

Development Control Plans Housekeeping Amendment 2025

DETAILED CHANGES

February 2025

The Development Control Plans Housekeeping Amendment addresses anomalies, corrections and updates in all Clarence Valley's Development Controls Plans. Blue font and track changes have been used to identify the areas of text that is to be removed (~~strikethrough text~~) and the text that is to be inserted (underlined text).

The Community Participation Plan states that the minimum exhibition period for a draft Development Control Plan is 28 Days.

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CORRECTIONS

1. CONTAMINATED LAND REQUIREMENTS

DCP – WHICH DCP IS BEING AMENDED?

All DCPs

AIM – WHAT IS THE INTENDED OUTCOME?

To have up to date DCPs that refer to the most current SEPPs and policies.

STRATEGIC MERIT/REASON FOR AMENDMENT

Existing references to relevant SEPP and policy referring to contaminated land are outdated.

RECOMMENDATION - WHAT IS THE CHANGE?

A8. What information shall be provided to Council? [ALL DCPS - *Insert changes below 20.(d):*]

Applicants should refer to [Chapter 4 of the State Environmental Planning Policy \(Resilience and Hazards\) 2021-No. 55—Remediation of Land \(SEPP 55\)](#), the NSW Managing Land Contamination: Planning Guidelines and Council’s Contaminated Land Policy for further information.

J5. Information to be included with a Development Application for Subdivision [RESIDENTIAL ZONES DCP – *insert changes below (e)(d)*]

I5. Information to be included with a Development Application for Subdivision [RURAL - *insert changes below (d)(d)* & E& OTHER ZONES DCPs - *insert changes below (e)(d)*]

Where the site history identifies potentially contaminating uses/activities, or there is limited information on past uses/activities, more detailed investigation will be required. Applicants should refer to [Chapter 4 of the State Environmental Planning Policy \(Resilience and Hazards\) 2021-No. 55—Remediation of Land \(SEPP 55\)](#), the NSW Managing Land Contamination: Planning Guidelines and Council’s Contaminated Land Policy for further information.

RURAL ZONES DCP:

SCHEDULE N3

Documentation requirements for development applications on former horticultural lots

.....

(iv) Assessment of contamination of former cultivated areas

The objective of requiring an assessment contamination is to ensure that Council only approves of residential occupation/use (whether permanent or temporary) where it ~~can be~~ can be demonstrated that the development site is free from contamination hazard to the extent that it does not pose a threat to human health. The steps in the process of assessing contamination potential are as follow:

Step 1

The application shall be accompanied by proof that the land has never been used or cultivated for horticultural purposes (e.g. fruit orchards, market gardens –see definition of horticulture) or by any other land use likely to result in the contamination of the site or of part of the site.

In this regard a preliminary site investigation should be undertaken in accordance with [Clarence Valley Council's Contaminated Land Policy Section 3.1 of the Dept. of Environment and Conservation Guidelines for Assessing Former Orchards and Market Gardens \(June 2005\)](#). It should aim to determine whether any part of the site has, or is likely to have, contaminated soil. The preliminary investigation will include information on site history and condition, potential contamination and any necessary further investigation.

Such investigation/assessment will need to be undertaken by a suitably qualified and experienced consultant. [Site assessors will also find useful guidance on conducting site history reviews in NEPM: Schedule B\(2\) – Guideline on Data Collection, Sample Design and Reporting \(NEPC 1999\)](#).

Step 2

This step involves undertaking the soil sampling requirements and contamination assessment set out [Clarence Valley Council's Contaminated Land Policy in sections 3.2 and 3.3 of the Dept. of Environment and Conservation Guidelines for Assessing Former Orchards and Market Gardens \(June 2005\)](#). Soil sampling should focus on the [area proposed for residential land use \(building envelope and curtilage\)](#). The area to be used for residential uses should be determined and an assessment of [at least 2000m² should be undertaken using the minimum sampling densities specified in the NSW EPA Sampling Design Guidelines, and other relevant guidance made or approved by the EPA.](#) [building envelope of the proposed dwelling house. The envelope /sampling area should measure a minimum 30 metres by 30 metres. A lesser lineal dimension may be acceptable provided that the total envelope area is 900 m².](#)

[Chemical analysis should be in accordance with section 3.6 of the above guidelines.](#)

Step 3

Depending on the outcome of step 2 the person undertaking the assessment of contamination of the site should recommend whether the following is required:

- Further hotspot assessment [section 3.4 of the guidelines referred to above.](#)
- Ground & surface water assessment [—section 3.5 of the guidelines referred to above.](#)
- Remediation of the site in accordance with [Clarence Valley Council's Contaminated Land Policy section 4 of the above guidelines.](#)
- Site validation in accordance with [Clarence Valley Council's Contaminated Land Policy section 5 of the above guidelines.](#)

Note: All reporting should be consistent with the [Clarence Valley Council's Contaminated Land Policy requirements of Guidelines for consultants reporting on contaminated sites](#). The assessment should be undertaken by a suitably qualified and experienced professional specialising in the field of soil contamination assessment.

2. DUAL OCCUPANCIES IN THE R5 ZONE

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To update the DCP so that it relates to changes in the LEP in terms of dual occupancies and secondary dwellings in the R5 zone.

STRATEGIC MERIT/REASON FOR AMENDMENT

Dual occupancies were required to be attached in the former LEP, however this was changed on 23 September 2016 so that they are no longer required to be attached, however the relevant DCPs were never updated. As such, it is proposed to delete this reference in the Residential Zones DCP.

RECOMMENDATION - WHAT IS THE CHANGE?

Delete clause:

~~C11. Requirements for dual occupancies in the R5 zone~~

~~Dual occupancy development on land in the R5 Large Lot Residential zone must be attached. The development must be designed so that the 2 dwellings are:~~

- ~~(a) Attached by a garage, carport or common roof (excluding walkways), with a maximum separation distance of 12 metres, to give the appearance of a single building; and~~
- ~~(b) Designed to create a harmonious building by the use of matching building materials, colours and design elements, for example, roof pitch, gables, etc.~~

3. CORRECT MAP REFERENCES

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

Correct map references within Part P

STRATEGIC MERIT/REASON FOR AMENDMENT

Correction of an error

RECOMMENDATION - WHAT IS THE CHANGE?

P1. Where do controls for steep land apply?

Controls for developing steep land in PART P of this DCP apply to the following:

(a) land in any residential zone in CV LEP 2011 with a slope of 1 in 5 or greater, including land in the R5 Large Lot residential zone.

(b) Land in the R2 Low Density residential zone in CV LEP 2011 in Maclean township in Precincts 1-5 as shown on MAP [P01](#).

Site specific controls apply for Maclean, refer to Clause [P06](#).

P3. Information to be provided with a development application

The following information must be submitted with your development application:

(l) compliance with any site-specific requirements as detailed in Clause [P06](#).

P6.1 MACLEAN AREA 1

Maclean Area 1 is shown on MAP [P02](#).

P6.2 MACLEAN AREA 2

1. Maclean Area 2 is shown on MAP [P03](#).

P6.3 MACLEAN AREA 3

1. Maclean Area 3 is shown on MAP [P04](#).

P6.4 MACLEAN AREA 4

1. Maclean Area 4 is shown on MAP [P05](#).

P6.5 MACLEAN AREA 5

1. Maclean Area 5 is shown on MAP [P06](#).

4. PALMERS ISLAND CONTROLS

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To correct wording of T7 as there is an outdated reference to a “building application” that should now be referred to as “Construction Certificate.”

STRATEGIC MERIT/REASON FOR AMENDMENT

Update to use current and correct terminology and update to refer to the correct clause.

RECOMMENDATION - WHAT IS THE CHANGE?

T7. Conditions for Precinct 2

The following conditions will be imposed due to the possibility of riverbank erosion adversely affecting dwellings within the next 100 years.

1. The dwelling-house will be designed and constructed so that it can be easily removed from the site by road vehicle. The plans of the building will include an adequate description of the removal process.
2. Further to subclause (1), at the time of submission of a [Construction Certificate](#) ~~building application~~, a certificate is to be provided from a practising structural engineer as to the adequacy of this building to be easily dismantled and readily removed from the site by road vehicle.
3. The dwelling shall be located so as to maximise as far as practicable the distance from the nearest point of the building to the riverside boundary of the site with due consideration given to subclause (1a) above and to any relevant local government building regulations.

5. ANGOURIE VILLAGE CONTROLS

DCP - WHICH DCP IS BEING AMENDED?

Residential Zones DCP

AIM - WHAT IS THE INTENDED OUTCOME?

Q7 is currently worded in a way that could be read that the setback requirements set out in Part C do not apply. Therefore, additional wording is included so that it is clear that the setback requirements do apply in Angourie.

STRATEGIC MERIT/REASON FOR AMENDMENT

To address the current lack of clarity regarding side setback requirements in Angourie.

RECOMMENDATION - WHAT IS THE CHANGE?

Q7. Setbacks

Setbacks are controlled by the building height plane [\(in addition to the Setback requirements of C16\)](#) which will vary from site to site, but generally a standard set-back of 6 metres applies to the street frontage.

6. PART W REFERENCE

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

Correct W1 of Part W under the Residential DCP references Part D when it should refer to Part C.

Update to refer to Part C as these are the general provisions/ controls, but currently referring to Part D flood controls which is incorrect.

STRATEGIC MERIT/REASON FOR AMENDMENT

Correction

RECOMMENDATION - WHAT IS THE CHANGE?

W1. Where do the controls for Yamba Hill apply?

See Part [CD](#) of this DCP for other controls that apply, which include:

- (a) Setbacks.
- (b) Landscaped area requirements.
- (c) Private open space.

7. PRIVATE OPEN SPACE REFERENCE CORRECTION

DCP – WHICH DCP IS BEING AMENDED?

E & Other Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

C15.1 refers to itself, rather than the next section.

STRATEGIC MERIT/REASON FOR AMENDMENT

Correction of an error.

RECOMMENDATION - WHAT IS THE CHANGE?

C15. Private Open Space Requirements – SP3 zone

C15.1. All dwellings in the SP3 zone must be provided with an area of private open space. Where a dwelling is within a residential flat building or serviced apartment with no ground level access, the requirements of Clause C15.1 apply.

8. EFFLUENT DISPOSAL AREAS NOT IN PRIVATE OPEN SPACE

DCP – WHICH DCP IS BEING AMENDED?

Residential, Rural and E & Other Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To provide clarity and improved certainty around the conflict between Private Open Space and Effluent Disposal Areas.

STRATEGIC MERIT/REASON FOR AMENDMENT

Clarification – effluent disposal areas are not considered private open space currently, however the DCPs need to be clearer around this to provide improved certainty for applicants.

RECOMMENDATION - WHAT IS THE CHANGE?

C20. Private Open Space Requirements

C20.2. For attached dwellings, dwelling houses, secondary dwellings, dual occupancies, multi dwelling housing and semi-detached dwellings, private open space must meet the following requirements:

1. An area of 50m² in one parcel, with a regular shape and a minimum dimension of 4.5 metres.
For secondary dwellings, a minimum area of 24m² with a minimum dimension of 4 metres must be provided.
2. A level area, or if terraced, a minimum width of 4.5 metres.
3. Located with direct access to living areas of the dwelling.
4. Located behind the front setback line.
5. Located on the northern or eastern side of the dwelling.
6. Not be located within an effluent disposal area.

9. WORDING CORRECTION

DCP – WHICH DCP IS BEING AMENDED?

Rural Zones DCP and Business Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To correct an error in A4 where the sentence is not finished and to remove highlighted text.

STRATEGIC MERIT/REASON FOR AMENDMENT

Correction – so that the DCPs state when it came into force

RECOMMENDATION - WHAT IS THE CHANGE?

RURAL DCP - *Insert text and remove yellow highlight:*

A4. When does the plan come into force?

The Clarence Valley Rural Zones Development Control Plan [\(DCP\) 2011](#) was adopted by Council [on 13 December](#) and came into force [on 23 December 2011](#).

BUSINESS ZONES DCP – *insert text:*

A4. When does the plan come into force?

The Clarence Valley Business Zones Development Control Plan (DCP) 2011 was adopted by Council on [13 December](#) and came into effect on [23 December 2011](#).

10. UPDATE POLICY AND REGULATIONS REFERENCES

DCP – WHICH DCP IS BEING AMENDED?

All DCPs

AIM – WHAT IS THE INTENDED OUTCOME?

To refer to the current State Environmental Planning Policies (SEPP) and other updated policies.

STRATEGIC MERIT/REASON FOR AMENDMENT

Update to align with current policies and regulations.

RECOMMENDATION - WHAT IS THE CHANGE?

Change From:	Change To:
Affordable Housing 2008	State Environmental Planning Policy (Housing) 2021
Building and Sustainability Index: BASIX 2004	State Environmental Planning Policy (Sustainable Buildings) 2022
Exempt and Complying Development Codes 2008	No Change – still current
Housing for Seniors or People with a Disability 2004	State Environmental Planning Policy (Housing) 2021
Infrastructure 2007	State Environmental Planning Policy (Transport and Infrastructure) 2021
Vegetation in non-rural areas 2017	State Environmental Planning Policy (Biodiversity and Conservation) 2021
No. 14 – Coastal Wetlands	State Environmental Planning Policy (Resilience and Hazards) 2021
No. 30 – Intensive Agriculture	State Environmental Planning Policy (Primary Production) 2021
No. 33 – Hazardous and Offensive Development	State Environmental Planning Policy (Resilience and Hazards) 2021
No. 44 – Koala Habitat Protection	State Environmental Planning Policy (Biodiversity and Conservation) 2021
No. 55 – Remediation of Land	State Environmental Planning Policy (Resilience and Hazards) 2021
No. 64 – Advertising and Signage	State Environmental Planning Policy (Industry and Employment) 2021
No. 65 – Design Quality of Residential Flat Buildings	State Environmental Planning Policy (Housing) 2021
No. 71 – Coastal Protection	State Environmental Planning Policy (Resilience and Hazards) 2021
Planning for Bushfire 2006	Planning for Bushfire Protection 2019
Clarence Valley Council On-site Wastewater Management Strategy 2005	Clarence Valley Council On-site Wastewater Management Strategy 2019
EP&A Amendment (Existing Uses) Regulation 2006	Environmental Planning and Assessment Regulation 2021
Environmental Planning and Assessment Regulation 2000	Environmental Planning and Assessment Regulation 2021

11. DELETE SEPP 65 PRINCIPLES

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP and E & Other Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

SEPP 65 has been repealed and replaced by the State Environmental Planning Policy (Housing) 2021 (Housing SEPP). The Housing SEPP states the “Apartment Design Guide prevails over development control plans”, therefore, reproducing principles of the guide in the DCP is superfluous.

STRATEGIC MERIT/REASON FOR AMENDMENT

Removing outdated reference.

RECOMMENDATION - WHAT IS THE CHANGE?

C5.8. Design Quality Principles for residential flat buildings – [RESIDENTIAL ZONES DCP and E & OTHER ZONES DCP]

Insert text:

[State Environmental Planning Policy \(Housing\) 2021 and the Apartment Design Guide must be considered in designing residential flat development.](#)

Delete text:

~~The design quality principles of SEPP 65 need to be considered in designing residential flat development where SEPP 65 applies.~~

~~Refer to SCHEDULE C1 Design Quality Principles of SEPP 65.~~

NOTE:

~~SEPP 65 – Design Quality of Residential Flat Buildings applies to residential flat building as defined by the SEPP.~~

~~A **residential flat building** is defined in SEPP 65 to mean a building that comprises or includes:~~

~~(a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and~~

~~(b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia. Class 1a and Class 1b are commonly referred to as “town houses” or “villas” where the dwelling units are side by side, rather than on top of each other.~~

~~SEPP 65 applies to residential flat development which includes the erection of a new residential flat building, the substantial redevelopment or refurbishment of an existing residential flat building and the conversion of an existing building to a residential flat building.~~

~~A development application for residential flat development is required under SEPP 65 to be accompanied by a design verification from a qualified designer (registered architect) verifying that~~

the qualified designer designed, or directed the design, of the development and that the design quality principles of SEPP 65 are achieved.

In addition, the statement of environmental effects that is to accompany a development application is required to include a range of information that explains and justifies the design of the residential flat development in terms of the design principles of SEPP 65.

For a complete list of up-to-date SEPPs refer to the Department of Planning website www.planning.nsw.gov.au; SEPPs are found under 'the planning process', 'Environmental Planning Instruments (SEPPs & REPs)'.

SCHEDULE C1

Design Quality Principles of SEPP 65.

Principle 1: Context

Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.

Principle 2: Scale

Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development.

In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.

Principle 3: Built form

Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

Principle 4: Density

Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).

Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.

Principle 5: Resource, energy and water efficiency

Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.

Principle 6: Landscape

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.

Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Principle 7: Amenity

Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.

Principle 8: Safety and security

Good design optimises safety and security, both internal to the development and for the public domain.

This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.

Principle 9: Social dimensions and housing affordability.

Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.

New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.

New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.

Principle 10: Aesthetics

Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.

12. UPDATE BUSINESS, INDUSTRIAL AND ENVIRONMENTAL ZONES NAME CHANGES

DCP - WHICH DCP IS BEING AMENDED?

Business Zones DCP, Industrial Zones DCP and E & Other Zones DCP

AIM - WHAT IS THE INTENDED OUTCOME?

Update Business, Industrial and Environmental Zone references in the DCPs to align with the current zones in the LEP.

STRATEGIC MERIT/REASON FOR AMENDMENT

The names and codes of the Business and Industrial Zones were changed in the LEP on 26 April 2023 and the Environmental Zone codes were changed on 1 December 2021.

RECOMMENDATION - WHAT IS THE CHANGE?

INDUSTRIAL ZONES DCP - *change*:

- ~~IN1 General Industrial~~ to [E4 General Industrial](#)
- ~~IN4 Working Waterfront~~ to [W4 Working Waterfront](#)

BUSINESS ZONES DCP - *change*:

- ~~B1 Neighbourhood Centre~~ to [E1 Local Centre](#)
- ~~B2 Local Centre~~ to [E1 Local Centre](#)
- ~~B3 Commercial Core~~ to [E2 Commercial Centre](#)
- ~~B5 Business Development~~ to [E3 Productivity Support](#)

E & OTHER ZONES DCP - *change*:

- ~~E1 National Parks and Nature Reserves~~ to [C1 National Parks and Nature Reserves](#)
- ~~E2 Environmental Conservation~~ to [C2 Environmental Conservation](#)
- ~~E3 Environmental Management~~ to [C3 Environmental Management](#)

13. NSW COASTAL DESIGN GUIDELINES

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP and E & Other Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To update references to the current State Environmental Planning Policy (Resilience and Hazards) 2021 and the NSW Coastal Design Guidelines, October 2023 and to delete duplications of these considerations.

STRATEGIC MERIT/REASON FOR AMENDMENT

Providing duplications of the SEPP and the NSW Coastal Design Guidelines in the DCP leads to incomplete applications, as the entire documents cannot be reproduced here. It is more efficient to refer to the relevant SEPP and/or Guidelines, rather than provide excerpts within the DCP. This also prevents the issue of duplications becoming outdated when the SEPP or Guidelines are updated.

RECOMMENDATION - WHAT IS THE CHANGE?

C6. Consideration of the [Resilience and Hazards SEPP](#)~~NSW Coastal Policy~~ and NSW Coastal Design Guidelines 2023 – [RESIDENTAL ZONES DCP and E & OTHER ZONES DCP]

C6.1. Development in the coastal zone must comply with [Chapter 2 of the State Environmental Planning Policy \(Resilience and Hazards\) 2021](#)~~principles of the NSW Coastal Policy~~.

C6.2. [Chapter 2 of the SEPP – Coastal Management - Clause 5.5 Development within the coastal zone in Clarence Valley LEP 2011](#)~~requires consideration of a number of matters related to access, impacts on coastal processes and the scenic and visual impacts of proposed development in the coastal zone before granting consent to development.~~

In order for the consent authority to consider the matters required by [Chapter 2 of the State Environmental Planning Policy \(Resilience and Hazards\) 2021](#)~~clause 5.5 of the Clarence Valley LEP 2011~~, a development application for land in the coastal zone must [address each relevant section of the SEPP](#)~~include information on the following matters:~~

~~(a) public access to and from the coastal foreshore for pedestrians, both existing public access and 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 proposed development and any associated land uses, and~~

~~(ii) the location, and~~

~~(iii) the bulk, scale, size and overall built form design of any building or work; and~~

~~(c) the impact of the proposed development on the amenity of the coastal foreshore, including overshadowing of the coastal foreshore and 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 can be conserved, including native vegetation, existing wildlife corridors, rock platforms, water quality of coastal waterbodies and native fauna and native flora, and their habitats; and~~

~~(f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:~~

~~(i) on the proposed development, and~~

~~(ii) arising from the proposed development; and~~

~~(g) the cumulative impacts of the proposed development and other development in the coastal catchment.~~

C6.3. Chapter 4 Urban Design Guidance for the Coastal Zone of the NSW Coastal Design Guidelines, October 2023, must be considered in design of new buildings and additions in areas within the coastal zone.

~~The following general guidelines should be considered:~~

~~1. Locate and design buildings to respond to and appropriately address the effects of coastal processes within the local hazard context.~~

~~2. Reinforce the village character with new buildings that are appropriate in terms of location, use, scale, height and site configuration.~~

~~3. Consider the appropriateness of new buildings within the whole streetscape, rather than each building as a stand-alone object.~~

~~4. Maintain consistent street setbacks.~~

~~5. Ensure buildings address the street by providing direct and on-grade entries to the street for residential, commercial and retail purposes.~~

~~6. Rationalise car-related uses on-site, such as driveways widths and lengths.~~

~~7. Protect views from public places and streets by maintaining consistent setbacks along streets and not placing buildings in view corridors.~~

~~8. Protect local views and vistas throughout and in the surrounding residential area or the village from public places. This can be achieved by relating new buildings to the topography, reducing heights to maintain views of the surrounding landscape and maintaining consistent, height, bulk, scale with the street and local context.~~

~~9. Ensure developments and neighbouring properties have:~~

~~(a) access to daylight~~

~~(b) access to natural ventilation~~

~~(c) visual privacy and acoustic privacy~~

~~(d) private open space~~

~~(e) a pleasant microclimate.~~

~~10. Achieving amenity relates to the design of individual buildings and, in particular, to:~~

~~(a) building orientation and depth.~~

~~(b) the size of the lot.~~

~~(c) open space location, size and connection with the inside of the building.~~

~~(d) car parking, location and access.~~

~~(e) pedestrian access from the street.~~

~~(f) street edge configuration and building separation.~~

~~(g) mature trees, vegetation and soil areas.~~

CHANGES TO IMPROVE CLARITY AND CERTAINTY

14. UPDATE SUSTAINABLE WATER CONTROLS

DCP - WHICH DCP IS BEING AMENDED?

All DCPs

AIM - WHAT IS THE INTENDED OUTCOME?

To ensure that sustainable water controls are applied where appropriate – including for dual occupancies or higher density residential developments and where no road or stormwater drainage works are required.

STRATEGIC MERIT/REASON FOR AMENDMENT

Stormwater management plans approved with subdivision applications assume that one dwelling will be developed per lot, additionally single dwellings are subject to compliance with BASIX requirements which may include installation of a rainwater tank for re-use. The intention of this change is to ensure that the sustainable water controls apply to mitigate the accumulative stormwater impacts with higher density development or development that seeks to increase density on the site, other than a single dwelling.

RECOMMENDATION - WHAT IS THE CHANGE?

RESIDENTIAL ZONES DCP:

H2. What type of development must comply with Sustainable Water controls?

‘Sustainable water controls’ apply to:

- (a) All new development, other than single dwelling houses.
- (b) Additions to development other than residential development, where the cumulative increase in the roofed and/or impervious area is equal to or greater than 150m² or is a 50% or greater increase in the roofed and/or impervious area.
- (c) All subdivisions except:
 - (i) where no additional lots are created;
 - (ii) strata subdivisions;
 - ~~(iii) where no road or stormwater drainage works are required; or~~
 - ~~(iiiiv)~~ where lots are greater than 1 hectare.

The above changes are also to be made in **Part G2** of the **Business Zones DCP, Rural Zones DCP and E & Other Zones DCP**, and **Part F2** of the **Industrial Zones DCP**.

15. MINIMUM BUILDING ENVELOPE TO ENABLE CONSIDERATION OF CLEARING FOR SUBDIVISION APPLICATIONS

DCP - WHICH DCP IS BEING AMENDED?

Residential Zones DCP, Rural Zones DCP and E & Other Zones DCP

AIM - WHAT IS THE INTENDED OUTCOME?

To provide clarity as to the minimum vegetation clearing area that Council will accept when assessing subdivision proposals that require vegetation clearing for a building envelope.

So that potential vegetation clearing for boundaries, vehicle access, services, Asset Protection Zones, and On-site Wastewater Management are appropriately considered at the initial subdivision stage.

STRATEGIC MERIT/REASON FOR AMENDMENT

Currently, applicants are using the 10m x 15m (150m²) minimum envelope given in **C9. Minimum site area for dwelling houses** when applying for subdivision that requires clearing for a future dwelling (that is, prior to application for a dwelling).

This is commonly used for heavily vegetated R5 subdivisions where a building envelope must be shown and is registered as a s88b restriction on title.

However, 10m x 15m (150 m²) is a small house and it is common for people who buy land in R5 areas to have larger houses as there is generally a lot of space. Therefore, once the subdivision is finalised, owners will come to Council to increase the building envelope and further vegetation clearing will be required.

Based on an analysis of house sizes (by roof area) within R5 zoned land in James Creek, Gulmarrad, Ashby Heights/Ashby, Woombah and Waterview Heights, the smaller houses are approximately 220 m² and the larger houses are up to 500 m², not including detached sheds, garages, and pools.

The overall average roof area of dwellings is 323 m².

This indicates that the default 150 m² envelope is inadequate and unrealistic. Furthermore, the 10 x 15 m envelope was never intended to be used for this purpose.

It is important the building envelope is realistic so vegetation clearing can be properly assessed during the subdivision stage. While encouraging a smaller building envelope is ideal in order to minimise clearing, it is considered more appropriate to provide a minimum envelope for a dwelling of 300m² plus the Asset Protection Zone and any other clearing associated with the development for the dwelling.

Note that sheds can be built within the Asset Protection Zone.

This is considered an anomalous omission to the current controls and provides increased clarity for developers and Council planners.

RECOMMENDATION - WHAT IS THE CHANGE?

Y5.1 How to determine your development footprint – [RESIDENTIAL ZONES DCP]

Insert after Y5.1(ii):

This part of the DCP provides for the assessment of native vegetation and habitat by means of a Baseline Ecological Assessment and potential impacts of proposed development on habitat – refer to the various Biodiversity themes (Clause Y6). It also introduces the concepts of:

- (i) The development footprint of proposed development; and
- (ii) Threshold (including threshold category and threshold criteria) in relation to the development footprint.

A vegetation clearing curtilage must be shown for a Development Application for subdivision. The envelope must include, where relevant:

- A building footprint for a dwelling, at a minimum of 300m² within the R5 zone (for a building footprint of less than 300m², a complete set of plans for the design of the dwelling must be included with the application),
- Vehicle access,
- Show how the dwelling site will be connected to services and whether any vegetation clearing is required,
- Area for on-site wastewater management,
- Asset Protection Zone, and
- Boundaries – as vegetation clearing 1.5 metres along property boundaries, or 3 metres where there is a fence (except koala food trees as provided in Part E5) are both exempt under Clause E6.1 iii) of the Residential Zones DCP.

A Baseline Ecological Assessment in accordance with Section 1 of the Biodiversity Information for Applicants (BIFA) will normally be required if the development footprint affects native vegetation.

The site investigation and analysis shall classify the habitat of the development footprint based on the findings of the ecological assessment and the criteria or thresholds outlined in Clause Y6 and tables 1 to 7 as being an area that is either:

- **Green flag area** - area that can be developed (least impact).
- **Amber flag areas** – areas with low conservation value where development can occur with identified impacts minimised and any loss of habitat offset
- **Red flag areas** - areas with high conservation value status where retention of habitat is essential

In general, **Green flags** represent areas such as cleared land with little or no native vegetation and have no specific requirements for habitat retention or protection.

Amber flags indicate lands or types of habitat with relatively low condition vegetation where the impact of development is considered sustainable if impacts on biodiversity are minimised and offset (within or outside of the development site). In such cases, the proponent should consider reducing the extent of habitat loss by revising the Development Footprint but may proceed on the basis of offsetting the proposed loss in accordance with the Biodiversity Offsets Policy.

Red flag areas represent areas of high conservation value that must be retained, protected and managed.

The above changes are also to be made in **Part R** of the **Rural Zones DCP** and **PART S** of the **E & Other Zones DCP**.

16. DETERMINATION OF SUITABLE ROAD ACCESS AND LANDOWNER CONSENT FOR RIGHT OF WAY

DCP - WHICH DCP IS BEING AMENDED?

Residential Zones DCP, Rural Zones DCP and E & Other Zones DCP

AIM - WHAT IS THE INTENDED OUTCOME?

To ensure DCPs are consistent with the updated Roads Policy.

To ensure appropriate consent is provided from landowners who are impacted by a development through "Right-of-Carriageway" (legal access) through their land.

STRATEGIC MERIT/REASON FOR AMENDMENT

Council updated the Roads Policy on 18 April 2023. As part of the update, the delegations have changed and now the Manager Civil Services and/or the Director Works and Civil are responsible for determining applications for additions to the Roads Asset register.

However, the DCPs state that Council determination is required, reflecting the former policy.

In addition, grammatical errors in this section have been corrected.

Legal precedent – definition of "Suitable Road Access" required by Clause 7.8 of the LEP and improving clarity of DCP controls.

RECOMMENDATION - WHAT IS THE CHANGE?

C24.5. Provision of suitable road access – [RESIDENTIAL ZONES DCP]

- (a) Development (including dwelling houses/residential development) and subdivision must be serviced by a sealed constructed vehicular access that has direct frontage to a sealed public road or a Category 1 unsealed road that is listed in Council's adopted Roads Policy ~~and that is Council's~~ Road Asset (Maintenance) List; ~~the~~ the standard of road access is to comply with Part J of this DCP, the Northern Rivers Local Government Development and Design Manual, the Northern Rivers Local Government Construction Manual. A lesser standard may be considered having regard to the nature and scale of the proposed development, the context of the site and locality, ~~and~~ the Northern Rivers Local Government Development and Design Manual, ~~and~~ the Northern Rivers Local Government Construction Manual.
- (b) Where an allotment does not have direct frontage to a sealed public road or a Category 1 unsealed road, an applicant may request that Council extend the sealed public road or the Category 1 unsealed road network to service the development. Any request under this clause must accompany the development application and must address the criteria set out in Council's Roads Policy.
- (c) In relation to proposed dwelling houses on existing allotments only, where an allotment does not have direct frontage to a sealed public road or a Category 1 unsealed road, Council may permit provision of vehicular access from a Category 2 road subject to the considerations at

(e) and (f) below. Any request for Council to extend the Category 2 unsealed road network to service the development must accompany the development application and must address the criteria set out in Council's Roads Policy.

- (d) A decision to extend the sealed public road or unsealed Category 1 and Category 2 road network must be made by [the Manager Civil Services and/or the Director Works and Civil resolution of Council, as such any application using \(b\) or \(c\) above will be reported to Council for determination.](#)

The applicant must note that the Roads Policy requires any additional lengths of sealed public road or unsealed Category 1 or Category 2 road to be constructed to current engineering standards at no cost to Council prior to being transferred to Council ownership or added to the scheduled maintenance list as a Category 1 or Category 2 road. This will be reflected in any conditions of consent should the road network extension be approved.

.....

- [\(g\) Where access is proposed by way of a Right-of-Carriageway, written permission must be provided from the owner\(s\) of the land subject to the Right-of-Carriageway for any development that would result in intensification of the land use, with the exception of a dwelling house.](#)

The same changes will also be made to **Clause C8.5** of the **Rural Zones DCP** at and **Clause C26.5** of the **E and Other Zones DCP**

17. ADD OBJECTIVES FOR HIGH FENCES AND WALLS

DCP - WHICH DCP IS BEING AMENDED?

Residential Zones DCP and E & Other Zones DCP

AIM - WHAT IS THE INTENDED OUTCOME?

Improved outcomes for primary and secondary frontages, particularly when proposals include fences greater than 1.2m within the front or secondary setbacks.

Provide further clarification and certainty to support existing controls.

STRATEGIC MERIT/REASON FOR AMENDMENT

Currently, there is a lack of guidance around what is acceptable within the DCPs in terms of high fences in primary and secondary frontages.

RECOMMENDATION - WHAT IS THE CHANGE?

C31. Fences and walls – [RESIDENTIAL ZONES DCP]

Insert:

The objectives of the fences and walls controls are:

- (a) To ensure fences meet the requirements of residents in terms of privacy and security, as well as contributing positively to the streetscape,
- (b) To not remove the sense of safety in the street that pedestrians gain from the casual observation by residents,
- (c) To carefully select fencing to integrate with the overall development and to ensure that a site is not separated from its surrounds by high front walls,
- (d) To ensure fences do not become a dominant built element in the streetscape, and
- (e) Provide a sense of privacy and noise reduction on busy roads.

C31.1. On land in R1, R2, R3 and R5 zones front fences and side fences forward of the building line should have a maximum height of 1.2 metres except on corner allotments.

On corner allotments fences are not to exceed 900mm in height within 6 metres of the corner of the boundary of the allotment that marks the junction of the two streets.

C31.2. On land in R1, R2, R3 and R5 zones fences not located within the front setback area are to be a maximum of 1.8 metres. Fences to a height of 1.8 metres may be permitted within the front setback area on a road with high traffic noise or where the main area of private open space is located at the front of the dwelling to achieve optimum solar access and require an application.

Adequate safety for driveway access must be considered where front fences are higher than 1.2 metres. For example, setting the fence back or lowering the fence height adjacent to the driveway, or constructing the fence on an angle.

C31.3. On land in the R5 zone fences should not detract from the rural character of the locality. This means that in most cases extensive colorbond fencing should not be used.

C31.4. Where a fence to a height of 1.8 metres is to be constructed within the ~~front~~ primary and/or secondary frontage setback area the following apply;

- (a) any fence or wall above 1.2m is to be articulated so as to provide visual relief and opportunities for landscape plantings between the wall and public areas, such as setting the fence back for a row of low plantings. Setback can be a continuous setback line or stepped fencing; and
- (b) 50% of the fence is to be open (not solid); and
- (c) the fence is compatible with the dwelling; and
- (d) the fence is to be constructed of materials compatible with the dwelling/building and character of the locality. Fencing should not detract from the streetscape or character of the area. Plain Colorbond and /or timber paling fences are unacceptable in this regard. A combination of materials and articulation of the fence plane is required in order to achieve better presentation to the public domain.; and
- (e) the front setback area is the dwelling's main area of private open space; and
- (f) safe driveway access and safe sight lines to roads and intersections. Where a fence abuts a driveway edge, a minimum 2.5m x 2.0m splayed area in accordance with Australian Standard 2890 is to be provided either side of the driveway for solid fence designs for traffic viewing purposes. Alternatively, a fully open or part open style fence may be located either side of the driveway which may incorporate solid construction to a maximum height of 1.0m.
- (g) Site slope is to be considered and fencing on retaining walls must be detailed on drawings with a height from existing ground level.

Details of each of the above considerations must be shown on the application plans.

Variation to fencing controls will be considered on merit.

C31.5. Some fences may not require approval of a Development Application if the exempt development requirements are met. Refer to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Parts 1 and 2) and CV LEP 2011 clause 3.1 Exempt development and Schedule 2 Exempt Development.

The same changes will also be made to **Clause C28** of the **E and Other Zones DCP**.

18. A11 AMENDMENT

DCP – WHICH DCP IS BEING AMENDED?

All DCPs

AIM – WHAT IS THE INTENDED OUTCOME?

To allow for consideration of other DCP controls when relevant, e.g. residential and tourist accommodation development in a business zone.

STRATEGIC MERIT/REASON FOR AMENDMENT

Issues arise where some DCPs do not have the appropriate controls and another DCP must be relied upon. Car parking controls, for example, do not have all the land uses permissible in each zone in all the DCPs and so another DCP must be used for assessment.

This is an interim approach until a full DCP review can occur.

RECOMMENDATION - WHAT IS THE CHANGE?

A11. Assessment of development applications – [ALL DCP]

Compliance with development standards and other DCP requirements does not guarantee development consent. A development application will be assessed on the merits of the proposal, taking into account the heads of consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

[Controls in this DCP and other appropriate standards in use will be considered in determining the Development Application, where relevant.](#)

19. REMOVE TOP PLATE HEIGHT

DCP – WHICH DCP IS BEING AMENDED?

Business Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To remove the restriction on top plate heights as this is not considered relevant for commercial buildings, many of which have flat roofs. Retain controls for Angourie and Yamba Hill to be reviewed at a later date.

STRATEGIC MERIT/REASON FOR AMENDMENT

Requiring pitched roofs on commercial buildings is not considered necessary or preferable. This is unlikely to result in a substantial change in built form, as character and heritage considerations still apply, and is therefore considered appropriate to include in the Housekeeping Amendment.

RECOMMENDATION - WHAT IS THE CHANGE?

C6. Building Height

Maximum top plate height of building controls apply for Angourie see Part M, Wooli See Part Q and Yamba Hill See Part R.

~~C6.2. Where a maximum building height limit applies to land, a maximum top plate building height also applies as shown in TABLE C2.~~

~~The top plate building height is measured from ground level (existing) to where the roof beams meet the top plate.~~

TABLE C2

Maximum height of building metres	Maximum height to the top plate of the building metres
9	6.5
12	9.5

~~Note: for Angourie see Part M, Wooli See Part Q and Yamba Hill See Part R.~~

~~In the case of skillion roofs, the maximum height to the top plate is to be measured to the lower point at which the roof beams meet the top plate.~~

~~Variations to the top plate height controls will be considered on merit on steep slopes.~~

20. GENERAL SERVICING PROVISIONS

DCP – WHICH DCP IS BEING AMENDED?

Business Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To ensure essential services are provided in Business Zones

STRATEGIC MERIT/REASON FOR AMENDMENT

General servicing provisions are not provided in Part C of the Business Zones DCP but are provided in other DCPs.

This is a minor change and improves consistency and clarity across the zones.

RECOMMENDATION - WHAT IS THE CHANGE?

Insert new clauses to reflect other DCPs:

C19. Provision of Essential Services

C19.1. General

The controls in this part of the DCP provide further guidance in relation to clause 7.8 Essential Services of the Clarence Valley LEP 2011. Refer also to Part I of this DCP.

Clause 7.8 requires Council to be satisfied that any utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available. Such infrastructure includes the supply of water, electricity, the disposal and management of sewage, stormwater management, telecommunications and suitable road access.

C19.2. Supply of water

(a) Subdivision and development must be connected to a reticulated town water supply system at a point acceptable to Council. Variations to this requirement may be considered where reticulated services are not currently available to the property and extension of those services is not environmentally and/or economically realistic.

Note:

- Under section 124 of the Local Government Act Council can require premises that are situated within 225 metres of a water pipe of the Council to be connected to Council's water supply.
- Water and sewer connection is to comply with minimum sewer and water connection requirements set out in Council's Sewer and water connection policy.

(b) Hydraulic details, prepared by a suitable qualified hydraulic consultant, must be provided for water supply work (including fire services) in all new multi dwelling housing and residential flat buildings. These details are to be submitted to Council for approval prior to issue of the Construction Certificate.

(c) In areas where a reticulated water supply is not available or connection to such is deemed unacceptable a domestic water storage capacity (i.e. for a dwelling house) of 45,000 litres must be provided.

(d) Where more than 2 Class 1a dwellings are to be erected on a property and any of those dwellings are more than 90 metres from a street hydrant, an on-site fire hydrant must be provided. The fire hydrant system shall comply with AS 2419.1.

(e) On land in bush fire prone areas that is not serviced by a reticulated water supply, a water supply reserve must be provided for fire fighting purposes. The water requirements for fire fighting purposes in TABLE C3 must be met.

TABLE C3

<u>Development Type</u>	<u>Water Requirement</u>
<u>Dwellings on lots < 1,000m²</u>	<u>5,000 litres/lot</u>
<u>Dwellings on lots 1,000-10,000m²</u>	<u>10,000 litres/lot</u>
<u>Dwellings on lots > 10,000m²</u>	<u>20,000 litres/lot</u>
<u>Dual occupancy</u>	<u>2,500 litres/dwelling</u>
<u>Townhouses and units</u>	<u>5,000 litres/unit up to 20,000 litres maximum</u>

Refer to the NSW Rural Fire Service current publication, Planning for Bushfire Protection 2019.

C19.3. Disposal and management of sewage

(a) Subdivision and development must be connected to a reticulated sewerage system. Where connection to a reticulation sewerage system is not available nor otherwise possible, wastewater disposal must comply with the Clarence Valley Council On-site Wastewater Management Strategy 2019.

Note:

- Under section 124 of the Local Government Act Council can require premises that are situated within 75 metres of a sewer system of the Council to be connected to Council's sewer system.
- Water and sewer connection is to comply with minimum sewer and water connection requirements set out in Council's Sewer and water connection policy No. 1.68.
- For developments requiring reticulated sewerage in areas identified as reticulated sewerage catchments where sewerage is not yet available, refer to Council's Development Approvals in Future Sewer Areas Policy.
- For development applications proposing pressure sewerage systems, refer to Council's Pressure Sewerage Policy.

(b) A development application for a new development in an unsewered area must meet the standard criteria in the Onsite Wastewater Management Strategy. Where the criteria cannot be met, then the development application must include an Effluent Management Report prepared by a suitably qualified waste water consultant or Engineer.

- (c) In unsewered areas on an existing lot where there is an intensification of the development, Council will require upgrading of the on-site waste water system in accordance with the current On-site Wastewater Management Strategy unless a wastewater consultant can justify otherwise. Refer to the Clarence Valley Council On-site Wastewater Management Strategy for details.
- (d) Hydraulic details, prepared by a suitable qualified hydraulic consultant, must be provided for sewer work in all new multi dwelling housing and residential flat buildings. These details are to be submitted to Council for approval prior to issue of the Construction Certificate.

C19.4 Supply of electricity

- (a) Development must be connected to a mains power supply. Connection to an underground power network is required unless the lot has frontage to a road which is serviced by an existing overhead electricity service or where the energy provider determines the ground conditions are unsuitable for underground provision of services. Refer also to Part J12.1.
- (b) Alternative power sources can be considered where the economic cost and likely environmental impact of connections is unacceptable.

C19.5. Provision of suitable road access

- (a) Development and subdivision must be serviced by a sealed constructed vehicular access that has direct frontage to a sealed public road or a Category 1 unsealed road that is listed in Councils adopted Roads Policy, that is Councils' Road Asset (Maintenance) List; the standard of road access is to comply with Part J of this DCP, the Northern Rivers Local Government Development and Design Manual, the Northern Rivers Local Government Construction Manual. A lesser standard may be considered having regard to the nature and scale of the proposed development, the context of the site and locality and the Northern Rivers Local Government Development and Design Manual, the Northern Rivers Local Government Construction Manual.
- (b) Where an allotment does not have direct frontage to a sealed public road or a Category 1 unsealed road, an applicant may request that Council extend the sealed public road or the Category 1 unsealed road network to service the development. Any request under this clause must accompany the development application and must address the criteria set out in Council's Roads Policy.
- (c) In relation to proposed dwelling houses on existing allotments only, where an allotment does not have direct frontage to a sealed public road or a Category 1 unsealed road, Council may permit provision of vehicular access from a Category 2 road subject to the considerations at (e) and (f) below. Any request for Council to extend the Category 2 unsealed road network to service the development must accompany the development application and must address the criteria set out in Councils Roads Policy.
- (d) A decision to extend the sealed public road or unsealed Category 1 and Category 2 road network must be made by resolution of Council, as such any application using (b) or (c) above will be reported to Council for determination. The applicant must note that the Roads Policy requires any additional lengths of sealed public road or unsealed Category 1 or Category 2 road to be constructed to current engineering standards at no cost to Council prior to being transferred to Council ownership or added to the scheduled maintenance list

as a Category 1 or Category 2 road. This will be reflected in any conditions of consent should the road network extension be approved.

C19.6 Storm water Management Development must comply with the requirements of Part G Sustainable Water Controls and Part H Erosion and Sediment Control and the latest Northern Rivers Design Manuals.

C19.7. Provision of other services and infrastructure Development must be serviced by telecommunications and street lighting, as further provided for in Part J12 of the Residential zones DCP.

21. DUAL OCCUPANCIES IN RURAL ZONES

DCP – WHICH DCP IS BEING AMENDED?

Rural Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To update the relevant DCPs so that they relate to recent changes in the LEP in terms of dual occupancies and secondary dwellings in the Rural zones.

STRATEGIC MERIT/REASON FOR AMENDMENT

On 23 April 2024, Council resolved to adopt the Planning Proposal for CVLEP Housekeeping Amendments, including the following change:

Omit: Clause 4.2D(2)(c) for dual occupancies (detached)—dwellings will be situated within 100 metres of each other, and

Insert instead: Clause 4.2D(2)(c):

the development is co-located with the principal dwelling unless significant agricultural or environmental constraints justify further separation, in which case the distance will be the minimum required to avoid the constraint, and

Omit Clause 5.5 (b) the distance between the secondary dwelling and the principal dwelling must not exceed 100 metres.

This LEP amendment (Amendment No. 54) came into force on 9 August 2024.

RECOMMENDATION - WHAT IS THE CHANGE?

Delete:

~~C6. Requirements for attached dual occupancies~~

~~C6.1. Attached dual occupancies are permitted with consent in RU1 and RU2 rural zones.~~

~~C6.2. Dual occupancies in rural zones must be designed so that the 2 dwellings are attached. Requirements are as follows:~~

- ~~(a) a maximum separation distance of 12 metres, to give the appearance of a single building; and~~
- ~~(b) attached by a garage, carport or common roof (excluding walkways); and designed to create a harmonious building by the use of matching building materials, colours and design elements, for example, roof pitch, gables, etc.~~

~~C6.2. A maximum floor area of each dwelling does not apply to attached dual occupancies.~~

Insert:

C6. Requirements for dual occupancies and secondary dwellings

Dual occupancies and secondary dwellings shall be co-located as close as possible to the principal dwelling to limit impacts on agricultural activity and/or the environment, such as unnecessary clearing of native vegetation. Co-location is no greater than 100 metres from the principal dwelling.

Council may consider a greater separation distance where it can be demonstrated that the siting provides a better outcome in regards to:

- (a) Environmental considerations, such as reducing the need for clearing of native vegetation,
- (b) Reducing potential for natural disaster risk, such as bushfire or flood,
- (c) The siting of the dual occupancy or secondary dwelling would be to the detriment of agricultural activity.

22. SHADOW CONTROLS

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP, E & Other Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To ensure that potential overshadowing impacts are considered appropriate for all relevant applications. Currently these controls are only provided in Part W Yamba Hill Controls.

As the 6.5m top plate height limit for internal dwellings is an attempt to address overlooking, it is considered appropriate to delete this and replace with shadow diagram controls.

STRATEGIC MERIT/REASON FOR AMENDMENT

Currently, there is limited requirement for consideration of overshadowing in the DCPs. This is considered an anomalous oversight.

RECOMMENDATION - WHAT IS THE CHANGE?

Add to Part C – C14.1 for Residential Zones DCP,

C14. Shadow diagrams

C14.1. A shadow diagram showing the impact on adjoining properties must accompany a development application where the maximum building height exceeds 6.5 metres.

At least half the private open space of adjoining properties should receive direct sunlight between 10am and 2pm during mid winter. This same standard applies to private open space areas provided within the proposed development.

Variations to this standard may be accepted if the excessive overshadowing is balanced by improvements in views, access to prevailing breezes, vegetation retention or privacy for the affected property(s).

Council shall also give consideration as to whether the proposed development worsens the existing overshadowing received by the affected property.

~~C14. Building height controls on internal lots.~~

~~C14.1. On land in R1, R2 and R3 zones, other than where a 12 metre height limit applies (see PART W for Yamba Hill controls), all rear dwellings must not exceed a maximum building height to the top plate of 4 metres and 6.5 metres to the highest point on the roof (that is, single storey). This height limit is to maintain the amenity of adjacent dwellings and prevent problems of overlooking.~~

~~C14.2. All dual occupancies and residential accommodation on internal allotments, that being allotments served by rights of carriageway, battleaxe lots, or other non-street frontage allotments, are also limited to a maximum building height to the top plate of 4 metres and 6.5 metres to the highest point on the roof for the same reasons.~~

~~C14.3. Dwellings located at the rear or on internal lots that exceed the 6.5 metre height limit may be considered where;~~

~~(a) the predominant form of development is 2 storeys or more, and~~

~~(b) topography enables 2 storeys without loss of amenity, views and privacy from neighbouring dwellings.~~

~~**C14.4.** Variation to the requirements for single storey development (the 6.5 metre height limit) on internal lots or buildings without street frontages will be considered if it can be demonstrated that there is no unreasonable loss of privacy (overlooking) or over shadowing caused by the additional height of the proposed building.~~

~~**C14.5.** Where the 6.5 metre height limit is to be exceeded, privacy screens on balconies or landscaping should be considered to address privacy.~~

The same changes will also be made to **Clause C20** for **E & Other Zones DCP**.

23. PRESSURE SEWER SETBACKS

DCP – WHICH DCP IS BEING AMENDED?

All DCPs

AIM – WHAT IS THE INTENDED OUTCOME?

Identify pressure sewer setbacks and requirements at C16.4

STRATEGIC MERIT/REASON FOR AMENDMENT

When planning for development, some consultants, plumbers and builders are installing these pressure sewers as an afterthought due to not having any guidelines.

RECOMMENDATION - WHAT IS THE CHANGE?

RESIDENTIAL ZONES DCP

C16.4. Setbacks from Services

Buildings should not be built over any registered easement, sewer main or water main. All buildings should be setback 1.5 metres from any sewer main.

All buildings should be setback a minimum of 1.5 metres from any sewer main that is less than 1.5 metres deep. Where the sewer is between 1.5 metres and 3 metres deep, the minimum setback from buildings should be 2.5 metres. Where the sewer is greater than 3 metres deep, the minimum setback for buildings will be determined by Council staff following an assessment of maintenance and access requirements.

The minimum offset from any pressure sewer pump unit (PSPU) shall be one metre. Any footing system within 2.1 metres shall be designed not to impose any load on the PSPU and ensure the removal of the PSPU will not negatively impact the proposed development. The branch line between the boundary kit and the pressure pump unit should be a minimum of 300mm.

For detailed engineering requirements for setbacks to sewer lines see Council's Policy for Building in Close Proximity to Sewers No. 1.42.

Consult with Council's Engineering staff when the proposed development is close to any easement or required easement setback.

The same changes will also be made to **Clause C17.7** of the **E & OTHER ZONES DCP**, **Clause C8.4** of the **BUSINESS ZONES DCP**, **Clause C7.5** of the **INDUSTRIAL ZONES DCP**, and **Clause C5.3** of the **INDUSTRIAL ZONES DCP**.

24. FILLING IN THE FLOODPLAIN

DCP - WHICH DCP IS BEING AMENDED?

Residential Zones DCP

AIM - WHAT IS THE INTENDED OUTCOME?

To provide clarity and consistency for applicants and Council officers where Development Applications propose to fill between the levee and the dwelling.

STRATEGIC MERIT/REASON FOR AMENDMENT

It is common practice for riverfront properties in Grafton to fill between the earthen levee wall and the new dwelling (with DA approval). Fill must be shaped to provide a flow path (on each side of the house) for flood water (in a levee overtopping flood) to move to the street.

On all lots (earthen or block levee) no impediments to flow such as full width solid fences, rainwater tanks at side of house (unless on a stand) or buildings built to side boundaries should be allowed that will block flow. This will result in an even share of floodwater between properties in a major flood that overtops the levee without concentrated flows that could cause scour and erosion. Also, if a blockage occurs a localised build up of flood water could lead to water entering the dwelling.

This situation applies across many flood prone residential areas with levees including Grafton, South Grafton, Ulmarra and Maclean where the higher land is located along the river front. However, it is not currently in our DCP as something that is clearly spelled out for applicants/designers to take into account at an early stage in the design process.

The following conditions are generally placed on DAs where required:

1. *Fill between the levee and the buildings shall be shaped to create a flow path to the street between each building for flood water in a flood that overtops the levee. The open space area between the buildings and the boundary on both sides shall be kept clear of fixed obstructions (e.g. rainwater tanks, solid gates) to allow the flow of floodwater to the street.*
2. *Prior to placement of fill between the house and the levee written details addressing the following shall be submitted to Council for approval:*
 1. *How fill will be contained within the property boundaries*
 2. *How rainfall run off will be directed without causing a nuisance to neighbouring properties. Surface water should be directed over the levee towards the river or be collected in a surface drain on either side of the house and piped to the street gutter.*
 3. *How fill will direct flood water in a levee overtopping situation down either side of the house toward the street.*

3. *The following requirements of Council's Floodplain Services Section shall be adhered to:*
1. *Council is to be notified at least 48 hours prior to commencement of placement of any fill on either side of the levee and arrangements made for inspection during construction by Council's Floodplain Services staff.*
 2. *All vegetation and non-structural material is to be stripped from the surface of the levee where fill is to be placed prior to placement and compaction.*
 3. *Earth fill is to be clean and suitable for compaction to Council's requirement.*
 4. *The fill must not affect adjoining landowners in any way, such as creating ponding problems, concentrating rainfall runoff (erosion) or affecting any plantings.*
 5. *All work is to be carried out without any adverse effect on the existing levee and any damage is to be repaired to the satisfaction of Council at no cost to Council.*
 6. *The finished surface is to be graded such that any run-off is not concentrated at any point and cause damage to the levee or batters.*
 7. *The disturbed area is to be turfed on completion of earthworks and watered until fully established.*
 8. *No vegetation other than grass is to be grown in the fill area of the levee easement.*
 9. *Adequate erosion and sediment control to be in place during construction and to remain in place until turf has established.*
 10. *The fill between the levee and the river is to extend no more than 10 metres towards the river measured from the toe of the levee.*

RECOMMENDATION - WHAT IS THE CHANGE?

D5. Are There Special Controls for Filling of Flood Liable Land?

Insert new clause after D5.2.4:

[D5.2.5 Fill between the levee and buildings shall be shaped to create a flow path to the street between each building for flood water in a flood that overtops the levee. The open space area between the buildings and the boundary on both sides shall be kept clear of fixed obstructions \(e.g. rainwater tanks, solid gates\) to allow the flow of floodwater to the street.](#)

25. SETBACKS TO SHEDS IN THE R5 ZONE

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

Side and rear boundary setbacks to be directly proportional to the wall height of the building in R5 zones.

STRATEGIC MERIT/REASON FOR AMENDMENT

Adding the word “wall” provides clarification for users of the DCP where on the proposed shed the height is to be measured from. Therefore, improving consistency in outcomes.

RECOMMENDATION - WHAT IS THE CHANGE?

C30.2. On land in the R5 Large Lot residential zone sheds and outbuildings must comply with the following:

- Maximum floor area 200m²
- Maximum wall height 4.5m
- Maximum building height 6.5m
- Must be behind the front setback
- Side and rear boundary setbacks to be directly proportional to the wall height of the building. E.g. Building height 4.5m, side and rear setback to be 4.5m.

26. PRIVATE OPEN SPACE FOR SERVICED APARTMENTS

DCP – WHICH DCP IS BEING AMENDED?

E & Other Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

Allow for increased flexibility in serviced apartments in relation to the provision of Private Open Space. The proposed change is to allow for 35% total landscaping, rather than requiring the 50m² minimum Private Open Space at ground floor. This is in line with the existing DCP provisions for Private Open Space for residential flat buildings.

STRATEGIC MERIT/REASON FOR AMENDMENT

To encourage flexibility for serviced apartments as they are designed for visitors rather than long term residents and a 50m² Private Open Space requirement is not considered necessary.

RECOMMENDATION - WHAT IS THE CHANGE?

C16.2. Where dwellings in a residential flat building and serviced apartments have ground level access, as an alternative to meeting the requirements of Clause 15.1, the requirements of Clause 14.12 can be applied.

NOTE: C14.1 requires that:

All development on land in the SP3 zone must have a minimum of 35% of the site area as landscaped area, unless a landscaped area requirement is identified in another clause of this DCP.

27. AWNINGS

DCP – WHICH DCP IS BEING AMENDED?

Business Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To improve clarity and traffic safety in relation to awnings built over footpaths.

STRATEGIC MERIT/REASON FOR AMENDMENT

The below wording came about during the review process of the Building in Airspace over Road Reserves Policy and it was considered more appropriate to include in the DCP rather than the Policy, as it is a design requirement which would be assessed at the DA stage.

RECOMMENDATION - WHAT IS THE CHANGE?

C5. Awnings and Verandahs

Awnings or verandahs should be provided for all new developments or redevelopments in main streets and should be compatible with the height of adjacent commercial development where appropriate.

The style of the awning or verandah should relate to the design of the building. Simple skillion verandahs or cantilevered awnings are appropriate for most new buildings.

Verandahs are appropriate in most heritage precincts. Consultation with Council's Heritage Advisor is advised. [More elaborate verandah styles with decorative detailing should be restricted to older buildings where there is historic evidence to support conservation or reconstruction.](#)

Access issues need to be considered, as well as conservation values, in heritage precincts. The following requirements apply to verandah posts:

- (a) The outer face of posts are required to be set back 300mm from the edge of the kerb and gutter, to reduce conflict with parking of vehicles.
- (b) The structure is to be designed by a structural engineer so that if any one of the supporting posts is accidentally knocked down, the remainder of the awning will stay in situ.
- (c) In streets with angled parking, posts are to be designed or protected by bollards so as not to collapse if struck by a vehicle being parked.

~~[More elaborate verandah styles with decorative detailing should be restricted to older buildings where there is historic evidence to support conservation or reconstruction.](#)~~

[To improve safety of motor vehicles, the following requirements apply to awning installation:](#)

- (a) [An awning will only be permitted where there is a physical barrier between the awning and the carriageway \(e.g. a kerb between building and the carriageway\) and where there is a footpath.](#)
- (b) [An awning would normally be erected at a height of not less than 2.9 metres above the level of the footpath. It must extend from the supporting building to a distance of 500 millimetres inside a vertical line drawn from the face of the kerb to minimise the risk of the structure being damaged by high vehicles travelling close to the kerb.](#)

(c) If the awning is a solid structure, the design requirements are:

- (i) The fascia must be between 300 millimetres and 450 millimetres in depth.
- (ii) The roof covering must be of weather resistant material and be provided with gutters and down pipes.
- (iii) The ceiling must be lined with material compatible with adjacent buildings - also in colouring.
- (iv) A minimum lighting level of 5 /ux under the awning will be required to provide a level of safety to pedestrians after dark.
- (d) Soft awnings are restricted to an area of less than 5m² where there is no appropriate stormwater disposal system.
- (e) Any supporting structure (such as an arm, bracket or hook) on a soft awning is to be mounted at a height so it has a clearance of not less than 2.4m above the finished footpath level.

Note: Refer also to Council's [Public Road Management Policy Building in Airspace over Road Reserves Policy](http://www.clarence.nsw.gov.au/cp_themes/metro/page.asp?p=DOC-OVF-11-62-35), available on Council's website, by following the link:
http://www.clarence.nsw.gov.au/cp_themes/metro/page.asp?p=DOC-OVF-11-62-35

28. NATIVE VEGETATION MANAGEMENT

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP & E & Other Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

To improve clarity in interpretation of the Native Vegetation Management controls.

STRATEGIC MERIT/REASON FOR AMENDMENT

To ensure that private land owners and Council's assessment staff are aware of when a native vegetation works permit is required on private land when adjacent to public land.

RECOMMENDATION - WHAT IS THE CHANGE?

E6. Exemptions from the need to obtain a native vegetation works permit. - [RESIDENTIAL ZONES DCP]

Insert additional clause after E6.1 iv)

v) the exemptions above do not apply to a boundary that adjoins public land i.e. a road reserve or public park.

The same changes will also be made to **Clause T6** of the **E & OTHER ZONES DCP**

29. PRIMARY AND SECONDARY FRONTAGE DEFINITIONS

DCP – WHICH DCP IS BEING AMENDED?

All DCPs

AIM – WHAT IS THE INTENDED OUTCOME?

To improve clarity regarding primary and secondary setbacks for users of the DCPs

STRATEGIC MERIT/REASON FOR AMENDMENT

While primary and secondary setbacks are defined clearly in the Codes SEPP, there is no definition provided in the LEP or the DCPs, which can lead to confusion regarding the difference between the two terms.

RECOMMENDATION - WHAT IS THE CHANGE?

Add to the definitions in **C16. Setbacks**:

NOTE: Building line or setback is defined in the CV LEP 2011, as below:

Building line or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof, whichever distance is the shortest.

Primary and secondary setbacks relate to primary and secondary roads, as defined in the Codes SEPP.

primary road means the road to which the front of a dwelling house, or a main building, on a lot faces or is proposed to face, and includes any road that intersects with that road at an angle of more than 135 degrees and with which the dwelling house or main building has contiguous boundaries.

secondary road means, in the case of a corner lot that has boundaries with adjacent roads, the road that is not the primary road.

30. THE USE OF GRASSCRETE AND PLANTER BOXES AS LANDSCAPED AREA

DCP – WHICH DCP IS BEING AMENDED?

Residential Zones DCP and the E and Other Zones DCP

AIM – WHAT IS THE INTENDED OUTCOME?

- To provide clarity and consistency to interpretation of what landscaped area is for both Council assessment staff and proponents for how we will apply it to developments.
- Prevent over development of sites in terms of development footprint.

STRATEGIC MERIT/REASON FOR AMENDMENT

Council have received development applications that requested the use of grasscrete and / or planter boxes to be considered as part of the DCP landscaped area provisions. The use of grasscrete within hardstand and trafficable areas, or planter boxes within the building footprint may lead to the overdevelopment of the site, due to Council having no other adopted density controls.

RECOMMENDATION - WHAT IS THE CHANGE?

C19. Landscaped Area Requirements in R1, R2 and R3 zones - [RESIDENTIAL ZONES DCP]

Insert new clause after C19:

v) Planter boxes within the building footprint, green rooves, areas of grasscrete and permeable pavers on the subject land will not be considered as contributing to landscaped area.

The same changes will also be made to **Clause C14** of the **E & OTHER ZONES DCP**