

# Byron Local Environmental Plan 1988

[1988-329]



New South Wales

## Status Information

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### Provisions in force

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### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 10 November 2023

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New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	8
1 Name of plan .....	8
2 Aim, objectives and guiding principles .....	8
2A Implementation of aim, objectives and guiding principles .....	10
3 Land to which plan applies .....	10
4 Relationship to other environmental planning instruments .....	10
5 Definitions .....	10
6 Savings provisions relating to development applications .....	11
7 Consent authority .....	11
<b>Part 2 General restrictions on development of land</b> .....	11
8 Zones indicated on the map .....	11
9 Zone objectives and development control table .....	13
<b>Part 3 Special provisions</b> .....	36
<b>Division 1 Subdivision and dwelling-houses</b> .....	36
10 Subdivision generally .....	36
11 Subdivision in rural areas for agriculture etc .....	36
11A Restriction on number of allotments of land within Zones No 1 (c1) and 1 (c2) .....	38
11B Development of certain land at Coorabell .....	38
12 Subdivision in rural areas for certain other purposes .....	38
13 Closer rural settlement .....	39
14 Residential areas and rural villages .....	39

15 Dwelling-houses .....	40
15A (Repealed).....	41
16 Rural workers’ dwellings .....	41
17 Dual occupancy .....	42
17A Multiple occupancy.....	43
17B Community title subdivision of multiple occupancy development .....	45
<b>Division 2 Environmental heritage</b> .....	<b>48</b>
18 Items of the environmental heritage .....	48
19 Development relating to certain heritage items.....	48
20 Development incentive relating to heritage items .....	49
21 (Repealed) .....	49
22 Advertising of heritage applications .....	49
<b>Division 3 Certain development</b> .....	<b>50</b>
23 Designated development .....	50
24 Development of flood liable land.....	50
25 Exhibition homes .....	51
26 (Repealed) .....	51
27 Building lines along arterial roads .....	51
28 (Repealed) .....	51
29 Development for certain additional purposes.....	51
29AA Development of certain land at North Ocean Shores .....	52
29A Sandhills Estate .....	52
30 Development within Zone No 7 (d) (Scenic) .....	52
31 Development on ridgetops .....	53
32 Development within Zone No 7 (f2) (Urban Coastal Land Zone) .....	53
33 Development within Zone No 7 (f1) (Coastal Lands Zone) .....	54
34 Tourist accommodation in rural zones .....	54
35 Retailing of bulky goods in Zone No 4 (a).....	55
36 Development adjoining wetland .....	56
37 Development within Zone No 1 (d) (Investigation Zone).....	56
38 Development within Zone No 1 (a) shown hatched on the map.....	57
38A Development of land shown cross-hatched within Zones 1 (a), 1 (b1), 1 (d) and 7 (k) adjacent to Environmental Protection Zones 7 (a), 7 (b), 7 (k) and 7 (j)	

.....	57
38B Development of land at North Ocean Shores within Zone Nos 1 (b1) and 7 (k) .....	58
39 Precinct plan for certain land.....	58
39A Site remediation for certain land.....	60
39B Site audit for certain land.....	60
39C Building height on east side of Jonson Street, Byron Bay .....	61
<b>Division 4 General provisions .....</b>	<b>61</b>
40 Height.....	61
41 Community use of schools.....	62
42 Minor variation of zoning boundaries .....	62
43 Acquisition of certain lands .....	63
44 Use of land pending acquisition.....	64
45 Provision of services .....	64
46 Development in open space zones.....	64
47 Classification and reclassification of public land as operational land .....	64
47AA Classification and reclassification of public land as community land .....	65
47A Development on certain land at Ocean Shores .....	65
48 Temporary use of certain land .....	66
48A Temporary use of land.....	66
49 Suspension of certain covenants and laws .....	67
51 Brothels .....	67
52 Tree preservation.....	68
53 Drive-in theatre .....	69
54 Motor showrooms .....	69
55 Railway sidings.....	69
56 Liquid fuel depots .....	69
57 Junkyards and offensive or hazardous industries.....	70
58 Sawdust and sawmill waste.....	70
59 General store.....	70
60 Development below high water mark.....	70
61 Extractive industries, transport terminals .....	70
62 Savings.....	71
63 Development on land identified on the Acid Sulfate Soils Planning Map .....	71

64 Signage .....	76
64A Exceptions to development standards .....	79
64B Demolition requires development consent.....	80
64C Conversion of fire alarms .....	80
64D Standards that cannot be used to refuse consent—playing and performing music .....	81
64E Canal estate development prohibited.....	82
<b>Part 4 West Byron Bay site .....</b>	<b>82</b>
<b>Division 1 Preliminary .....</b>	<b>82</b>
65 Application of Part .....	82
66 Interpretation .....	82
67 Maps.....	83
68 Savings provision relating to development applications.....	84
69 Repeal of planning instruments applying to land .....	84
70 Relationship with this Part and other environmental planning instruments.....	84
<b>Division 2 Provisions applying to development in West Byron Bay site...84</b>	
71 Land use zones.....	84
72 Zone objectives and control of development.....	85
73 Zone R2 Low Density Residential .....	85
74 Zone R3 Medium Density Residential .....	86
75 Zone B1 Neighbourhood Centre .....	87
76 Zone IN2 Light Industrial .....	88
77 Zone RE1 Public Recreation.....	89
78 Zone E2 Environmental Conservation .....	90
79 Zone E3 Environmental Management.....	90
80 Subdivision—consent requirements .....	91
81 Minimum subdivision lot size.....	91
82 Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings.....	92
83 Exceptions to minimum subdivision lot sizes for certain residential development.....	92
83A Boundary adjustments between lots in Zones E2 and E3.....	93
83B Exceptions to minimum lot size for split zone lots.....	93
84 Height of buildings .....	94
85 Exceptions to development standards .....	94

86 Relevant acquisition authority .....	95
87 Controls relating to miscellaneous permissible uses .....	96
88 Development within the coastal zone .....	97
89 Conversion of fire alarms.....	99
90 Preservation of trees or vegetation .....	100
91 Trees or vegetation not prescribed by development control plan.....	102
92 Heritage conservation .....	102
93 Bush fire hazard reduction.....	105
94 Infrastructure development and use of existing buildings of the Crown.....	105
95 Eco-tourist facilities .....	106
96 Suspension of covenants, agreements and instruments .....	107
97 Acid sulfate soils.....	108
98 Flood planning .....	110
98A Development for the purpose of stormwater management systems and water reticulation systems .....	111
98B Earthworks .....	112
<b>Division 3 Urban release areas .....</b>	<b>113</b>
99 Arrangements for designated State public infrastructure.....	113
100 Public utility infrastructure .....	113
101 Development control plan .....	114
<b>Schedule 1 (Repealed) .....</b>	<b>115</b>
<b>Schedule 2.....</b>	<b>115</b>
<b>Schedule 3 Shops referred to in clause 9—Zone 2 (a) (Residential Zone)</b> .....	<b>116</b>
<b>Schedule 4 Purposes referred to in clause 9—Zone 2 (t) (Tourist Area Zone)</b> .....	<b>116</b>
<b>Schedule 5 Purposes referred to in clause 9—Zone 4 (a) (Industrial land)</b> .....	<b>117</b>
<b>Schedule 6 (Repealed) .....</b>	<b>118</b>

<b>Schedule 7 Land referred to in clause 15</b> .....	118
<b>Schedule 8 Land referred to in clause 29</b> .....	122
<b>Schedule 9</b> .....	132
<b>Schedule 10 Land referred to in clause 17A</b> .....	132
<b>Schedule 11 Land referred to in clause 47</b> .....	132
<b>Schedule 11A Land referred to in clause 47AA</b> .....	138
<b>Schedule 12 Development by public authorities</b> .....	139
<b>Schedule 13 Community title subdivision of multiple occupancy developments</b> .....	142
<b>Dictionary</b> .....	144

# Byron Local Environmental Plan 1988



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Byron Local Environmental Plan 1988*.

### 2 Aim, objectives and guiding principles

(1) **Aim** The aim of this plan is to promote sustainable development in Byron by furthering the objects of the *Environmental Planning and Assessment Act 1979*, particularly in regard to—

- (a) the application to proposed development of guiding principles for the management, development and conservation of natural and human made resources (including natural areas, forests, coastal areas, water, agricultural land, extractive resources, towns, villages and cultural amenities) for the purpose of promoting the social and economic welfare of the community, protecting ecological and cultural heritage and achieving a better environment,
- (b) the promotion and coordination of the orderly and economic use and development of land,
- (c) the provision and coordination of community services and facilities,
- (d) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities and their habitats,
- (e) the provision of increased opportunity for public involvement and participation in environmental planning and assessment, and
- (f) the protection and promotion of the use and development of land for arts and cultural activity, including music and other performance arts.

(2) **Objectives** The objectives of this plan are—

- (a) to enhance individual and community (social and economic) well-being by following a path of economic development that safeguards the welfare of future



generations,

- (b) to provide for equity within and between generations, and
- (c) to protect biodiversity, and re-establish and enhance essential ecological processes and life support systems.

(3) **Guiding principles** The objectives can be achieved through the implementation of the following guiding principles—

- (a) The precautionary principle. The precautionary principle means that where there are threats of serious or irreversible damage to the community's ecological, social or economic systems, a lack of complete scientific evidence should not be used as a reason for postponing measures to prevent environmental degradation. In some circumstances this will mean actions will need to be taken to prevent damage even when it is not certain that damage will occur.
- (b) The principle of intergenerational equity. This principle means that the present generation must ensure that the health, integrity, ecological diversity, and productivity of the environment is at least maintained or preferably enhanced for the benefit of future generations.
- (c) The principle of conserving biological diversity and ecological integrity. This principle aims to protect, restore and conserve the native biological diversity and enhance or repair ecological processes and systems.
- (d) The principle of improving the valuation and pricing of social and ecological resources. This principle means that the users of goods and services should pay prices based on the full life cycle costs (including the use of natural resources at their replacement value, the ultimate disposal of any wastes and the repair of any consequent damage).
- (e) The principle of eliminating or reducing to harmless levels any discharge into the air, water or land of substances or other effects arising from human activities that are likely to cause harm to the environment.
- (f) The principle of encouraging a strong, growing and diversified economy that promotes local self reliance, and recognises and strengthens the local community and its social capital in ways that safeguard the quality of life of future generations.
- (g) The principle of providing credible information in open and accountable processes to encourage and assist the effective participation of local communities in decision making.

## **2A Implementation of aim, objectives and guiding principles**

- (1) The Council shall grant consent to the carrying out of development on land to which this plan applies only where the Council is of the opinion that the carrying out of the development is consistent with the aim, objectives and guiding principles of this plan.
- (2) Before determining a development application, the council shall have regard to the information, guidelines and recommendations in the following strategies, policies and studies adopted by the council—
  - (a) State of the Environment Report,
  - (b) Byron Flora and Fauna Study,
  - (c) Byron Biodiversity Conservation Strategy,
  - (d) Byron Rural Settlement Strategy,
  - (e) Small Towns and Villages Settlement Strategies,
  - (f) Coastline Management Plan.

## **3 Land to which plan applies**

This plan applies to all land within the local government area of Byron.

## **4 Relationship to other environmental planning instruments**

- (1) This plan—
  - (a) repeals the environmental planning instruments referred to in subclause (2), and
  - (b) (Repealed)
- (2) The following environmental planning instruments are repealed—
  - (a) *Interim Development Order No 1—Municipality of Mullumbimby*,
  - (b) Byron Local Environmental Plans Nos 1–16, and
  - (c) such other deemed environmental planning instruments and local environmental plans as, immediately before the appointed day, applied to the land to which this plan applies, to the extent to which those instruments and plans so applied to that land.
- (3) (Repealed)

## **5 Definitions**

- (1) Terms used in this plan that are defined in the Dictionary at the end of this plan have the meaning set out in the Dictionary.

(2) In this plan—

- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose, and
- (b) a reference to a map is a reference to a map deposited in the office of the council, and
- (c) a reference to land within a zone specified in the Table to clause 9 is a reference to land shown on the map in the manner indicated in clause 8 as the means of identifying land of the zone so specified, and
- (d) a reference in relation to land, to the adopted flood level is a reference to the height above Australian Height Datum to which the council has determined that a flood is likely to rise in respect of that land, and
- (e) a reference to a report, study, strategy or plan referred to in clause 2A(2) is a reference to such a report, study, strategy or plan in force from time to time and deposited in the office of the council.

(3) Notes included in this plan do not form part of this plan.

## **6 Savings provisions relating to development applications**

- (1) A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023* must be determined as if that policy had not commenced.
- (2) A development application made, but not finally determined, before the commencement of *State Environmental Planning Policy Amendment (Flood Planning) 2023* must be determined as if that policy had not commenced.

## **7 Consent authority**

The council shall be the consent authority for the purposes of this plan.

## **Part 2 General restrictions on development of land**

### **8 Zones indicated on the map**

For the purposes of this plan, land to which this plan applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified hereunder in relation to that zone—

#### **Rural**

Zone No 1 (a)—(General Rural Zone)—black edging, lettered “1 (a)” and coloured light brown.

Zone No 1 (b1)—(Agricultural Protection (b1) Zone)—black edging, lettered “1 (b1)” and coloured light brown.

Zone No 1 (b2)—(Agricultural Protection (b2) Zone)—black edging, lettered “1 (b2)” and coloured light brown.

Zone No 1 (c1)—(Small Holdings (c1) Zone)—black edging, lettered “1 (c)” and coloured light brown.

Zone No 1 (c2)—(Small Holdings (c2) Zone)—black edging, lettered “1 (c2)” and coloured light brown.

Zone No 1 (d)—(Investigation Zone)—black edging, lettered “1 (d)” and coloured light brown.

Zone No 1 (e)—(Extractive Resources Zone)—black edging, lettered “1 (e)” and coloured light brown.

Zone No 1 (f)—(Forestry Zone)—black edging, lettered “1 (f)” and coloured light brown.

Zone No 5 (b)—(High Hazard Flood Liable Zone) lettered “5 (b)” and coloured yellow.

### **Urban**

Zone No 2 (a)—(Residential Zone)—black edging, lettered “2 (a)” and coloured light scarlet.

Zone No 2 (t)—(Tourist Area Zone)—black edging, lettered “2 (t)” and coloured light scarlet.

Zone No 2 (v)—(Village Zone)—black edging, lettered “2 (v)” and coloured light scarlet.

Zone No 3 (a)—(Business Zone)—black edging, lettered “3 (a)” and coloured light blue.

Zone No 4 (a)—(Industrial Zone)—black edging, lettered “4 (a)” and coloured purple.

Zone No 5 (a)—(Special Uses Zone)—black edging, lettered “5 (a)” and coloured yellow.

Zone No 6 (a)—(Open Space Zone)—black edging, lettered “6 (a)” and coloured dark green.

Zone No 6 (b)—(Private Open Space Zone)—black edging, lettered “6 (b)” and coloured dark green, with yellow edging.

### **Environmental Protection**

Zone No 7 (a)—(Wetlands Zone)—black edging, lettered “7 (a)” and coloured orange.

Zone No 7 (b)—(Coastal Habitat Zone)—black edging, lettered “7 (b)” and coloured orange.

Zone No 7 (c)—(Water Catchment Zone)—black edging, lettered “7 (c)” and coloured orange.

Zone No 7 (d)—(Scenic/Escarpment Zone)—black edging, lettered “7 (d)” and coloured orange.

Zone No 7 (f1)—(Coastal Lands (f1) Zone)—black edging, lettered “7 (f1)” and coloured orange.

Zone No 7 (f2)—(Urban Coastal Lands (f2) Zone)—black edging, lettered “7 (f2)” and coloured orange.

Zone No 7 (j)—(Scientific Zone)—black edging, lettered “7 (j)” and coloured orange.

Zone No 7 (k)—(Habitat Zone)—black edging, lettered “7 (k)” and coloured orange.

Zone No 8 (a)—(National Parks and Nature Reserve Zone)—black edging, lettered “8 (a)” and uncoloured with dark green edging.

### **Reservation**

Zone No 9 (a)—(Proposed Road Zone)—black edging, lettered “9 (a)” and with a red and white band.

## **9 Zone objectives and development control table**

- (1) The objectives of each zone are set out in the table to this clause under the heading “Objectives of Zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the table to this clause, the purposes (if any) for which—
  - (a) development may be carried out without development consent,
  - (b) development may be carried out only with development consent,
  - (c) development is prohibited,

are specified under the headings “Without development consent” “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating

to the zone.

- (3) Except as otherwise provided by this plan, the council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.
- (4) Development of minimal environmental impact and satisfying the provisions defining exempt development in Chapter 16 of the Byron 2010 DCP is **exempt development**.
- (5) Development is **complying development** if it—
  - (a) is local development of a kind that can be carried out with consent on the land to which it is proposed, and
  - (b) satisfies the provisions defining complying development in Chapter 16 of the Byron 2010 DCP, and
  - (c) is not an existing use as defined in the [Environmental Planning and Assessment Act 1979](#).
- (6) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by Chapter 16 of the Byron 2010 DCP.
- (7) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in Chapter 16 of the Byron 2010 DCP.

Table

## **Zone No 1 (a) (General Rural Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to encourage and permit a range of uses creating a pattern of settlement, at a scale and character that maintains or enhances the natural, economic, cultural, social and scenic amenity of the rural environment of the Shire of Byron,
- (b) to encourage and permit a pattern of settlement which does not adversely affect the quality of life of residents and visitors and maintains the rural character,
- (c) to ensure development only occurs on land which is suitable for and economically capable of that development and so as not to create

conflicting uses,

- (d) to allow the use of land within the zone for agricultural purposes and for a range of other appropriate purposes whilst avoiding conflict between other uses and intensive agriculture,
- (e) to identify lands (shown hatched on the map) which in the opinion of the council possess a limited capability for more intensive uses or development,
- (f) to restrict the establishment of inappropriate traffic generating uses along main road frontages other than in road side service areas,
- (g) to ensure sound management of land which has an extractive or mining industry potential and to ensure that development does not adversely affect the potential of any existing or future extractive industry,
- (h) to enable the provision of rural tourist accommodation and facilities only where such facilities are compatible with the form and density of the nature of the locality, and
- (i) to permit the development of limited light industries which do not pose any adverse environmental impact, (eg software manufacture and film processing), and
- (j) to ensure that the development and use of land shown cross-hatched on the map adjacent to areas of significant vegetation and wildlife habitat do not result in any degradation of that significant vegetation and wildlife habitat, and that any development conserves and protects and enhances the value of the fauna and flora.

## **2 Without development consent**

Agriculture (other than animal establishments); bushfire hazard reduction; forestry.

## **3 Only with development consent**

Any purpose other than a purpose specified in item 2 or 4.

## **4 Prohibited**

Brothels; bulk stores; caravan parks; commercial premises (other than veterinary establishments); drive-in banks; drive-in take-away food shops;

educational establishments; industries (other than light industries using less than 100 square metres of floor area, or home, extractive or rural industries); hostels; hotels; motels; motor showrooms; recreation vehicle areas; residential flat buildings; restricted premises; shops (other than general stores); service stations; surf life saving facilities; tourist facilities; units for aged persons; warehouses.

## **Zone No 1 (b1) (Agricultural Protection (b1) Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to protect and enhance the long term potential of the Shire of Byron through the preservation of the higher quality agricultural land within the zone and to restrict all forms of development within the zone which, in the opinion of the council, might prejudice such potential,
- (b) to prevent fragmentation of rural holdings and to encourage consolidation of lot sizes for the purposes of agricultural and horticultural production,
- (c) to enable agricultural support facilities to be carried out on land within the zone in a manner which does not significantly reduce the agricultural and horticultural production potential of land in the locality,
- (d) to permit subdivision only where it is considered by the council to be necessary to maintain or increase agricultural production or to allow the conduct of any use permitted in this zone other than residential buildings, or where proven demand for legitimate agricultural or horticultural holdings of a smaller size is established,
- (e) to restrict the establishment of inappropriate traffic generating uses along main road frontages, and
- (f) to establish appropriate buffer zones between high quality agricultural land and other uses, particularly near the perimeter of such lands.
- (g) (Repealed)

### **2 Without development consent**

Agriculture (other than animal establishments); bushfire hazard reduction; forestry.



### **3 Only with development consent**

Any purpose other than a purpose specified in item 2 or 4.

### **4 Prohibited**

Brothels; bulk stores; caravan parks; car repair stations; cemeteries; clubs; commercial premises; drive-in banks; drive-in take-away food shops; educational establishments; food shops; generating works; hospitals; hostels; hotels; industries (other than light industries using less than 100 square metres of floor area, or home, extractive or rural industries); institutions; junk yards; liquid fuel depots; markets; motels; motor showrooms; recreation areas; recreation vehicle areas; residential flat buildings; restricted premises; rural tourist facilities; service stations; shops (other than general stores); surf life saving facilities; tourist facilities; transport terminals; units for aged persons; warehouses; waste recycling centres.

## **Zone No 1 (b2) (Agricultural Protection (b2) Zone)**

### **1 Objectives of zone**

The objectives are the same as those for Zone No 1 (b1).

### **2 Without development consent**

The purposes are the same as those for Zone No 1 (b1).

### **3 Only with development consent**

The purposes are the same as those for Zone No 1 (b1).

### **4 Prohibited**

The purposes are the same as those for Zone No 1 (b1).

## **Zone No 1 (c1) (Small Holdings Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to allow development of an essentially rural nature only in areas which, in the opinion of council, have adequate provision of services, are not so located as to jeopardise the efficient and economic future expansion of urban areas and where there will be no significant impact on agricultural

activities or production,

- (b) to make provision for small rural holdings in appropriate locations and in response to a genuine demand,
- (c) to maintain a rural character in areas where small holdings are permissible,
- (d) to control by means of a development control plan the location, form, character and density of permissible development, and
- (e) to ensure that no development occurs within this zone until the likely impact of the development on the locality has been considered.

## **2 Without development consent**

Agriculture (other than animal establishments); bushfire hazard reduction; forestry.

## **3 Only with development consent**

Any purpose other than a purpose specified in item 2 or 4.

## **4 Prohibited**

Abattoirs; brothels; bulk stores; car repair stations; caravan parks, cemeteries; clubs; commercial premises; drive-in banks; drive-in take-away food shops; drive-in theatres; educational establishments; food shops; hospitals; hostels; hotels; industries (other than home industries); institutions; junk yards; liquid fuel depots; markets; mines; motels; motor showrooms; recreation vehicle areas; residential flat buildings; road transport terminals; rural tourist facility (other than bed and breakfast); restricted premises; sawmills; service stations; shops (other than general stores); stock and sale yards; surf life saving facilities; tourist facilities; transport terminals; units for aged persons; warehouses; waste recycling centres.

## **Zone No 1 (c2) (Small Holdings (c2) Zone)**

### **1 Objectives of zone**

The objectives are the same as those for Zone No 1 (c1).

## **2 Without development consent**

The purposes are the same as those for Zone No 1 (c1).

## **3 Only with development consent**

The purposes are the same as those for Zone No 1 (c1).

## **4 Prohibited**

The purposes are the same as those for Zone 1 (c1).

### **Zone No 1 (d) (Investigation Zone)**

#### **1 Objectives of zone**

The objectives are—

- (a) to identify land which is to be investigated in respect of its suitability for rezoning for more intensive development,
- (b) to ensure that development within the zone is compatible with the anticipated future development of the land,
- (c) to ensure that development maintains the existing character of the locality and minimises disturbance to the scenic value of the escarpment and landscape through clearing, earthworks, access roads and construction of buildings,
- (d) to ensure that development does not create unreasonable or uneconomic demands, or both, for provision or extension of public amenities or services, and
- (e) (Repealed)
- (f) to identify land requiring protection of significant vegetation and wildlife habitats, and to ensure that development does not adversely affect the integrity of the environment.

#### **2 Without development consent**

Agriculture (other than animal establishments); bushfire hazard reduction.

#### **3 Only with development consent**

Bed and breakfast establishments; clearing of land; dwelling-houses; environmental facilities; extractive industries; home industries; plant

nurseries; recreation areas; roads; roadside stalls; utility installations.

#### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 1 (e) (Extractive Resources Zone)**

#### **1 Objectives of zone**

The objectives are—

- (a) to identify and ensure sound management of land which has an extractive or mining industry potential,
- (b) to ensure that development on land within the zone is compatible with development for extractive industry and does not adversely affect the potential of any existing or future development of the land for extractive industry,
- (c) to include land within the zone necessary to provide a buffer area around extractive resources,
- (d) to require a management plan for quarries which designate that part of the property which is the operational portion of the quarry and that part which forms the buffer area. (The Management Plan shall also assess the environmental impact of noise and dust, pollution, visual impact, conflict with adjoining land uses, traffic generation and alternative methods of extraction).

#### **2 Without development consent**

Agriculture; bushfire hazard reduction.

#### **3 Only with development consent**

Clearing of land; dwelling-houses; environmental facilities; extractive industries; forestry; home industries; industries (other than offensive or hazardous industries); plant nurseries; recreation vehicle areas; roads; utility installations.

#### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 1 (f) (Forestry Zone)**

### **1 Objectives of zone**

The objectives of this zone are to identify land for forestry purposes and to ensure that siltation of streams does not occur in areas required for water catchments.

### **2 Without development consent**

Any purpose authorised under the *Forestry Act 1916*, or any purpose ancillary or incidental to such purpose; bushfire hazard reduction.

### **3 Only with development consent**

Utility installations.

### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

## **Zone No 2 (a) (Residential Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to make provision for certain suitable lands, both in existing urban areas and new release areas, to be used for the purposes of housing and associated neighbourhood facilities of high amenity and accessibility,
- (b) to encourage a range of housing types in appropriate locations,
- (c) to enable development for purposes other than residential purposes only if it is compatible with the character of the living area and has a domestic scale and character, and
- (d) to control by means of a development control plan the location, form, character and density of permissible development.

### **2 Without development consent**

Bushfire hazard reduction.

### **3 Only with development consent**

Any purpose other than a purpose specified in item 2 or 4.

## **4 Prohibited**

Abattoirs; aerodromes; animal establishments; brothels; bulk stores; car repair stations; cemeteries and crematoriums; clubs; commercial premises; drive-in banks; drive-in takeaway food shops; drive-in theatres; extractive industries; forestry; generating works; heliports; hotels industries (other than home industries); institutions; junk yards; liquid fuel depots; markets; mines; motor showrooms; plant nurseries; recreation vehicle areas; restricted premises; roadside stalls; rural industries; rural tourist facilities; sawmills; service stations; shops (other than general stores and shops listed in Schedule 3), stock and sale yards; surf life saving facilities; tourist facilities; transport terminals; warehouses.

## **Zone No 2 (t) (Tourist Area Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to identify land for tourist infrastructure and to encourage tourist accommodation and facilities,
- (b) to permit tourist development and uses associated with, ancillary to, or supportive of, tourist developments including retailing and service facilities where such facilities are an integral part of the tourist development and are of a scale relative to the needs of that development, and
- (c) to control by means of a development control plan the location, form, character and density of permissible development.

### **2 Without development consent**

Bushfire hazard reduction.

### **3 Only with development consent**

Agriculture; child care centres; clearing of land; clubs; community buildings; draining; environmental facilities; hotels; home occupations; motels; places of assembly; purposes referred to in Schedule 4; recreation areas; recreation establishments; roads; tourist facilities; transport terminals; utility installations.

#### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 2 (v) (Village Zone)**

#### **1 Objectives of zone**

The objectives are—

- (a) to make provision for certain suitable lands to be used for small rural village purposes or integrated newly developing residential neighbourhoods,
- (b) to encourage a range of housing types in appropriate locations,
- (c) to enable development for retail commercial and service purposes for the local and nearby rural community in appropriate locations within the zone where the scale and type of development is compatible with living areas,
- (d) to ensure that development does not take place unless adequate provision is made for water supply and sewerage disposal, and the likely impact of the development on the locality has been considered,
- (e) to ensure by means of a development control plan the location, form, character and density of permissible development, and
- (f) to ensure that new development retains and enhances the existing village character or proposed residential neighbourhood character.

#### **2 Without development consent**

Bushfire hazard reduction.

#### **3 Only with development consent**

Any purpose other than a purpose specified in item 2 or 4.

#### **4 Prohibited**

Abattoirs; animal establishments; brothels; cemeteries; drive-in banks; drive-in take-away food shops; extractive industries; junk yards; liquid fuel depots; mines; offensive or hazardous industries; recreation vehicle areas; restricted premises; rural tourist facilities; sawmills; stock and sale yards; surf life saving facilities.

## **Zone No 3 (a) (Business Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to encourage the development and expansion of business activities which will contribute to economic growth and employment opportunities within the Shire of Byron,
- (b) to facilitate the establishment of retail, commercial, tourist and professional services to meet the needs of the community and which are compatible within the surrounding urban environment,
- (c) to permit non-commercial development within the zone where such development is compatible with the commercial character of the locality,
- (d) to allow detailed provisions to be made, by means of a development control plan, to set aside specific areas within the zone for particular intensities of commercial, retail and other uses,
- (e) to ensure there is adequate provision for car parking facilities within the vicinity of the zone, and
- (f) to minimise conflicts between pedestrians and vehicular movement systems within the vicinity of the zone.

### **2 Without development consent**

Bushfire hazard reduction.

### **3 Only with development consent**

Any purpose other than a purpose specified in item 2 or 4.

### **4 Prohibited**

Abattoirs; brothels; caravan parks; cemeteries and crematoriums; drive-in banks; drive-in take-away food shops; dwelling-houses or residential flat buildings other than those physically attached to or used on conjunction with purposes permissible with development consent; extractive industries; generating works; heliports; hospitals; industries (other than light industries); institutions; junk yards; liquid fuel depots; mines; recreation vehicle areas; roadside stalls; rural tourist facilities; sawmills; stock and sale yards; surf life saving facilities; transport terminals (other than bus stations



and bus depots); waste recycling centres.

## **Zone No 4 (a) (Industrial Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to set aside certain land for the purposes of industry within convenient distances of the urban centres of the Shire of Byron and with good access to arterial roads,
- (b) to enable certain forms of development compatible with or ancillary to the industrial uses of the land,
- (c) to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for different industry types and intensities of development,
- (d) to ensure industrial development creates areas which are pleasant to work in, safe and efficient in terms of transportation, land utilisation and service distribution, and
- (e) to permit tourist facilities where it can be demonstrated that the development is ancillary to the industrial use of the land.

### **2 Without development consent**

Bushfire hazard reduction.

### **3 Only with development consent**

Any purpose other than a purpose specified in item 2 or 4.

### **4 Prohibited**

Bed and breakfast establishments; boarding-houses; caravan parks; commercial premises (other than veterinary establishments and other commercial premises used in conjunction with an industry or situated on the same land as an industry or any other commercial land use included in Schedule 5); drive-in banks; drive-in take-away food shops; dwelling-houses (other than used in conjunction with industry and situated on the same site as the industry); educational establishments; extractive industries; hospitals; hostels; hotels; institutions; markets; mines; motels; public buildings; recreation vehicle areas; residential flat buildings (other than those used in

conjunction with industry and situated on the same site as the industry); rural tourist facilities; shops (other than those situated on land on which industry is conducted and used for the purpose of the sale of goods manufactured on the land or those referred to in Schedule 5); stock and sale yards; surf life saving facilities; tourist facilities (other than those used in conjunction with an industry and situated on the same land as the industry); units for aged persons.

### **Zone No 5 (a) (Special Uses Zone)**

#### **1 Objectives of zone**

The objectives of this zone is to designate land for certain community facilities and services including areas for off-street parking in private ownership.

#### **2 Without development consent**

Bushfire hazard reduction.

#### **3 Only with development consent**

Drainage; markets; roads; the particular purpose indicated by black lettering on the map; utility installations; any other public purpose.

#### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 5 (b) (High Hazard Flood Liable Zone)**

#### **1 Objective of zone**

The objectives are—

- (a) to identify land within the high hazard flood storage or flood way area which has little potential for any development and which should be kept free of development liable to be damaged by flood waters and development which is likely to adversely affect the flow of flood waters, and
- (b) to ensure the proper management of land within this zone which is of environmental significance by prohibiting or controlling development likely to have an adverse effect on the environmental value of that land.

## **2 Without development consent**

Agriculture (other than animal establishments); bushfire hazard reduction.

## **3 Only with development consent**

Environmental facilities; recreation areas; roads; utility installations (other than generating works).

## **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 6 (a) (Open Space Zone)**

#### **1 Objectives of zone**

The objectives are—

- (a) to ensure that there is adequate provision of both active and passive open space to serve the present and future recreational needs of residents and visitors,
- (b) to identify land where existing recreation facilities for the general use of the community are provided,
- (c) to provide opportunities to enhance the total environmental quality of the Shire of Byron,
- (d) to encourage plans of management for Crown Lands as required by the [Local Government Act 1993](#).

#### **2 Without development**

Works for the purposes of landscaping and bushfire hazard reduction.

#### **3 Only with development consent**

Agriculture (other than animal establishments); child care centres; cycleways; drainage; environmental facilities; markets; primitive camping grounds; recreation areas; restaurants; roads; recreation vehicle areas; showgrounds; utility installations.

#### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

## **Zone No 6 (b) (Private Open Space Zone)**

### **1 Objectives of zone**

The objective is to identify private land which is set aside for recreational and environmental purposes.

### **2 Without development consent**

Work for the purposes of landscaping or bushfire hazard reduction.

### **3 Only with development consent**

Agriculture; clearing of land; clubs; commercial premises required in connection with a purpose referred to in this item; cycleways; drainage; dwelling-houses required for use or occupation by persons employed in connection with a purpose referred to in this item; environmental facilities; markets; utility installations; racecourses; recreation areas; recreation vehicle areas; restaurants ancillary to a purpose for which development consent has been granted; showgrounds.

### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

## **Zone No 7 (a) (Wetlands Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to identify all lands covered by *State Environmental Planning Policy No 14—Coastal Wetlands*,
- (b) to identify and preserve estuaries and wetlands and allow them to continue to function as feeding and breeding areas for wildlife, shellfish and fish,
- (c) to prohibit development within the zone that is likely to have a detrimental effect on the habitat or landscape qualities or the flood mitigation function of the wetlands,
- (d) to enable development of public works and environmental facilities where such development would not have a significant detrimental effect on the habitat or landscape qualities of the wetland and other significant coastal habitat areas, and

- (e) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Agriculture (other than animal establishments); building of levees; bushfire hazard reduction; clearing of land; environmental facilities; drains; home industries. oyster farming; primitive camping grounds; roads; utility installations.

## **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 7 (b) (Coastal Habitat Zone)**

#### **1 Objectives of zone**

The objectives are—

- (a) to identify coastal habitats (being wetlands, heath, sedge, marshland, rainforest types, sclerophyll forest and the like) of local significance,
- (b) to identify and preserve estuaries and other significant coastal habitat areas, wetlands and allow them to continue to function as feeding and breeding areas for wildlife, shellfish and fish,
- (c) to prohibit development within the zone that is likely to have a detrimental effect on the habitat or landscape qualities or the flood mitigation function of significant coastal habitat areas, including wetlands,
- (d) to enable development of public works and environmental facilities where such development would not have a significant detrimental effect on the habitat or landscape qualities of the wetland and other significant coastal habitat areas, and
- (e) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Agriculture (other than animal establishments); building of levees; bushfire hazard reduction; clearing of land; environmental facilities; drains; home industries; oyster farming; primitive camping grounds; roads; utility installations.

## **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 7 (c) (Water Catchment Zone)**

#### **1 Objective of zone**

The objectives are—

- (a) to prevent development within the catchment of existing or future water supply systems which would have a significant detrimental effect on the quality or quantity of the water supply,
- (b) to ensure that development maintains the rural character of the locality and minimises disturbances to the landscape through clearing, earthworks and access roads so as to avoid erosion,
- (c) to ensure that development does not create unreasonable or uneconomic demands, or both, for provision or extension of public amenities or services,
- (d) to enable the carrying out of appropriate uses on the land within the zone in a sound manner which conserves or enhances the environmental amenity of the locality,
- (e) to ensure land uses which use pesticides and herbicides or other pollutants are kept to a minimum to maintain the quality of run off water, and
- (f) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

## **2 Without development consent**

Agriculture (other than animal establishments).

## **3 Only with development consent**

Any purpose other than a purpose specified in item 2 or 4.

## **4 Prohibited**

Abattoirs; aerodromes; animal establishments; brothels; bulk stores; bus depots; car repair stations; caravan parks; clubs; commercial premises; drive-in banks; drive-in take-away food shops; drive-in theatres; educational establishments; food shops; hospitals; hotels; industries (other than home industries); institutions; junk yards; liquid fuel depots; markets; mines; motels; motor showrooms; recreation vehicle areas; residential flat buildings; restricted premises; rural tourist facilities; sawmills; service stations; shops (other than general stores); stock and sale yards; transport terminals; warehouses; waste recycling centres.

## **Zone No 7 (d) (Scenic/Escarpment Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to protect and enhance the scenic qualities of the Shire of Byron which enhance the visual amenity by controlling the choice and colour of building materials, position and bulk of buildings, access roads and landscaping,
- (b) to prohibit development within the zone that is likely to have a visually disruptive effect on the scenic quality and visual amenity of the Shire,
- (c) to enable development for certain purposes where such development would not have a detrimental effect on the scenic quality and visual amenity of the Shire,
- (d) to minimise soil erosion from escarpment areas and prevent development in geologically hazardous zones, and
- (e) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Agriculture; bed and breakfast establishments; bushfire hazard reduction; car parks; clearing of land; drainage; dwelling-houses; environmental facilities; home industries; primitive camping grounds; restaurants; roads; utility installations.

## **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 7 (f1) (Coastal Land Zone)**

#### **1 Objectives of zone**

The objectives of the zone are—

- (a) to identify and protect environmentally sensitive coastal land,
- (b) to enable development for certain purposes where such development does not have a detrimental effect on the habitat, landscape or scenic quality of the locality,
- (c) to prevent development which would adversely affect, or be adversely affected by, coastal processes, and
- (d) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

#### **2 Without development consent**

Nil.

#### **3 Only with development consent**

Agriculture (other than animal establishments); beach and coastal restoration works; building of levees, drains or clearing of land; bushfire hazard reduction; clearing of land; community buildings; drainage; environmental facilities; forestry; home industries; markets; roads; primitive camping grounds; surf lifesaving facilities; utility installations.



#### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 7 (f2) (Urban Coastal Land Zone)**

#### **1 Objectives of zone**

The objectives of the zone are—

- (a) to identify urban land likely to be influenced by coastal processes,
- (b) to permit urban development within the zone subject to the council having due consideration to the intensity of that development and the likelihood of such development being adversely affected by, or adversely affecting, coastal processes,
- (c) to permit urban development within the zone subject to the council having due consideration to—
  - (i) the need to relocate buildings in the long term,
  - (ii) the need for development consent to be limited to a particular period,
  - (iii) the form, bulk, intensity and nature of the development, and
  - (iv) continued safe public access to the site, and
- (d) to allow detailed provisions to be made, by means of a development control plan, to set aside specific areas within the zone for different land uses and intensities of development.

#### **2 Without development consent**

Bushfire hazard reduction.

#### **3 Only with development consent**

Any purpose other than a purpose specified in item 2 or 4.

#### **4 Prohibited**

Abattoirs; aerodromes; brothels; bulk stores; car repair stations; cemeteries and crematoriums; drive-in banks; drive-in take-away food shops; extractive industries; forestry; generating works (including solar generating works); heliports; industries (other than light industries); institutions; junk yards;

liquid fuel depots; mines; motor showrooms; recreation vehicle areas; roadside stalls; rural tourist facilities; sawmills; service stations; stock and sale yards; warehouses; waste recycling centres.

## **Zone No 7 (j) (Environmental Protection Scientific Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to identify and protect areas of scientific interest,
- (b) to restrict and control development within the zone to that which is related to the scientific interest,
- (c) to prohibit any activity likely to have a detrimental effect on the site,
- (d) to encourage passive recreation and an understanding of natural systems where this will not have any detrimental effect on the site,
- (e) to enhance the visual quality of the landscape, and
- (f) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

### **2 Without development consent**

Nil.

### **3 Only with development consent**

Bushfire hazard reduction; environmental facilities.

### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

## **Zone No 7 (k) (Habitat Zone)**

### **1 Objectives of zone**

The objectives are—

- (a) to identify and protect significant vegetation and wildlife habitats for conservation purposes,
- (b) to prohibit development within the zone that is likely to have a detrimental effect on the wildlife habitats which exist,

(c) to enable the carrying out of development which would not have a significant detrimental effect on the wildlife habitats, and

(d) to enable the careful control of noxious plants and weeds by means not likely to be significantly detrimental to the native ecosystem.

## **2 Without development consent**

Nil.

## **3 Only with development consent**

Agriculture (other than animal establishments and clearing of land); bushfire hazard reduction; environmental facilities; home industries; primitive camping grounds; roads; utility installations.

## **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 8 (a) (National Parks and Nature Reserve Zone)**

#### **1 Objectives of zone**

The objectives are—

(a) to identify land which is reserved or dedicated under the *National Parks and Wildlife Act 1974*, and

(b) to allow for the management and appropriate use of that land as provided by that Act.

#### **2 Without development consent**

Any purpose authorised by the *National Parks and Wildlife Act 1974*, or any purpose ordinarily incidental or ancillary to such a purpose.

#### **3 Only with development consent**

Nil.

#### **4 Prohibited**

Any purpose other than a purpose specified in item 2 or 3.

### **Zone No 9 (a) (Proposed Road Zone)**

## **1 Objectives of zone**

The objective of this zone is to set aside land (being land that the council or a Government instrumentality intends to acquire) for various proposed roads.

## **2 Without development consent**

Bushfire hazard reduction.

## **3 Only with development consent**

In the case of land to be acquired for the purpose of arterial roads—arterial roads.

In the case of land to be acquired for the purpose of road widening—drainage; roads; recreation areas; utility installations.

## **4 Prohibited**

Any purpose other than a purpose included in item 2 or 3.

# **Part 3 Special provisions**

## **Division 1 Subdivision and dwelling-houses**

### **10 Subdivision generally**

- (1) A person shall not subdivide land to which this plan applies except with the consent of the council.
- (2) However, consent is not required for a subdivision under the [Strata Schemes Development Act 2015](#) of a building erected on land within Zone No 2 (a), 2 (t), 2 (v), 3 (a), 4 (a) or 7 (f2) if—
  - (a) the building has been constructed in accordance with a development consent, or
  - (b) the building has been lawfully constructed without development consent.
- (3) Where land is zoned for the purpose of a proposed new road, the council shall not consent to a subdivision of land of which the proposed road forms part unless the subdivision makes provision for the opening of a road in reasonable conformity with the proposed road.

### **11 Subdivision in rural areas for agriculture etc**

- (1) The council shall not consent to the subdivision of land for agriculture, forestry or a dwelling-house within the zones shown in Column 1 of the Table to this clause unless

the area of each of the allotments to be created is not less than that shown opposite that zone in Column 2 of the Table and, in the opinion of the council, each allotment is of satisfactory shape and has a satisfactory frontage.

<b>Column 1</b>	<b>Column 2</b>
<b>Zone</b>	<b>Minimum Area ha</b>
Rural 1 (a) General Rural Zone	40
Rural 1 (b1) Agricultural Protection (“b1”) Zone	40
Rural 1 (b2) Agricultural Protection (“b2”) Zone	20
Rural 1 (c1) Small Holdings (“c1”) Zone	0.4
Rural 1 (c2) Small Holdings (“c2”) Zone	0.2
Rural 1 (d) Investigation Zone	40
Urban 2 (t) Tourist Area Zone	1
Environmental Protection 7 (a) Wetlands Zone	40
Environmental Protection 7 (b) Coastal Habitat Zone	40
Environmental Protection 7 (c) Water Catchment Zone	40
Environmental Protection 7 (d) Scenic/Escarpment Zone	40
Environmental Protection 7 (f1) Coastal Lands Zone	40
Environmental Protection 7 (j) Scientific Zone	40
Environmental Protection 7 (k) Habitat Zone	40

(2) Notwithstanding subclause (1), the council may only consent to—

- (a) the subdivision of any land within Zone No 1 (c1) where the number of allotments to be created by the subdivision for the purpose of a dwelling-house is not greater than the area of land divided by 2.5, and
- (b) the subdivision of any land within Zone No 1 (c2) shown unhatched on the map—where the number of allotments to be created by the subdivision for the purpose of a dwelling-house is not greater than the area of land divided by 0.8, and
- (c) the subdivision of any land within Zone No 1 (c2) shown hatched on the map—where the number of allotments to be created by the subdivision for the purpose of a dwelling-house is not greater than the area of land divided by 0.4.

(3) In subclause (2)—

**land** means a parcel or parcels of land held under a separate title on the appointed day.

**11A Restriction on number of allotments of land within Zones No 1 (c1) and 1 (c2)**

- (1) This clause applies to land within Zone No 1 (c1) or 1 (c2).
- (2) The Council must not consent to a subdivision for the purpose of rural residential development—
  - (a) if the subdivision will result in the creation of a number of allotments of land to which this clause applies during a 5-year period to be used for that purpose which will exceed the maximum number of allotments specified by the council for that period, or
  - (b) if there is no maximum number so specified for the current 5-year period.

**11B Development of certain land at Coorabell**

- (1) This clause applies to certain land at Coorabell, within Zone No 1 (c1) and shown stippled on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 54)*”.
- (2) The Council shall not consent to the subdivision of land to which this clause applies for the purpose of agriculture, forestry, a dwelling-house or a rural worker’s dwelling, unless the area of each of the allotments to be created is not less than 40 hectares.

**12 Subdivision in rural areas for certain other purposes**

- (1), (2) (Repealed)
- (3) The council may consent to the subdivision of land within Zone No 1 (b2) (Agriculture Protection Zone) where the area of each allotment to be created by the subdivision is not less than 13 hectares.
- (4) In deciding whether to grant consent referred to in subclause (3), the matters which the council must take into consideration are—
  - (a) the area and quality of the land and its potential agricultural productivity,
  - (b) the likely effects, both economic and otherwise, that the proposed subdivision will have on agricultural industries in the area and the resources employed by or in connection with those industries,
  - (c) the likely effects, both economic and otherwise, that the proposed subdivision will have on the use and development of other land and resources in the area,
  - (d) whether there are any reasonable alternatives to the proposed subdivision in the circumstances,

- (e) the effect of the existence of, or potential to erect, a dwelling,
- (f) the cumulative effect of similar proposals if concurrence is granted,
- (g) the likelihood of the proposed allotments remaining available for agricultural use, and
- (h) the adequacy of the water supply to the proposed allotments.

### 13 Closer rural settlement

- (1) This clause applies to and within Zones Nos 1 (c1) and 1 (c2).
- (2) (Repealed)
- (3) Subject to clause 11, the council may consent to the subdivision of land within Zone No 1 (c2) where—
  - (a) a reticulated town water supply can be provided to the land, and
  - (b) the subdivision is linked by a bitumen sealed road to the nearest urban service centre.
- (4) In this clause—

**land** means a parcel of land held under a separate title on the appointed day.

### 14 Residential areas and rural villages

- (1) This clause applies to land within Zones Nos 2 (a), 2 (t) and 2 (v).
- (2) (Repealed)
- (3) The council shall not consent to the subdivision of the land in West Suffolk Park as shown on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 2)*" unless drainage works have been constructed in those areas shown hatched on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 2)*" to the satisfaction of the council's chief engineer.
- (4) (Repealed)
- (5) In subclause (6), **original holding** means a lot in a current plan (within the meaning of section 7A of the *Conveyancing Act 1919*) on the appointed day.
- (5A) The Council may only consent to the subdivision of the land in Ocean Shores shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 59)*" into 2 allotments, with no more than one dwelling-house on each allotment so created.
- (6) The Council may consent to a subdivision of all or part of an original holding at Suffolk

Park within Zone No 2 (a) shown hatched on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 19)*” only if—

- (a) the total number of allotments into which, after the subdivision, the original holding will be divided, will not exceed the number obtained by multiplying the area of the original holding in hectares by 5, and
- (b) the Council is satisfied that the maximum possible number of trees will be retained on each proposed allotment.

(7) The council may consent to the erection of a dwelling-house on land to which this clause applies only if its floor space ratio does not exceed 0.5:1.

## 15 Dwelling-houses

(1) This clause applies to land within Zone No 1 (a), 1 (b1), 1 (b2), 1 (c1), 1 (c2) 1 (d), 7 (c) or 7 (d).

(1A) A dwelling-house may not be erected on land to which this clause applies except in accordance with this clause.

(2) In subclause (2A), **existing holding** means—

- (a) an allotment, lot or portion in existence on the relevant day that was not on that day held in the same ownership as any adjoining or adjacent allotment, lot or portion, and that has not been subdivided since that day, or
- (b) each area of land comprised of all adjoining or adjacent allotments, lots or portions that were held in the same ownership on the relevant day, and that have not been subdivided since that day.

In this definition, **relevant day** means—

- (a) in the case of land formerly subject to *Interim Development Order No 1—Shire of Byron*, 8 November 1968, or
- (b) in the case of land formerly subject to *Interim Development Order No 1—Municipality of Mullumbimby*, 9 November 1973.

(2A) Consent may be granted to the erection of a dwelling-house on land to which this clause applies only if there is no dwelling already on the land and only if the land is—

- (a) an existing holding, or
- (b) an allotment created in accordance with clause 11, 11B, 12(3) or 13, or
- (c) a lot or portion referred to in Schedule 7, or
- (d) if a deposited plan is referred to in Schedule 7 without reference to any particular



lot or lots in it, any of the lots in the deposited plan, or

- (e) a portion or a lot (not included by paragraph (c) or (d)) that was created between 8 November 1968 and 21 April 1988 under the provisions of *Interim Development Order No 1—Shire of Byron* or *Interim Development Order No 1—Municipality of Mullumbimby* and is subject to a certificate of subdivision signed during that period by the Council's Clerk.

(2B) However, subclause (2A) does not prevent consent being granted to the erection of a dwelling-house on land described in that subclause that has been affected only by the following—

- (a) a minor boundary adjustment, such as to rectify an encroachment on an allotment,
- (b) a consolidation of lots, but not so as to reduce the area of the land on which the dwelling-house will be erected,
- (c) excision of part of the land if the part is to be acquired by a public authority,
- (d) excision of part of the land if the Council is satisfied the part is, or is intended to be, used for a public purpose.

(3) The council shall not consent to the erection of a dwelling-house in accordance with this clause unless it has satisfied itself that the dwelling will have adequate access and services and will not cause significant adverse environmental impact.

#### **15A (Repealed)**

#### **16 Rural workers' dwellings**

- (1) This clause applies to land within Zones Nos 1 (a), 1 (b1), 1 (b2), 1 (d), 7 (c) or 7 (d).
- (2) The council shall not consent to the erection of a rural workers' dwelling on land to which this clause applies unless—
  - (a) the erection of the additional dwelling will not impair the suitability of the land for agriculture,
  - (b) the needs of existing agriculture genuinely require that rural workers reside on the land,
  - (c) any other rural workers' dwellings on the land are being used by persons substantially engaged in agricultural employment on that land, and
  - (d) the rural worker to occupy the dwelling is to be employed by the owner of the land.
- (3) A rural worker's dwelling may, with the consent of the council, be erected on a parcel

of land to which this clause applies on which a rural worker's dwelling is already in existence if the number of such dwellings does not exceed one for each 40 hectares of land contained within the parcel.

## 17 Dual occupancy

- (1) This clause applies to land within Zones Nos 1 (a), 1 (b1), 1 (b2), 1 (c1), 1 (c2), 1 (d), 2 (a), 2 (t), 2 (v), 7 (c), 7 (d) and 7 (f2).
- (2) In this clause, **dual occupancy building** means a building containing 2 dwellings.
- (3) Where in accordance with clause 9, development for the purpose of a dwelling-house may be carried out on an allotment of land within Zones Nos 2 (a), 2 (t), 2 (v) or 7 (f2), a person may, with the consent of council—
  - (a) erect a dual occupancy building on the allotment of land,
  - (b) alter or add to a dwelling-house erected on the allotment of land so as to create a dual occupancy building,
  - (c) erect 2 dwelling-houses on the allotment, or
  - (d) erect a dwelling-house in addition to one already erected on the allotment,if, but only if, not more than 2 dwellings will be created or result on the allotment.
- (4) Where, in accordance with clause 9, development for the purpose of a dwelling-house may be carried out on an allotment of land within Zones Nos 1 (a), 1 (b), 1 (c1), 1 (c2), 1 (d), 7 (c) or 7 (d) to which this clause applies, a person may with the consent of the council—
  - (a) erect a dual occupancy building on the allotment of land, or
  - (b) alter or add to a dwelling-house erected on the allotment of land so as to create a dual occupancy building.
- (5) The council shall not grant consent as referred to in subclause (3) or (4) unless—
  - (a) arrangements satisfactory to it have been made for the provision of a water supply to each dwelling and for the disposal of sewage and stormwater from each dwelling, and
  - (b) the area of the allotment on which the dwellings are or will be erected is not less than 800 square metres.
- (6) Except as provided by subclause (7), the council shall not grant consent as referred to in subclause (3) or (4) unless the floor space ratio of any building on the land will not exceed 0.5:1.

(7) Where—

- (a) an application is made to the council in accordance with subclause (3) or (4) to alter or add to a dwelling-house to create a dual occupancy building, and
- (b) the floor space ratio of the dwelling-house before it is altered or added to exceeds 0.5:1,

the council may consent to the application if the floor space ratio of the dual occupancy building to be created is not more than the floor space ratio of the dwelling-house before the alteration or addition.

- (8) Where, in accordance with this clause, a dual occupancy building is erected or created, or is proposed to be erected or created, on land within a rural zone, the separate occupation of the several lots illustrated by a proposed strata plan relating to that building is prohibited.

(9) (Repealed)

**17A Multiple occupancy**

- (1) This clause applies to land shown edged in heavy black on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 67)*” deposited in the office of the council (the **Amendment No 67 land**) and to land referred to in Schedule 10 (the **Schedule 10 land**).

(2) The objectives of this clause are—

(a) to enable—

- (i) people to collectively own a single allotment of land and use it as their principle place of residence, and
- (ii) the erection of multiple dwellings on the allotment and the sharing of facilities and resources, and
- (iii) the collective environmental repair and management of the allotment, and
- (iv) the pooling of resources to economically develop a wide range of communal rural living opportunities, and

(b) to facilitate closer rural settlement in a clustered style in a manner that—

- (i) protects the environment, and
- (ii) does not create an unreasonable demand for the provision of services or a demand for the uneconomic provision of services, and
- (iii) does not involve subdivision, creation of **strata titles** or any other form of

separate land title for individual dwellings and does not involve separate legal rights of ownership of determined parts of the land through other means such as agreements, dealings, company shares, trusts or time-sharing arrangements, and

(c) to implement the aims, guiding principles, guidelines and performance standards for rural settlement in the *Byron Rural Settlement Strategy 1998*, available from the office of the council.

(3) The council may grant consent—

(a) in the case of a parcel of the Amendment No 67 land—to development for the purpose of not more than 6 to 15 dwellings-houses (inclusive of any existing dwellings) on that parcel, and

(b) in the case of each parcel of Schedule 10 land identified in that Schedule—to development for the purpose of not more than the number of dwellings indicated for that parcel in Schedule 10 (inclusive of any existing dwellings) on that parcel.

(4) Such a consent may be granted only if—

(a) the parcel of land comprises a single allotment, and

(b) except in the case of a parcel of Schedule 10 land, the area of the parcel is not less than 20 hectares, and

(c) the council is satisfied that the land will be managed in accordance with the following, both prepared to the council's satisfaction and addressing the issues specified in the *Byron Rural Settlement Strategy 1998*—

(i) a Rural Landsharing Management Plan, and

(ii) an Environmental Enhancement and Management Plan, and

(d) the council has taken into account an Environmental Impact Assessment Report addressing the issues specified for such a report in the *Byron Rural Settlement Strategy 1998*, and

(e) in the case of an allotment of the Amendment No 67 land—

(i) the number of dwelling-houses (inclusive of any existing dwellings) on the allotment will not exceed one dwelling-house for each 3 hectares of the total area of the allotment, and

(ii) for each such dwelling-house there is not less than one hectare of developable land identified in accordance with the *Byron Rural Settlement Strategy 1998*, and

(f) the location of the dwelling-houses (excluding any existing dwelling or dwellings) is

in a clustered style in accordance with the *Byron Rural Settlement Strategy 1998*.

- (5) Except as provided by clause 17B, if the council grants consent in accordance with this clause to development on a parcel of land to which this clause applies, subdivision of that parcel (including subdivision under the *Community Land Development Act 1989* or subdivision by means of a strata plan or a strata plan of subdivision within the meaning of the *Strata Schemes Development Act 2015* is prohibited.

**17B Community title subdivision of multiple occupancy development**

- (1) This clause applies to land referred to in Schedule 13.
- (2) Community title subdivision of land to which this clause applies may, with development consent, be carried out in accordance with the requirements and conditions of Schedule 13 and this clause.
- (3) The total number of lots created must be equal to or less than that listed in Schedule 13 in relation to the land concerned.
- (4) Consent must not be granted to a development application for community title subdivision under this clause if the application was lodged more than 5 years after the date of gazettal of the plan that inserted the relevant item into Schedule 13.
- (5) Consent must not be granted to a development application for community title subdivision under this clause unless the Council has considered the following information in relation to the proposed development—
- (a) a water management plan,
  - (b) an on-site sewage management plan,
  - (c) a waste management plan,
  - (d) an environmental repair and enhancement management plan,
  - (e) a bushfire management plan,
  - (f) a neighbourhood management statement, including but not limited to the following—
    - (i) provision for bushfire management,
    - (ii) a prohibition on domestic cats and dogs or provisions providing for their management,
    - (iii) provision for environmental repair and enhancement,
    - (iv) provision for waste management,
    - (v) provision for water management,

- (vi) provision for on-site sewage management,
  - (vii) provision for design and construction of any new dwellings.
- (6) An environmental repair and enhancement management plan as referred to in subclause (5)(d) must address—
- (a) the following—
    - (i) planting of not less than 900 native plants per dwelling-house or holiday cabin,
    - (ii) all plantings to be undertaken in priority areas for environmental repair to ensure the expansion of the following—
      - (A) wildlife corridors and connecting areas between vegetation remnants,
      - (B) existing vegetation remnants,
      - (C) habitats for threatened species and plant communities,
      - (D) riparian areas adjoining water courses,
    - (iii) all plantings to be based on locally sourced species,
    - (iv) the aims and objectives of environmental rehabilitation as they relate to flora and fauna communities and habitats,
    - (v) a detailed planting strategy incorporating the following—
      - (A) planting site preparation,
      - (B) specific locations,
      - (C) spacing and density,
      - (D) a species list,
      - (E) mature heights of tree and shrub species to be planted,
      - (F) establishment of planting areas,
      - (G) expected completion date for planting activities,
      - (H) a weed maintenance program,
    - (vi) a detailed regeneration and rehabilitation strategy incorporating the following—
      - (A) areas for regeneration and rehabilitation work,
      - (B) the activities proposed in each area,

- (C) priority areas and timeframes for implementation in those areas, and
- (b) the objectives and provisions of the *Byron Biodiversity Conservation Strategy 2004*, including but not limited to the following components—
  - (i) site plans identifying the location of the following—
    - (A) high conservation value vegetation,
    - (B) wildlife corridors,
    - (C) existing erosion and land degradation,
    - (D) streambanks, watercourses and drainage lines,
    - (E) environmental repair and enhancement zones,
    - (F) any proposed buffer plantings,
    - (G) any other relevant items,
  - (ii) where high conservation value vegetation and habitats occur on the land, specific management measures to ensure its conservation,
  - (iii) where a wildlife corridor occurs on the land, specific management measures to ensure its conservation,
  - (iv) measures to control and manage noxious and environmental weeds and introduced pest species,
  - (v) measures to protect steeply sloping areas and manage erosion and land degradation,
  - (vi) measures to manage sedimentation and prevent degradation of watercourses, creeks and drainage lines,
  - (vii) where threatened species or communities occur on the land, measures to manage and protect individuals or communities and their habitats,
  - (viii) measures to manage vegetation and habitats in asset protection zones,
  - (ix) measures to control and manage pollution of waterways and existing native vegetation from residential and agricultural use of the land,
  - (x) measures to address the provisions of any Council adopted guidelines for property or biodiversity management plans.
- (7) In this clause, **community title subdivision** means subdivision in accordance with the *Community Land Development Act 1989*.

## **Division 2 Environmental heritage**

### **18 Items of the environmental heritage**

A person shall not, in respect of a building, work, relic or place that is an item of the environmental heritage—

- (a) demolish, renovate or extend that building or work,
- (b) damage or despoil that relic or place or any part of that relic or place,
- (c) excavate any land for the purposes of exposing or removing that relic,
- (d) erect a building on the land on which that building, work or relic is situated or on the land which comprises that place, or
- (e) subdivide the land on which that building, work or relic is situated or the land which comprises that place,

except with the consent of the council.

### **19 Development relating to certain heritage items**

- (1) This clause applies to those buildings, works, relics and places which are items of the environmental heritage.
- (2) The council shall not grant consent to a development application in respect of any item of the environmental heritage to which this clause applies unless it has made an assessment of—
  - (a) the significance of the item as an item of the environmental heritage of the Shire of Byron,
  - (b) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item and its site,
  - (c) whether any stylistic, horticultural or archaeological features of the item or its setting should be retained,
  - (d) whether the item constitutes a danger to the users or occupiers of that item or to the public, and
  - (e) where the item is a building—
    - (i) the colour, texture, style, size and type of finish of any materials to be used on the exterior of the building and the effect which the use of those materials will have on the appearance of the exterior of the building and any other building in the neighbourhood,



- (ii) the style, size, proportion and position of openings for any windows and doors which will result from, or be affected by, the carrying out of the development, and
- (iii) the pitch and form of the roof of the building.

**Note—**

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

**20 Development incentive relating to heritage items**

Nothing in this plan prevents the council from granting consent—

- (a) to the use, for any purpose, of the land on which a building is erected, or
- (b) to the use, for any purpose, of a building that is an item of the environmental heritage or of the land on which that building is erected,

where the council is satisfied that—

- (c) the use would have little or no adverse effect on the amenity of the neighbourhood, and
- (d) conservation of the building depends upon the council granting consent in pursuance of this clause.

**21 (Repealed)**

**22 Advertising of heritage applications**

- (1) Subject to subclause (2), the provisions of sections 84, 85, 86, 87(1) and 90 of the Act apply to and in respect of—

- (a) the demolition of a building or work that is an item of the environmental heritage, and
- (b) the use of a building or land referred to in clause 20 for a purpose which, but for that clause would be prohibited under this plan,

in the same way as those provisions apply to and in respect of designated development.

- (2) Subclause (1) does not apply to the partial demolition of a building or work where, in the opinion of the council, the partial demolition is of a minor nature and does not adversely affect the significance of the building or work as part of the environmental heritage of the Shire of Byron.

## **Division 3 Certain development**

### **23 Designated development**

- (1) This clause applies to all land to which this plan applies.
- (2) Pursuant to section 29 of the Act, development for the purpose of any permanent flood overflow or ocean entry is designated development for the purposes of the Act.
- (3) All components of any proposed flood mitigation works to implement any floodplain management plan for land in Ocean Shores to which *Byron Local Environmental Plan 1988 (Amendment No 14)* applies are, pursuant to section 29 of the Act, declared to be designated development.
- (4) (Repealed)

### **24 Development of flood liable land**

- (1) This clause applies to flood liable land.
- (2) Notwithstanding any other provision of this plan, a person shall not erect a dwelling-house, or any other building, or carry out filling or construction of levees on land that is flood liable, except with the consent of the council.
- (3) The council shall not consent to the erection of a building or the carrying out of a work on flood liable land unless—
  - (a) the council is satisfied that—
    - (i) the development would not restrict the flow characteristics of flood waters,
    - (ii) the development would not increase the level of flooding on other land in the vicinity,
    - (iii) the structural characteristics of any building or work the subject of the application are capable of withstanding flooding, and
    - (iv) the building is adequately flood proofed, and
  - (b) satisfactory arrangements are made for access to the building or work during a flood.
- (4) Despite any other provision of this plan, the council may grant consent to development for the purpose of modifying the hydraulic capacity of the Capricornia Canal culvert located on Kallaroo Circuit, Ocean Shores, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 132)*", if the council has considered—
  - (a) the environmental and ecological impact of the development, and

- (b) the impact of the development on water quality in Capricornia Canal and Marshalls Creek and any measures that may be undertaken to avoid any degradation of water quality.

## **25 Exhibition homes**

Nothing in this plan shall prevent the use, with the consent of the council, of a dwelling-house within Zone No 1 (c1), 1 (c2), 2 (a) or 2 (v) as an exhibition home provided that the dwelling-house is not situated on land having frontage to an arterial road.

## **26 (Repealed)**

## **27 Building lines along arterial roads**

- (1) A person shall not, on an allotment of land which is within Zone No 1 (a), 1 (b1), 1 (b2), 1 (c1), 1 (c2), 7 (a), 7 (c), 7 (d) or 7 (f1), and which has a frontage to an arterial road as designated on the map, erect a building for any purpose closer than 55 metres from the boundary of the road.
- (2) Notwithstanding subclause (1), a person may, with the consent of the council, erect a building closer than 55 metres from the boundary of an arterial road as designated on the map, provided the council is satisfied that—
  - (a) the allotment of land is totally contained within 55 metres of the boundary of the road, or
  - (b) there is no alternative suitable building site due to levels, steepness, instability, flooding or other physical barrier, or
  - (c) the amenity of the immediate environment would be adversely affected by requiring the 55 metre setback to be maintained.

## **28 (Repealed)**

## **29 Development for certain additional purposes**

- (1) Nothing in this plan prevents a person, with the consent of the council, from carrying out—
  - (a) a subdivision referred to in Schedule 8 on land referred to in that Schedule in relation to that subdivision, or
  - (b) other development on land referred to in that Schedule for a purpose specified in relation to that land in that Schedule,subject to such conditions, if any, as are so specified.
- (2) Subclause (1) does not affect the application to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent

with that subclause or with a consent granted by the council in respect of the development.

- (3) Any development that was lawfully being carried out on the land referred to in item 22 of Schedule 8 immediately before the amendment of that item by *Byron Local Environmental Plan 1988 (Amendment No 93)* may continue to be carried out as if that item had not been so amended.

#### **29AA Development of certain land at North Ocean Shores**

- (1) This clause applies to Lot 103, DP 856767, North Ocean Shores, as shown edged heavy black and hatched on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 62)*".
- (2) Despite any other provision of this plan, the land to which this clause applies may be subdivided into not more than 8 lots (including not more than 7 lots identified for use for residential purposes) and a road.
- (3) The council shall not consent to subdivision of the land to which this clause applies unless it is satisfied that adequate road access is available to the land.
- (4) Not more than one dwelling-house may be erected on each allotment so created for residential purposes.

#### **29A Sandhills Estate**

- (1) This clause applies to land within Zone No 3 (a), as shown on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 5)*" deposited in the office of the council.
- (2) A person shall not carry out development on land to which this clause applies, except development for the purpose of the following which may be carried out only with the consent of the council—

agriculture (other than animal establishments); building of levees; bush fire hazard reduction; clearing of land; environmental facilities; drains; home industries; oyster farming; primitive camping grounds; roads; utility installations.

- (3) (Repealed)

#### **30 Development within Zone No 7 (d) (Scenic)**

- (1) This clause applies to all land within Zone No 7 (d).
- (2) In this clause—

**external surfaces**, in relation to a building or work, includes the external walls and cladding (if any) thereon, external doors, external door and window frames, columns, roofs, fences and any surface of that building or work visible from the exterior of that

building or work.

***prescribed materials***, means dark tones or dark coloured materials of low reflective quality or materials which are painted or similarly treated with dark toned or dark coloured paint or pigment of low reflective quality.

- (3) Before giving its consent to the erection of a building on land to which this clause applies, the council shall make an assessment as to whether it should impose conditions relating to—
- (a) the use on the external surfaces of the building of prescribed materials,
  - (b) the number, type and location of existing trees and shrubs which are to be retained and the extent of landscaping to be carried out on the site, and
  - (c) the siting of the proposed buildings.

### **31 Development on ridgetops**

The council shall not consent to the erection of a building or the carrying out of other development on or near any ridgeline on land to which this plan applies unless no alternative location for the building or other development is available, in which case the following objectives to lessen the impact are to be considered before consent is granted—

- (a) whether there will be adequate existing or proposed landscaping, trees or other vegetation which assist or are likely to assist in mitigating visual impact, and
- (b) whether the proposed building design elements, materials of construction and proposed colours will mitigate potential adverse visual impact, including the reflectivity of materials to be used.

### **32 Development within Zone No 7 (f2) (Urban Coastal Land Zone)**

- (1) This clause applies to all land within Zone No 7 (f2).
- (2) A person shall not carry out development (other than exempt development) on land to which this clause applies except with the consent of the Council.
- (3) The Council, in deciding whether to grant consent to development referred to in subclause (2), shall take into consideration—
  - (a) the likelihood of the proposed development adversely affecting, or being adversely affected by, coastal processes,
  - (b) the need to relocate buildings in the long term,
  - (c) the need for the development consent to be limited to a particular period,
  - (d) the form, bulk, intensity and nature of the development, and

(e) continued safe public access to the site.

(4) The council shall not consent to the carrying out of development on land shown edged heavy black and stippled on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 66)*” for the purpose of clubs, commercial premises, hostels, hotels, motels, residential flat buildings, shops or tourist facilities or for a purpose that would otherwise be permissible with consent under clause 17 (Dual occupancy).

(5) The Council must not consent to the subdivision of land within Zone No 7 (f2) other than—

(a) a subdivision under a strata plan that does not create a development lot, or

(b) a subdivision to excise an allotment that is, or that the Council is satisfied is intended to be, used for a public purpose, or

(c) a subdivision that, in the opinion of the Council, is only a boundary adjustment where no additional lots are created.

### **33 Development within Zone No 7 (f1) (Coastal Lands Zone)**

(1) This clause applies to all land within Zone No 7 (f1).

(2) A person shall not carry out development for any purpose on land to which this clause applies except with the consent of the council.

(3) (Repealed)

(4) The Council, in deciding whether to grant consent to development referred to in subclause (2), shall take into consideration—

(a) the likelihood of the proposed development adversely affecting, or being adversely affected by, coastal processes,

(b) the likelihood of the proposed development adversely affecting any dune or beach of the shoreline or foreshore,

(c) the likelihood of the proposed development adversely affecting the landscape, scenic or environmental quality of the locality of the land, and

(d) whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment.

(e) (Repealed)

### **34 Tourist accommodation in rural zones**

(1) This clause applies to all land within rural zones where rural tourist facilities are permissible.

- (2) Development for the purpose of a rural tourist facility incorporating holiday cabins on land to which this clause applies—
  - (a) may only be carried out on a single allotment, and
  - (b) must not—
    - (i) exceed a total of 6 cabins, and
    - (ii) be carried out on an allotment with an area less than 20 hectares.
- (3) The council may grant consent for development for the purposes of rural tourist facilities on land within rural zones only where the council is satisfied that—
  - (a) (Repealed)
  - (b) the proposal incorporates adequate landscaping and screen plantings for visual amenity when viewed from a public road or dwelling-house on other land in the locality,
  - (c) (Repealed)
  - (d) the proposed development will have no adverse effect on the present and potential use, including agricultural use, of the land and of lands in the vicinity,
  - (e) there will be no adverse visual impact of the proposed development on the landscape,
  - (f) the proposed development will be low scale in nature, compatible with the rural environment and of minimal environmental impact,
  - (g) (Repealed)
  - (h) tourist accommodation is to be located so that it may benefit from existing road and physical service infrastructure, and
  - (i) all proposed buildings and other uses are clustered so as to reduce impact on rural amenity, and
  - (j) adequate separation distances will be incorporated to minimise the potential for land use conflict between the proposed rural tourist facility and existing or potentially conflicting land uses, such as intensive agriculture, quarries or animal establishments on adjoining or adjacent land.

### **35 Retailing of bulky goods in Zone No 4 (a)**

- (1) This clause applies to land within Zone No 4 (a).
- (2) In this clause—

**bulky goods** means large goods which are, in the opinion of the council, of such a size and shape as to require—

- (a) a large area for handling, storage or display, and
  - (b) easy and direct vehicular access to enable the goods to be collected by customers after sale.
- (3) Subject to subclauses (4) and (5), nothing in this plan shall prevent a person, with the consent of the council, from carrying out development for the purposes of the sale of bulky goods.
- (4) The council shall not consent to an application to carry out development on land to which this clause applies for the purposes of the sale of bulky goods unless it is satisfied that—
- (a) suitable land for the development is not available in any nearby business centre,
  - (b) to grant consent would not, by reason of the number of retail outlets which exist or are proposed on land within Zone No 4 (a), defeat the predominantly industrial nature of the zone, and
  - (c) the proposed development will not detrimentally affect the viability of any business centre.
- (5) This clause does not apply to development for the purposes of shops selling food or clothing.

### **36 Development adjoining wetland**

- (1) This clause applies to land adjoining or contiguous to land within Zone No 7 (a).
- (2) A person shall not clear, drain, excavate or fill land to which this clause applies without the consent of the council.
- (3) The council shall not consent to the carrying out of development on or adjoining or contiguous to land within Zone No 7 (a) unless it has taken into consideration—
  - (a) the likely effects of the development on the flora and fauna found in the wetland,
  - (b) the likely effects of the development on the water table, and
  - (c) the effect on the wetlands of any proposed clearing, draining, excavating or filling.

### **37 Development within Zone No 1 (d) (Investigation Zone)**

- (1) This clause applies to land within Zone No 1 (d).
- (2) In considering any development application in relation to land to which this clause applies, the council shall consider the following matters as they relate to likely future



uses of the land to be investigated—

- (a) the land capability of the land,
- (b) the demand for the development of the land,
- (c) whether the land can be serviced with water, sewerage and roads, and the likely future road network,
- (d) the strategic implication of the development of the land,
- (e) whether the land is located within the buffer area of a quarry, piggery or sewage treatment works, and
- (f) environmental management of the land.

- (3) In determining any application for development of any land to which this clause applies, the council shall not grant consent unless it has considered the need to protect significant vegetation and wildlife habitats and to ensure that any development will not adversely affect significant vegetation and wildlife on that land or adjacent land.

**38 Development within Zone No 1 (a) shown hatched on the map**

- (1) This clause applies to land within Zone No 1 (a) and shown hatched on the map.
- (2) The council shall not consent to the carrying out of development for any purpose on land to which this clause applies unless the council has made an assessment of the susceptibility of the land and the proposed development to flooding, landslip, bushfire hazard, soil erosion and the like.

**38A Development of land shown cross-hatched within Zones 1 (a), 1 (b1), 1 (d) and 7 (k) adjacent to Environmental Protection Zones 7 (a), 7 (b), 7 (k) and 7 (j)**

- (1) This clause applies to land within Zone No 1 (a), 1 (b1), 1 (d) or 7 (k) and shown cross-hatched on the map.
- (2) Despite other provisions of this plan, a person must not—
  - (a) clear, drain, excavate or fill the land to which this clause applies, or
  - (b) carry out development for the purpose of agriculture or forestry on the land to which this clause applies, or
  - (c) erect a building or construct a road on the land to which this clause applies, except with the consent of the council.
- (3) The council must not grant a consent required by subclause (2) unless it has taken into consideration—

- (a) the likely effect on the fauna, flora, water table and habitat value of adjacent land within Zone No 7 (a), 7 (b) and 7 (k) of the development that the granting of that consent would permit, and
- (b) the need for measures to protect and enhance the habitat value of the adjacent land within Zone No 7 (a), 7 (b) or 7 (k) by fencing to control access by people, vehicles and animals, reforestation with native plants, control of run off to prevent siltation and nutrient enrichment, bushfire management to facilitate maintenance of natural fire regimes, and weed eradication, and
- (c) the appropriate width of the buffer area to protect the adjacent fauna, flora and habitat areas, having regard to species diversity, topography and the like.

**38B Development of land at North Ocean Shores within Zone Nos 1 (b1) and 7 (k)**

- (1) This clause applies to certain land at North Ocean Shores, being within Zone No 1 (b1) or 7 (k) and shown as cross-hatched on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 51)*".
- (2) The objective of this clause is to ensure that the use and other development of land adjacent to areas of significant vegetation, or wildlife habitat, or in a potential wildlife corridor, does not result in any degradation of that significant vegetation, wildlife habitat or potential wildlife corridor, and that any such development conserves, protects and enhances the value of the flora or fauna or the potential wildlife corridor concerned.
- (3) Clause 38A does not apply to land to which this clause applies if it is developed in accordance with a property management plan submitted to the council if—
  - (a) (Repealed)
  - (b) the property management plan addresses all the matters referred to in clause 38A(3), and
  - (c) the property management plan addresses the manner in which any potential wildlife corridor concerned and habitat values are to be protected and enhanced, and
  - (d) the property management plan takes into consideration the guiding principles of sustainable development.
- (4) In this clause, **property management plan** means a plan prepared in accordance with the guidelines set out in *Property Planning, How to Produce a Physical Property Plan* published in 1995 by NSW Agriculture.

**39 Precinct plan for certain land**

- (1) This clause applies to the land to which item 51 of Schedule 8 applies.

- (2) Before consent is granted pursuant to clause 29 to development for a purpose described in item 51 of Schedule 8, a draft precinct plan for development of the land is to be prepared by, or on behalf of, the owner of the land following consultation with the council.
- (3) The draft precinct plan—
  - (a) is to be in the form of a document (consisting of written information, maps and diagrams) that describes the development referred to in item 51 of Schedule 8 in greater detail than is set out in the item, and
  - (b) is to include an outline of long-term proposals for development of the entire site for which the precinct plan is required, and
  - (c) is to address, illustrate and explain how the proposals referred to in paragraph (b) address the matters set out in subclause (4) that are relevant to the proposals (but is not limited to doing so).
- (4) The matters referred to subclause (3)(c) are the following—
  - (a) design principles drawn from an analysis of the site and its context,
  - (b) phasing of development,
  - (c) distribution of land uses, including open space and environmental restoration areas,
  - (d) subdivision pattern,
  - (e) building envelopes and built form controls,
  - (f) bushfire protection measures and plans,
  - (g) infrastructure provision,
  - (h) remediation of the site,
  - (i) pedestrian, cycle and road access and circulation network, with particular regard to public transport servicing,
  - (j) parking provision,
  - (k) provision of other facilities,
  - (l) impact on, and improvements to, the public domain,
  - (m) landscaping and stormwater infiltration areas,
  - (n) identification and conservation of native flora and fauna habitat on the site, including any threatened species, populations or ecological communities,

- (o) the principles of ecologically sustainable development.
- (5) After considering a draft precinct plan, the council—
  - (a) may adopt the precinct plan without variation, or
  - (b) may adopt the precinct plan with such variations as it considers appropriate, or
  - (c) may reject the draft precinct plan.
- (6) When a precinct plan is adopted, the council must place a notice to that effect in a newspaper circulating in the locality.
- (7) A precinct plan may be amended or replaced by a subsequent precinct plan.

### **39A Site remediation for certain land**

- (1) This clause applies to the land to which item 51 of Schedule 8 applies.
- (2) Site area remediation works are to be carried out on the land in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 4 and the *Contaminated Land Management Act 1997* at no cost to the council.
- (3) All consents, permissions or other approvals required under the *Environmental Planning and Assessment Act 1979*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 4 and the *Contaminated Land Management Act 1997* for the carrying out of the remediation works must be obtained.
- (4) Prior to the commencement of the remediation works, a remediation action plan, a works program and a validation monitoring program in respect of the works must be submitted to the council.

### **39B Site audit for certain land**

- (1) This clause applies to the land to which item 51 of Schedule 8 applies.
- (2) Before granting consent to development for a purpose set out in item 51 of Schedule 8, the council may require a site audit to be carried out in respect of the land by a site auditor accredited under the *Contaminated Land Management Act 1997* by the Department of Environment and Conservation and the site audit report and site audit statement in relation to the site audit to be furnished to, and approved by, the council.
- (3) The council may refuse to approve the site audit report and site audit statement if the site audit statement does not contain the following findings in relation to the site audit—
  - (a) that the soil, gas, groundwater, surface water and soil stability issues have been appropriately managed,

- (b) that the land has been successfully remediated and is suitable for development for the purpose for which the consent is being sought.

### **39C Building height on east side of Jonson Street, Byron Bay**

- (1) This clause applies to certain land on the east side of Jonson Street (between Kingsley and Browning Streets), Byron Bay, being land within Zone No 3 (a), as shown coloured light blue, edged heavy black and lettered “3 (a)” on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 115)*”.
- (2) Despite any other provision of this plan (including clause 40(2)(a)), the council must not consent to the erection of any building on land to which this clause applies if—
  - (a) the floor of the topmost floor level of the building exceeds 4.5 metres above the existing ground level, or
  - (b) the vertical distance between the topmost part of the building and the existing ground level below exceeds 9 metres.

## **Division 4 General provisions**

### **40 Height**

- (1) The objectives of this clause are as follows—
  - (a) to achieve building design that does not exceed a specified maximum height from its existing ground level to finished roof or parapet,
  - (b) to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.
- (2) The council must not consent to the erection of any building—
  - (a) on land within Zone No 3 (a), if—
    - (i) the floor of the topmost floor level of the building exceeds 7.5 metres above the existing ground level, or
    - (ii) the vertical distance between the topmost part of the building and the existing ground level below exceeds 11.5 metres, or
  - (b) on land within any other zone, if—
    - (i) the floor of the topmost floor level of the building exceeds 4.5 metres above the existing ground level, or
    - (ii) the vertical distance between the topmost part of the building and the existing ground level below exceeds 9 metres.

#### **41 Community use of schools**

Despite any other provision of this plan, the council may consent to the community use, whether or not of a commercial nature, of the facilities and sites of schools, colleges and other educational establishments.

#### **42 Minor variation of zoning boundaries**

- (1) The objective of this clause is to provide flexibility where detailed investigation of a site and its surrounds reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site.
  - (1A) This clause applies to land which is—
    - (a) within 20 metres of a boundary between land within Zone No 2 (a), 2 (t), 2 (v) or 3 (a) and land within Zone No 4 (a), 5 (a), 5 (b) or 7 (f2), or
    - (b) within 100 metres of a boundary between any two of the following zones—  
Zone No 1 (a), 1 (b1), 1 (b2), 1 (c1), 1 (c2), 1 (d), 1 (e), 6 (b), 7 (c), 7 (d) or 9 (a), or
    - (c) within 20 metres of a boundary between land within Zone No 2 (a), 2 (t), 2 (v), 3 (a), 4 (a), 5 (a), 5 (b) or 7 (f2) and land within Zone No 1 (a), 1 (b1), 1 (b2), 1 (c1), 1 (c2), 1 (d), 1 (e), 6 (b), 7 (c), 7 (d) or 9 (a), or
    - (d) within 100 metres of a boundary between land within Zone No 7 (k) in West Suffolk Park as shown on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 2)*” and land within Zone No 2 (a).
- (2) Subject to subclauses (3) and (4), development may be carried out, with the consent of the council, on land to which this clause applies for any purpose for which development may be carried out in the adjoining zone on the other side of the boundary.
- (3) The council shall not consent to the carrying out of development referred to in subclause (2) unless, in the opinion of the council, the carrying out of the development is desirable due to planning, design, ownership, servicing or similar requirements relating to the optimum development of land to which this plan applies.
- (4) The council shall not consent to the carrying out of development under this clause on land within Zone No 7 (k) and referred to in subclause (1)(d) unless the council is satisfied that a boundary survey report of the significant habitat areas of the land establishes that the proposed development will have no adverse effects on those areas.

### 43 Acquisition of certain lands

- (1) This clause applies to land within Zone No 5 (a), 6 (a), 7 (f1), 8 (a), or 9 (a).
- (2) The owner of any land shown on the zoning map as described below may, by notice in writing, require the public authority specified in respect of that land to acquire it—
  - (a) within Zone No 5 (a) (Special Uses Zone) and lettered “Cemetery”, “Garbage Depot”, “Drainage” or “Sewage Treatment Works”—the council, or
  - (b) within Zone No 5 (a) (Special Uses Zone) and lettered “Education” or “School”—the Minister administering the *Education Act 1990* (unless the land is reserved for private education), or
  - (c) within Zone No 6 (a) (Open Space Zone)—the council, or
  - (d) within Zone No 7 (f1) (Coastal Lands (f1) Zone) listed in Schedule 9—the corporation constituted by section 8(1) of the Act, or
  - (e) within Zone No 8 (a) (National Parks and Nature Reserve Zone)—the Minister administering the *National Parks and Wildlife Act 1974*, or
  - (f) within Zone No 9 (a) (Proposed Road Zone)—the Minister administering the *Roads Act 1993*.
- (3) On receipt of such a notice, the public authority concerned is to acquire the land, subject to subclause (4).
- (4) The council need not take any action with respect to acquiring land within Zone No 5 (a) (Special Uses Zone) or Zone No 6 (a) (Open Space Zone) for 90 days (or for such other period as may be agreed between the owner and the council before that period expires) after receiving a notice requiring acquisition of land if the council, within 14 days after receiving the notice, notifies the owner that it is reviewing the zoning of the land. The council need not acquire the land pursuant to the notice if the land is rezoned, or the council serves notice on the owner that it has decided to prepare a local environmental plan to rezone the land, before the period of 90 days (or the agreed period) expires.
- (5) The council shall not be required to acquire land, the subject of a notice referred to in subclause (2), where the land is required to be dedicated to council as a condition of development consent or subdivision approval.
- (6) The Roads and Traffic Authority shall not be required to acquire land, the subject of a notice referred to in subclause (2), unless—
  - (a) a development application has been made in respect of the land,
  - (b) the development the subject of the development application consists of

development for a purpose for which development could have been carried out on the land prior to the appointed day, and

- (c) the council has refused its consent to the development application on the basis that the Roads and Traffic Authority has not concurred in the development.

#### **44 Use of land pending acquisition**

- (1) Land to which clause 43 applies may be developed for any purpose, with the consent of council, prior to its acquisition by the public authority concerned.
- (2) The council must not grant consent to development referred to in subclause (1) on land within Zone No 9 (a) unless it has taken into consideration—
  - (a) the effect of the proposed development on the costs of the acquisition, and
  - (b) the costs of reinstatement of the land for the purposes for which the land is to be acquired, and
  - (c) the imminence of the acquisition.
- (3) (Repealed)

#### **45 Provision of services**

- (1) The Council shall not consent to the carrying out of development on any land to which this plan applies unless it is satisfied that prior adequate arrangements have been made for the provision of sewerage, drainage and water services to the land.
- (2) (Repealed)

#### **46 Development in open space zones**

The council shall not consent to the carrying out of development on land with Zone No 6 (a), being land owned or controlled by the council, unless consideration has been given to—

- (a) the need for the proposed development on that land,
- (b) the impact of the proposed development on the existing or likely future use of the land, and
- (c) the need to retain the land for its existing or likely future use.

#### **47 Classification and reclassification of public land as operational land**

- (1) The public land described in Schedule 11 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*, subject to this clause.
- (2) The amendments made by the *Local Government Amendment (Community Land*



*Management) Act 1998* to section 30 of the *Local Government Act 1993* do not apply to the land described in Part 1 of Schedule 11.

- (3) Land described in Part 2 of Schedule 11—
  - (a) to the extent (if any) that the land is a public reserve, does not cease to be a public reserve, and
  - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants by which it was affected before its classification, or reclassification, as operational land.
- (4) Land described in Columns 1 and 2 of Part 3 of Schedule 11, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant amending plan and, by the operation of that plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land except those (if any) specified opposite the land in Column 3 of Part 3 of Schedule 11.
- (5) In this clause, **the relevant amending plan**, in relation to land described in Part 3 of Schedule 11, means this plan or, if the description of the land is inserted in that Part by another local environmental plan, that plan.
- (6) Before the relevant amending plan inserted a description of land into Part 3 of Schedule 11, the Governor approved of subclause (4) applying to the land.

#### **47AA Classification and reclassification of public land as community land**

The public land described in Schedule 11A is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.

#### **47A Development on certain land at Ocean Shores**

- (1) This clause applies to land known as Lot 946, DP 241810, Ocean Shores, as shown edged in heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 57)*".
- (2) The Council shall not grant consent to the erection of a building or any other development which in the Council's opinion will adversely impact on the local drainage in areas shown cross-hatched for drainage retention on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 57)*".
- (3) The Council shall not grant consent to any native vegetation removal or disturbance or the erection of a building or any other development which in the Council's opinion will adversely impact on the significant trees in areas shown hatched for significant trees on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 57)*".

#### **48 Temporary use of certain land**

- (1) Despite any provision of this plan, a person may, without the consent of the Council, carry out development on land for any purpose (not being designated development) within Zone No 6 (a) or 7 (f1) for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year if—
  - (a) such land is vested in the Crown, a Minister of the Crown or the Council, and
  - (b) the development does not involve the erection of permanent structures ancillary to the use of that land.
- (2) Despite any other provision of this plan, a person may, but only with the consent of the Council, carry out development on the following land for any purpose (not being designated development) for a maximum period of 7 days on any one occasion up to a maximum of 60 days in a calendar year if the development does not involve the erection of permanent structures ancillary to the use of that land—

Lot 1, DP 201626 and Lot 2, DP 542178, Ewingsdale Road, Ewingsdale

Lot 358, DP 704247, Bangalow Road, Byron Bay.

#### **48A Temporary use of land**

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that—
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this plan and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
- (5) Subclause (3)(d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

#### **49 Suspension of certain covenants and laws**

- (1) For the purpose of enabling development to be carried out in accordance with this plan (as at the time the development is carried out) or in accordance with a consent granted under the Act—
  - (a) any agreement, covenant or similar instrument imposing restrictions as to the erection or use of buildings for certain purposes or of the use of land for certain purposes, and
  - (b) Division 2 of Part 4 of the *Strata Schemes Development Act 2015*,  
to the extent necessary to serve that purpose, shall not apply to development carried out in accordance with this plan.
- (2) Pursuant to section 28 of the Act, before the making of this clause—
  - (a) the Governor approved of subclause (1), and
  - (b) the Minister for the time being administering the provision referred to in subclause (1)(b) concurred in writing in the recommendation for the approval of the Governor of subclause (1) in so far as it relates to that provision.

#### **51 Brothels**

- (1), (2) (Repealed)
- (3) In determining an application for consent to carry out development for the purpose of a brothel, the Council must take into consideration such of the following matters as are of relevance to the application—
  - (a) the location of the brothel and its proximity to any church, place of worship, community facility, educational establishment, child care centre, medical centre, public open space, recreational area, residential development or like place where children and young people are likely to gather or pass by,
  - (b) whether the operation of the brothel is likely to cause disturbance in the neighbourhood when taking into account other brothels operating in the neighbourhood or other land uses within the neighbourhood involving similar hours of operation,
  - (c) whether the operation of the brothel would cause a disturbance in the

neighbourhood because of its size or operating hours, or the number of people working in it,

- (d) whether suitable access is available, or is proposed to be provided,
- (e) whether sufficient off-street parking is available or is proposed to be provided,
- (f) whether a suitable waiting area is provided in the brothel so as to prevent clients loitering outside the premises, and
- (g) the design and external appearance of the building and any associated structure and their impact on the character of the surrounding built environment.

## **52 Tree preservation**

- (1) The Council may, by resolution, make, revoke or amend a tree preservation order.
- (2) A tree preservation order, or any revocation or amendment of such an order, does not have effect until it has been published in a newspaper circulating in the local government area of Byron.
- (3) A tree preservation order must specify the trees and any other vegetation covered by the order. Trees and vegetation may be specified by reference to their types, species, sizes, locations or any other criteria.
- (4) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation covered by a tree preservation order without development consent.
- (5) Subclause (4) does not apply if—
  - (a) the Council has confirmed in writing that it is satisfied that the tree or other vegetation is dying or dead or has become dangerous, or
  - (b) the action taken with respect to the tree or other vegetation was authorised or required by or under any Act.
- (6) A tree preservation order does not apply to or in respect of—
  - (a) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the [Forestry Act 1916](#), or
  - (b) plants declared to be noxious weeds under the [Noxious Weeds Act 1993](#).
- (7) Until a tree preservation order is made and takes effect under this clause—
  - (a) a reference in this clause to the trees or other vegetation covered by a tree preservation order is a reference to the trees and other vegetation to which the Tree Preservation Order made by resolution of the Council on 20 August 1996

applied, and

- (b) subclause (4) does not require development consent for anything excepted by that Order from the requirement made in that Order to obtain consent.

### **53 Drive-in theatre**

- (1) A drive-in theatre shall not be erected or used unless the following conditions are complied with—
  - (a) a vehicular entrance to or exit from the drive-in theatre shall not be located within 90 metres of a main or arterial road,
  - (b) a vehicular drive-way, at least 60 metres in length and 21 metres in width, leading from the entrance to the site to the location of the ticket office, shall be located within the site of the drive-in theatre, and
  - (c) the screen of the drive-in theatre shall be so located or protected that no image projected thereon shall be visible and identifiable from a main or arterial road.
- (2) (Repealed)

### **54 Motor showrooms**

A person shall not carry out development for the purpose of a motor showroom on any land unless—

- (a) where the land has a frontage to a main or arterial road, vehicular access to the site (where alternative access is available) is only by way of a road, other than the main or arterial road, and
- (b) where the site is a corner lot, the consent authority is satisfied that the layout and placement of caravans, boats or motor vehicles (as the case may be) will not obstruct the vision of drivers using the intersection.

### **55 Railway sidings**

Nothing in this plan shall operate to prohibit the construction and use of any railway siding designed to serve lands in an industrial zone.

### **56 Liquid fuel depots**

- (1) A person shall not establish, enlarge or use a liquid fuel depot having an above ground storage capacity of 500 kilolitres or more of inflammable liquid without development consent.
- (2) (Repealed)

### **57 Junkyards and offensive or hazardous industries**

Development for the purpose of a junkyard or an offensive or hazardous industry—

- (a) shall not be carried out within 90 metres of a main or arterial road, and
- (b) shall be screened from view to the satisfaction of the council.

### **58 Sawdust and sawmill waste**

Except with development consent, sawdust or sawmill waste shall not be—

- (a) deposited on any land, whether by way of filling or otherwise, or
- (b) burnt—
  - (i) except in an incinerator of a type approved by the council, or
  - (ii) where the sawmill is isolated from urban development, except in a manner approved by the council.

### **59 General store**

- (1) A person shall not erect or use a building for the purposes of a general store on an allotment of land within a rural zone, where such allotment has a frontage to a main or arterial road or is less than 800 metres from any other allotment of land on which is erected a shop or a general store.
- (2) A person shall not erect or use a building for the purposes of a general store in any zone referred to in subclause (1) closer to the alignment of a road than the building line fixed in respect of any adjoining premises or, where no such building line has been fixed, closer to such alignment than the distance generally applying in respect of other premises having frontage to such road.

### **60 Development below high water mark**

A person shall not carry out development on any land—

- (a) below high water mark, or
  - (b) forming part of the bed of a river, creek, bay, lagoon or other natural watercourse shown uncoloured on the map, or
  - (c) which has been reclaimed,
- without development consent.

### **61 Extractive industries, transport terminals**

A person shall not erect or use a building or work or otherwise use land within a rural zone within 90 metres of a main or arterial road for the purposes of—

- (a) an extractive industry, or
- (b) a transport terminal.

## 62 Savings

Nothing in this plan prohibits or requires consent for—

- (a) the carrying out of development of any description specified in Schedule 12, or
- (b) the use of existing buildings of the Crown by the Crown, or
- (c) home occupations carried on in dwelling-houses.

## 63 Development on land identified on the Acid Sulfate Soils Planning Map

(1) In this clause—

**acid sulfate soils** means naturally occurring sediments and soils containing iron sulfides (principally pyrite) and/or their precursors or oxidation products, the exposure to oxygen of which (for example, by drainage or excavation) leads to the generation of sulfuric acid.

**Acid Sulfate Soils Assessment Guidelines** means the *Acid Sulfate Soils Assessment Guidelines* as published by the NSW Acid Sulfate Soils Management Advisory Committee and adopted for the time being by the Director-General of the Department of Infrastructure, Planning and Natural Resources.

**Acid Sulfate Soils Management Plan** means, in relation to works to which subclause (2) applies, a management plan including a full description of the management procedures to be applied to the works and prepared in accordance with the *Acid Sulfate Soils Manual*.

**Acid Sulfate Soils Manual** means the *Acid Sulfate Soils Manual* published by the NSW Acid Sulfate Soils Management Advisory Committee and adopted for the time being by the Director-General of the Department of Infrastructure, Planning and Natural Resources.

**Acid Sulfate Soils Planning Map** means the map marked “*Acid Sulfate Soils Planning Map Byron Local Environmental Plan 1988 (Amendment No 101)*” deposited in the office of the Council.

**acid water** includes waters containing oxidation products or other consequences of acid sulfate soils, such as elevated metal concentrations and depressed dissolved oxygen levels.

**AHD** means Australian Height Datum within the meaning of the [Surveying Act 2002](#).

**Council’s works** means such works as are owned or controlled by the Council.

**county council** has the same meaning as in the [Local Government Act 1993](#).

**drain** means artificial depressions, ditches or channels, used to convey water from one area to another.

**emergency work** includes the repair or replacement of any part of the Council's works, of the works of a public authority or of the works of a county council because—

- (a) it has been (or is being) damaged by a natural disaster, an accident, an act of vandalism or a like occurrence, or
- (b) it has ceased to function or suddenly ceased to function adequately, or
- (c) it may be a potential risk to the environment or to public health and safety,

and includes work reasonably necessary to prevent or limit any further such damage, malfunction or risk.

**environmental protection zone** means any of Zones Nos 7 (a), 7 (b), 7 (c), 7 (d), 7 (f1), 7 (f2), 7 (j) or 7 (k).

**flood mitigation works** means structural measures intended to reduce flood damage by either reducing flood levels or the lateral extent or duration of flooding and may include—

- (a) levees, and
- (b) flood mitigation dams, and
- (c) retarding basins, and
- (d) by-pass flood ways, and
- (e) flood gates on drains, and
- (f) channel improvement.

**minor work** means new work carried out by the Council, a public authority or a county council, not being drainage work, that has a value of less than \$20,000.

**public authority** has the same meaning as in the [Environmental Planning and Assessment Act 1979](#).

**routine maintenance** means the periodic inspection, cleaning, repair and replacement of the Council's works, the works of a public authority or the works of a county council, but does not include work that would result in an increase in the design capacity of any part of those works or necessitate the deepening of an existing works capacity where more than one tonne of soil is disturbed.



**works** means—

- (a) any landform alteration that may result in the disturbance of more than one tonne of soil (including the carrying out of agriculture, land levelling, extractive industry and dredging, the construction of drains (and the maintenance, widening, deepening or extension of existing drains), the construction of artificial waterbodies (including canals, dams or detention basins), the construction of foundations and flood mitigation works), and
- (b) any works that may lower ground water levels.

**works of a county council** means such works as are owned or controlled by a county council.

**works of a public authority** means such works as are owned or controlled by a public authority.

- (2) A person must not, without development consent, carry out works on land shown as being Class 1, 2, 3, 4 or 5 on the *Acid Sulfate Soils Planning Map* being the works specified for the class of land in the following table—

<b>Class of land as shown on Acid Sulfate Soils Planning Map</b>	<b>Works</b>
1	Any works
2	Works below the natural ground surface Works by which the watertable is likely to be lowered
3	Works beyond 1 metre below the natural ground surface Works by which the watertable is likely to be lowered beyond 1 metre below the natural ground surface
4	Works beyond 2 metres below the natural ground surface Works by which the watertable is likely to be lowered beyond 2 metres below the natural ground surface
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land below 5 metres AHD likely to lower the watertable below 1 metre AHD on the adjacent Class 1, 2, 3 or 4 land

- (3) This clause does not require development consent for the carrying out of works referred to in subclause (2) if—

- (a) a preliminary assessment has been undertaken by the proponent of the works in accordance with the *Acid Sulfate Soils Assessment Guidelines* and provided to the Council, and
  - (b) the Council has provided written advice to the proponent of the works confirming that the results of the preliminary assessment indicate the works need not be carried out pursuant to an Acid Sulfate Soils Management Plan.
- (4) The consent authority must not grant a consent required by this clause for the carrying out of works unless it has considered—
- (a) the adequacy of an Acid Sulfate Soils Management Plan prepared for the works in accordance with the *Acid Sulfate Soils Assessment Guidelines*, and
  - (b) the likelihood of the works resulting in the discharge of acid water, and
  - (c) (Repealed)
- (5) This clause requires consent for development to be carried out by the Council, county councils, public authorities and private drainage boards despite clause 62(a), and items 2 and 11 of Schedule 12.
- (6) This clause does not require development consent for the carrying out of works referred to in subclause (2) if—
- (a) the works are ancillary to the purpose of the production of sugar cane as an agricultural activity, and
  - (b) an agreement (including a memorandum of understanding) between the Department of Infrastructure, Planning and Natural Resources and the New South Wales Sugar Milling Co-operative Limited (or its successor) applies to the land the works are carried out on, and
  - (c) a production area entitlement relating to the growing of sugar cane and approved by the New South Wales Sugar Milling Co-operative Limited (or its successor) applied immediately before the amendment of this plan by [Byron Local Environmental Plan 1988 \(Amendment No 101\)](#) to the land the works are carried out on and applies to the land the works are carried out on, and
  - (d) the works are in accordance with a drainage management plan lodged with, and endorsed by, the New South Wales Sugar Milling Co-operative Limited (or its successor) and provided to the Council as so endorsed, and
  - (e) the drainage management plan was prepared in accordance with the *NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils*, and
  - (f) the *NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils* have been approved by the Director-General of the Department of Infrastructure, Planning

and Natural Resources in consultation with the NSW Acid Sulfate Soils Management Advisory Committee and the Department of Agriculture and have been adopted by the Council, and

(g) the works are not carried out on land within an environmental protection zone, and

(h) the Council has not served a notice under the *Environmental Planning and Assessment Act 1979* on the person carrying out or using the works, or published a notice in a newspaper circulating in the locality of the works, requiring that development consent must be obtained prior to the carrying out or further use of the works.

(7) Each year, the Council may nominate production area entitlements for the purposes of an annual audit. An audit is to be carried out of drainage management plans and works on land to which a production area entitlement so nominated applies. Such an annual audit is to be undertaken by a suitably qualified auditor on behalf of New South Wales Sugar Mills Co-operative Limited (or its successor). The Council is to be issued with a copy of the results of such an annual audit immediately after it has been carried out.

(8) Notwithstanding the provisions of subclause (5), the Council, a public authority or a county council may carry out, without development consent, the following types of development—

(a) development consisting of emergency work,

(b) development consisting of routine maintenance,

(c) development consisting of minor work,

and development ancillary to that development, such as the carrying out of excavation work, the construction of accessways and the provision of power supplies.

(9) Where the Council, a public authority or a county council carries out development described in subclause (8) and encounters, or is reasonably likely to encounter, acid sulfate soils or potential acid sulfate soils, the Council, public authority or county council, as the case may be, shall properly deal with those soils in accordance with the *Acid Sulfate Soils Assessment Guidelines* and the *Acid Sulfate Soils Management Guidelines* in the *Acid Sulfate Soils Manual* so as to minimise the actual or potential impact on the environment arising from the disturbance of the soils.

(10) This clause does not require development consent for the carrying out of works on land referred to in subclause (2) if the land has been lawfully filled or is required to be filled in accordance with any condition of a current development consent and the proposed works do not extend beneath the depth of the fill.

(11) Nothing in this clause prohibits or requires consent for—

- (a) any activity pursuant to Part 5 of the *Environmental Planning and Assessment Act 1979* as it relates to the Byron Bay Sewerage Augmentation Scheme, or
- (b) any development the subject of an existing development consent granted before the amendment of this plan by *Byron Local Environmental Plan 1988 (Amendment No 101)*.

#### **64 Signage**

(1) The objectives of this clause are as follows—

- (a) to preserve the character of the natural and built environment by encouraging signage that respects the architecture, streetscape and visual character of the area,
  - (b) to ensure signage relates appropriately to its surroundings and does not reduce the safety of any road, pedestrian path or navigable waterway,
  - (c) to promote a high standard of advertising quality, design and finish, and to prevent excessive advertising and visual clutter,
  - (d) to ensure that signage is sympathetic to the character of villages and areas of historical significance,
  - (e) to ensure that signage does not detract from the scenic beauty and amenity of the local government area of Byron,
  - (f) to enable occupiers of land to identify themselves and their businesses clearly and fairly,
  - (g) to assist visitors to locate and enjoy the attractions of the local government area of Byron,
  - (h) to ensure signage does not adversely affect the locality in terms of appearance, size, illumination or overshadowing or in any other way,
  - (i) to ensure signage is implemented, where relevant, in accordance with the council's development control plans.
- (2) A person must not erect signage on land to which this plan applies, except as provided by this clause.
- (3) Any signage listed in Chapter 16 of the Byron 2010 DCP is permitted without the consent of the council.
- (4) Any signage other than that referred to in subclauses (3) and (6) requires the consent of the council.

- (5) Despite subclauses (3) and (4), any signage relating to items of environmental heritage listed in Schedule 2 requires the consent of the council.
- (6) The following are prohibited in all zones—
- (a) signage other than signage erected on the land to which it relates, except for—
    - (i) signage erected by a public authority for public use, or
    - (ii) signage erected within a road reserve notifying a public event for a period not exceeding one month prior to the event, or
    - (iii) the erection on behalf of the council of group signage for the purpose of providing space for display of general signs, or
    - (iv) sandwich board signs on a council road reserve or footpath,
  - (b) signage located so that it—
    - (i) interferes with the effectiveness of, or adversely affects, a traffic control device, or
    - (ii) obscures a driver's view of a road hazard, or
    - (iii) attempts to imitate a traffic control device, or
    - (iv) is a dangerous obstruction,
  - (c) animated signs,
  - (d) neon signs,
  - (e) signage on trees or electricity or telephone poles,
  - (f) roof or sky advertisements,
  - (g) bunting,
  - (h) signage mounted on or attached to stationary cars or trailers which direct attention to a nearby business,
  - (i) billboard signs,
  - (j) signage on waste bins, unless for community-related purposes approved by the council,
  - (k) any free-standing signage exceeding 6 metres in height,
  - (l) any signage located over the footpath which is lower than 2.6 metres above the footpath,

(m) signage on bridges,

(n) signage (except signs which are exempt development under the provisions of Chapter 16 of the Byron 2010 DCP) on land within Zone No 2 (a), 6 (a), 7 (a), 7 (b), 7 (c), 7 (d), 7 (f1), 7 (j), 7 (k) or 8 (a).

(7) In this clause—

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

**billboard sign** means a board with an advertising display area of over 6 square metres.

**building identification sign** means signage that identifies or names a building, and that may include the name of a business or building, the street number of a building, the nature of the business and a logo or other symbol that identifies the business, but does not include general advertising of products, goods or services.

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

**business identification sign** means signage—

(a) that indicates the name of the person or the business carried on by the person (or both the name and the business) at the premises or place at which the sign is displayed, and

(b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but does not include any advertising relating to a person who does not carry on business at the premises or place.

**free-standing advertisement** means signage that is displayed on an advertising structure that is mounted on the ground on one or more supports.

**neon sign** means illuminated signage constructed from neon tubing.

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

**sandwich board sign** means any portable sign or device, including an A-frame, having a maximum area of 1 square metre and a maximum width of 0.75 metre, which must be self-supporting and be restricted to one sign per premises and which may be located either within the property on which the associated business is conducted or on the road reserve directly adjacent to the business.

**signage** means all signs, notices, devices, representations and advertisements that advertise or promote any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display or signage and includes—

- (a) building identification signs, and
- (b) business identification signs.

#### **64A Exceptions to development standards**

- (1) The objectives of this clause are as follows—
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for development consent has demonstrated that—
  - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
  - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

#### **Note—**

The [Environmental Planning and Assessment Regulation 2021](#) requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).
- (5) (Repealed)
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone No 1 (a)—(General Rural Zone), Zone No 1 (b1)—(Agricultural Protection (b1) Zone), Zone No 1 (b2)—(Agricultural Protection (b2) Zone), Zone No 1 (c1)—(Small Holdings (c1) Zone), Zone No 1 (c2)—(Small Holdings (c2) Zone), Zone No 1

(d)—(Investigation Zone), Zone No 1 (e)—(Extractive Resources Zone), Zone No 1 (f)—(Forestry Zone) or Zone No 7 (k)—(Habitat Zone) if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
- (c) Part 4.

#### **64B Demolition requires development consent**

The demolition of a building or work may be carried out only with development consent.

**Note—**

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this plan or [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#), as exempt development, the Act enables it to be carried out without development consent.

#### **64C Conversion of fire alarms**

- (1) This clause applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent—
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.



- (3) Development to which subclause (2) applies is complying development if it consists only of—
  - (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.

- (5) In this clause—

***private service provider*** means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.

**64D Standards that cannot be used to refuse consent—playing and performing music**

- (1) The consent authority must not refuse consent to development in relation to licensed premises on the following grounds—
  - (a) the playing or performance of music, including the following—
    - (i) the genre of music played or performed, or
    - (ii) whether the music played or performed is live or amplified, or
    - (iii) whether the music played or performed is original music, or
    - (iv) the number of musicians or live entertainment acts playing or performing, or
    - (v) the type of instruments played,
  - (b) whether dancing occurs,
  - (c) the presence or use of a dance floor or another area ordinarily used for dancing,
  - (d) the direction in which a stage for players or performers faces,
  - (e) the decoration to be used, including, for example, mirror balls, or lighting used by players or performers.
- (2) The consent authority must not refuse consent to development in relation to licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level.

(3) In this clause—

**licensed premises** has the same meaning as in the [Liquor Act 2007](#).

#### **64E Canal estate development prohibited**

(1) Canal estate development is prohibited on land to which this Plan applies.

(2) In this clause—

**canal estate development** has the same meaning as in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

### **Part 4 West Byron Bay site**

#### **Division 1 Preliminary**

##### **65 Application of Part**

- (1) This Part applies to the land identified on the [Land Application Map](#), referred to in this Part as the **West Byron Bay site**.
- (2) No other provisions of this plan (other than clause 7) apply to land within the West Byron Bay site.

##### **66 Interpretation**

(1) In this Part—

**Acid Sulfate Soils Map** means the [Byron Local Environmental Plan 1988—West Byron Bay—Acid Sulfate Soils Map](#).

**Council** means the Byron Shire Council.

**designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds—

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) land required for regional open space,
- (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

**Flood Planning Map** means the [Byron Local Environmental Plan 1988—West Byron Bay—Flood Planning Map](#).

**Height of Buildings Map** means the [Byron Local Environmental Plan 1988—West](#)

[Byron Bay—Height of Buildings Map](#).

**Land Application Map** means the [Byron Local Environmental Plan 1988—West Byron Bay—Land Application Map](#).

**Land Reservation Acquisition Map** means the [Byron Local Environmental Plan 1988—West Byron Bay—Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [Byron Local Environmental Plan 1988—West Byron Bay—Land Zoning Map](#).

**Lot Size Map** means the [Byron Local Environmental Plan 1988—West Byron Bay—Lot Size Map](#).

**public utility infrastructure**, in relation to an urban release area, includes infrastructure for any of the following—

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

**urban release area** means the area of land identified as “Urban Release Area” on the [Urban Release Area Map](#).

**Urban Release Area Map** means the [Byron Local Environmental Plan 1988—West Byron Bay—Urban Release Area Map](#).

- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) unless it is otherwise defined in this Part.

## 67 Maps

- (1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name—
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Part to any such map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance

with arrangements approved by the Minister.

- (4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

## **68 Savings provision relating to development applications**

If a development application has been made before the commencement of this Part in relation to land to which this Part applies and the application has not been finally determined before that commencement, the application must be determined as if this Part had not commenced.

### **Note—**

However, under Division 4B of Part 3 of the Act, a development application may be made for consent to carry out development that may only be carried out if the environmental planning instrument applying to the relevant development is appropriately amended or if a new instrument, including an appropriate principal environmental planning instrument, is made, and the consent authority may consider the application. The Division requires public notice of the development application and the draft environmental planning instrument allowing the development at the same time, or as closely together as is practicable.

## **69 Repeal of planning instruments applying to land**

- (1) All local environmental plans and deemed environmental planning instruments applying only to the West Byron Bay site are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the West Byron Bay site and to other land cease to apply to the West Byron Bay site.

## **70 Relationship with this Part and other environmental planning instruments**

The only other environmental planning instruments that apply, according to their terms, to land within the West Byron Bay site are all State environmental planning policies, except the following—

- (a) (Repealed)
- (b) *State Environmental Planning Policy No 71—Coastal Protection*,
- (c) *North Coast Regional Environmental Plan*.

## **Division 2 Provisions applying to development in West Byron Bay site**

### **71 Land use zones**

For the purposes of this Part, land within the West Byron Bay site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being in that zone—

- (a) Zone R2 Low Density Residential,
- (b) Zone R3 Medium Density Residential,

- (c) Zone B1 Neighbourhood Centre,
- (d) Zone IN2 Light Industrial,
- (e) Zone RE1 Public Recreation,
- (f) Zone E2 Environmental Conservation,
- (g) Zone E3 Environmental Management.

## **72 Zone objectives and control of development**

- (1) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (2) In this Division, a reference to a type of building or other thing does not include (despite any definition in this plan or the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#)) a reference to a type of building or other thing referred to separately in the same clause.

## **73 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows—
  - (a) to provide for the housing needs of the community within a low density residential environment,
  - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential—
  - environmental protection works; home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential—
  - attached dwellings; bed and breakfast accommodation; boarding houses; business identification signs; dual occupancies; dwelling houses; group homes; health consulting rooms; home industries; multi dwelling housing; neighbourhood shops; roads; seniors housing; any other development not specified in subclause (2) or (4).
- (4) Development for any of the following purposes is prohibited on land within Zone R2 Low Density Residential—
  - agriculture; air transport facilities; airstrips; amusement centres; animal boarding or training establishments; biosolids treatment facilities; boat building and repair facilities; boat launching ramps; boat sheds; camping grounds; car parks; caravan

parks; cemeteries; charter and tourism boating facilities; commercial premises; correctional centres; crematoria; depots; eco-tourist facilities; electricity generating works; entertainment facilities; exhibition villages; extractive industries; farm buildings; forestry; freight transport facilities; function centres; health services facilities; heavy industrial storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industrial training facilities; industries; information and education facilities; jetties; marinas; mooring pens; moorings; mortuaries; open cut mining; passenger transport facilities; public administration buildings; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; research stations; residential accommodation; residential care facilities; restricted premises; rural industries; service stations; sewage treatment plants; sex services premises; signage; storage premises; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; veterinary hospitals; warehouse or distribution centres; waste or resource management facilities; water recreation structures; water recycling facilities; water supply systems; wharf or boating facilities; wholesale supplies.

#### **74 Zone R3 Medium Density Residential**

- (1) The objectives of Zone R3 Medium Density Residential are as follows—
  - (a) to provide for the housing needs of the community within a medium density residential environment,
  - (b) to provide a variety of housing types within a medium density residential environment,
  - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R3 Medium Density Residential—

environmental protection works; home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R3 Medium Density Residential—

attached dwellings; bed and breakfast accommodation; boarding houses; business identification signs; child care centres; community facilities; group homes; home industries; multi dwelling housing; neighbourhood shops; places of public worship; respite day care centres; roads; seniors housing; serviced apartments; any other development not specified in subclause (2) or (4).
- (4) Development for any of the following purposes is prohibited on land within Zone R3 Medium Density Residential—

agriculture; air transport facilities; airstrips; amusement centres; animal boarding or training establishments; biosolids treatment facilities; boat building and repair facilities; boat launching ramps; boat sheds; camping grounds; car parks; cemeteries; charter and tourism boating facilities; commercial premises; correctional centres; crematoria; depots; eco-tourist facilities; electricity generating works; entertainment facilities; exhibition villages; extractive industries; farm buildings; forestry; freight transport facilities; function centres; heavy industrial storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industrial training facilities; industries; information and education facilities; jetties; marinas; mooring pens; moorings; mortuaries; open cut mining; passenger transport facilities; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; research stations; restricted premises; rural industries; rural workers' dwellings; service stations; sewage treatment plants; sex services premises; signage; storage premises; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; veterinary hospitals; warehouse or distribution centres; waste or resource management facilities; water recreation structures; water recycling facilities; water supply systems; wharf or boating facilities; wholesale supplies.

#### **75 Zone B1 Neighbourhood Centre**

- (1) The objective of Zone B1 Neighbourhood Centre is to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone B1 Neighbourhood Centre—  
environmental protection works; home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B1 Neighbourhood Centre—  
boarding houses; business premises; child care centres; community facilities; health consulting rooms; home industries; hostels; hotel or motel accommodation; medical centres; neighbourhood shops; respite day care centres; roads; shop top housing; any other development not specified in subclause (2) or (4).
- (4) Development for any of the following purposes is prohibited on land within Zone B1 Neighbourhood Centre—  
agriculture; air transport facilities; airstrips; animal boarding or training establishments; biosolids treatment facilities; boat building and repair facilities; boat launching ramps; boat sheds; bulky goods premises; camping grounds; caravan parks; cellar door premises; cemeteries; charter and tourism boating

facilities; correctional centres; crematoria; depots; eco-tourist facilities; electricity generating works; exhibition homes; exhibition villages; extractive industries; farm buildings; forestry; freight transport facilities; health services facilities; heavy industrial storage establishments; helipads; highway service centres; home occupations (sex services); industrial retail outlets; industrial training facilities; industries; jetties; landscaping material supplies; marinas; mooring pens; moorings; mortuaries; open cut mining; passenger transport facilities; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); research stations; residential accommodation; resource recovery facilities; restricted premises; roadside stalls; rural industries; rural supplies; sewage treatment plants; sex services premises; storage premises; timber yards; tourist and visitor accommodation; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; warehouse or distribution centres; waste disposal facilities; water recreation structures; water recycling facilities; water supply systems; wharf or boating facilities; wholesale supplies.

## **76 Zone IN2 Light Industrial**

- (1) The objectives of Zone IN2 Light Industrial are as follows—
  - (a) to provide a wide range of light industrial, warehouse and related land uses,
  - (b) to encourage employment opportunities and to support the viability of centres,
  - (c) to minimise any adverse effect of industry on other land uses,
  - (d) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area,
  - (e) to support and protect industrial land for industrial uses.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone IN2 Light Industrial—

environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone IN2 Light Industrial—

agricultural produce industries; depots; garden centres; general industries; hardware and building supplies; industrial training facilities; landscaping material supplies; light industries; liquid fuel depots; neighbourhood shops; plant nurseries; roads; rural supplies; take away food and drink premises; timber yards; vehicle sales or hire premises; warehouse or distribution centres; any other development not specified in subclause (2) or (4).
- (4) Development for any of the following purposes is prohibited on land within Zone IN2



Light Industrial—

agriculture; air transport facilities; airstrips; amusement centres; animal boarding or training establishments; biosolids treatment facilities; boat launching ramps; boat sheds; camping grounds; caravan parks; cemeteries; charter and tourism boating facilities; child care centres; commercial premises; correctional centres; eco-tourist facilities; exhibition homes; exhibition villages; extractive industries; farm buildings; forestry; health services facilities; heavy industrial storage establishments; helipads; highway service centres; home-based child care; home businesses; home occupations; home occupations (sex services); industries; jetties; marinas; mooring pens; moorings; open cut mining; passenger transport facilities; recreation areas; recreation facilities (major); recreation facilities (outdoor); registered clubs; research stations; residential accommodation; resource recovery facilities; respite day care centres; rural industries; sewage treatment plants; tourist and visitor accommodation; waste disposal facilities; water recreation structures; water recycling facilities; water supply systems; wharf or boating facilities.

**77 Zone RE1 Public Recreation**

(1) The objectives of Zone RE1 Public Recreation are as follows—

- (a) to enable land to be used for open space or recreational purposes,
- (b) to provide a range of recreational settings and activities and compatible land uses,
- (c) to protect and enhance the natural environment for recreational purposes.

(2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation—

environmental protection works.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation—

boat launching ramps; boat sheds; camping grounds; caravan parks; child care centres; community facilities; emergency services facilities; entertainment facilities; environmental facilities; flood mitigation works; function centres; horticulture; information and education facilities; jetties; kiosks; markets; recreation areas; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); respite day care centres; restaurants or cafes; roads; signage.

(4) Except as otherwise provided by this Part, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).

## **78 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows—
  - (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
  - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation—  
environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation—  
boat sheds; environmental facilities; recreation areas; roads.
- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E2 Environmental Conservation—  
business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; restricted premises; retail premises; seniors housing; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

## **79 Zone E3 Environmental Management**

- (1) The objectives of Zone E3 Environmental Management are as follows—
  - (a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,
  - (b) to provide for a limited range of development that does not have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E3 Environmental Management—  
environmental protection works; home-based child care; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management—  
bed and breakfast accommodation; boat launching ramps; building identification signs; business identification signs; camping grounds; community facilities; dual occupancies (attached); dwelling houses; eco-tourist facilities; emergency services facilities; environmental facilities; extensive agriculture; farm buildings; farm stay

accommodation; flood mitigation works; home businesses; home industries; horticulture; jetties; places of public worship; recreation areas; roads; veterinary hospitals; wharf or boating facilities.

- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E3 Environmental Management—

industries; multi dwelling housing; residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

## 80 Subdivision—consent requirements

- (1) Land within the West Byron Bay site may be subdivided, but only with development consent.

### Notes—

- 1 If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.
- 2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

### Note—

The definition of **secondary dwelling** requires the dwelling to be on the same lot of land as the principal dwelling.

## 81 Minimum subdivision lot size

- (1) The objectives of this clause are as follows—

- (a) to establish a minimum lot size for Zone R2 Low Density Residential and Zone R3 Medium Density Residential,
- (b) to encourage small residential lots in appropriate locations in West Byron Bay.

- (2) This clause applies to a subdivision of any land within the West Byron Bay site shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Part.

- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

- (4) This clause does not apply in relation to the subdivision of individual lots in a strata

plan or community title scheme.

**82 Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings**

- (1) The objective of this clause is to achieve planned residential density in certain zones.
- (2) Despite clause 81, development consent may be granted to development on a lot in a zone shown in Column 2 of the Table to this clause for a purpose shown in Column 1 of the Table opposite that zone, only if the area of the lot is equal to or greater than the area specified for that purpose and shown in Column 3 of the Table.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
Dual occupancy (attached)	Zone R2 Low Density Residential	600m <sup>2</sup>
	Zone R3 Medium Density Residential	300m <sup>2</sup>
Dual occupancy (detached)	Zone R2 Low Density Residential	700m <sup>2</sup>
	Zone R3 Medium Density Residential	400m <sup>2</sup>
Multi dwelling housing	Zone R2 Low Density Residential	1,000m <sup>2</sup>
	Zone R3 Medium Density Residential	450m <sup>2</sup>
Residential flat building	Zone R3 Medium Density Residential	1,000m <sup>2</sup>

**83 Exceptions to minimum subdivision lot sizes for certain residential development**

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.
- (2) This clause applies to development on land in the following zones—
  - (a) Zone R2 Low Density Residential,
  - (b) Zone R3 Medium Density Residential.
- (3) Development consent may be granted for a single development application for development to which this clause applies that is both of the following—
  - (a) the subdivision of land into 3 or more lots,
  - (b) the erection of a dwelling house, an attached dwelling or a semi-detached

dwelling on each lot resulting from the subdivision, if the size of each lot is equal to or greater than—

- (i) for the erection of a dwelling house—300 square metres for land in Zone R2 Low Density Residential and 200 square metres for land in Zone R3 Medium Density Residential, or
- (ii) for the erection of an attached dwelling—250 square metres for land in Zone R2 Low Density Residential and 150 square metres for land in Zone R3 Medium Density Residential, or
- (iii) for the erection of a semi-detached dwelling—250 square metres for land in Zone R2 Low Density Residential and 150 square metres for land in Zone R3 Medium Density Residential.

### **83A Boundary adjustments between lots in Zones E2 and E3**

- (1) The objective of this clause is to facilitate boundary adjustments between adjoining lots where one or more resulting lots do not meet the minimum lot size but the objectives of the relevant zone can be achieved.
- (2) This clause applies to land in the following zones—
  - (a) Zone E2 Environmental Conservation,
  - (b) Zone E3 Environmental Management.
- (3) Despite clause 81, development consent may be granted to subdivide land to which this clause applies by way of a boundary adjustment between adjoining lots where one or more resulting lots do not meet the minimum lot size shown on the [Lot Size Map](#) in relation to that land, if the consent authority is satisfied that—
  - (a) the subdivision will not create additional lots or the opportunity for additional dwellings, and
  - (b) the potential for land use conflict will not be increased as a result of the subdivision, and
  - (c) the subdivision will result in the continued protection and long-term maintenance of the land.

### **83B Exceptions to minimum lot size for split zone lots**

- (1) The objectives of this clause are as follows—
  - (a) to permit the creation of lots that support urban development in planned urban growth areas,
  - (b) to provide for the subdivision of lots that are within more than one zone but

cannot be subdivided under clause 81,

(c) to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.

(2) This clause applies to each lot (an **original lot**) that contains—

(a) land in a residential, business or industrial zone, and

(b) land in Zone E2 Environmental Conservation or Zone E3 Environmental Management, or both.

(3) Despite clause 81, development consent may be granted to subdivide an original lot to create other lots (the **resulting lots**) if—

(a) one of the resulting lots will contain all of the land in Zone E2 Environmental Conservation or Zone E3 Environmental Management that was in the original lot, and

(b) each of the other resulting lots will contain land that has an area that is not less than the minimum size shown on the [Lot Size Map](#) in relation to that land.

#### **84 Height of buildings**

(1) The objective of this clause is to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

#### **85 Exceptions to development standards**

(1) The objectives of this clause are as follows—

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant for

development consent has demonstrated that—

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

**Note—**

The *Environmental Planning and Assessment Regulation 2021* requires the development application to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

- (4) The consent authority must keep a record of its assessment carried out under subclause (3).
- (5) (Repealed)
- (6) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation or Zone E3 Environmental Management if—
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (7) (Repealed)
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following—
  - (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
  - (c) clause 87 (Controls relating to miscellaneous permissible uses),
  - (d) clause 99 or 100.

## **86 Relevant acquisition authority**

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated**

**acquisition provisions).**

**Note—**

If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the [Land Reservation Acquisition Map](#) (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

<b>Type of land shown on Map</b>	<b>Authority of the State</b>
Zone RE1 Public Recreation and marked “Local open space”	Council
Zone RE1 Public Recreation and marked “Regional open space”	The corporation constituted under section 8 of the Act

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

**87 Controls relating to miscellaneous permissible uses**

- (1) **Bed and breakfast accommodation** If development for the purposes of bed and breakfast accommodation is permitted under this Part, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

**Note—**

Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the *Building Code of Australia*.

- (2) **Home businesses** If development for the purposes of a home business is permitted under this Part, the carrying on of the business must not involve the use of more than 40 square metres of floor area.
- (3) **Home industries** If development for the purposes of a home industry is permitted under this Part, the carrying on of the home industry must not involve the use of more than 40 square metres of floor area.
- (4) **Industrial retail outlets** If development for the purposes of an industrial retail outlet is permitted under this Part, the retail floor area must not exceed—
- (a) 40% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or



(b) 250 square metres,  
whichever is the lesser.

- (5) **Farm stay accommodation** If development for the purposes of farm stay accommodation is permitted under this Part, the accommodation that is provided to guests must consist of no more than 12 bedrooms.
- (6) **Kiosks** If development for the purposes of a kiosk is permitted under this Part, the gross floor area must not exceed 50 square metres.
- (7) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted under this Part, the retail floor area must not exceed 200 square metres.
- (8) **Roadside stalls** If development for the purposes of a roadside stall is permitted under this Part, the gross floor area must not exceed 20 square metres.
- (9) **Secondary dwellings** If development for the purposes of a secondary dwelling is permitted under this Part, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater—
- (a) 60 square metres,
- (b) 35% of the total floor area of the principal dwelling.

## **88 Development within the coastal zone**

- (1) The objectives of this clause are as follows—
- (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
- (b) to implement the principles in the NSW Coastal Policy, and in particular to—
- (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and
- (ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and
- (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and
- (iv) recognise and accommodate coastal processes and climate change, and
- (v) protect amenity and scenic quality, and
- (vi) protect and preserve rock platforms, beach environments and beach amenity,

and

- (vii) protect and preserve native coastal vegetation, and
  - (viii) protect and preserve the marine environment, and
  - (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
  - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
  - (xi) protect Aboriginal cultural places, values and customs, and
  - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered—
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to—
    - (i) maintaining existing public access and, where possible, improving that access, and
    - (ii) identifying opportunities for new public access, and
  - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account—
    - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
    - (ii) the location, and
    - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
  - (c) the impact of the proposed development on the amenity of the coastal foreshore including—
    - (i) any significant overshadowing of the coastal foreshore, and
    - (ii) any loss of views from a public place to the coastal foreshore, and
  - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and

- (e) how biodiversity and ecosystems, including—
    - (i) native coastal vegetation and existing wildlife corridors, and
    - (ii) rock platforms, and
    - (iii) water quality of coastal waterbodies, and
    - (iv) native fauna and native flora, and their habitats,can be conserved, and
  - (f) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that—
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
  - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
  - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
  - (d) the proposed development will not—
    - (i) be significantly affected by coastal hazards, or
    - (ii) have a significant impact on coastal hazards, or
    - (iii) increase the risk of coastal hazards in relation to any other land.

### **89 Conversion of fire alarms**

- (1) This clause applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent—
  - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system

of a private service provider to connection with the alarm monitoring system of another private service provider,

(c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.

(3) Development to which subclause (2) applies is complying development if it consists only of—

(a) internal alterations to a building, or

(b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.

(4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.

(5) In this clause—

**private service provider** means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.

## 90 Preservation of trees or vegetation

(1) The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

### Note—

A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by—

(a) development consent, or

(b) a permit granted by the Council.

(4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation—
  - (a) that is or forms part of a heritage item or that is within a heritage conservation area, or
  - (b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,unless the Council is satisfied that the proposed activity—
  - (c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and
  - (d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

**Note—**

As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 92 will be applicable to any such consent.

- (8) This clause does not apply to or in respect of—
  - (a) the clearing of native vegetation—
    - (i) that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003*, or
    - (ii) that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
  - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
  - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
  - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002*, or
  - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

**Note—**

Permissibility may be a matter that is determined by or under any of these Acts.

- (9) Subclause (8)(a)(ii) does not apply in relation to land in Zone E2 Environmental Conservation or Zone E3 Environmental Management.

**91 Trees or vegetation not prescribed by development control plan**

- (1) This clause applies to any tree or other vegetation that is not of a species or kind prescribed for the purposes of clause 90 by a development control plan made by the Council.
- (2) The ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.

**92 Heritage conservation**

- (1) **Objectives** The objectives of this clause are as follows—
- (a) to conserve the environmental heritage of the West Byron Bay site,
  - (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
  - (c) to conserve archaeological sites,
  - (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.
- (2) **Requirement for consent** Development consent is required for any of the following—
- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—
    - (i) a heritage item,
    - (ii) an Aboriginal object,
    - (iii) a building, work, relic or tree within a heritage conservation area,
  - (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 2 in relation to the item,
  - (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,

- (d) disturbing or excavating an Aboriginal place of heritage significance,
- (e) erecting a building on land—
  - (i) on which a heritage item is located or that is within a heritage conservation area, or
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- (f) subdividing land—
  - (i) on which a heritage item is located or that is within a heritage conservation area, or
  - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) **When consent not required** However, development consent under this clause is not required if—

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—
  - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
  - (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development—
  - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
  - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) **Effect of proposed development on heritage significance** The consent authority must,

before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

- (5) **Heritage assessment** The consent authority may, before granting consent to any development—
- (a) on land on which a heritage item is located, or
  - (b) on land that is within a heritage conservation area, or
  - (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (6) **Heritage conservation management plans** The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.
- (7) **Archaeological sites** The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies)—
- (a) notify the Heritage Council of its intention to grant consent, and
  - (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (8) **Aboriginal places of heritage significance** The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—
- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
  - (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.
- (9) **Demolition of nominated State heritage items** The consent authority must, before



granting consent under this clause for the demolition of a nominated State heritage item—

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that—

- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

### **93 Bush fire hazard reduction**

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without development consent.

**Note—**

The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

### **94 Infrastructure development and use of existing buildings of the Crown**

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the

use of existing buildings of the Crown by the Crown.

## **95 Eco-tourist facilities**

- (1) The objectives of this clause are as follows—
  - (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
  - (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.
- (2) This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Part.
- (3) The consent authority must not grant consent under this Part to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that—
  - (a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and
  - (b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and
  - (c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and
  - (d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and native flora and fauna will be minimal, and
  - (e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and
  - (f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and
  - (g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours, materials and landscaping with local native flora, and
  - (h) any infrastructure services to the site will be provided without significant modification to the environment, and
  - (i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient

design, and

- (j) the development will not adversely affect the agricultural productivity of adjoining land, and
- (k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment—
  - (i) measures to remove any threat of serious or irreversible environmental damage,
  - (ii) the maintenance (or regeneration where necessary) of habitats,
  - (iii) efficient and minimal energy and water use and waste output,
  - (iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,
  - (v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.

#### **96 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Part or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply—
  - (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
  - (b) to any relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, or
  - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
  - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
  - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
  - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.

- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

### 97 Acid sulfate soils

- (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.
- (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the [Acid Sulfate Soils Map](#) as being of the class specified for those works.

<b>Class of land</b>	<b>Works</b>
1	Any works.
2	Works below the natural ground surface. Works by which the watertable is likely to be lowered.
3	Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
4	Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.
5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.

- (3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.
- (4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if—
  - (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and

- (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works.
- (5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power)—
- (a) emergency work, being the repair or replacement of the works of the public authority, required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety,
  - (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil),
  - (c) minor work, being work that costs less than \$20,000 (other than drainage work).
- (6) Despite subclause (2), development consent is not required under this clause to carry out any works if—
- (a) the works involve the disturbance of less than 1 tonne of soil, and
  - (b) the works are not likely to lower the watertable.
- (7) Despite subclause (2), development consent is not required under this clause for the carrying out of works for the purpose of agriculture if—
- (a) a production area entitlement is in force in respect of the land when the works are carried out, and
  - (b) the works are carried out in accordance with a drainage management plan, and
  - (c) the works are not carried out in respect of a major drain identified on the [Acid Sulfate Soils Map](#), and
  - (d) the works are not carried out on land to which [State Environmental Planning Policy No 14—Coastal Wetlands](#) applies.
- (8) In this clause—
- drainage management plan** means an irrigation and drainage management plan that—
- (a) is prepared in accordance with the *NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005)*, and
  - (b) is endorsed by the Sugar Milling Co-operative as being appropriate for the land.

***NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005)***

means the guidelines approved by the Director-General of the Department of Infrastructure, Planning and Natural Resources on 25 May 2005.

***production area entitlement*** means a contractual arrangement between the Sugar Milling Co-operative and a grower member of that cooperative for the production of sugar cane for milling.

***Sugar Milling Co-operative*** means the New South Wales Sugar Milling Co-operative Limited or its successor.

**Note—**

The *NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005)* is available on the Department of Planning and Infrastructure's website.

**98 Flood planning**

(1) The objectives of this clause are as follows—

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of projected sea level rise,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This clause applies to—

- (a) land identified as "Flood planning area" on the [Flood Planning Map](#), and
- (b) other land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

- (a) is compatible with the flood hazard of the land, and
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this clause has the same meaning as it has in the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023, unless it is otherwise defined in this clause.

(5) In this clause—

**flood planning level** means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

**projected sea level rise** means the 2050 and 2100 sea level rise planning benchmarks as specified in the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise* (ISBN 978-1-74263-035-9) published by the NSW Government in August 2010.

### **98A Development for the purpose of stormwater management systems and water reticulation systems**

- (1) The objective of this clause is to ensure that any person can carry out development for the purpose of stormwater management systems or water reticulation systems with development consent on any land if the consent authority has considered the environmental impacts of the development and opportunities to avoid, minimise or mitigate those impacts.
- (2) Development consent may be granted to development for the purpose of a stormwater management system or a water reticulation system that is not ancillary to any other development (even if the development is associated with existing development or development on adjoining land) on any land.
- (3) Despite subclause (2), development consent must not be granted under that subclause for development on land in Zone E2 Environmental Conservation or Zone E3 Environmental Management, or on any land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential or Zone IN2 Light Industrial that is adjacent to that land, unless the consent authority has taken into consideration—
  - (a) the likely impact of the development on threatened species, native aquatic and terrestrial fauna and flora and their habitat, the ecological role of the land and any waterways, riparian land and wetland, and
  - (b) whether the design and siting of the development is located so as to avoid, or minimise the impacts on, significant native vegetation and habitats, and
  - (c) if the impacts cannot be avoided, whether the impacts can be mitigated by restoring any existing disturbed or modified areas on the site or on adjacent land.
- (4) In this clause—

**stormwater management system** has the same meaning as in [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#), Part 2.3, Division 25.

**water reticulation system** has the same meaning as in *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 29.

**Note—**

Development for the purpose of stormwater management systems and water reticulation systems may be carried out by or on behalf of a public authority without consent on any land under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, sections 2.138 and 2.160.

**98B Earthworks**

- (1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions or processes (including waterways, riparian land and groundwater), neighbouring uses, cultural or heritage items or features of the surrounding land.
- (2) Development consent is required for earthworks unless—
  - (a) the earthworks are exempt development under this Part or another applicable environmental planning instrument, or
  - (b) the earthworks are ancillary to development that is permitted without consent under this Part or to development for which development consent has been given.
- (3) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—
  - (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
  - (b) the effect of the development on the likely future use or redevelopment of the land,
  - (c) the quality of the fill or the soil to be excavated, or both,
  - (d) whether the development minimises cut and fill and the use and location of cut and fill on the site,
  - (e) the effect of the development on the existing and likely amenity of adjoining properties,
  - (f) the source of any fill material and the destination of any excavated material,
  - (g) the likelihood of disturbing relics,
  - (h) whether the location of the earthworks is appropriate, taking into account land that has previously been cleared in response to site characteristics,
  - (i) the proximity to, and potential for adverse impacts on, any waterway, drinking



water catchment or environmentally sensitive land and measures to prevent sediment, building materials, waste or other pollutants from leaving the site and entering adjoining land, street gutters, drains or watercourses,

- (j) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

**Note—**

The *National Parks and Wildlife Act 1974*, particularly section 86, deals with harming Aboriginal objects.

## **Division 3 Urban release areas**

### **99 Arrangements for designated State public infrastructure**

- (1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (2) Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (3) Subclause (2) does not apply to—
  - (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot to be created by a subdivision of land that was the subject of a previous development consent granted in accordance with this clause, or
  - (c) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities or any other public purpose, or
  - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (4) This clause does not apply to land in an urban release area if all or any part of the land is in a region within the meaning of the Act, Division 7.1, Subdivision 4.

### **100 Public utility infrastructure**

- (1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements

have been made to make that infrastructure available when it is required.

- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

### **101 Development control plan**

- (1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.
- (2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following—
- (a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of active and passive recreation areas,
  - (e) stormwater and water quality management controls,
  - (f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to encourage higher density living around transport, open space and service nodes,
  - (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
- (4) Subclause (2) does not apply to development for any of the following purposes—

- (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
- (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,
- (c) a subdivision of land in a zone in which the erection of structures is prohibited,
- (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

## Schedule 1 (Repealed)

## Schedule 2

(Dictionary)

Lot/DP	Address	Description
<b>Bangalow</b>		
		Buildings within Heritage Precinct on map
Lot 2 DP 122668	Deacon Street	Catholic Church
Lot 2 DP 719871	Pacific Highway	Residence, Jelbon Leigh
Lot 281 DP 837699	Byron Bay Road	Residence
<b>Byron Bay</b>		
—	—	Lighthouse Complex
—	Butler Street	Railway Water Tower
Lot 387 DP 728536	Shirley Street	Police Station and old Courthouse
Lot 1 DP 736784	Jonson Street	Old Post Office
—	Jonson Street	Railway Station
Lot 1 DP 827049	Jonson Street	Station Master's Cottage
Lot 1 Section 26 DP 758207	27-31 Fletcher Street	Attached buildings
Lot 2 Section 26 DP 758207	33-35 Fletcher Street	Attached buildings
Lot A DP 195700	4 Browning Street	Residence, Jasmine House

Lot 1 DP 876261	19-23 Lawson Street	All of the building located on the corner of Lawson and Fletcher Streets, which includes the 1929 section of the former Byron Council Chambers building
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**Ewingsdale**

Part of Lot 172 DP 1121005, as shown edged heavy black on the map marked “Byron Local Environmental Plan 1988 (Amendment No 131)”

Ewingsdale Road

Buildings and surrounds

**Mullumbimby**

Lots 4 and 5 Section 3 DP 2772 Burringbar Street

National Bank

Lots 21 and 40 Section 4 DP 2772 Burringbar Street

Westpac Bank

Lot 389 DP 728162 Stuart Street

Heritage Museum

Lot 387 DP 728164 Dalley Street

Court House

Lots 69-71 Section 3 DP 2772 Stuart Street

Church of England

Lot 2 DP 875011 Main Arm Road

“Inverary”

Lots 1 and 2 DP 314096

Lot 1 DP 395638

Lot 2 DP 365195

Wilson's Creek Road

Power Station and Race

Lot 4 Section 12 DP 758727 140 Dalley Street, Mullumbimby

Cedar House

Lot 2 DP 209440

12 Azalea Street, Mullumbimby

“Somerset”

**Schedule 3 Shops referred to in clause 9—Zone 2 (a) (Residential Zone)**

(Clause 9)

- Chemist shops
- Fish and chip shops
- Food shops
- Fruit shops
- Video shops
- Newsagencies
- Hairdressers shops

**Schedule 4 Purposes referred to in clause 9—Zone 2 (t) (Tourist Area Zone)**

(Clause 9)

- Child care centres

Clubs  
Food shops  
Heliports  
Places of assembly  
Places of public worship  
Public utility undertakings  
Tourist facilities  
Transport terminals  
Chemists shops  
Confectionery shops  
Florists shops  
Footwear shops  
Gift shops  
Jewellery and watchmakers shops  
Leathergoods and travelgoods shops  
Photographers shops  
Real estate agencies  
Restaurants  
Sports requisite shops  
Newsagencies  
Tobacconists shops  
Hairdressers shops  
Dry-cleaning shops  
Clothing shops (not exceeding 100 square metres in gross floor area (within the meaning of the [Environmental Planning and Assessment Model Provisions 1980](#))).  
General store (not exceeding 100 square metres gross floor area (within the meaning of the [Environmental Planning and Assessment Model Provisions 1980](#))).

## **Schedule 5 Purposes referred to in clause 9—Zone 4 (a) (Industrial land)**

(Clause 9)

### **Shops (including ancillary storage, display and sales areas) occupying an area of at least 1 000 square metres**

Air-conditioning and refrigeration equipment and parts  
Automotive equipment parts and sales  
Boat and marine supplies and equipment  
Building material supplies  
Camping equipment sales  
Concrete product sales  
Furniture and floor coverings  
Hardware  
Home decorating fixtures  
Industrial and agricultural equipment and machinery  
Landscaping supplies  
Medical and surgical supplies and equipment  
Mobile home caravan and trailer sales

Office equipment and supplies  
Produce stores  
Swimming pools and outdoor recreation equipment  
Any other purpose which closely resembles a purpose identified above

**Shops servicing workers (maximum area of 500 square metres)**

Accounting and computer facilities  
Banking facilities  
Food shops  
Newsagencies  
Restaurants  
Any other purpose which closely resembles a purpose identified above

**Schedule 6 (Repealed)**

**Schedule 7 Land referred to in clause 15**

(Clause 15)

- 1 Assessment No 4662.09000, lot 1, DP 264057, Parish of Billinudgel.
- 2 Assessment No 4662.07000, lot 3, DP 264057, Parish of Billinudgel.
- 3 Assessment No 4175.00000, lot 3, DP 609995, Parish of Jasper.
- 4 Assessment No 4176.00000, lot 2, DP 609995, Parish of Jasper.
- 5 Assessment No 4177.00000, lot 1, DP 609995, Parish of Jasper.
- 6 Assessment No 4260.00000, lot 2, DP 258036, Parish of Billinudgel.
- 7 Assessment No 4261.00000, lot 3, DP 258036, Parish of Billinudgel.
- 8 Assessment No 4262.00000, lot 4, DP 258036, Parish of Billinudgel.
- 9 Assessment No 2540.00000, portion 103, Parish of Clunes.
- 10 Assessment No 7788.20000, lot 7, DP 603977, Parish of Mullumbimby.
- 11 Assessment No 7792.00000, lot 2, DP 579287, Parish of Mullumbimby.
- 12 Assessment No 5601.00000, lot 1560, DP 243995, Parish of Billinudgel (55).
- 13 Assessment No 6936.00000, lot 11, DP 586360, Parish of Clunes (56).
- 14 Assessment No 7821.50000, Lot 8, DP 601390, Parish of Tooland.
- 15 Assessment No 5940.00000, lot 26A, DP 5129, Parish of Byron.
- 16 Assessment No 6808.00000, Lot 318, DP 755695, Parish of Byron.
- 17 Assessment No 5591.00000, lot 1, DP 434565, Parish of Billinudgel.

- 18 Assessment No 4255.00000, lot 1, DP 357177, Parish of Billinudgel.
- 19 Assessment No 4679.00000, lot 82, DP 605948, Parish of Mullumbimby.
- 20 Assessment No 933.02000, lot 30, DP 804875, Parish of Jasper.
- 21 Lot 339, DP 755687.
- 22 Lot 1, DP 445771.
- 23 Lot 2, DP 445771.
- 24 Lot 186, DP 755692.
- 25 Lot 1, DP 123322.
- 26 Lot 9, DP 807867.
- 27 Lot 5, DP 569918.
- 28 Lot 7, DP 844554.
- 30 Lot 4, DP 583623.
- 31 Lot 20, DP 877915.
- 32 Lots 3 and 4, DP 576093
- 33 Lot 7, DP 586804
- 34 Lot 1, DP 722429
- 35 Lot 7, DP 571588
- 36 Lot 1, DP 571873
- 37 Lot 169, DP 257244
- 38 Lot 373, DP 729103
- 39 Lot 1, DP 1022843
- 40 Lot 8, DP 571588
- 41 Lot 1, DP 123289
- 42 Lot 5, DP 580915
- 43 Lot 230, DP 755730
- 44 Lot 158, DP 755695
- 45 Lot 438, DP 729107

DEPOSITED PLAN NUMBERS, LISTED UNDER YEAR (SHOWN BY UNDERLINING) OF ISSUE OF COUNCIL

CLERK'S CERTIFICATE FOR SUBDIVISION.

1969

534319 535635 536652 536030 536396 538085 537765 538812 238724 538412 238693 542178  
543965 541314 544294

1970

542514 542323 542949 544291 543804 544293 543430 543429 544881 544464 568110 544703  
552093 552094 546490

1971

553863 549688 558404 553537 549394 551004 553296 241074 550406 550755 550550 553034  
551947 552246 556770 553033 552902 554286 553934 554027 554839 554079 553936

1972

555089 555088 555083 559036 558652 557721 247375 557418 555919 558280 556636 558532  
556948 556233 243218 558340 556771 557153 556714 557316 557820 559550 558406 244731  
558546 559900 558145 559259 558858 559803 244204 559175 564811 560997 563039 561407  
560163 560246 561513 559943

1973

563522 561346 562332 561452 561490 561489 563079 564124 563435 568819 562616 563373  
245439 566244 565482 247180 567422 246236 564701 564890 565053 567982 565208 565766  
565052 246347 566548 566719 567379 567646 567722 568452 566314 574195 567628 568104  
569916 567115 610392 575148 567117 567130 568162 587391 567603 567048 569047 569985  
568386 246970 570304

1974

570615 568105 246996 247336 571222 570774 569851 570590 574135 570312 569524 569917  
569990 571375 248142 573623 571044 247817 570309 574092 248363 571695 575400 248377  
572223 572064 572897 571934 578079 571636 572079 572131 574094 572246 572748 572912  
574252 578310 572752 249464 575480 248805 572864 573269 576923 575045 574091 573855  
249731 248897 575564 578264 577469 575468 575299 578265 575169 577735 575719 575565  
579176 575946

1975

577910 577895 577659 576360 576921 577017 577281 577734 578874 581270 578269 580914  
578536 581641 251128 578938 577728 580909 578120 577722 577721 577922 250167 578038  
582967 579792 578304 579295 579860 581527 250382 582423 588516 579568 580714 584797  
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580913 581329 581147 581699 580369 580715 580144 583377 581193 580670 581751 581145  
582084 250908 582689 580668 580872 581892 571835 583053 581753 581144 582352 581584  
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1976

580115 583201 584364 585464 583941 584730 583738 590601 584169 583635 587522 584475  
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585518 586187 587709 252483 585769 587860 585699 592630 594995 586271 594996 586221  
586513 586314 586359 586315 585854 586862 585938 586583 252867 586805 586578 586316  
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1977

590205 588391 592993 600681 253840 589362 589298 589361 591190 590470 589535 589627  
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592520 590451 593616 590826 594168 590825 592377 592299 255603 591441 611772 591293  
595023 592152 594551 592170 255525 592287 591956 593610 596035 593240 255630 592711  
255993 592865 595777 255629 255790 594548 258426 593614 255770 594549 594756 595338  
258036 593474 594103 258075 594552 594456 596591 255806 596322 261499 595980

1978

594975 595097 594645 595619 596072 255994 255916 258349 595560 595878 596723 598891  
595813 596124 595455 258132 258394 258176 597109 596612 258338 596592 596064 596170  
596685 597253 258158 600514 596593 597764 610340 597903 598348 258294 599908 597111  
598238 597810 598619 598378 599781 603009 258579 598463 598368 598823 601176 258464  
601327 599812 600363 259415 598719 600192 258562 599731 600095 605958 601568 601075  
603130 603698 258638 600364 600516 600582 258640 600094 258951 599728 601076 600576  
600678 600770

1979

259041 601329 601328 601659 620472 605236 258883 601748 617370 602547 612988 612989  
259010 602030 602481 602455 602402 602058 259256 259313 601474 601603 601985 602916  
602391 602089 601725 258973 603252 602553 603203 606090 606131 603516 621058 602917  
603535 604916 259024 793003 603004 602912 603251 603103 605495 603976 604594 608260  
603517 259337 604060 605171 259285 605035 604801 605779 604256 603876 605945 259420  
606724 608468 604650 259591 605821 259637 605002 605238 605237 606195 611091 605938  
259447 605857 605650 260639 605824 259506 599930 608525 605595 606347 606129 605822  
607661 607353 606785 606438 605811 259624 606133 259954 608870 609219 606791 606372  
606577 607502 607704 606451 607611 610194 606905 607703 608146 608735 259998 610865  
259869 607289 259870 607366 608127 260319 607156

1980

608002 610379 607892 609220 608145 259991 608147 608876 609324 608312 609995 608724  
260297 608723 609813 260369 609271 612844 610382 611392 615108 610487 261002 609928  
609812 615783 612325 609872 609723 618073 610381 611272 610728 610635 612192 615439  
611584 611393 614621 611442 611394 615602 612323 614715 615522 620551 611785 612921  
260904 260707 613227 612114 616456 612387 613173 615546 612814 261020 261219 613127  
614161 616276 617891 613935 613257 621643 613133 614028 614484 261080 710483 613834  
614014 614645 614893 615329 614618 618091 615585 623877 615048 261332

1981

615290 261449 615832 616219 620051 630943 616521 620841 615736 616011 616559 261691  
616224 616597 261607 620040 261560 617631 617236 616998 616740 617652 618839 617488  
620929 261662 619524 617067 617681 625509 617529 618234 618697 618089 623564 620732  
622949 618891 618589 622735 619293 703966 623547 620049 625208 623992 621642 619714  
263342 620296 262323 262183 262201 262477 621694 621260 621594 263650 621993 620642  
620682 262339 621360 623743 621320 621548 621825 621359 623509 633099 262480 622644  
622204 626244 623350 623351 622630 623809 622226 622736 622586 623057

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622461 622490 627229 623865 627961 625667 262826 262827 623673 262828 262829 262821  
262822 262823 262824 262825 627619 625224 625004 627278 264290 625342 625255 630446  
627447 626040 629581 626518 626605 627139 626519 627470 628943 263270 627031 626429  
627003 627385 627510 626914 627476 627458 627436 263503 627822 731049 632973 626084  
700946 628447 630546 628224 631081 629956 632681 703195 635176 629233 629234 629487  
630164 629528 630982 632110 635195 637723 632018 710090 630647 631296 630492 631285  
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264057 630987 631177 632810 631795 263974 631250 632898 630999 632464 632154 631518  
631878 633726 633694 635112 264149 631949 632083 634612 632434 633243 632771 632974  
633976 633244 707292 634132 264449 702538 701326 634771 701103 702270 264467 634601  
705217 701692 700339 700806 635710 700807 700055 635614 635444 635505 700120 700348  
701525 701229 700568 703416 700739 701005 702175 701010 702243 707295 702271 702381  
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702701 701392 710080 712153 711063 702535 707671 703261 703653 702880 703263 705522  
706442 710428 703851 730861 705543 707485 703880 706115 705946 706286 712946 708048  
707865 706758 707651 707706 707614 708189 708338 708466 709703 709546 710167 708644  
710192 709573 714077 717772 710100 710039 713515 710680

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711115 713964 713135 637345 712250 713243 730825 731486 718014 713081 712883 717523  
717102 717703 713023 713699 716065 713857 638972 717125 718937 738155 714761 715746  
715498 716641 716308 715450 716565 715608 716479 719570 719871 718777 719142 732108  
730336 730335 719143 719687 719991 731492 731050

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732530 732071 732056 732059 748118 733182 732188 732638 777301 732730 732681 734745  
733022 738270 739987 735000 734828 738059 734593 735699 736093 736671 735656 747147  
739798 735538 736674 738086 748237 737161 737209 738352 739122 739352 739402 739787  
739963 740309 710192 739871 747075 740557 740203

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771568 740943 746096 749891 749851 748873 747540 749209 778626 746549 748235 748696  
748119 748308 747576 747409 747394 791342 747186 748290 749076 776145 747828 748585  
749004 747947 748804 748973 748983 748729 787386 776155 792880 793657 773022 749331  
771101 772174 771127 771754 777750 773806 773390 773078 755738 773129 773806

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773520 774146 785272 785171 775335 775410 775447 785735 792113 778293 776025 777369  
789153 776107 776609 804545 778016 785551 778661 786110 787037 785708 793082 786274

**Schedule 8 Land referred to in clause 29**

(Clause 29)

1 Lot 6 in DP 619293, Parish of Byron, Assessment No 2469.500000, for the purpose of dwellings for

the Buttery Accommodation Scheme.

- 2 Lot 2 in DP 603535, Parish of Whian Whian, Assessment No 7632.00000, for the purpose of Rural Tourist Facilities.
- 3 Lot 4 in DP 38724, Redgate Road, Parish of Brunswick, Assessment No 6062.00000, for the purpose of Tourist Facilities.
- 4 Lot 1 in DP 584473, Manse Road, Myocum, Parish of Brunswick, for the purpose of a garbage depot.
- 4A (Repealed)
- 5 Lot 10, DP 708338, Broken Head Road, Parish of Byron, for the purpose of a dwelling-house.
- 6 Lots 1 and 2, Section 20, DP 758207, Shirley Street, Byron Bay, for the purpose of a service station.
- 7 Lot 2, DP 31814, Bangalow Road, Byron Bay, use of the existing building for the purposes of shops or commercial premises (or both), not to exceed 431 square metres gross floor area.
- 8 Lot B, Vol 2280 Folio 503, Shirley Street, Byron Bay, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 29)*" for the purpose of an office ancillary to the adjoining service station.
- 10 Lot 318, DP 755695, Skinners Shoot Road, Byron Bay, for the purpose of a dwelling-house.
- 11 Lot 5, DP 832186, Lots 180 and 182, DP 728174, Main Arm Road, Mullumbimby, as shown edged heavy on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 41)*", for the purpose of a market.
- 12 Lot 25, DP 808062, corner of Byron Street and Ballina Road, Bangalow, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 44)*" for the purpose of a medical and health centre.
- 13 Lot 11, DP 627139, Goremans Road, Eureka, as shown edged in heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 50)*", for the purpose of a bus depot to garage four buses and their minor servicing.
- 15 Part Lot 2, DP 514338, Old New Brighton Road, New Brighton, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 52)*", for the purpose of a dwelling-house, but only if all buildings are within the building envelopes shown on that map.
- 16 (Repealed)
- 17 Lot 3, DP 599728, for the purpose of four dwelling-houses for a multiple occupancy, but only if all buildings are within the building envelope shown for that lot on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 53)*".
- 18 Lot 5, DP 860179, for the purpose of a road, but only in the position shown on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 53)*".
- 19 Lot 52, DP 559900, for the purpose of a dwelling-house, but only if the building is within the building envelope shown for that lot on the map marked "*Byron Local Environmental Plan 1988*"

*(Amendment No 53)*".

- 20 Lot 5, DP 607705, Federal Road, Federal, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 56)*", for the purpose of a dwelling-house, but only if buildings are within the building envelope for that lot shown on that map.
- 21 Lot 6, DP 607705, Federal Road, Federal, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 116)*", for the purpose of a dwelling-house, but only if buildings are within the building envelope for that lot shown on that map.
- 22 Lot 7, DP 607705, Repentance Creek Road, Federal, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 93)*", for the purpose of a dwelling-house, but only if buildings are within the building envelope for that lot shown on that map.
- 24 Lot 1, DP 394452, for the purpose of a dwelling-house.
- 25 Lot 1, DP 589613, for the purpose of a dwelling-house.
- 26 Lot 2, DP 589613, for the purpose of a dwelling-house.
- 27 Lot 1, DP 584476, for the purpose of a dwelling-house.
- 28 Part Lot 1, DP 842300, Jubilee Avenue, Mullumbimby, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 60)*" for the purpose of a shop with a floor area of up to 330 square metres for the sale of timber products, with no sawmilling, manufacturing or processing of timber to take place on the site.
- 29 Part of Lot 449, DP 812102, part of Lots 10, 11, 12 and 13, DP 243218 and part of Lot 1, DP 780243, Byron Bay, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 63)*", for the purpose of a golf course.
- 30 Part Lot 390, DP 728163 and part Lot 378, DP 704236, Mullumbimby, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 76)*", for the purpose of an educational establishment for a maximum period of seven (7) years from the date of gazettal of *Byron Local Environmental Plan 1988 (Amendment No 76)*.
- 31 Lot 10, DP 854466, Tyagarah and Pinegroves Roads, Tyagarah—
  - (a) a subdivision creating two allotments, the boundaries of which are generally in accordance with those shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 77)*", and
  - (b) development on those allotments for the purpose of dwellings.
- 32 Lot 2, DP 748585, Grays Lane, Tyagarah, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 77)*"—
  - (a) a subdivision creating two allotments, and
  - (b) development on the smaller of those allotments for the purpose of a dwelling, and

- (c) a subdivision of the larger allotment under the [Community Land Development Act 1989](#) to create a neighbourhood scheme under which four neighbourhood lots and one allotment of neighbourhood property are created, and
  - (d) development on the four neighbourhood lots for rural residential purposes, and development on the one allotment of neighbourhood property for the purposes of open space, environmental facilities and agriculture.
- 33 Lot 1, DP 727923 and Lot 1, DP 185915—
- (a) a subdivision creating two allotments, the boundaries of which are generally in accordance with those shown edged heavy black on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 80)*”, and
  - (b) development on those allotments for the purpose of dwellings.
- 34 Lot 1, DP 502255, Lot 1, DP 127114 and Lot 1, DP 404238—
- (a) a subdivision creating three allotments, the boundaries of which are generally in accordance with those shown edged heavy black on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 80)*”, and
  - (b) development on two of those allotments for the purpose of dwellings and development on the residual allotment for the purpose of community use.
- 35 Lot 29, DP 826128, Avocado Crescent, Ewingsdale, as shown edged heavy black on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 83)*”, a subdivision creating four allotments and development of those allotments for the purpose of dwellings.
- 36 Lot 102, DP 857692, Parkway Drive, Ewingsdale, as shown edged heavy black on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 83)*”, a subdivision creating four allotments and development of those allotments for the purpose of dwellings.
- 37 Lot 18, DP 790776, Parkway Drive, Ewingsdale, as shown edged heavy black on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 83)*”, a subdivision creating two allotments and development of those allotments for the purpose of dwellings.
- 38 Lot 1, DP 569916, Dingo Lane, Myocum, as shown edged heavy black on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 83)*”—
- (a) a subdivision under the [Community Land Development Act 1989](#) to create a neighbourhood scheme under which four neighbourhood lots and one allotment of neighbourhood property are created, and
  - (b) development of the four neighbourhood lots for rural residential purposes, and development of the one allotment of neighbourhood property for the purposes of open space, environmental facilities and agriculture.
- 39 Lot 5, DP 707671, Fowlers Lane, Bangalow, as shown edged heavy black on the map marked “*Byron Local Environmental Plan 1988 (Amendment No 85)*”—
- (a) a subdivision under the [Community Land Development Act 1989](#) to create a neighbourhood

scheme under which ten neighbourhood lots and one allotment of neighbourhood property are created, and

(b) development on the ten neighbourhood lots for rural residential purposes, and development on the one allotment of neighbourhood property for the purposes of open space, environmental facilities and agriculture.

40 Lot 300, DP 839554, Coopers Shoot Road, Coopers Shoot, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 84)*", a subdivision creating two allotments and development on those allotments for the purpose of dwellings.

41 Lot B, DP 326871, Burringbar Street, Mullumbimby, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 88)*", for the purposes of light industry, a shop and commercial premises for the use of the Mullumbimby Community Enterprise Centre.

42 Lots 1 and 11, Sec 2, DP 11632 and Lot 1, DP 41649, Clifford Street, Suffolk Park, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 94)*", for the purposes of a professional medical centre containing up to 3 medical practitioners, dentists or health care professionals (as defined in the [Environmental Planning and Assessment Model Provisions 1980](#)) with at least 10 additional car parking spaces provided on site. The medical centre may be operated only from the existing building on Lot 1, Sec 2, DP 11632, or within a replacement building that does not exceed the site coverage, setbacks or height of the existing building.

43 That part of Lot 2, DP 549394, Broken Head Road, Suffolk Park, that was zoned to Zone No 7 (b) (the Coastal Habitat Zone) by [Byron Local Environmental Plan 1988 \(Amendment No 75\)](#) (**the land**), for the purposes of that part of the tourist facility approved by the consent for construction on the land, subject to the following conditions—

(a) the development complies with the conditions of the consent,

(b) the consent does not lapse before the development is carried out.

In this item, **the consent** means the development consent issued by the Land and Environment Court in proceedings No 10114 of 2000 on 20 December 2000 (Development Application No DA 99/0898).

45 Lots 6 and 7, DP 874010, Boogarem Road, Koonyum Range, Mullumbimby, no more than two holiday cabins which are to be positioned in a cluster formation, where development is carried out in accordance with sections 7.2 (Holiday cabins) and 8 (Rural settlement performance standards) of *Byron Rural Settlement Strategy 1998*, as in force at the commencement of [Byron Local Environmental Plan 1988 \(Amendment No 99\)](#).

46 Lot 7 and so much of Lot 8, DP 605958 and so much of Lot 4, DP 820621, Ewingsdale Road, Byron Bay, as is shown coloured yellow and lettered "5 (a) (Private College)" on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 98)*", for the following purposes—

(a) boarding accommodation for a maximum of 100 students attending the private college erected on the land,

(b) video and sound recording studios,

provided the Council is satisfied that the carrying out of the development will be consistent with the State Government's coastal policy as set out in the publication *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, a copy of which is available for inspection at the office of the Council.

47 Lot 4, DP 820621 and Lots 7-9, DP 605958, Ewingsdale Road, Byron Bay, for the purpose of on-site effluent disposal associated with the operations of the private college erected on part of the land, provided the Council is satisfied that the carrying out of the development will be consistent with the State Government's coastal policy as set out in the publication *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, a copy of which is available for inspection at the office of the Council.

48 Lot 2, DP 1005689, Coorabell Road, Coorabell, in the local government area of Byron as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 105)*", for the purpose of a community title (village catchment) settlement that complies with the provisions of section 6.3 of the *Byron Rural Settlement Strategy 1998* adopted by the council, as in force at the commencement of *Byron Local Environmental Plan 1988 (Amendment No 105)*, but only if—

(a) the council is satisfied that—

- (i) the land is to be subdivided under the *Community Land Development Act 1989* to create a neighbourhood scheme that includes no more than 13 neighbourhood lots and one lot that is neighbourhood property, and
- (ii) no more than one dwelling is to be erected on each of the neighbourhood lots, and
- (iii) no part of the property is to be developed for the purpose of holiday cabins or tourist facilities, and
- (iv) use and development of the land is in accordance with a neighbourhood management statement that includes provision for environmental management and enhancement, and

(b) the following infrastructure and matters necessary and incidental to the provision of that infrastructure are provided without any cost to the council—

- (i) new access to the land, including appropriate slip lanes and bus bays, in a manner that complies with the standards set by the council,
- (ii) widening of the pavement at the frontage of the land alongside Coorabell Road in a manner that complies with the standards set by the council,
- (iii) widening of the pavement and culvert along Coorabell Road at the bend south of Keyes Bridge in a manner that complies with the standards set by the council,
- (iv) widening of the pavement at the bend south of the travelling stock reserve south of Keyes Bridge in a manner that complies with the standards set by the council,
- (v) culvert and bend widening of Coorabell Road 200 metres from the Binna Burra Road intersection in a manner that complies with the standards set by the council,

(vi) 230 metres of paved footway in Federal village connecting the preschool to the shop and park, and

(c) the cost of any survey or resumption required to correct any existing deviation of Coorabell Road along the frontage of the land is borne by the applicant.

49 Lot 1, DP 189704, Blackbutt Road and Lot 7, DP 718014, Broken Head Road, Broken Head, for the purpose of a rural community title (town catchment) settlement that complies with the provisions of section 6.2 of the *Byron Rural Settlement Strategy 1998* adopted by the council, as in force at the commencement of [Byron Local Environmental Plan 1988 \(Amendment No 117\)](#), but only if—

(a) the council is satisfied that—

(i) the land is to be subdivided under the [Community Land Development Act 1989](#) to create a neighbourhood scheme under which a maximum of 12 neighbourhood lots and one lot that is neighbourhood property are created on each property, being both Lot 1, DP 189704 and Lot 7, DP 718014, and

(ii) the neighbourhood lots are to be developed for rural residential purposes, and no more than one dwelling is to be erected on each of the neighbourhood lots, and

(iii) the neighbourhood property is to be developed for the purpose of agriculture, environmental repair and ancillary utilities or community facilities, and

(iv) no part of the neighbourhood property is to be developed (including by further subdivision) for the purpose of holiday cabins or rural tourist facilities, and

(v) development of the land is in accordance with a neighbourhood management statement that includes provision for environmental management and enhancement, and

(b) an application for development consent pursuant to this item is made to the council within the period of 5 years immediately after the commencement of [Byron Local Environmental Plan 1988 \(Amendment No 117\)](#).

50 Lot 4, DP 608468, Old Bangalow Road, Byron Bay, for the purpose of a rural community title (town catchment) settlement that complies with the provisions of section 6.2 of the *Byron Rural Settlement Strategy 1998* adopted by the council, as in force at the commencement of [Byron Local Environmental Plan 1988 \(Amendment No 121\)](#), but only if—

(a) the council is satisfied that—

(i) the land is to be subdivided under the [Community Land Development Act 1989](#) to create a neighbourhood scheme under which a maximum of 13 neighbourhood lots and one lot that is neighbourhood property are created, and

(ii) the neighbourhood lots are to be developed for rural residential purposes, and no more than one dwelling is to be erected on each of the neighbourhood lots, and

(iii) the neighbourhood property is to be developed for the purpose of environmental repair and ancillary utilities or community facilities, and

(iv) no part of the neighbourhood property is to be developed (including by further



subdivision) for the purpose of holiday cabins or rural tourist facilities, and

(v) development of the land is in accordance with a neighbourhood management statement that includes provision for environmental management and enhancement, and

(b) an application for development consent pursuant to this item is made to the council within the period of 5 years immediately after the commencement of *Byron Local Environmental Plan 1988 (Amendment No 121)*.

51 Lot 452, DP 48493, Lighthouse Road, Byron Bay, as shown edged heavy black, coloured yellow and lettered "Cultural Centre and Offices" on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 126)*", the purpose of any of the following: Aboriginal cultural centre, visitors centre, museum, meeting rooms, training rooms, restaurant, shops, light industrial workshops, tourist information office, offices, outdoor cooking area, open air theatre, bus station, food shop, dwelling-house for the purposes of an onsite caretaker, car parking and uses ancillary to those purposes, but only if—

(a) a precinct plan for the development of the land has been submitted to the council and adopted and notified by the council pursuant to clause 39, and

(b) the precinct plan referred to in paragraph (a) has, as its key objective, the establishment on the land of an integrated facility—

(i) consistent with the Indigenous Land Use Agreement between the Arakwal Aboriginal Corporation and the New South Wales Government, and

(ii) the dominant use of which is as an Aboriginal cultural centre, and

(c) the consent authority is satisfied that the development of the land is to be consistent with the provisions of the precinct plan referred to in paragraph (a), and

(d) the consent authority is satisfied that, in accordance with clause 39A, the land has been remediated and is suitable for development for the purpose for which the consent is being sought, and

(e) if a site audit is required under clause 39B in respect of the land, the site audit report and site audit statement relating to the site audit have been approved by the council.

52 Lot 377, DP 47409, Old Pacific Highway, Ewingsdale, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 119)*", for the purpose of a recreation area.

53 Lot 21, DP 866871, Blindmouth Road and Lot 2, DP 1074823, Main Arm Road, Main Arm, for the purpose of a rural community title (village catchment) settlement that complies with the provisions of section 6.3 of the *Byron Rural Settlement Strategy 1998*, as in force at the commencement of *Byron Local Environmental Plan 1988 (Amendment No 128)*, but only if—

(a) the council is satisfied that—

(i) the land is to be subdivided under the *Community Land Development Act 1989* to create a neighbourhood scheme under which a maximum of—

(A) 13 neighbourhood lots and one lot that is neighbourhood property are created on Lot 21, DP 866871, Blindmouth Road, Main Arm, and

(B) 13 neighbourhood lots and one lot that is neighbourhood property are created on Lot 2, DP 1074823, Main Arm Road, Main Arm, and

(ii) the neighbourhood lots are to be developed for rural residential purposes, and no more than one dwelling is to be erected on each of the neighbourhood lots, and

(iii) the neighbourhood property is to be developed for the purpose of agriculture, environmental repair and ancillary utilities or community facilities, and

(iv) no part of the neighbourhood property is to be developed (including by further subdivision) for the purpose of holiday cabins or rural tourist facilities, and

(v) development of the land is in accordance with a neighbourhood management statement that includes provisions for environmental management and enhancement, and

(b) an application for development consent pursuant to this item is made to the council within the period of 5 years immediately after the commencement of *Byron Local Environmental Plan 1988 (Amendment No 128)*.

54 Part of Lot 2, DP 614621, Main Arm Road, Main Arm, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 128)*", a subdivision creating not more than 11 lots, but only if the council is satisfied that—

(a) not more than 11 dwellings are to be erected on the land, and

(b) no dwelling is to be erected on any flood liable land, and

(c) the land is to be used only for residential purposes.

55 Lot 2, DP 606347, Natural Lane, Broken Head, for the purpose of a rural community title settlement that complies with the provisions of the *Byron Rural Settlement Strategy 1998*, as in force at the commencement of *Byron Local Environmental Plan 1988 (Amendment No 127)*, but only if—

(a) the council is satisfied that—

(i) the land is to be subdivided under the *Community Land Development Act 1989* to create a neighbourhood scheme under which a maximum of 6 neighbourhood lots and one lot that is neighbourhood property are created, and

(ii) the neighbourhood lots are to be developed for rural residential purposes, and no more than one dwelling is to be erected on each of the neighbourhood lots, and

(iii) the neighbourhood property is to be developed for the purpose of agriculture, environmental repair and ancillary utilities or community facilities, and

(iv) no part of the neighbourhood property is to be developed (including by further subdivision) for the purpose of holiday cabins or rural tourist facilities, and

(v) development of the land is in accordance with a neighbourhood management statement that includes provisions for environmental management and enhancement, and

- (b) the provisions for environmental management and enhancement to be included in the neighbourhood management statement address the following—
  - (i) the aims and objectives of environmental rehabilitation as they relate to flora and fauna communities and habitats,
  - (ii) the objectives and provisions of the *Byron Biodiversity Conservation Strategy 2004*, and
- (c) the provisions for environmental management and enhancement to be included in the neighbourhood management statement require the following—
  - (i) all plantings to be undertaken in priority areas for environmental repair to ensure the expansion of the following—
    - (A) wildlife corridors and connecting areas between vegetation remnants,
    - (B) existing vegetation remnants,
    - (C) habitats for threatened species and plant communities,
    - (D) riparian areas adjoining watercourses,
  - (ii) all plantings to be based on locally sourced species, and
- (d) the provisions for environmental management and enhancement to be included in the neighbourhood management statement include the following—
  - (i) a detailed planting strategy incorporating the following—
    - (A) planting site preparation,
    - (B) specific locations,
    - (C) spacing and density,
    - (D) a species list,
    - (E) mature heights of tree and shrub species to be planted,
    - (F) establishment of planting areas,
    - (G) expected completion date for planting activities,
    - (H) a weed maintenance program,
  - (ii) a detailed regeneration and rehabilitation strategy incorporating the following—
    - (A) areas for regeneration and rehabilitation work,
    - (B) the activities proposed in each area,
    - (C) priority areas and timeframes for implementation in those areas.

56 Lot 456, DP 1126388, corner of Lawson and Middleton Streets, Byron Bay, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 136)*", for the

purposes of commercial premises, a community building and a shop.

- 57 So much of Lot 3, DP 706286, 249 Ewingsdale Road, Byron Bay as is shown distinctively coloured, edged heavy black and lettered "6 (a)" on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 140)*", for the purposes of community events and festivals.
- 58 Lot 2, DP 537488, 2 Tickles Road, Upper Coopers Creek, for the purposes of a dwelling-house, but only if the council is satisfied that the radiant heat exposure from a bushfire in relation to the house will not exceed 29 kW per square metre.

## Schedule 9

(Clause 43)

Parts lot 52, DP 559900, and portion 154, Parish Byron, Broken Head.

## Schedule 10 Land referred to in clause 17A

(Clause 17A)

- 1 Lot 5, DP 625004, Main Arm Road, Assessment No 4243.1 (72.89 hectares) (14 dwellings).
- 2 Lot 5, DP 567117, Settlement Road, Assessment No 6605 (84.41 hectares) (7 dwellings).
- 3 Lot 7, DP 569918, Huonbrook Road, Assessment No 3347 (38.93 hectares) (7 dwellings).
- 4 Lot 11, DP 605035, Newes Road, Assessment No 5201 (11.81 hectares) (4 dwellings).
- 5 Lot 1, DP 259337, Seven Mile Beach Road, Assessment No 6619 (18.34 hectares) (4 dwellings).
- 6 Portion 190, Parish of Billinudgel, Blindmouth Road, Assessment No 944 (20.24 hectares) (5 dwellings).
- 7 Portion 219, Parish of Nullum, Skyline Road, Main Arm, Assessment No 6811 (35.4 hectares) (4 dwellings).
- 8 Lot 3, DP 611785, Wanganui Road, Assessment No 7630 (13.06 hectares) (5 dwellings).

## Schedule 11 Land referred to in clause 47

### Part 1 Land classified, or reclassified, under original section 30 of Local Government Act 1993

Lot 8, DP 758725, Parish of Brunswick, Mullumbimby, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 34)-Classification Map*" is reclassified as operational land.

Lot 1520, DP 245028, Parish of Brunswick, Ocean Shores, is reclassified as operational.

Lot 3, DP 259591, Parish of Byron, Byron Bay, is reclassified as operational.

Lot 4, DP 259591, Parish of Byron, Byron Bay, is reclassified as operational.

- Lot 4, DP 259010, Parish of Byron, Coopers Shoot, is reclassified as operational.
- Lot 4, DP 250908, Parish of Byron, Talofa, is reclassified as operational.
- Lot 5, DP 259991, Parish of Byron, Talofa, is reclassified as operational.
- Lot 6, DP 259991, Parish of Byron, Talofa, is reclassified as operational.
- Lot 7, DP 259991, Parish of Byron, Talofa, is reclassified as operational.
- Lot 1953, DP 785258, Parish of Brunswick, Ocean Shores, is reclassified as operational.
- Lot 4, DP 579411, Parish of Billinudgel, Billinudgel, is reclassified as operational.
- Lot 5, DP 249464, Parish of Brunswick, Mullumbimby, is reclassified as operational.
- Lot 4, DP 709573, Parish of Mullumbimby, Mullumbimby, is reclassified as operational.
- Lot 2, DP 801701, Parish of Byron, Bangalow, is reclassified as operational.
- Lot 18, DP 259447, Parish of Brunswick, Everitts Hill, is reclassified as operational.
- Lot 3, DP 707865, Parish of Bexhill, Clunes, is reclassified as operational.
- Lot 4, DP 707865, Parish of Bexhill, Clunes, is reclassified as operational.
- Lot 5, DP 710167, Parish of Rous, Clunes, is reclassified as operational.
- Lot 2, DP 608735, Parish of Clunes, Springvale Hill, is reclassified as operational.
- Lot 3, DP 580369, Parish of Brunswick, Mullumbimby, is reclassified as operational.
- Lot 6, DP 631250, Parish of Byron, Bangalow, is reclassified as operational.
- Lot 5, DP 610728, Parish of Byron, Bangalow, is reclassified as operational.
- Lot 4, DP 702168, Parish of Byron, Bangalow, is reclassified as operational.
- Lot 2, DP 614715, Parish of Byron, Bangalow, is reclassified as operational.
- Lot 1, DP 612325, Parish of Brunswick, Ewingsdale, is reclassified as operational.
- Lot 605, DP 240398, Parish of Brunswick, Ocean Shores, is reclassified as operational.
- Lot 606, DP 240398, Parish of Brunswick, Ocean Shores, is reclassified as operational.
- Lot 692, DP 240399, Parish of Brunswick, Ocean Shores, is reclassified as operational.
- Lot 794, DP 240400, Parish of Brunswick, Ocean Shores, is reclassified as operational.
- Lot 795, DP 240400, Parish of Brunswick, Ocean Shores, is reclassified as operational.
- Lot 977, DP 241073, Parish of Brunswick, Ocean Shores, is reclassified as operational.
- Lot 944, DP 241810, Parish of Brunswick, Ocean Shores, is reclassified as operational.

Lot 945, DP 241810, Parish of Brunswick, Ocean Shores, is reclassified as operational.

Lot 1, DP 121491, Parish of Brunswick, Ocean Shores, is reclassified as operational.

Lot 3, DP 554518, Parish of Brunswick, Ocean Shores, is reclassified as operational.

Lot 1521, DP 572416, Parish of Brunswick, Ocean Shores, is reclassified as operational.

Lot 9, DP 252384, Parish of Jasper, Repentance Creek, is reclassified as operational.

Lot 4, DP 264449, Parish of Byron, Bangalow, is reclassified as operational.

Lot 1752, DP 244386, Parish of Billinudgel, Ocean Shores, is reclassified as operational.

Lot 1758, DP 246054, Parish of Billinudgel, Ocean Shores, is reclassified as operational.

Lot 1458, DP 245029, Parish of Brunswick, Ocean Shores, is reclassified as operational.

Lot 691, DP 240398, Parish of Brunswick, Ocean Shores, is reclassified as operational.

Lot 10, DP 740762, Parish of Byron, Byron Bay, is reclassified as operational.

Lot 11, DP 740762, Parish of Byron, Byron Bay, is reclassified as operational.

Lot 12, DP 740762, Parish of Byron, Byron Bay, is reclassified as operational.

Lot 22, DP 812667, Parish of Byron, Byron Bay, is reclassified as operational.

Lot 23, DP 812667, Parish of Byron, Byron Bay, is reclassified as operational.

Lot 44, DP 819063, Parish of Byron, Byron Bay, is reclassified as operational.

Lot 68, DP 835249, Parish of Byron, Byron Bay, is reclassified as operational.

Lot 1453, DP 575235, Parish of Billinudgel, Ocean Shores, is reclassified as operational.

Lot 1, DP 735732, Parish of Brunswick, Ocean Shores, is reclassified as operational.

Lot 7, DP 739871, Parish of Byron, Bangalow, is reclassified as operational.

Lot 32, DP 809822, Parish of Brunswick, Montecollum, is reclassified as operational.

**Part 2 Land classified, or reclassified, under amended section 30 of  
Local Government Act 1993—interests not changed**

<b>Column 1</b>	<b>Column 2</b>
<b>Locality</b>	<b>Description</b>
<b>Bangalow</b>	
Dudgeons Lane	Lot 1, DP 556233
Dudgeons Lane	Lot 3, DP 573989

Granuaille Road Lot 99, DP 1016338

**Brunswick Heads**

Fingal Street Lot 1, DP 922669

Fingal Street Lot 2, DP 923428

Kingsford Drive Lot 72, DP 851902

Pacific Highway East Lot 1, DP 560486

Pacific Highway West Lot 1, DP 613075

Pacific Highway West Lot 5, DP 717523

Park Street Lot 1, DP 105062

**Byron Bay**

Acacia Street Lot 103, DP 842022

Bangalow Road Lot 1, DP 264161

Bangalow Road Lot 2, DP 264161

Bangalow Road Lot 23, DP 549688

Bangalow Road Lot 1, DP 603845

Banksia Drive Lot 106, DP 842475

Bay Street Part of Lot 4, DP 827049, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 145)*"

Bayshore Drive Lot 6, DP 248197

Bayshore Drive Lot 2, DP 706286

Bayshore Drive Lot 1, DP 1004514

Bayshore Drive Lot 2, DP 1004514

Bayshore Drive Lot 4, DP 1004514

Centennial Circuit Lot 6, DP 812667

Grevillea Street Lot 101, DP 808566

Jonson Street Lot 7, DP 258071

Jonson Street Lot 1, DP 526324

Jonson Street Lot 8, DP 818197

Jonson Street Part of Lot 3, DP 827049, as shown edged heavy black on the map marked "*Byron Local Environmental Plan 1988 (Amendment No 145)*"

Lawson Street	Lot B, DP 372589
Lawson Street	Lot 5, DP 827049
Lawson Street	Lot 6, DP 827049
Lighthouse Road	Lot 346, DP 755695
Marine Parade	Lot 1, DP 603847
Paterson Street	Lot 2, DP 717719
Paterson Street	Lot 6, DP 733776
Paterson Street	Lot 7, DP 740727
Paterson Street	Lot 8, DP 740874
Paterson Street	Lot 9, DP 740963
Sunrise Boulevard	Lot 45, DP 714410
Wentworth Street	Lot 1, DP 603846
<b>Mullumbimby</b>	
Ann Street	Lot 1, DP 214907
Casuarina Street	Lot 1, DP 216961
Casuarina Street	Lot 11, DP 578826
Cedar Road	Lot 1, DP 314094
Palm Avenue	Lot 1, DP 222780
Reservoir Road	Lot 1, DP 342369
Scott's Wood Grove	Lot 11, DP 865388
Smith Street	Lot 14, DP 848061
Station Street	Lot 6, Section 3, DP 2772
Station Street	Lot 7, Section 3, DP 2772
Station Street	Lot 8, Section 3, DP 2772
Station Street	Lot B, DP 6733
Station Street	Lot 1, DP 214906
Station Street	Lot 4, DP 841856
Station Street	Lot 10, DP 850902
Stuart Street	Lot 1, DP 214905
The Saddle Road	Lot 1, DP 441896
The Saddle Road	Lot 1, DP 584730



### **Myocum**

The Manse Road	Lot 1, DP 584473
The Manse Road	Lot 3, DP 584473
The Manse Road	Lot 1, DP 591441
The Manse Road	Lot 29, DP 609271

### **New Brighton**

North Head Road	Lot 19, DP 7466
North Head Road	Lot 20, DP 7466
North Head Road	Lot 21, DP 7466

### **Ocean Shores**

Balemo Drive	Lot 1, DP 818965
Dandaloo Way	Lot 272, DP 238455
Orana Road	Lot 469, DP 238451
Orana Road	Lot 530, DP 238451
Shara Boulevard	Lot 2004, DP 808461
Terrara Court	Lot 649, DP 240398
Yamble Drive	Lot 4, DP 735731

### **Suffolk Park**

Broken Head Road	Lot 1, DP 573835
Broken Head Road	Lot 2, DP 573835
Broken Head Road	Lot 7, DP 580423

### **Tyagarah**

Pacific Highway East	Lot 2, DP 749851
Pacific Highway East	Lot 4, DP 805678
Pacific Highway East	Lot 5, DP 805678
Pacific Highway East	Lot 6, DP 836887
Pacific Highway East	Lot 8, DP 856832
Pacific Highway East	Lot 9, DP 856832
Pacific Highway East	Lot 49, DP 881232

**Wilsons Creek**

Wilsons Creek Road	Lot 1, DP 314096
Wilsons Creek Road	Lot 2, DP 314096
Wilsons Creek Road	Lot 1, DP 395638
Wilsons Creek Road	Lot 2, DP 635195

### **Part 3 Land classified, or reclassified, under amended section 30 of Local Government Act 1993—interests changed**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Locality</b>	<b>Description</b>	<b>Trusts etc not discharged</b>
Mullumbimby	Part of Lot 1, DP 952598, being the land in Zone 1 (a) (General Rural Zone) and the land in Zone 7 (b) (Coastal Habitat Zone), as shown edged heavy black on the map marked " <i>Byron Local Environmental Plan 1988 (Amendment No 154)</i> "	Right of Carriageway registered with DP 1203903
Myocum	Part of Lot 15 and part of Lot 16, DP 1178892, being the land in Zone 1 (a) (General Rural Zone) and the land in Zone 1 (d) (Investigation Zone), as shown edged heavy black on the map marked " <i>Byron Local Environmental Plan 1988 (Amendment No 154)</i> "	Easement to Drain Water registered with DP 645883 Easement to Drain Water registered with DP 645884 Easement to Drain Water registered with DP 1122726 Right of Carriageway registered with DP 1178892 affecting Lot 15, DP 1178892 Easement for Overhead Power Line(s) registered with DP 1178892 affecting Lot 16, DP 1178892 Restriction(s) on the Use of Land referred to and numbered (3) in the applicable Section 88B Instrument registered with DP 1178892 affecting Lot 16, DP 1178892 Restriction(s) on the Use of Land referred to and numbered (4) in the applicable Section 88B Instrument registered with DP 1178892 affecting Lot 16, DP 1178892

### **Schedule 11A Land referred to in clause 47AA**

<b>Column 1</b>	<b>Column 2</b>
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**Locality**

**Description**

**Schedule 12 Development by public authorities**

(Clause 62)

**1 Rail transport**

The carrying out by persons carrying on railway undertakings on land comprised in their undertakings of—

- (a) any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant, and
- (b) the erection within the limits of a railway station of buildings for any purpose, but excluding—
- (c) the construction of new railways, railway stations and bridges over roads, and
- (d) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes outside the limits of a railway station and the reconstruction or alteration of railway stations or bridges so as materially to affect their design, and
- (e) the formation or alteration of any means of access to a road, and
- (f) the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.

**2 Water, sewerage, drainage, electricity and gas**

The carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings—

- (a) development of any description at or below the surface of the ground,
- (b) the installation of any plant inside a building or the installation or erection within the premises of a generating station or substation established before the appointed day of any plant or other structures or erections required in connection with the station or substation,
- (c) the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of substations, feeder-pillars or transformer housing, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for

the supply of water, or the installation of substations, feeder-pillars or transformer housings of stone, concrete or brickworks,

- (d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity,
- (e) the erection of service reservoirs on land acquired or in the process of being acquired for that purpose before the appointed day, provided reasonable notice of the proposed erection is given to the council,
- (f) any other development except—
  - (i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings, so as materially to affect their design or external appearance, or
  - (ii) the formation or alteration of any means of access to a road.

### **3 Water transport**

The carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except—

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

### **4 River transport**

The carrying out by persons carrying on public utility undertakings, being wharf or river undertakings, on land comprised in their undertakings, of any development required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a wharf or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant for those purposes, except—

- (a) the construction of bridges, the erection of any other buildings, and the reconstruction or alteration of bridges or of buildings so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

## **5 Air transport**

The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome, of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except—

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

## **6 Road transport**

The carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except—

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

## **7 Mines**

The carrying out by the owner or lessee of a mine (other than a mineral sands mine), on the mine, of any development required for the purposes of a mine, except—

- (a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings, so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

## **8 Roads**

The carrying out of any development by a council or other public authority required in connection with—

- (a) the construction, reconstruction, improvement, maintenance or repair of any road, or
- (b) the widening, realignment or relocation of any road, except on land within Zone No 7 (a), 7 (b), 7 (c), 7 (d), 7 (f1), 7 (f2), 7 (j), 7 (k) or 8 (a).

## 9 Forestry

The carrying out of any forestry work by the Forestry Commission or a school forest trust empowered under relevant Acts to undertake afforestation, roading, protection, cutting and marketing of timber, and other forestry purposes under such Acts or on any Crown land temporarily reserved from sale as a timber reserve under the *Forestry Act 1916*.

## 10 Rural lands protection

The carrying out by a rural lands protection board of any development required for the improvement and maintenance of travelling stock and water reserves, except—

- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or purpose, and
- (b) any development designed to change the use or purpose of any such reserve.

## 11 Water resources

The carrying out or causing to be carried out by a council engaged in flood mitigation works or by the Department of Land and Water Conservation of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement, except—

- (a) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
- (b) the formation or alteration of any means of access to a road.

## Schedule 13 Community title subdivision of multiple occupancy developments

(Clause 17B)

Item	Land	Description of development
1	Lot 3, DP 748585, corner Prestons and Grays Lane, Tyagarah	Neighbourhood scheme creating 7 neighbourhood lots ranging in size from 0.7 to 1.0 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
2	Lot 24, DP 755722, Coopers Lane, Mullumbimby	Neighbourhood scheme creating 3 neighbourhood lots ranging in size from 0.6 to 1.2 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
3	Lot 8, DP 5130, Lot 8, DP 5109 and Lot 1, DP 1045943, Fowlers Lane, Bangalow	Neighbourhood scheme creating 12 neighbourhood lots ranging in size from 0.5 to 1.1 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.

4	Lot 64, DP 755712, Mafeking Road, Goonengerry	Neighbourhood scheme creating 6 neighbourhood lots ranging in size from 0.7 to 1.2 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
5	Lot 4, DP 749004, Durrumbul Road, Durrumbul	Neighbourhood scheme creating 7 neighbourhood lots ranging in size from 0.9 to 1.6 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
6	Lot 1, DP 115187, Durrumbul Road, Durrumbul	Neighbourhood scheme creating 4 neighbourhood lots ranging in size from 0.3 to 0.6 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
7	Lot 1, DP 815904, Friday Hut Road, Coorabell	Neighbourhood scheme creating 3 neighbourhood lots ranging in size from 0.4 to 0.8 hectare, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
8	Lot 1, DP 748585, Prestons Lane, Tyagarah	Neighbourhood scheme creating 11 neighbourhood lots ranging in size from 0.25 to 0.5 hectare, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
9	Lot 3, DP 592005, Picadilly Hill Road, Coopers Shoot	Neighbourhood scheme creating 4 neighbourhood lots ranging in size from 0.6 to 2.7 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
10	Lot 5, DP 703261, Goonengerry Mill Road, Goonengerry	Neighbourhood scheme creating 7 neighbourhood lots ranging in size from 0.6 to 2.5 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
11	Lot 10, DP 1044645, Wanganui Road, Huonbrook	Neighbourhood scheme creating 4 neighbourhood lots ranging in size from 0.5 to 1.0 hectare, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
12	Lot 2, DP 606791, The Pocket Road, The Pocket	Neighbourhood scheme creating 3 neighbourhood lots ranging in size from 0.4 to 0.8 hectare, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
13	Lot 2, DP 630987, Fowlers Lane, Bangalow	Neighbourhood scheme creating 4 neighbourhood lots ranging in size from 0.8 to 3.6 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
14	Parts of Lots 1 and 2, DP 1018475, Teak Road, Federal, as shown edged heavy black on the map marked " <i>Byron Local Environmental Plan 1988 (Amendment No 127)</i> "	Neighbourhood scheme creating 9 neighbourhood lots ranging in size from 0.3 to 0.9 hectare, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.

15	Lot 1, DP 1077449, Dry Creek Road, Upper Main Arm	Neighbourhood scheme creating 7 neighbourhood lots ranging in size from 0.5 to 1.5 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
16	Lot 15, DP 828349, Frasers Road, Mullumbimby Creek	Neighbourhood scheme creating 11 neighbourhood lots ranging in size from 0.4 to 1.0 hectare, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
17	Part of Lot 21, DP 1034998, Pacific Highway, Wooyung, as shown edged heavy black on the map marked " <i>Byron Local Environmental Plan 1988 (Amendment No 135)</i> "	Neighbourhood scheme creating 8 neighbourhood lots ranging in size from 0.9 to 4.3 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.
18	Lot 4, DP 631296, 334 Left Bank Road, Mullumbimby Creek	Neighbourhood scheme creating 4 neighbourhood lots ranging in size from 0.6 to 2.4 hectares, with no more than one dwelling to be erected on each lot, and one lot of neighbourhood property.

## Dictionary

(Clause 5(1))

**abattoir** means a building or place used for the slaughter of animals, whether or not animal by-products are processed, manufactured or distributed there, and includes a knackery.

**aerodrome** has the same meaning as in the *Civil Aviation Act 1988* of the Commonwealth and includes any building or place used for the storage or servicing of aircraft or ancillary equipment or the assembly of passengers and goods prior to the transport of those passengers and goods.

**agriculture** means—

- (a) the production of crops or fodder, or
- (b) horticulture, including the growing of fruit, vegetables or flower crop production, or
- (c) the production or breeding of livestock, poultry, other birds or bees,

for commercial purposes, but does not include any cultivation or husbandry carried out on any land mainly for the personal enjoyment of or consumption by the owner or occupier of the land or (in the table to clause 9) any other land use elsewhere specifically defined in this plan.

**animal establishment** means a building or place used or intended for use for any one or more of the purposes of intensive animal husbandry, or the boarding, training or keeping of animals, birds, fish, crustaceans, insects or the like, generally requiring the importation of feed from sources outside the land on which such development is conducted.

**appointed day** means the day on which this plan took effect, namely 22 April 1988.

**arterial road** means a road indicated on the map by 2 broken parallel lines.



**balcony** means a raised platform, commonly referred to as a deck or verandah, having a floor level more than 1 metre above an adjacent lower level, or any deck or verandah covered by a roof.

**beach and coastal restoration works** means structures or works to restore the coastline from the effects of coastal erosion.

**bed and breakfast establishment** means a lawfully erected dwelling-house—

(a) that provides temporary home-style or farm-stay guest accommodation for the short-term traveller, and

(b) in which not more than 6 guests would be accommodated, and

(c) that contains no more than 3 bedrooms used for guest accommodation, and

(d) that has a total floor area not exceeding 300m<sup>2</sup> (excluding separate garages, sheds or the like).

**biodiversity** has the same meaning as **biological diversity** has in the [Threatened Species Conservation Act 1995](#).

**boarding-house** means a dwelling-house let in lodgings but does not include a motel or a hostel or any other form of short-term accommodation.

**brothel** means a building or place used or designed to be used by one or more persons for the purpose of prostitution. It includes any building or place where acts of prostitution take place, irrespective of any other services which may also be provided, such as photography, massage, relaxation therapy, or other services of a like nature. For the purposes of this definition, **prostitution** means the offering by a person of his or her body to a person of the same or different sex for sexual gratification in return for payment, and includes sexual intercourse as defined in section 61H of the [Crimes Act 1900](#).

**bulk store** means a building or place used for the bulk storage of goods, where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.

**bus depot** means a building or place used for the servicing, repair and garaging of buses and other vehicles used for the purposes of a bus transport undertaking.

**bus station** means a building or place used as a terminal for the assembly and dispersal of passengers travelling by bus.

**bush fire hazard reduction** means a reduction or modification of any types of combustible material, especially ground fuel, by burning, chemical, mechanical or manual means in order to reduce the hazard of bush fires in accordance with the [Rural Fires Act 1997](#).

**car repair station** means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery not being—

(a) body building, or

(b) panel beating which involves dismantling, or

(c) spray painting other than of a touch-up character.

**caravan park** means land on which caravans, other moveable dwellings, tents or camper vehicles are, or are to be, installed or placed in accordance with the [Local Government \(Caravan Parks, Camping Grounds and Moveable Dwellings\) Regulation 1995](#) or [State Environmental Planning Policy No 21—Caravan Parks](#).

**cemetery** means a burial ground.

**Chapter 16 of the Byron 2010 DCP** means Chapter 16: Exempt and Complying Development of the *Byron Shire Development Control Plan 2010* (as adopted by the council on 3 March 2011).

**child care centre** means a building or place which is used (whether or not for profit) for the purpose of educating, minding or caring for children (whether or not any of the children are related to the owner or operator), but only if the following conditions are satisfied—

- (a) the children number six or more, are under six years of age, and do not attend a government school, or a registered non-government school, within the meaning of the [Education Act 1990](#), and
- (b) the building or place does not provide residential care for any of the children (other than those related to the owner or operator).

**clearing of land** means the alteration of the existing environment, including the vegetation, ground cover, topsoil and fauna habitat other than noxious weeds, camphor laurel or coral trees by—

- (a) the removal of the majority of vegetation in an area in excess of 1 hectare, or
- (b) the reduction of the canopy or the population of any one tree species in excess of 20 per cent of an area in excess of 1 hectare, or
- (c) the removal of ground cover and topsoil of an area in excess of 1,000 square metres.

**club** means a building used by persons associated, or a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes whether of the same or of a different kind and whether or not the whole or a part of such building is the premises of a club registered under the [Registered Clubs Act 1976](#).

**commercial premises** means a building or place used as an office or for other business or commercial purposes, but (in the table to clause 9) does not include a building or place used for a purpose elsewhere specifically defined in this Dictionary.

**community building** means a building or place owned, occupied or operated by the council or another public or local authority and used to provide facilities comprising or relating to any one or more of the following—

- (a) a library, rest room, meeting room, neighbourhood centre, senior citizens centre, youth centre, welfare centre or any similar place, or
- (b) health centre or place providing similar services, or
- (c) indoor recreation, child minding or any similar activity, or
- (d) arts and craft centre, information centre or kiosk.

**crematorium** means a building or place used for cremation.

**demolition**, in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of that building or work in whole or in part.

**development** has the same meaning as in section 4(1) of the [Environmental Planning and Assessment Act 1979](#).

**drive-in bank** means a bank providing vehicular drive-through services.

**drive-in take-away food shop** means a shop selling food that can be taken off the premises for consumption or a restaurant, in each case providing a vehicular drive-through service.

**drive-in theatre** means an outdoor open-air theatre with provision for viewing from vehicles.

**dwelling** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

**dwelling-house** means a building or buildings containing one but not more than one dwelling.

**educational establishment** means a building used as a school, college, technical college, academy, lecture hall, gallery or museum, but does not include a building used wholly or principally as an institution or child care centre.

**environment** has the same meaning as in section 4(1) of the [Environmental Planning and Assessment Act 1979](#).

**environmental facilities** means a structure or work which provides for—

- (a) nature or scientific study or display facilities such as walking tracks, cycleways, board walks, observation decks, bird hides or the like, or
- (b) environmental management or restoration facilities such as those for bush regeneration, swamp restoration, erosion and run off prevention works, dunal restoration or the like.

**exhibition home** means a building erected for use as a dwelling-house but not being used as a dwelling, that is used for the exhibition of its dwelling-house features or interior household appliances or products, whether or not it includes a sales office.

**existing ground level** means the ground level, or any lawfully lowered or raised ground level, at the date the development application is lodged with the council.

**extractive industry** means—

- (a) the winning of extractive material, including sand, gravel, clay, turf, soil, rock, stone or similar substances, or
- (b) an undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land upon which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

**flood liable land** means—

- (a) if a flood management plan (however titled) has been approved by the council for any area of land before the commencement of *Byron Local Environmental Plan 1988 (Amendment No 90)*, such of that land as is identified as flood liable for the purposes of that flood management plan, whether on a map or otherwise, or
- (b) in relation to any other area of land, such of that land as would be inundated by the 1-in-100 year flood.

**floor plan area** means the area contained within the outer face of the external enclosing walls of a storey, including the area of balconies, but excluding—

- (a) columns, fin walls, sun control devices and any elements outside the general line of the outer face of the external wall, and
- (b) lift towers, cooling towers, machinery and plant rooms and ancillary storage spaces, and vertical air- conditioning ducts, and
- (c) car parking needed to meet any requirements of the council and any internal access to the car park, and
- (d) space for the loading and unloading of goods.

**floor space ratio** in relation to a building, means the ratio of the gross floor area of the building to the site area of the land on which the building is or is proposed to be erected.

**food shop** means premises used for the purpose of selling, exposing or offering for sale by retail, food or beverages (or both) for consumption other than on the premises (not including food or beverages (or both) which has or have been pre-packaged on another premises), but (in the Table to clause 9) does not include—

- (a) a building or place elsewhere specifically defined in this Dictionary, or
- (b) a building or place used for a purpose elsewhere specifically defined in this Dictionary.

**forestry** includes arboriculture, silviculture, forest protection, the cutting, dressing and preparation, otherwise than in a sawmill, of wood and other forest products and the establishment of roads required for the removal of wood and forest products and for forest protection.

**general store** means a shop used for the sale by retail of general merchandise and which may include the facilities of a post office.

**generating works** means a building or place used for the purpose of making or generating gas, electricity or other forms of energy.

**gross floor area** means the sum of the floor plan areas of all floors of a building.

**health services facility** has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**heliport** means an area or place which is used for the taking off and landing of helicopters that are available for use by the public and includes terminal buildings and facilities for the parking, servicing and repair of helicopters.

**heritage precinct** means the land contained within broken heavy black edging and marked “heritage precinct” on the map.

**holiday cabin** means a building containing a room or suite of rooms used, or intended to be used, for the provision of holiday accommodation only.

**home industry** means an industry carried on in a building (other than a dwelling-house or a dwelling in a residential flat building) under the following circumstances—

- (a) the building does not occupy a floor space exceeding 50 square metres and is erected within the curtilage of the dwelling-house or residential flat building occupied by the person carrying on the industry or on adjoining land owned by that person, and
- (b) the industry does not—
  - (i) interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
  - (ii) involve exposure to view from any adjacent premises or from any public place of any unsightly matter, or
  - (iii) require the provision of any essential service main of a greater capacity than that available in the locality.

**home occupation** means an occupation carried on in a dwelling-house or in a dwelling in a residential flat building by the permanent residents of the dwelling-house or dwelling which does not involve—

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house or dwelling to indicate the name and occupation of the resident), or
- (e) the sale of items (whether goods or materials) or the exposure or offer for sale of items, by retail.

**home office** means a room or a number of rooms attached to, detached from or within a dwelling-house used by one or more professionally qualified practitioners (such as an accountant, architect, engineer, solicitor, doctor, dentist or health care professional) who are the permanent residents of the dwelling-house, where such office would not involve—

- (a) the employment of more than one person other than those residents,
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise,

- (c) the display of goods, whether in a window or otherwise,
- (d) the exhibition of any notice, advertisement or sign (other than a notice or sign exhibited on the dwelling-house to indicate the name and occupation of the resident), or
- (e) a change in the appearance of the dwelling-house or land on which it is erected that is out of character with that of the surrounding area.

**hospital** means a building or place (other than an institution) used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, care for people with developmental disabilities, psychiatric care or counselling and services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes—

- (a) ancillary facilities for the accommodation of nurses or other health care workers, ancillary shops or restaurants and ancillary accommodation for persons receiving health care or for their visitors, and
- (b) facilities situated in the building or at the place and used for educational or research purposes, whether or not they are used only by hospital staff or health care workers, and whether or not any such use is a commercial use.

**hostel** means a building or buildings incorporating bedrooms or dormitory accommodation containing beds available for separate rental and where cooking, dining, laundry, cleaning, toilet, bathrooms and other facilities are all provided on a shared basis, and primarily used or intended for use for the overnight accommodation of travellers and their vehicles.

**hotel** means the premises to which a hotelier's licence granted under the [Liquor Act 1982](#) relates.

**industry** means any handicraft or process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing, breaking up, or adapting of any goods or any articles or any part of an article for trade or sale or gain, or as ancillary to any business, but does not include an extractive industry.

**institution** means a penal or reformatory establishment.

**item of the environmental heritage** means a building, work, relic or place of historic, scientific, cultural, social, architectural, archaeological, natural or aesthetic significance for the Shire of Byron, as identified in Schedule 2 or within a heritage precinct.

**junkyard** means land used for the collection, storage, abandonment or sale of scrap metals, waste paper, rags, bottles or other scrap materials or goods used for the collecting, dismantling, storage, salvaging or abandonment of automobiles or other vehicles or machinery or for the sale of parts thereof.

**levee** means shaping of earth or other works by or on behalf of a public or local authority to prevent or control the flow of water during flood events.

**light industry** means an industry, not being an offensive or hazardous industry, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

**liquid fuel depot** means a depot or place used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid.

**market** means a fair or any other event which involves more than six stalls offering goods, arts, crafts or services which—

- (a) is operated on a temporary basis at a frequency of not more than fifteen days per year in total, and
- (b) does not involve the erection of any permanent structure, and
- (c) is managed by a community or charity based organisation, in accordance with a management plan for that fair or other event.

**mine** means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef whereon, wherein or whereby any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any mode or method and any place on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry.

**motel** means a building or buildings containing not less than 6 motel units, substantially used or intended to be used for the overnight accommodation of travellers and their vehicles, whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

**motor showroom** means a building or place used for the display or sale of motor vehicles, caravans or boats, whether or not motor vehicle accessories, caravan accessories or boat accessories are sold or displayed in or on that building or place.

**offensive or hazardous industry** means an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings.

**place of assembly** means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.

**place of public worship** means a church, chapel or other place of public worship or religious instruction or place used for the purpose of religious training.

**plant nursery** means a building or place used for both the growing and selling, whether by wholesale or retail, of plants, whether or not ancillary products are sold in the building or place.

**primitive camping ground** means land used for the placement of tents and camper vans on a temporary basis in accordance with the [Local Government \(Caravan Parks, Camping Grounds and Moveable Dwellings\) Regulation 1995](#).

**private college** means an educational establishment which is not operated by or on behalf of the Government of the State of New South Wales or the Government of the Commonwealth of Australia.

**public building** means a building used as offices or for administrative or other like purposes by the

Crown, a statutory body, a council or an organisation established for public purposes.

**public utility undertaking** means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government department or under the authority of or in pursuance of any Commonwealth or State Act—

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking shall be construed as including a reference to a council, county council, Government department, corporation, firm or authority carrying on the undertaking.

**racecourse** means a place used for the purpose of horse or dog racing.

**recreation area** means—

- (a) a children's playground, or
- (b) an area used for sporting activities or sporting facilities, or
- (c) an area used by the council to provide recreational facilities for the physical, cultural or intellectual welfare of the community, or
- (d) an area used by a body of persons associated together for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include racecourses or showgrounds.

**recreation establishment** means a health farm, religious retreat house, rest home, youth camp or the like, but (in the table to clause 9) does not include a building or place elsewhere specifically defined in this Dictionary or a building or place used or intended for use for a purpose elsewhere specifically defined in this Dictionary.

**recreation facility** means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a like character used for recreation and whether used for the purpose of gain or not, but (in the table to clause 9) does not include a place of assembly.

**recreation vehicle area** has the same meaning as in the [Recreation Vehicles Act 1983](#).

**relic** means any deposit, object or material evidence relating to the settlement (including Aboriginal habitation) prior to 1 January 1900, of the land to which this plan applies.

**renovation**, in relation to a building or work, means—

- (a) the making of structural changes to the inside or outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work, including changes that involve the repair or the painting, plastering or other decoration of the outside of the building or work.



**residential flat building** means a building which contains 3 or more dwellings.

**restaurant** means premises in which food or beverages (or both) are supplied for sale to the public for consumption on the premises.

**restricted premises** means premises (other than a newsagency or pharmacy) where—

- (a) publications classified Category 1 restricted or Category 2 restricted or RC under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth are shown, exhibited, displayed, sold or otherwise made accessible or available to the public, or
- (b) a business to which section 578E (offences relating to advertising or displaying products associated with sexual behaviour) of the *Crimes Act 1900* applies is conducted.

**road transport terminal** means a building or place used for the principal purpose of the bulk handling of goods for transport by road, including facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles.

**roadside stall** means a building or place not exceeding 20 square metres in floor space or area respectively where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

**rural industry** means handling, treating, processing or packing of primary products and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.

**rural tourist facility** means an establishment providing for low-scale holiday accommodation, or used for recreational or educational purposes and may consist of a bed and breakfast establishment, boat landing facilities, environmental facilities, holiday cabins, horse riding facilities, a picnic ground, a primitive camping ground or a restaurant or the like.

**rural worker's dwelling** means a dwelling which is on land upon which there is already erected a dwelling and which is occupied by persons engaged in rural occupation on that land.

**sawmill** means a mill handling, cutting and processing timber from logs or baulks.

**service station** means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil and other petroleum products whether or not the building or place is also used for any one or more of the following purposes—

- (a) the sale by retail of spare parts and accessories for motor vehicles,
- (b) washing and greasing of motor vehicles,
- (c) installation of accessories,
- (d) repairing and servicing of motor vehicles involving the use of hand tools (other than repairing and servicing which involves top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration).

**shop** means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but (in the table to clause 9) does not include a building or place elsewhere specifically defined in this Dictionary, or a building or place used for a purpose elsewhere

specifically defined in this Dictionary.

**showground** means a place where shows are held that is owned or managed by the Crown, a statutory authority or a public or local authority.

**site area** means the area within the title boundaries of the site or the site area of the land to which a development application relates, but does not include any land where development to which the application relates is not permitted under any environmental planning instrument applying to the land or any access handle to a hatchet-shaped allotment.

**solar generating works** means a building or place used for the purpose of making or generating electricity or other forms of energy specifically from solar generating sources for commercial purposes.

**stock and sale yard** means a building or place used for the purpose of offering animals for sale and includes a public cattle market.

**surf life saving facility** means a building or place located on land adjoining a beach and used by the Surf Life Saving Association of Australia.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**the council** means the Byron Shire Council.

**the map** means the series of maps marked “Byron Local Environmental Plan 1988” as amended by the maps (or specified sheets of the maps) marked as follows—

**Editorial note—**

The amending maps are not necessarily listed in the order of gazettal or publication on the NSW legislation website. Information about the order of gazettal or publication can be determined by referring to the Historical notes at the end of the plan.

*Byron Local Environmental Plan 1988 (Amendment No 1)*

*Byron Local Environmental Plan 1988 (Amendment No 2)*

*Byron Local Environmental Plan 1988 (Amendment No 5)*

*Byron Local Environmental Plan 1988 (Amendment No 6) (Sheets 1 and 2)*

*Byron Local Environmental Plan 1988 (Amendment No 7)*

*Byron Local Environmental Plan 1988 (Amendment No 8)*

*Byron Local Environmental Plan 1988 (Amendment No 9)*

*Byron Local Environmental Plan 1988 (Amendment No 10)*

*Byron Local Environmental Plan 1988 (Amendment No 14)*

*Byron Local Environmental Plan 1988 (Amendment No 16)*

*Byron Local Environmental Plan 1988 (Amendment No 19)*

*Byron Local Environmental Plan 1988 (Amendment No 20)*

*Byron Local Environmental Plan 1988 (Amendment No 21)*

*Byron Local Environmental Plan 1988 (Amendment No 24)*

*Byron Local Environmental Plan 1988 (Amendment No 27)*

*Byron Local Environmental Plan 1988 (Amendment No 28)*

*Byron Local Environmental Plan 1988 (Amendment No 30)*

*Byron Local Environmental Plan 1988 (Amendment No 32)*

*Byron Local Environmental Plan 1988 (Amendment No 36)*

*Byron Local Environmental Plan 1988 (Amendment No 39)*

*Byron Local Environmental Plan 1988 (Amendment No 40)*

*Byron Local Environmental Plan 1988 (Amendment No 42)*

*Byron Local Environmental Plan 1988 (Amendment No 45)*

*Byron Local Environmental Plan 1988 (Amendment No 46)*

*Byron Local Environmental Plan 1988 (Amendment No 48)*

*Byron Local Environmental Plan 1988 (Amendment No 51)*

*Byron Local Environmental Plan 1988 (Amendment No 53)*

*Byron Local Environmental Plan 1988 (Amendment No 54)*

*Byron Local Environmental Plan 1988 (Amendment No 55)*

*Byron Local Environmental Plan 1988 (Amendment No 57)*

*Byron Local Environmental Plan 1988 (Amendment No 59)*

*Byron Local Environmental Plan 1988 (Amendment No 62)*

*Byron Local Environmental Plan 1988 (Amendment No 64)*

*Byron Local Environmental Plan 1988 (Amendment No 70)*

*Byron Local Environmental Plan 1988 (Amendment No 71)*

*Byron Local Environmental Plan 1988 (Amendment No 72)*

*Byron Local Environmental Plan 1988 (Amendment No 74)*

*Byron Local Environmental Plan 1988 (Amendment No 75)*

*Byron Local Environmental Plan 1988 (Amendment No 78)*

*Byron Local Environmental Plan 1988 (Amendment No 79)*

*Byron Local Environmental Plan 1988 (Amendment No 81)*

*Byron Local Environmental Plan 1988 (Amendment No 82)*

*Byron Local Environmental Plan 1988 (Amendment No 91)*

*Byron Local Environmental Plan 1988 (Amendment No 92)*

*Byron Local Environmental Plan 1988 (Amendment No 98)*

*Byron Local Environmental Plan 1988 (Amendment No 100)*

*Byron Local Environmental Plan 1988 (Amendment No 105)*

*Byron Local Environmental Plan 1988 (Amendment No 111)*

*Byron Local Environmental Plan 1988 (Amendment No 114)*

*Byron Local Environmental Plan 1988 (Amendment No 115)*

*Byron Local Environmental Plan 1988 (Amendment No 125)*

*Byron Local Environmental Plan 1988 (Amendment No 126)*

*Byron Local Environmental Plan 1988 (Amendment No 137)*

*Byron Local Environmental Plan 1988 (Amendment No 140)*

*Byron Local Environmental Plan 1988 (Amendment No 142)*

*Byron Local Environmental Plan 1988 (Amendment No 143)*

*Byron Local Environmental Plan 1988 (Amendment No 144)*

*Byron Local Environmental Plan 1988 (Amendment No 149)*

*Byron Local Environmental Plan 1988 (Amendment No 153)*

*Byron Local Environmental Plan 1988 (Amendment No 154)*

**tourist facilities** means an establishment providing holiday accommodation or recreation and may include a boat shed, boat landing facility, holiday cabin, hotel, house-boat, marina, motel, playground, primitive camping ground, restaurant, water sport facility or a club used in conjunction with any such facility.

**utility installation** means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

**veterinary establishment** means a building or place used for the treatment and hospitalisation of animals and that requires registration under the [Veterinary Surgeons Act 1986](#).

**warehouse** means a building or place used for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade.

**waste recycling centre** means a building or place used for the collection and treatment, for re-sale or processing, of organic garden matter, glass, wood, pulp products, non-ferrous metals and plastic materials.