active coastal processes.
- c) The natural topography and physical features of the coastal dune system are protected and managed.
- d) Emergency evacuation options are provided for flood events, including those rarer than 1% AEP.
- e) Community services and facilities are located outside areas of coastal or other natural hazards.

### E5.7.5 Achieving the Desired Future Character

The Desired Future Character of the site set out in Section E5.7.3 is to be achieved by:

- a) Defining particular Precincts and Areas within the site;
- b) Specifying Principles that must apply to development of the site;
- c) Specifying the type, character, form and nature of development that will be permitted within each of the Precincts; and
- d) Specifying specific environmental management and environmental repair measures that must apply as a consequence of development on the site.

Map E5.4 North Byron Beach Resort Precinct Map defines the following Precincts and Areas on the site:

- Precinct 1 Developable Area Low Density Precinct.
- Precinct 2 Developable Area Higher Density Precinct.
- Precinct C Western Wetland and Heath Precinct.
- Precinct D South-western Wildlife Corridor Precinct.
- Precinct E Eastern Wetland and Littoral Rainforest Precinct.
- Bush Fire Asset Protection Zone (APZ) Areas.
- Waterbody Areas within Precincts 1 and 2.
- Precinct 3 – Environmental Living Precinct.

### E5.7.6 Development Applications and Site Concept Plan

#### Objectives

1. To ensure that development approved on land within the site will be consistent with the objectives, desired future character, principles and provisions of Section E5.7.

2. To ensure that individual developments approved on land within the site will be consistent with existing and potential future approved development.

### **Performance Criteria**

There are no Performance Criteria.

### **Prescriptive Measures**

1. The Consent Authority will grant consent to development on the site only if it is satisfied that:
  - a) the proposed development will be consistent with the Objectives, Desired Future Character, Principles and relevant provisions defined by Section E5.7; and
  - b) the proposed development will not jeopardise the achievement of the Objectives, Desired Future Character, Principles and relevant provisions defined by Section E5.7 for other approved or potential future development on the site.
2. Development applications that propose development of only part of the site must be accompanied by a Site Concept Plan that demonstrates that the proposed development will be compatible with the longer term development of the site in a manner that can achieve the Objectives, Desired Future Character, Principles and relevant provisions defined by Section E5.7.
3. Development applications proposing development of all or a significant part of the site must contain the following supporting management plan/s:
  - a) Biodiversity Conservation Management Plan addressing the following specific matters:
    - i) Conservation, restoration and management of native vegetation, wildlife corridors and buffers.
    - ii) Staged removal of weed species.
    - iii) Buffers around waterbodies.
    - iv) Rehabilitation and revegetation of walking tracks through the littoral rainforest in Precinct E (where applicable).
    - v) Revegetation and restoration opportunities within Precinct D to enhance the operation of the wildlife corridor between the Belongil Creek estuary and the Tyagarah Nature Reserve
    - vi) Shorebird and seabird management strategies (where relevant)
  - b) Landscaping and landscape management.
  - c) Control and management of biting insects including mosquitoes, consistent with the requirements of Chapter B7 Mosquitoes and Biting Midges.
  - d) Water cycle management.
  - e) Dune management (where relevant)
  - f) An environmental education strategy to inform visitors and the general public of the environmental sensitivity of the site and the locality. The strategy must include mechanisms to encourage avoidance of the shorebird nesting area and prevention of dogs and cats being kept on or brought to the site.

Note: Further details of matters to be included in the abovementioned plans may be found in the provisions below.

## E5.7.7 Conservation Areas and Corridors

### E5.7.7.1 Western Wetland and Heath Precinct C

#### Objectives

1. To facilitate sensitively designed and managed low intensity tourism uses.
2. To identify, protect and restore endangered ecological communities.
3. To protect the paperbark and eucalypt/Lophostemon-dominated swamp forest and woodland and dry sclerophyll woodland vegetation by restoration together with revegetation of buffering vegetation.
4. To provide protection for the open freshwater habitat by revegetation of buffering vegetation.
5. To focus environmental repair and protection measures on the habitats of native fauna species (particularly threatened species).
6. To protect and enhance wildlife corridor values on the site and in the general locality.

#### Performance Criteria

1. Development in this precinct should incorporate revegetation and/or restoration works based on the following outcomes:
  - a) Restoration of the swamp sclerophyll vegetation must achieve regeneration of the understorey layers (particularly along the eastern edge) and must minimise habitat and breeding opportunities for invasive fauna species (e.g. cane toad, red fox).
  - b) Revegetation of a buffer to the eastern edge of the paperbark and mixed swamp sclerophyll forest vegetation must incorporate local swamp sclerophyll tree species planted at spacings designed to achieve a closed canopy and extend fully to meet the north-eastern boundaries of other precincts and/or adjoining land not subject to this DCP.
  - c) Revegetation of a buffer to the open freshwater habitat must incorporate local sedge and swamp sclerophyll species planted at a suitable density to maintain water quality and disadvantage access by the cane toad.
2. Development in this precinct is designed, sited and managed to avoid any adverse impacts on native vegetation or the native fauna that relies on such vegetation as habitat (whether for food, shelter or breeding).

#### Prescriptive Measures

There are no Prescriptive Measures.



## E5.7.7.2 Southern Wildlife Corridor Precinct D

### Objectives

1. To facilitate sensitively designed and managed low intensity tourism uses.
2. To identify, protect and restore endangered ecological communities and other **high environmental value vegetation and habitats**.
3. To protect koala habitat and enhance connectivity of koala populations
4. To focus environmental repair and protection on the habitats of native fauna species (particularly threatened species).

### Performance Criteria

1. Development in this precinct should incorporate revegetation and/or restoration works based on the following outcomes:
  - a) Restoration and revegetation of the regenerating littoral rainforest vegetation must involve staged removal of weed species that provide food resources for frugivores, such as Camphor Laurel and Queensland Umbrella Tree, and incorporate a replacement planting program using native tree species attractive to frugivores such as figs, laurels, quandongs and acronychias.
  - b) Revegetation of a buffer to the eastern edge of the littoral rainforest and swamp sclerophyll vegetation must incorporate local littoral rainforest and swamp sclerophyll tree species and aim to achieve a closed canopy.
  - c) Revegetation of a buffer to the northern section of the dry sclerophyll forest must incorporate local dry sclerophyll forest tree species.
  - d) Provision must be made for safe fauna crossing of the road in the corridor between Precinct D and adjoining land to the west.
2. Development in this precinct should be designed, sited and managed to maximise opportunities for establishment and/or enhancement of the wildlife corridor between the Belongil Creek estuary and the Tyagarah Nature Reserve and to avoid any adverse impacts on native vegetation or native fauna that relies on such vegetation as habitat (whether for food, shelter or breeding).

### Prescriptive Measures

A Biodiversity Conservation Management Plan submitted in accordance with Section E5.7.6 must identify opportunities for revegetation and restoration within Precinct D (including any proposed works) to enhance the operation of the wildlife corridor between the Belongil Creek estuary and the Tyagarah Nature Reserve.

## E5.7.7.3 Eastern Wetland and Littoral Rainforest Precinct E

### Objectives

1. To facilitate sensitively designed and managed low intensity tourism uses.

2. To identify, protect and restore endangered ecological communities and other **high environmental value vegetation and habitats**.
3. To protect the littoral rainforest and regenerating littoral rainforest, paperbark swamp forest and woodland and saltmarsh vegetation by restoration and revegetation.
4. To focus environmental repair and protection on the littoral rainforest and saltmarsh communities and the habitats of native fauna species (particularly threatened species).
5. To reconnect the littoral rainforest vegetation with other areas of littoral rainforest occurring in the locality.
6. To establish an effective habitat connection with Precinct D, the Southwestern Wildlife Corridor by consolidation of the littoral rainforest link through the regenerating littoral rainforest vegetation in the southwestern section of the precinct.

### **Performance Criteria**

1. Development in this precinct should incorporate revegetation and/or restoration works based on the following outcomes:
  - a) Restoration of the littoral rainforest and regenerating littoral rainforest vegetation must involve staged removal of weed species that provide food resources for frugivores, such as Camphor Laurel and Queensland Umbrella Tree, and incorporate a replacement planting program using native tree species attractive to frugivores such as figs, laurels, quandongs and acronychias.
  - b) Revegetation of the regenerating littoral rainforest and a buffer to the western edge of the littoral rainforest must incorporate **locally indigenous** littoral rainforest and swamp sclerophyll tree species and aim to achieve a closed canopy.
  - c) Revegetation of the regenerating littoral rainforest should initially focus on consolidating the corridor link in the south-western section of Precinct E where it abuts Precinct D, the South-western Wildlife Corridor.
  - d) Closing and rehabilitation of existing walking tracks through the Precinct.
2. Development in this precinct is designed, sited and managed to avoid any adverse impacts on native vegetation or the native fauna that relies on such vegetation as habitat (whether for food, shelter or breeding).

### **Prescriptive Measures**

A Biodiversity Conservation Management Plan (submitted in accordance with E5.7.6 with a Development Application and Site Concept Plan) must identify the existing walking tracks to be closed and rehabilitated (including the approach to such rehabilitation).

## E5.7.8 Buffers and Hazards

### E5.7.8.1 Bush Fire Asset Protection Zones

#### Objectives

1. To provide for an Asset Protection Zone (APZ) to minimise the impacts of bushfires.
2. To establish a buffer to minimise impacts of development and associated bush fire protection measures on adjoining native vegetation, revegetation areas and wildlife habitats.

#### Performance Criteria

1. Bushfire hazards must be managed in accordance with Planning for Bushfire Protection (2006) or its successor.
2. Habitat revegetation and rehabilitation must be undertaken consistent with bush fire management requirements.

#### Prescriptive Measures

1. An Outer Protection Area of sufficient width is to be established generally as depicted by the Asset Protection Zones on the Precinct Map (Map E5.4) to act both as a fuel reduced hazard reduction area and a buffer between any development and native vegetation.
2. Where consistent with bush fire protection measures, appropriate plantings or regeneration of native species will be encouraged in this area so as to reduce the exposure of the adjoining vegetation to wind, noise, light, pollution or other detrimental factors and to provide additional resources and benefits to fauna.
3. No development or works other than bush fire protection and revegetation or landscaping is to occur in the Outer Protection Area.
4. Development comprising walking or cycle tracks, access roads, drainage, environmental facilities or recreation areas may be carried out in other parts of the defined Asset Protection Zones, provided that development or work does not compromise the Objectives of adjoining Precincts.
5. No habitable structures or storage structures may be constructed within the defined Asset Protection Zones.

### E5.7.8.2 Water Body Buffers

#### Objectives

1. To revegetate buffers around waterbodies with appropriate local native species.
2. To reduce cane toad impacts, provide cover refuge for water fowl and improve wildlife habitat and water quality.

#### Performance Criteria

1. Vegetated buffers should be provided around all waterbodies to disadvantage cane toads and to improve wildlife habitat and water quality.
2. Dense plantings of local sedges and rushes should be undertaken around the edges of waterbodies to minimise opportunities for cane toad habitat.

### **Prescriptive Measures**

1. Plantings must comprise a suite of **locally indigenous** species comparable with the surrounding indigenous vegetation.
2. All planting and buffers around waterbodies must be designed to disadvantage cane toads and to improve wildlife habitat and water quality.
3. Plans for revegetation of buffers around waterbodies within C, D, and E must be included in the **Biodiversity Conservation Management Plan** prepared in accordance with this Section.

### E5.7.8.3 Mosquito Management

#### Objectives

1. To manage potential risks from mosquito borne diseases.

#### Performance Criteria

There are no Performance Criteria.

#### Prescriptive Measures

Development applications must include provision for management of mosquitoes and sandflies consistent with Chapter B7 Mosquitoes and Biting Midges.

### E5.7.9 The Resort Area

#### E5.7.9.1 Built Form

#### Objectives

1. To ensure that development on the site achieves relevant standards that apply to development generally within Byron Shire, provides acceptable levels of daylight and ventilation, provides appropriate levels of visual and acoustic amenity, respects local climate and achieves an acceptable micro-climate.
2. To provide variety in the visual amenity of development and avoid a monotonous and excessively uniform appearance.

#### Performance Criteria

1. Buildings will vary in size, design and appearance, density and height throughout and be responsive to the environmental and climatic context of the site. Buildings range from low density detached and single **storey** built form around the perimeter to a higher density and more consolidated built form at the centre of Precinct 2.
2. **Accommodation units** are to be designed having regard to the NSW Government's North Coast Urban Design Guidelines and Coastal Design Guidelines for NSW and avoid masonry construction with small eaves.

#### Prescriptive Measures

1. **Tourist accommodation** development must comply with the requirements of Chapter D3 Tourist Accommodation.
2. All traffic, access and parking provision on the site must comply with the provisions of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.
3. Development on land below the **Flood Planning Level** must comply with the provisions of Chapter C2 Areas Affected by Flood.
4. **Signage** on the site must comply with the provisions of Chapter B10 Signage.

5. The placement and design of development must ensure that buildings, private open space and public spaces will have:
  - a) access to daylight;
  - b) access to natural ventilation;
  - c) appropriate levels of visual and acoustic privacy; and
  - d) a pleasant micro-climate.

### E5.7.9.2 Low Density Perimeter (Precinct 1)

#### Objectives

1. To facilitate development of **tourist and visitor accommodation** on land adjoining conservation areas and habitat corridors at a density, and in a form and character that ensure that the conservation values of the adjoining lands are not compromised.

#### Performance Criteria

1. Development within Precinct 1 will consist of tourist and visitor **accommodation units** at low densities in a **landscaped area** of grasses and local native species, consistent with the Desired Future Character Statement in Section E5.7.3 and the Objectives of this section.
2. Buildings in Precinct 1 shall be low-scale, use materials that are light weight in appearance and have a gross floor area less than, and a function secondary to, buildings in the Central Development Area (Precinct 2).
3. Landscaping will enhance amenity and be appropriate to its location adjoining conservation areas and habitat corridors.

#### Prescriptive Measures

1. No single tourist and visitor **accommodation unit** should have a gross floor area greater than 80m<sup>2</sup> or more than 3 bedrooms.

### E5.7.9.3 Central Development Area (Precinct 2)

#### Objectives

1. To facilitate development of a range of **tourist and visitor accommodation** including a **function centre, shops, restaurants and cafes** and related facilities in Precinct 2 designed and located to maximise convenience to potential users and to minimise adverse impacts on the amenity of persons utilising tourist accommodation on the site.
2. To promote flexibility and innovation in design and form of development within Precinct 2.

### **Performance Criteria**

1. The development of facilities and services that provide for the recreational, cultural and social needs of both tourists and residents of Byron Shire is encouraged in Precinct 2.
2. Development other than tourist accommodation should be:
  - a) clustered together in a focal area in Precinct 2;
  - b) be located to minimise adverse impacts on the amenity and quiet enjoyment of tourist accommodation on the site.

### **Prescriptive Measures**

There are no prescriptive measures

## **E5.7.9.4 Environmental Living (Precinct 3)**

### **Site and Landscape**

#### Boundaries and fencing

##### **Objectives**

1. to create a sense of privacy and security through bespoke boundaries and fencing.

##### **Performance Criteria.**

1. Ensure that the scale of new boundary structures is appropriate and does not dominate the streetscape.
2. Incorporate the use of materials that complement the natural environment.
3. Provide an appropriate landscape buffer to enhance appeal and reflect local ecology.

#### Access Roads and Driveways.

##### **Objectives**

1. To formalise the entrance to residential lots with a considered and consistent entry treatment.

##### **Performance Criteria**

1. Ensure the width of driveways is minimised and unobtrusive.
2. Incorporate the use of permeable paving or soft surfaces for guest parking.
3. Integrate access roads and driveways with the surrounding landscape.

#### Landscape Integration

##### **Objectives**

1. To create a landscape character that integrates with the local context and the existing natural and built environment.

#### **Performance Criteria**

1. Ensure the planting palette comprises the use of appropriate species for the site.
2. Implement a landscaping scheme that provides for screening between dwelling houses, and the streetscape whilst maintaining compliance with Planning for Bushfire Protection 2019.
3. Retain significant mature native trees where possible and provide for replacement plantings where it cannot be demonstrated that retention cannot practically be achieved.

#### Visual Impact

##### **Objectives.**

1. To ensure that there is adequate consideration of the potential visual impact of development on the land.

##### **Performance Criteria.**

1. All development are required to address the provisions of Chapter C3 Visually Prominent Sites, Visually Prominent Development and View Sharing.

#### **Built Form**

##### Bulk Scale and Site cover

##### **Objectives.**

1. To ensure that the bulk and scale of buildings is an appropriate response to the context of the site.

##### **Performance Criteria.**

1. Use of architectural forms, such as pavilions to reduce visual bulk, create interesting vantages and assist with privacy.
2. Design ancillary buildings to complement the architecture of the main building.
3. Use of courtyards or outdoor rooms to break up the built form.

##### **Prescriptive Measures**

1. The maximum **site coverage** of all buildings on any allotment is not to exceed 15% of the lot area.

##### Roof Articulation



### **Objectives**

1. Create visual variation through roof articulation.

### **Performance Criteria**

1. Articulation of roof structures for rainwater collection, capturing breezes and passive heating / cooling.
2. Use of materials that complement the natural environment and contribute to environment cooling

### **Raised Structures**

#### **Objectives**

1. To encourage building design to incorporate interesting and varied responses to achieve compliance with required flood planning levels.

#### **Performance criteria**

1. Building form to consider topography, mounding and set downs to create distinct outdoor spaces within the flat sites.
2. Utilise the under croft of dwellings as a protected sequence of arrival spaces.

### **Local Character**

#### **Indoor-outdoor living**

#### **Objectives**

1. To create homes that respond to, and suit the local climate.

#### **Performance Criteria**

1. Incorporate the use of operable facades, screens , roof overhands and under crofts to create flexible outdoor rooms that suit the local climate.
2. Use of permeable or movable façade systems that can adapt to changing weather and assist in framing vistas and / or screen from neighbours.

#### **Materiality**

#### **Objective**

1. Ensure a mix of materials to achieve excellent design outcomes whilst addressing the local architectural character.

#### **Performance Criteria**

1. Combine heavy materials at the base of buildings with lightweight upper levels.
2. Craft a material palette that is coherent, elegant and durable.

## Sustainability

### Renewable Energy

#### **Objectives**

1. Integrate renewable energy sources and sustainable practices into the design of the development.

#### **Performance Criteria**

1. Ensure sufficient provision of solar panels and batteries and consider curating their location into the overall design.
2. Use of integrated rainwater tanks with the design of the dwelling.
3. Use of passive heating and cooling practices using screens and roof overhangs.

### Ventilation and Solar Access

#### **Objectives.**

1. Ensure the design of dwellings encourages coastal breezes and manages solar access and privacy.

#### **Performance Criteria.**

1. Incorporate the use of operable facades, screens and roof overhangs.
2. Provide architectural screens that are movable and durable and can adapt to the changing sun paths.
3. Angle windows and openings in the façade to frame vistas and avoid direct sight-lines to neighbours.

### Low Carbon Materials

#### **Objectives**

1. To ensure that in selecting building materials, their source, longevity and impact on the environment is taken into account.

#### **Performance Criteria**

1. Prioritise the use of low carbon materials from sustainable and / or local sources.
2. Use natural or recycled materials where possible.

### Protection of Native Animals

#### **Objectives**

1. To protect native fauna from predation from cats and dogs or other pets.
2. To prevent the keeping of cats and dogs from being kept on the site and limit the movement of cats and dogs through the site.

#### **Performance criteria**

1. Cats and dogs are not permitted to be brought onto, through or kept within the residential lots.

#### **Prescriptive measures**

1. A development application for the subdivision of the land provides details of signage to be installed within entrances to the property to identify the restriction on animals within this area.
2. Any development application for the subdivision of land within precinct 3 will include a condition of consent that requires a restriction as to user be placed on the title pursuant to the provisions of section 88E of the Conveyancing Act 1919, stating;

*“No cats, or dogs are permitted to be kept on; brought onto or through the site, other than an animal registered as a service animal as defined within the Commonwealth law Disability Discrimination Act 1992”.*

3. Where a registered service animal is kept on the property, a suitably fenced enclosure must be provided to ensure the service animal cannot roam freely.

### Provision of Cycleways within Precinct 3 - Environmental Living

#### **Objectives**

1. To augment and implement the existing and proposed cycleways identified by the Byron Bike plan 2019 where these cycle paths intersect with the Precinct 3 - Environmental Living.
2. To ensure that development applications accommodate, and where required provide cycleways and related facilities identified by the Byron Bike plan 2019.

#### **Performance criteria**

1. The development is to keep as public open space, a route sufficient for a pedestrian / cycleway through the subdivision to link Bayshore Drive through the adjacent Tyagarah Nature Reserve to Grays Lane (cycle route IT005). Details of the cycleway link to be provided with the Development Application.

## E5.7.9.5 Drainage and Water Cycle Management

### Objectives

1. To ensure that management of surface water and ground water on the site is consistent with the principles of Integrated Water Cycle management and **Water Sensitive Urban Design**.
2. To protect the site's sensitive geophysical environment.

### Performance Criteria

1. Water cycle and drainage design on the site must incorporate **water sensitive urban design** principles such as stormwater source control, stormwater and wastewater re-use, potable water demand reduction, the utilisation of natural flow paths and provision of drainage measures with pervious surfaces. It must also address flooding impacts in accordance with the requirements of Chapter C2 Areas Affected by Flood.
2. The site's water cycle must be designed to utilise natural processes, systems and storage. The design must apply reuse principles to reduce the quantities, velocities and pollutant loads of stormwater discharged from developed areas, improve the efficiency of water use and reduce demand for imported mains water.
3. The system must be designed to install a continuous chain of treatment elements ("treatment chain") that address not only flooding impacts, but also flow volumes, water quality, water conservation and ecological impacts arising from processes such as flooding and fluctuations in the water table. A development application for development on the site must contain a comprehensive Water Cycle Management Strategy. The Strategy must address the principles of **water sensitive urban design** and treatment system maintenance.
4. All **excavation** must be carried out above the existing water table and in a way that does not change the natural characteristics of the water table.
5. No building elements, parking or storage areas shall be constructed below the level of the natural water table.

### Prescriptive Measures

1. All drainage and water cycle management measures must comply with the requirements of Chapter B3 Services. Flooding issues and impacts must be addressed in accordance with the requirements of Chapter C2 Areas Affected by Flood.
2. A comprehensive assessment of the contaminants in **groundwaters** and waterbodies must be undertaken, specifically focusing on heavy metals and arsenic. Causes of any contamination and appropriate mitigation measures must be identified. Waterbodies found to be unsafe for human use must be clearly signposted.

## E5.7.9.6 Landscape

### Objectives

1. To provide a development landscaped with **locally indigenous** species.
2. To ensure that the landscape of the site is harmonious with the natural environment and respects and protects the sensitive character of its setting.

### Performance Criteria

1. Precincts C, D, and E must be rehabilitated, landscaped and managed in accordance with the requirements identified in this Section.
2. The landscape of the developed areas must be designed to reinforce protect and enhance the spread of the indigenous tree canopy and preserve existing **waterways**.
3. Landscaping in Precincts 1 and 2 must be characterized by only **locally indigenous** tree and shrub species and grassed areas, and must not include species that have the potential to be environmental weeds.
4. Landscaping must be designed, constructed and maintained so as to:
  - a) Retain and rehabilitate natural watercourses, native **riparian vegetation** and other natural landscape features;
  - b) Promote natural water balance;
  - c) Take into account site constraints, hazards and microclimatic conditions;
  - d) Promote efficient water use;
  - e) Provide for the removal of pollutants prior to the discharge of runoff to receiving waters; and
  - f) Minimise the need to use herbicides and artificial fertilizers.

### Prescriptive Measures

1. A landscape plan prepared in accordance with the requirements of Chapter B9 Landscaping must be submitted with a development application proposing development of all or part of the site for **tourist accommodation** or other ancillary or associated tourist development.
2. Plants known or with the potential to become weed species must not be used.

3. Landscaping must use **locally indigenous** native tree and shrub species, and must prefer local provenance seed sources.

## E5.7.9.7 Tourism Management

### Objectives

1. To ensure that development will be operated and managed as **tourist and visitor accommodation** and that these facilities are not used for permanent residential occupation.

### Performance Criteria

A development application must identify controls on the proposed development that ensure to the Council's satisfaction that **tourist and visitor accommodation** will not be utilised for residential purposes.

### Prescriptive Measures

There are no Prescriptive Measures.

## E5.7.10 Environmental Management and Repair

### E5.7.10.1 Beach Access

#### Objectives

1. To provide for legal public access to the beach.
2. To limit human impacts on the shorebird nesting area, dunes, Aboriginal sites, vegetation and adjacent reserves.

#### Performance Criteria

1. The siting and design of the road, pedestrian and cycle access across the site for tourists and the general public must be consistent with the Section Objective of the Precinct(s) through which it travels and must be located so as to promote safety and convenience for users.
2. Provision must be made in a convenient location on the Bayshore Drive road reserve for public parking and for safe bicycle storage, primarily to accommodate beach parking for Shire residents. The location of the parking and cycle storage areas must be such that people are encouraged to use the existing beach access track and are discouraged from crossing the dunes elsewhere. The location and design of the parking facilities must be consistent with the Section Objective of the Precinct(s) in which they are located and must have regard for water cycle management, coastal processes, vegetation management, erosion management and maintenance.
3. **Signage** must be provided to inform people of the location of the shorebird nesting area, the need to avoid the shorebird area during the breeding season, the need to respect and avoid turtle nesting sites, the location of the Tyagarah Nature Reserve,

and zonings, and associated restrictions on activities, of the Cape Byron Marine Park in the vicinity.

4. All facilities referred to in this Section must be designed and constructed to avoid damage to any Aboriginal sites, littoral rainforest or threatened plants, and so as not to hinder the movement of wildlife due to inappropriate fencing or other structures.
5. Full details of the proposed works, environmental management measures and maintenance measures described above must be included with the Development Application for the first stage of development on the site.

### **Prescriptive Measures**

There are no Prescriptive Measures.

## **E5.7.10.2 Environmental Management**

### **Objectives**

1. To ensure the preparation of appropriate environmental management plans for the conservation precincts on the site.
2. To ensure the preparation of a **Biodiversity Conservation Management Plan** to protect and enhance high value native vegetation, to consolidate vegetation boundaries and reduce edge effects, to control and where possible eliminate environmental weeds, to enhance habitat values and to revegetate and consolidate wildlife corridors.
3. To ensure the preparation of strategies for Seabird and Shorebird Management (where relevant) to enhance the breeding success of seabirds and shorebirds and to manage impacts of human activities, foxes and dogs on their habitat.
4. To ensure the preparation of a Dune Management Plan (where relevant) to protect and enhance natural coastal dune vegetation, to control the impact of development on dune stability and to maintain coastal processes.
5. To identify and ameliorate Key Threatening Processes.

### **Performance Criteria**

Development applications must include management strategies to address Key Threatening Processes under the *Threatened Species Conservation Act 1995*, including specified measures to reduce the distribution and abundance of species identified as a Key Threatening Process.

### **Prescriptive Measures**

1. Where relevant strategies for Dune Management and Seabird and Shorebird Management (included in the **Biodiversity Conservation Management Plan**) must be submitted for approval by Council in conjunction with the first stage of any tourist, recreational, accommodation or related development on the site. These management strategies/management plans must be developed in consultation with the relevant Government Agencies and Byron Shire Council.

2. Plantings must be of **locally indigenous** species of local provenance seed stock, and comprise a suite of species compatible with the surrounding indigenous vegetation.
3. No cats or dogs are to be kept on, or brought to or through the site.

**Note:** Prescriptive measure 3 of E5.7.10.2 applies to a “companion animal” as defined within the Companion Animals Act 1998. But does not apply to an assistance or service animal. Which includes an animal that is trained to provide assistance to people with a disability to help alleviate the effect of that disability as defined within the Commonwealth law Disability Discrimination Act 1992.



Map E5.4 – North Byron Beach Resort Precinct Map



## E5.8 Residential Character Narratives – Byron Bay, Sunrise Beach and Wategos

This section provides the residential character context and principles for development within the residential zoned areas of Byron Bay, Sunrise Beach and Wategos. The narrative statements draw on the unique qualities of these localities and provide an important direction for the development controls and built form guidelines. The statements divide the residential areas into pockets based on context including topography, setting, heritage, streetscape, land uses and built form. Accompanying the narrative is a figure showing a tiered approach to possible character change to signal how new residential development should respond to the streetscape and/or neighbourhood character within different parts of this locality.

The statements have been established via the Residential Strategy through consultation with the community and other key stakeholders. They build on the existing structure and important elements contributing to the residential character of these areas.

### E5.8.1 Where this Section Applies

This Section applies to the residential zoned areas of Byron Bay, Sunrise Beach and Wategos, shown on Map E5.5.

In the event of any inconsistency between Section E5.8 and other Chapters in this DCP, the provisions of Section E5.8 shall prevail.

### E5.8.2 Purpose

The purpose of this section is to inform the content of any **Design Verification Statement** and site analysis required by the *Low Rise Housing Diversity Design Guides (for Complying development and Development Applications)*.

### E5.8.3 Design Considerations

Future residential development should have regard to the following design principles where applicable:

- Buildings are predominantly low-rise and small scale, integrating with the natural landform and landscape.
- Building footprints and hard landscaping areas are limited to ensure sufficient vegetated areas are established to maximise the opportunities for habitat creation, recreation and general amenity particularly along street frontages;
- Design and construction of homes are better equipped for future climate change impacts, such as bushfire, flooding and erosion hazards;

- Development creates a cohesive streetscape in respect to building setback, massing, composition, architectural detailing, materials and colours and incorporating pitched roofs;
- Elements such as verandahs and balconies to establish a street rhythm making walks more interesting and residences that are well connected to the streets or laneways;
- Front fences and walls do not dominate the public domain; instead responding to and complementing the context and character of the street or laneway.

## E5.8.4 Character Narratives

**Pocket A** contains the original Byron Bay town (including Belongil) has the greatest diversity in built form and an eclectic village character. Set on a grid street layout, residential areas are within easy walking distance of the town centre. The oldest dwellings were the homes of entrepreneurs, farmers and people of a working class background – a mix of street fronting low set fibro workers cottages, bungalows and high-set weatherboard Queenslander style homes with characteristically strong ‘Federation’ influences of hipped or gabled roofs. The homes are located at a relatively consistent setback and of a locally consistent height with front verandahs and set in landscaped gardens. Vehicle access to the sites has minimal interruption to the street frontages with the parking incorporated at the side or to the rear. The newer detached housing has largely continued to reflect these features blending to contribute to an overall integrated streetscape.

Byron Bay town has a strong presence of medium density villa, townhouse and three storey mixed use developments. These medium density developments exhibit a somewhat incoherent and inconsistent design contribution to the overall streetscape. As a mix of apartment types and sizes is proposed for this area, new buildings outside of the Heritage Conservation Areas should be able to have their own unique interpretation of ‘local’ to continue the pattern of an eclectic village character. The outcome should nevertheless be one that responds sensitively to the predominant coastal townscape of the particular locality.

Developments should use contemporary interpretations of the traditional design elements and detailing found in the older homes and support the ‘Place Principles’ of the Byron Town Centre Master plan by:

- offering a range of dwelling sizes and types to cater for a variety of socio-economic groups, including local residential living mixed with commercial opportunities (ie. live/work) to offset the overly dominant visitor accommodation in the Byron Bay town
- avoiding building elements typical of the 1950’s to 1970’s residential flat and shop top buildings, with a high proportion of solid walls devoid of decorative architectural elements and/or parking/driveway areas dominating the street frontage, creating a poor and unsafe pedestrian environment.

**Pocket B** extends south and east from this area forming the Byron Bay suburban garden areas bounded by undulating to steep landforms, national park and wetland nature reserves. These features have influenced the departure from a traditional grid layout to more curvilinear streets following contour lines and the substantial use of cul-de-sacs and battleaxe lots. Housing types include a mix of detached and semi-detached houses as well as low rise terraces (townhouses) and apartments. The residential character is one of an

eclectic array of architectural styles, with diverse coastal architectural themes. The built form is largely one or two storeys incorporating various building materials and styles. The areas coastal and hinterland views, hilly topography and abundance of subtropical/coastal vegetation give it a distinctly leafy green and natural feel. It is important that any future infill development in 'transitional' areas respects the limitations of steep terrain and does not intrude on highly visible hills and other landforms, while areas mapped in the environmentally sensitive category should complement the low scale character and qualities of the natural landscape.



**Pocket C Wategos Beach**, known locally as Wategos is the most easterly residential area in Australia, bounded on three sides by Cape Byron State Conservation Area. The beach frontage is part of the Cape Byron Marine Park. Cape Byron Lighthouse can be accessed by a walking track that passes along the beachfront. Consequently, the area is a popular destination for local surfers, day trippers and tourists. The beachfront has for many years been an important meeting place for Wategos residents, townspeople and visitors, and is a focal point for longboard surfing with club events being held regularly.

Many of the original 1960-70's homes have been replaced or modified. Initially, houses were built as weekenders and holiday homes, with basic design and construction. Over time, as the ownership diversified and land values increased, the design and construction of new builds reflected these values, with an increasing number of substantial size permanent residences.

The residential character is one of an eclectic array of architectural styles with diverse coastal architectural themes. Some newer dwellings are two or three storeys in height and step down the slope of the site. There are examples where building bulk dominates the site, regarded by some as inconsistent with the *R2 Low Density Residential* zoning of the area. It is considered important that future housing remains consistent with the *R2* zone objectives, with appropriate bulk and scale and use of natural landscaping.



**Pocket E Sunrise Beach**, located west of Belongil Creek is characterised by two distinct sectors – the older Sunrise residential neighbourhood (**Pocket E1**) and a recently extended area (**Pocket E2**) encompassing an integrated live/ work development (known as “Habitat”).

The older Sunrise neighbourhood (**Pocket E1**) has original homes, duplexes and units, typically brick and tile well set back from the street with relatively large lots, lawn areas, interspersed with contemporary single and two storey houses in a mix of styles from lightweight with a variety of claddings, through to modern composite construction to heavier masonry styles. Well-tended yards, gardens and leafy streetscapes with wide grassy nature strips — all bordered by kerb and channel — are a substantial part of the pocket’s overall residential character. The retention of mature trees is encouraged, with both indigenous and exotic species contributing to the streetscape and habitats for koalas and other native fauna.

It is important that future infill development complements the low scale character, coastal habitat and natural landscape qualities of this pocket.

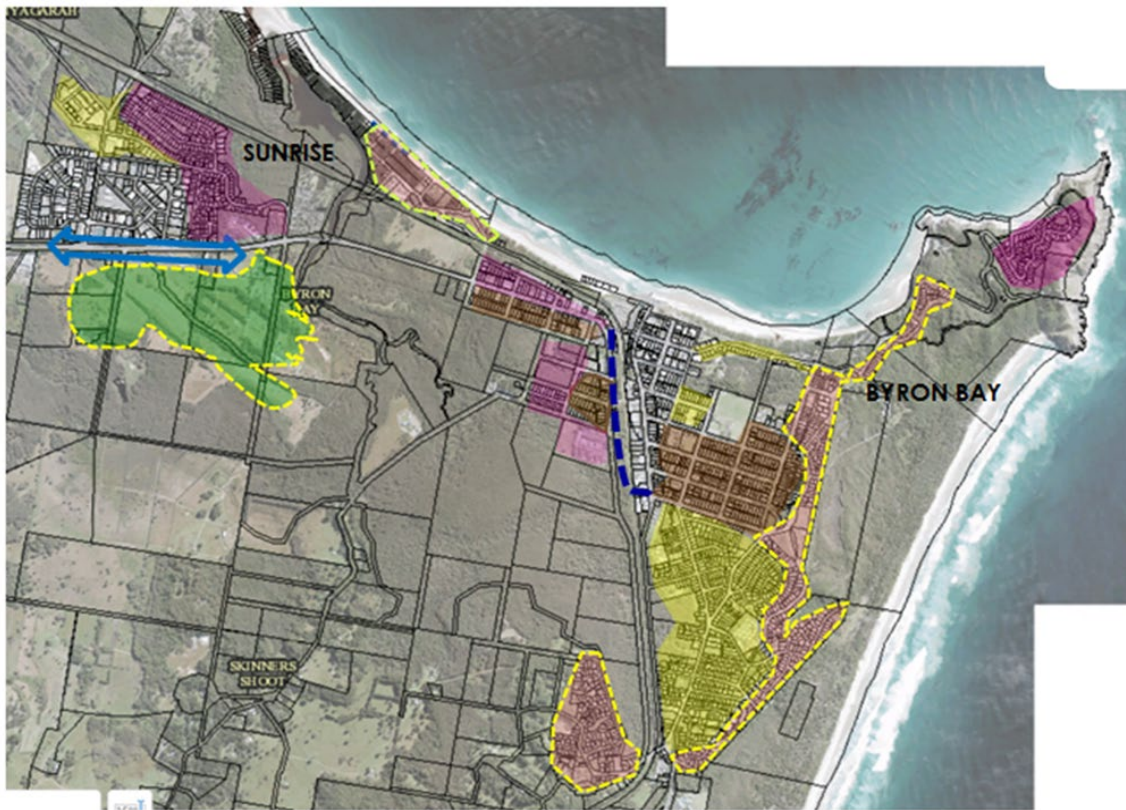
“Habitat” (**Pocket E2**), an integrated live/work development aimed at connecting niche businesses — often knowledge based or service based — has a distinctly different character to the older Sunrise area. The live/work spaces are both an avenue for self and community expression and a platform for economic development.

The proximity of Sunrise Beach and Habitat to the beach, solar train and Byron Arts & Industry Estate (with a supporting Precinct Plan) provide opportunities for an emerging a beachside urban village character. The existing character is closely related to its immediate natural surroundings, combined with a mix of housing types and small scale creative enterprises where residents live, work and play needs can be met locally. Important to enhancing its future character is the creation of local focal place/s, such as a square or community green, to provide a beating heart for this local community.



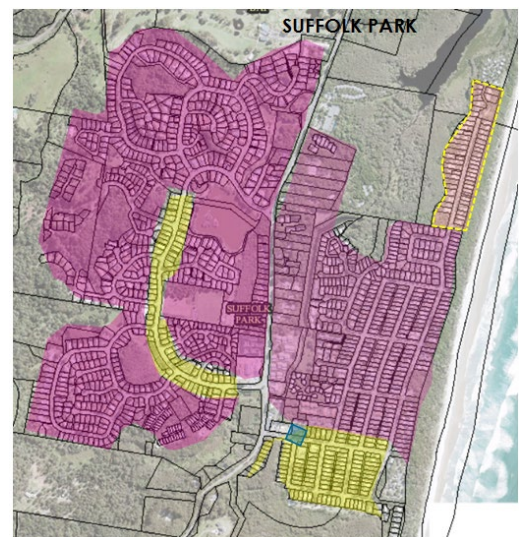


**Figure E5.2 Byron Bay, Sunrise Beach and Wategos Residential Character Areas**



**Character categories**

- **Sensitive:** reflects existing low scale built form and streetscape
- **Environmental sensitive** due to coastal and /or habitat considerations –density and built form to address these considerations and to reflect existing low scale built form and streetscape
- **Subtle:** small clusters of low rise medium density complementing the existing form – likely to be incremental with many of existing elements remaining
- **Transitional:** earmarking an area for change incorporating pockets of low rise medium density homes that match the amenity of traditional free standing homes, while introducing contemporary dwelling forms for old and young singles and families – retaining attributes that are valued by the community. How the area will look and feel in the future is likely to evolve, and in some cases notably
- **Environmental sensitive emerging:** due to coastal and /or habitat considerations: low scale with a mix of lots sizes and housing types to meet a diverse population - density and built form to address these considerations
- ↔ **Gateways:** enhance as welcoming gateway feel to a seaside village - retaining wetland and esplanade vista, low scale & low intensity atmosphere and encouraging integrated street scaping
- ◇ **Urban Village:** an opportunity to expand on the creative/business start-up culture and vibrancy of centres
- ! Local connection multimodal road (indicative only)



## E5.9 The Farm

### E5.9.1 Where this Section Applies

This section applies to land at Ewingsdale Road, Ewingsdale, known as The Farm; being Lot 1, DP 780234 and Lot 5, DP 848222, as shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014.

Clause 6.16 of the Byron Local Environmental Plan 2014 specifies a number of land uses that are permissible on the site, which are additional to those permitted in the zoning table to the LEP.

The provisions in this Part of Chapter E5 relate to the land uses permitted in that Clause. They do not apply to other land uses permitted within the RU1 Primary Production zone.

In the event of any inconsistency between this Section and other Chapters in this DCP, the provisions of this Section shall prevail.

### E5.9.2 Objective of this Section

The objective of this Section is to outline planning controls to regulate the additional land uses permitted under the provisions of Clause 6.16 of Byron Local Environmental Plan 2014.

### E5.9.3 Rural Activity Precinct

The location and extent of the Rural Activity Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to the part of the land containing a cluster of existing buildings, located in the south-west corner of the property.

#### Objectives

The objective of the Rural Activity Precinct is to provide commercial outlets for farming products grown on site and opportunities for the community to learn about and appreciate farming

#### Performance Criteria

1. Land uses within the Rural Activity Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

#### Prescriptive Measures

1. An artisan food and drink industry, being a bakery, must be located within an existing building, and used for the preparation and sale of bread and other bakery goods, provided that a majority of the products contain ingredients sourced directly from the property;

2. An information and education facility, must utilise areas within existing buildings or their immediate curtilage, and provide small group training where that training is related to agriculture or rural industry;
3. Development consent must not be granted for any use within the Rural Activity Precinct shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
  - a) the use has an essential association with existing agricultural/ primary production activities undertaken within the **Farming Precinct** at the site, or enables or enhanced agricultural production on the site;
  - b) the use will not limit the operation and/ or expansion of adjoining and nearby agricultural uses;
  - c) wastewater generated by the proposed use will be within the treatment and disposal capacity of the approved on-site wastewater management system;
  - d) there are no new or additional buildings proposed on the site;
  - e) traffic generated by the proposed use will not result in total peak hour trips (i.e. from the site as a whole), exceeding 200 trips outside of school holiday periods or 350 trips during holiday periods;
  - f) individual events undertaken within agricultural training/ education facilities involve a maximum of 30 people, with the exception of school groups, which can have more participants; and
  - g) there will be no more than 1 training/ education event per week within the agricultural training/ education facilities.

## E5.9.4 Farming Precinct

The location and extent of the Farming Precinct is shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014. It applies to all of the property outside of the Rural Activity Precinct.

### Objectives

The objective of the Farming Precinct is to provide for primary production on the land and opportunities for the community to learn about and appreciate farming.

### Performance Criteria

1. Land uses within the Farming Precinct should have a direct connection with farming pursuits being undertaken on the property; and
2. The nature and scale of land uses should not result in conflicts with farming activities on adjacent properties.

### Prescriptive Measures

1. Development consent must not be granted for a farm field day or exhibition within the **Farming Precinct** shown on the **Local Provisions Map** within Byron Local Environmental Plan 2014, unless Council is satisfied that:
  - a) there are a maximum of 4 such events in any calendar year;



- b) there are no more than 100 people attending any individual event;
  - c) events are scheduled such that event traffic avoids morning and afternoon peak hour periods;
  - d) events will not occur concurrently with any use of the agricultural training / education facilities within the Rural Activities Precinct;
  - e) A Biosecurity Management Plan has been prepared;
  - f) a Noise Management and Monitoring Plan has been prepared for each event, including:
    - details to ensure adequate measures, roles and responsibilities are in place to ensure that event noise remains inaudible above background levels at nearby dwellings;
    - assessment of expected noise impacts;
    - detailed examination of all feasible and reasonable management practices that will be implemented to minimise noise impacts
    - strategies to promptly deal with and address noise complaints. This should include any records that should be kept in receiving and responding to any noise complaints;
    - details of performance evaluating procedures (for example, sound checks on amplified public address systems);
    - procedures for notifying nearby residents living within 1 kilometre of the property of forthcoming events, times that they are likely to notice noise emanating from the site and the contact details for the onsite manager for complaints and queries to be made, and responded to;
    - operational details about the use of any noise monitoring equipment to record sound pressure levels around the property;
    - name and qualifications of person who prepared the report; and
    - protocols for the monitoring of the event, including a requirement that a report be provided to Council following the event.
2. A vegetated buffer is to be provided along all boundaries that adjoin privately owned farm land. The buffer is to be densely planted for a minimum width of 5 metres and include species that have a mature tree height of at least 3 metres. A 2 metre cleared area between the northern property boundary and the vegetation buffer is required.

## E5.10 Wategos Beach

### Where this Section Applies

This section applies to the **residential accommodation** within Wategos Beach identified as Pocket C in the residential character narrative.

### Objectives

1. To ensure that the siting and design of **dwellings** do not detract from the streetscape and the residential character of the area.
2. To minimise development impact on adjoining properties, environment and public domain.
3. To provide additional considerations to the controls within Chapter D1 Residential Accommodation in Urban, Village & Special Purpose Zones.

### Performance Criteria

1. Garage and basements should be designed to minimise the amount of site excavation required.
2. Development should seek to avoid removal of established native vegetation.
3. Development shall provide a high quality landscape that seeks to enhance the amenity and function of the development and respects the sites topography and surrounding environment.
4. Sufficient site area is to remain as permeable surfaces and development bulk should reflect the low-density residential zone, within a two storey vernacular and through the use of lightweight materials.
5. Being the most easterly residential estate in Australia, development should integrate with the landscape through the use of colours and materials, retention of native vegetation and landscaping.
6. View retention of neighbouring development to be considered as part of each development

### Prescriptive Measures

1. Basements and subterranean car parks are to have a maximum footprint of 50 square metres.
2. Dwellings and hardstand areas including swimming pools are to have a maximum site coverage of 50%. (i.e. 50% of the site is to consist of landscaping, deep soil area and vegetation retention)

3. To limit excavation, the front setback for garages and carports may be reduced to 2.5 metres provided the variation will minimise the amount of excavation required, and access complies with AS2890.1.
4. Geotech reports are to be included with development applications addressing slope stability issues, construction methodology and include details of any anchoring proposed.
5. Development is to utilise lightweight building and cladding materials where possible as opposed to heavy materials such as concrete.
6. Landscaping Plans are to be submitted with the development application in accordance with Chapter B9: Landscaping. Plantings are to be dominated by natives endemic to the North Coast of NSW. Significant vegetation to be retained onsite including any littoral rainforest, to be incorporated into the Landscape Plan.
7. Applications are to be accompanied by a Visual Impact Assessment in accordance with Chapter C3: Visually Prominent Sites, Visually Prominent Development and View Sharing. This is to include an assessment of impacts on views and view sharing as outlined in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*.
8. A stormwater concept plan is to be submitted in accordance with Chapter B3: Services. The plan must include details to mitigate and manage stormwater flows entering (i.e. upstream catchments), within and leaving the site.