Richmond Valley Council

Richmond Valley Development Control Plan 2015

Adopted by Council 22 December 2015
Effective from 4 January 2016

Contents

- Introduction
- Part A Residential Development
  - A-1 Dwelling Houses
  - A-2 Dual Occupancy & Secondary Dwellings
  - A-3 Residential Flat Developments & Multi Dwelling Housing
  - A-4 Shop Top Housing
  - A-5 Seniors Housing & Affordable Housing
- Part B Commercial Development
- Part C Industrial Development
- Part D Rural Land Uses
  - D-1 Roadside Stalls
  - D-2 Kiosks
  - D-3 Intensive Livestock Agriculture
- Part E Tourist and Visitor Accommodation
  - E-1 Eco-tourist facilities
  - E-2 Bed and Breakfast Accommodation
  - E-3 Serviced Apartments
  - E-4 Hotel and Motel Accommodation
  - E-5 Backpackers Accommodation
  - E-6 Farm Stay Accommodation
  - E-7 Manufactured Home Estates, Caravan Parks and Camping Grounds
- Part F Signage
- Part G Subdivision
- Part H Natural Resources and Hazards
  - H-1 Flooding
  - H-2 Bushfire
  - H-3 Acid Sulfate Soils (ASS)
  - H-4 Natural Resource Sensitivities (NRS)
- Part I Other Considerations
  - I-1 Heritage Matters
  - I-2 Development in, on, over or under Public Road
  - I-3 Setbacks and Building Height
  - I-4 Car Parking Requirements
  - I-5 Landscaping Guidelines
  - I-6 Animal Boarding and Training Establishments
  - I-7 Noise Impact Assessment (NIA)
  - I-8 Social Impact Assessment (SIA)
  - I-9 Water Sensitive Urban Design (WSUD)
  - I-10 Crime Prevention Through Environmental Design (CPTED)
  - I-11 Land Use Risk Conflict Risk Assessment (LUCRA)
  - I-12 Context and Site Analysis
  - I-13 Shipping Containers
  - I-14 Sex Service and Restricted Premises
  - I-15 Lane Widening and Access to Narrow Streets
  - I-16 Historic New Italy Village Area
- Part J Notification and Advertising of Development

Introduction

1. Name of Plan

This plan is known as the *Richmond Valley Development Control Plan 2015* (the DCP).

This DCP shall be read in conjunction with the *Richmond Valley Local Environmental Plan 2012* (the LEP). The DCP supplements the LEP by providing general information, detailed guidelines, and controls relating to the design and scale of development, and provides an insight into the decision making process.

The LEP and this DCP provide Council's land use planning and development controls for the Richmond Valley LGA.

2. Commencement

This DCP was prepared pursuant to Section 74C of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), and Part 3 of the *Environmental Planning and Assessment Regulation 2000* (the Regulation).

This DCP was approved by Richmond Valley Council on 22 December 2015 and becomes effective from 4 January 2016.

This DCP is subject to amendment and reference should be made to the table of amendments contained in Section 10.

3. Aims of this DCP

The aims of this DCP are to:

(1) provide detailed provisions with respect to development to achieve the purpose of the *Richmond Valley Local Environmental Plan 2012*;

(2) outline requirements for development which meets community expectations and addresses key environmental planning issues relevant to the LGA;

(3) identify and detail public exhibition requirements for development under Part 4 of the *Environmental Planning and Assessment Act 1979*; and

(4) repeal all pre-existing DCPs as they apply within the local government area of Richmond Valley Council.

4. Land to which this Plan applies

This DCP applies to all land within the Richmond Valley Local Government Area.

5. Inconsistencies

(1) Inconsistency between this DCP and an Environmental Planning Instrument

This plan supports the provisions of the *Richmond Valley Local Environmental Plan 2012*. Where there is an inconsistency between this DCP and the LEP, or any other Environmental Planning Instrument (**EPI**) applying to that land, the provisions of the LEP or EPI shall prevail.

(2) Inconsistency within this DCP

Where there is an inconsistency between standards or controls within this DCP, Council shall determine, based upon a merits consideration, which standards shall prevail to the extent of the inconsistency.

6. Departures and Variations

Unless otherwise provided in a Part or Chapter of this DCP, variations to this DCP may be approved under Delegation to the Chief Executive Officer (CEO), or his sub-delegate.

7. Repeal of DCPs

Upon the commencement of this DCP the *Richmond Valley Development Control Plan 2012* shall be repealed and ceases to operate.

8. Savings

(1) This DCP shall only apply to development applications lodged after its commencement.

(2) All development control plans repealed by this DCP shall continue to apply for the purposes of assessing development applications made, but not determined, at the time this DCP commenced. Notwithstanding, the intent of this DCP, and changes incorporated into it, may be considered when assessing those development applications.

9. Structure of this plan

(1) This plan is structured into Parts in the following manner:

Administration

Introduction

Development Controls Grouped by Land Use Type

Part A – Residential Development

Part B – Commercial Development

Part C – Industrial Development

Part D – Rural Land Uses

Part E - Visitor Accommodation, Caravan & Manufactured Home Estates

Subject Based Development Controls

Part F – Signage

Part G – Subdivisions

Part H – Environmental Sensitivity and Hazards

Part I – Other Considerations

Part J – Advertising and Notification of Development

(2) How Parts and Chapters within this DCP Operate

Each Part, and to a limited extent the Chapters within the Parts, can be read in isolation from the remainder of this DCP. Notwithstanding, each Part and Chapter remains a component of the DCP so it should not be construed that they are separate documents or DCPs.

Parts and Chapters may reference provisions or criteria from other Parts and Chapters of the DCP where additional detail has been provided to explain the standard or principle. That way lengthy detail for a specific subject need not be reproduced in each Chapter. For example, Part A – Residential Development may refer to CPTED in regards to the design and sighting of development. CPTED is addressed in detail within Chapter 10 of Part I (I-10) and provides detailed guidelines on the principles for crime prevention through environmental design.

10. Amendments to this plan

This development control plan has been amended as follows:

No	Amendment Title	Date Effective	Comment
	nil		

11. Definitions

Acid Sulfate Soils (ASS) means a soil type typically found under low lying coastal areas that, when oxidised (exposed to air), produce sulfuric acid. See Part H-3 of this DCP for further details.

Acid Sulfate Soils Manual means the manual published by the NSW Acid Sulfate Soils Management Advisory Committee and contains information on the chemistry, detection, & management of ASS.

Advertised development has the same meaning as in EP&A Act.

Note. Section 4(1) of EP&A Act defines ***advertised development*** as meaning development, other than designated development, that is identified as advertised development by the regulations, an environmental planning instrument or a development control plan. Advertised development includes any development for the purposes of a scheduled activity at any premises under the *Protection of the Environment Operations Act 1997* that is not designated development.

Note2. For the purposes of this definition Part J of this DCP identifies advertised development.

Advertisement has the same meaning as in the EP&A Act. The term is defined in the Act as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

Advertising Structure has the same meaning as in the EP&A Act. The term is defined in the Act as a structure used or to be used principally for the display of an advertisement. Advertising structures are a type of "signage" for the purposes of the *Richmond Valley LEP 2012*.

Building Lines relates to a setback from either the front boundary, side & rear boundary or a foreshore. For further information see Front Building Line Setback, Side & Rear Setback, Foreshore Building Line, and Part I-3 of this DCP.

Building Height Plane (BHP) means a building height ceiling extending over a property. Except under certain circumstances, all buildings are to be contained. The BHP is measured from the side and rear boundaries of the property, extending up 2 metres at the boundary and then at a 45^0 angle towards the centre of the property.

CPTED (Crime Prevention Through Environmental Design) provides an assessment process to evaluate and mitigate potential risks from crime.

Development Assessment Panel (DAP) is an internal panel of Richmond Valley Council that has been established to consider all aspects of submitted development applications, and to act as a technical support first contact with developers.

Development Control Plan means a plan that supports an LEP, and/or defines advertised development. Such plans contain development standards and guiding principles for the regulation of development.

Draft Richmond Valley Development Control Plan 2015 (Draft Richmond Valley DCP 2015)(the Draft DCP) means the Draft DCP adopted by Council on 15 September 2015 by Richmond Valley Council for the purposes of community engagement. When this DCP is finally adopted it will repeal the Richmond Valley DCP 2012.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

Formal Notice (Formal Notification) is a form of written notification where the recipient is invited to made a written submission on a development proposal.

Foreshore Building Line Setback mean an area of a property, measured from the shoreline of a waterway, in which buildings are not permitted to be erected. See Part I-3 for details.

Front Building Line Setback mean an area at the front of a property, measured from the front boundary adjacent to a road, in which buildings are not permitted to be erected. See Part I-3 for details.

FSA mean Floor Space Area.

Gross Floor Area (GFA) means the sum of the floor area of each floor of a building measured from the internal face of the external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

(a) the area of a mezzanine, and
(b) habitable rooms in a basement or an attic, and
(c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

(d) any area for common vertical circulation, such as lifts and stairs, and
(e) any basement:
  (i) storage, and
  (ii) vehicular access, loading areas, garbage and services, and
(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
(g) car parking to meet any requirements of the consent authority (including access to that car parking), and
(h) any space used for the loading or unloading of goods (including access to it), and
(i) terraces and balconies with outer walls less than 1.4 metres high, and
(j) voids above a floor at the level of a storey or storey above.

Informal Notice (Informal Notification) is a form of written notification where the recipient is given a courtesy notice that a development application has been lodged on an adjacent property.

Integrated Development means development (not being complying development) that, in order for it to be carried out, requires development consent and one or more of the approvals listed in section 91 of EP&A Act.

Landscape Open Space (Landscaping) means open space that comprises of gardens, lawns and other areas where stormwater infiltration can occur.

LUCRA (Land Use Conflict Risk Assessment) means an assessment of potential land use conflict between a proposed development and existing development, and should include mitigation measures to minimise any potential for conflict.

MBH or *Maximum Building Height* means the maximum building height established on the Height of Buildings Map in the *Richmond Valley Local Environmental Plan 2012*.

Maximum Site Cover means the percentage coverage for all buildings on the land, including the total roofed area and open space requirement.

Open Space means the total area of land that has been set-a-side in a development as open space that is available to its residents and occupants for recreation and relaxation, and includes garden areas, lawns, paths, unenclosed decks and patios, etc. Open space includes Landscape Open Space and Private Open Space.

Parent Lot when used in this DCP means the land before it has/was subdivided.

Private Open Space (POS) is defined as an area set aside for the exclusive use of the dwelling for which it is intended to benefit and is to be directly accessible from an indoor living area of that dwelling. It should be capable of being gated and excluded from access by other 'units' and the public.

Note. For ground floor dwellings – a minimum $25m^2$ POS area is required; for dwellings located above ground floor – a minimum $7m^2$ balcony space is required.

Published Notice (Published Notification) means a notice published in a newspaper, and usually relates to advertised development, see Part J of this DCP for details.

Regulation 2000 means the *Environmental Planning and Assessment Regulation 2000*.

Richmond Valley Development Control Plan 2012 (Richmond Valley DCP 2012)(the DCP) means the DCP that commenced for the Richmond Valley Local Government Area on 21 April 2012.

Richmond Valley Local Environmental Plan 2012 (Richmond Valley LEP 2012)(the LEP) means the local environmental planning instrument for the Richmond Valley Local Government Area. This LEP zones land, and provides aims/objectives, and statutory provisions for the regulation of development.

Side & Rear Boundary Setback *mean an area at the side and rear of a property, measured from the boundary adjacent to a neighbour, in which buildings are not permitted to be erected. See Part I-3 for details.*

Voluntary Planning Agreement (VIA) means a legal agreement, initiated by a developer, with Council to contribute money, land and/or undertake a public interest as part of a development proposal.

WSUD (Water Sensitive Urban Design) relates to designing development to conserve water and to minimise impacts on the environment from waste water and stormwater.

Written Notice (Written Notification) means a notice that has been issued in writing to the owners of the property and/or the occupant. In this DCP is usually relates to advertised development, and includes a formal and informal notification. See Part J of this DCP for details.

Richmond Valley Development Control Plan 2015

Part A. Residential Development

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

The Richmond Valley Development Control Plan 2015 (DCP) seeks to provide achievable Residential Development controls to complement and improve upon existing street amenity and liveability within the Richmond Valley Council area. The DCP provides uniform control requirements across the entire LGA and seeks to elevate and standardise the overall quality and liveability for residential accommodation.

Each of the Chapters listed below relates to development principles and standards specific for Residential Accommodation types:

Chapter		Page No. in this Part
Part A-1.	Dwelling Houses – (Summary Table)	15
Part A-1.	Dwelling Houses	19
Part A-2.	Dual Occupancy and Secondary Dwellings – (Summary Table)	33
Part A-2.	Dual Occupancy and Secondary Dwellings	37
Part A-3.	Multi Dwelling Housing and Residential Flat Buildings – (Summary Table)	55
Part A-3.	Multi Dwelling Housing and Residential Flat Buildings	59
Part A-4.	Shop Top Housing	75
Part A-5.	Seniors Housing and Affordable Housing	85

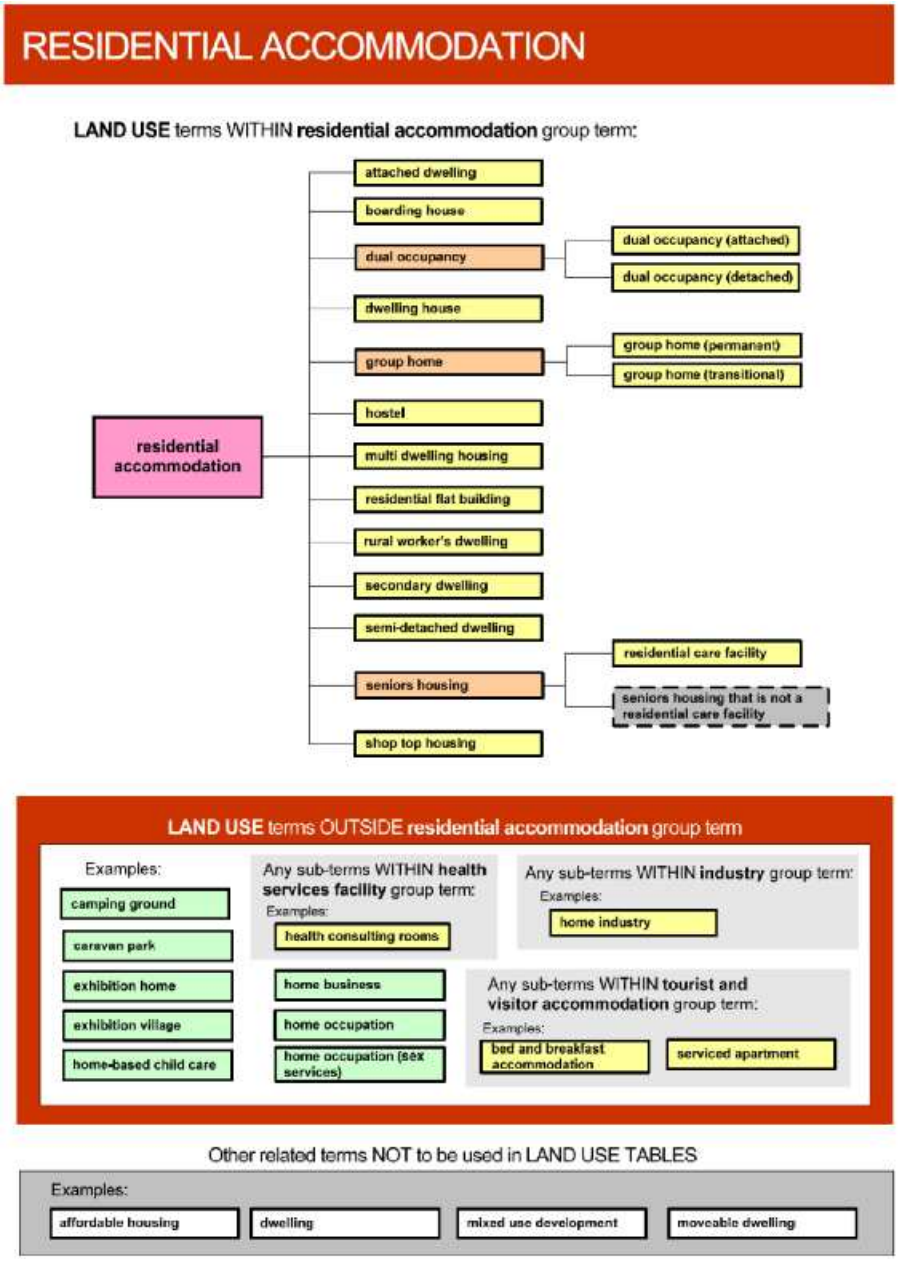


Figure A.1 General relationships between Residential Accommodation terms in the Standard Instrument LEP (Source Dept of Planning Practice Note PN11-004)

The following land use definitions describe the different forms of residential accommodation.

Dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

Dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

Dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

Dwelling house means a building containing only one dwelling.

Multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Secondary dwelling means a self-contained dwelling that:

(a) is established in conjunction with another dwelling (the **principal dwelling**), and
(b) is on the same lot of land as the principal dwelling, and
(c) is located within, or is attached to, or is separate from, the principal dwelling.

Note. Secondary dwellings cannot be subdivided or strata titled from the principal dwelling.

This DCP does not prescribe development standards for ***Attached dwellings*** or ***Semi-detached dwellings*** as these styles are uncommon in the Richmond Valley LGA. If a development is proposing either an attached dwelling or semi-detached dwelling the proponents are recommended to consult with Council early in the pre-planning process.

A.1 Objectives

The objectives of this Part are to:

(1) provide achievable standards for residential accommodation within without unnecessarily hindering development potential or sacrificing good quality design and liveability concepts.
(2) have high regard for existing streetscape components, particularly features important to environment and heritage.
(3) provide for adequate space between residential development through building heights, footprints, site coverage and setbacks to further amenity and feelings of wellbeing within all residential areas.
(4) provide for private open space within all residential building types.
(5) provide appropriate areas of onsite landscaping and retain existing vegetation where practicable to improve upon liveability and provide areas which soften and enhances the streetscape.
(6) have regard for issues relating to safety and crime by integrating elements design principles derived from best practice (CPTED).
(7) have regard for maximising energy efficiency and providing desirable solar access through intelligent development design and planning.

A.2 Density Maps

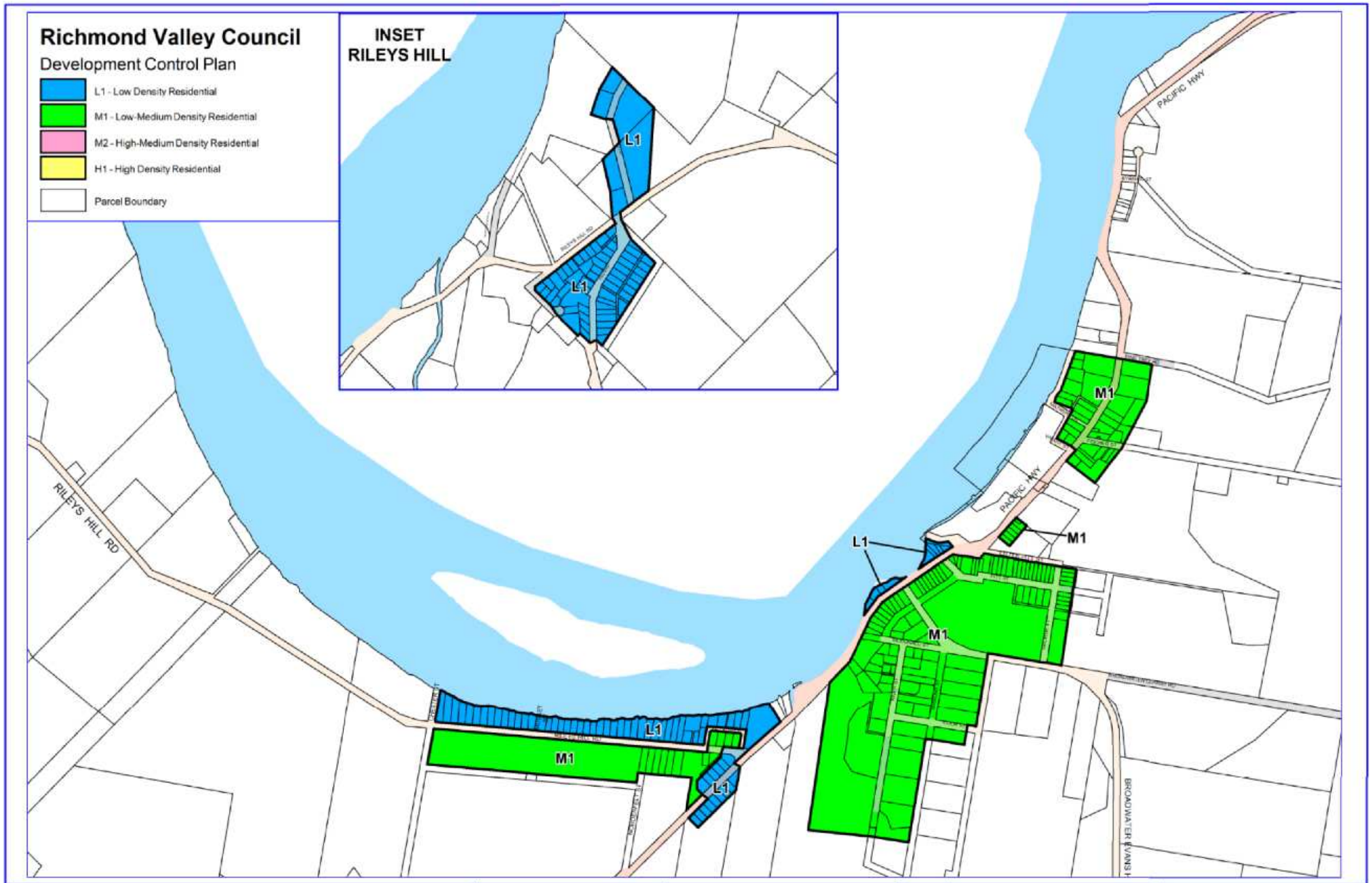
Residential densities used within this DCP consist of:

- L1—Low Density
- M1—Low-Medium Density
- M2—High-Medium Density
- H1—High Density

These densities have been applied to the urban zones for the purposes of defining unit entitlements. These densities are presented in:

- Map A-1 – Broadwater & Rileys Hill
- Map A-2 – Casino
- Map A-3 – Coraki
- Map A-4 – Evans Head
- Map A-5 – Woodburn

Note. Larger format versions of these maps (A3) are available from Council.



Richmond Valley Development Control Plan 2015

MAP A-1
BROADWATER & RILEYS HILL

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GDA

This map was produced on the GEOCENTRIC DATUM OF AUSTRALIA 1994 (GDA94), which has superseded the Australian Geographic Datum of 1984 (AGD84). Heights are referenced to the Australia Height Datum (AHD) heights. For most practical purposes GDA94 coordinates and satellite derived (GPS) coordinates based on the World Geodetic Datum 1984 (WGS84) are the same.

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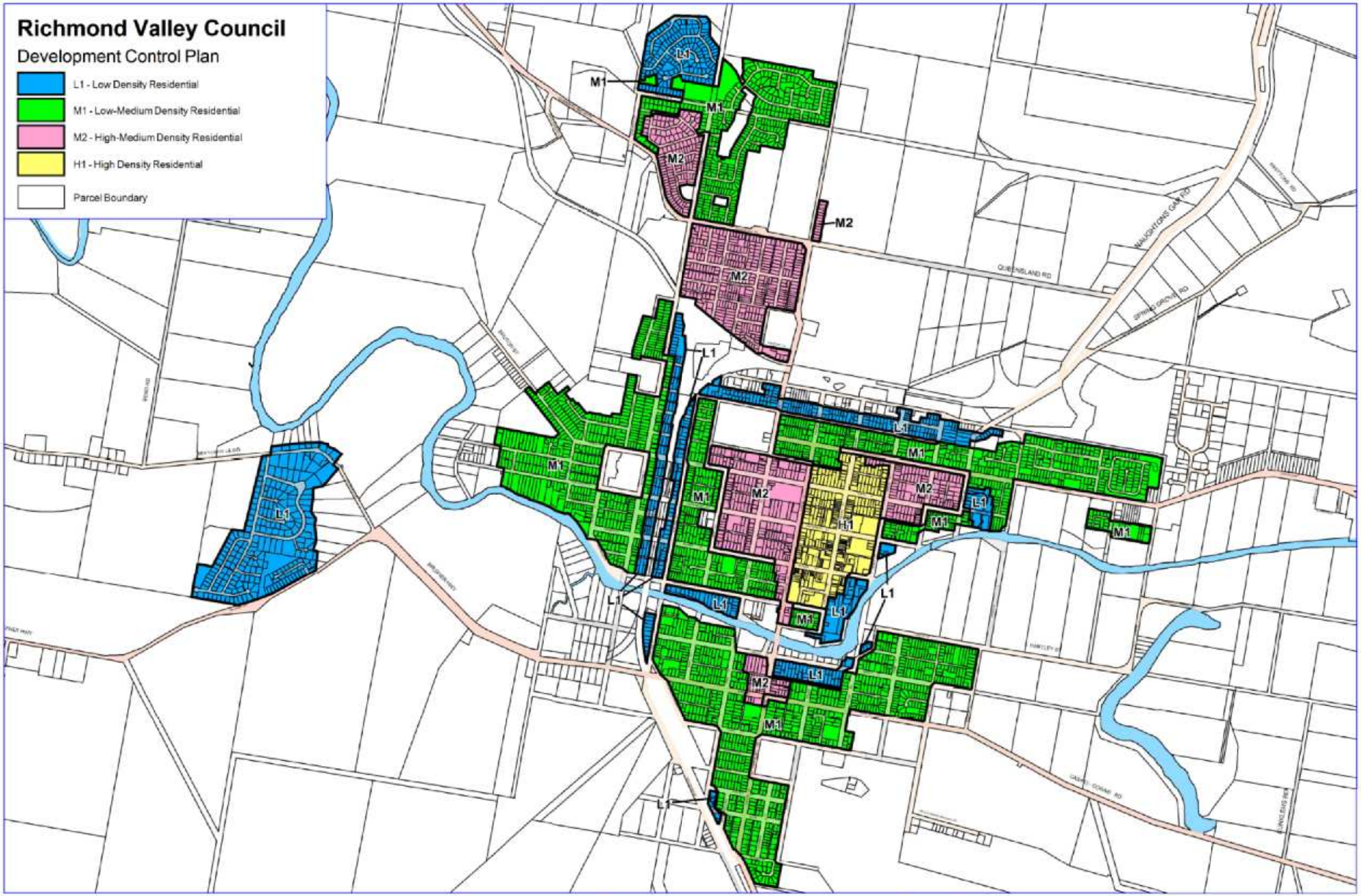
14/12/2015



Richmond Valley Development Control Plan 2015

MAP A-2
CASINO

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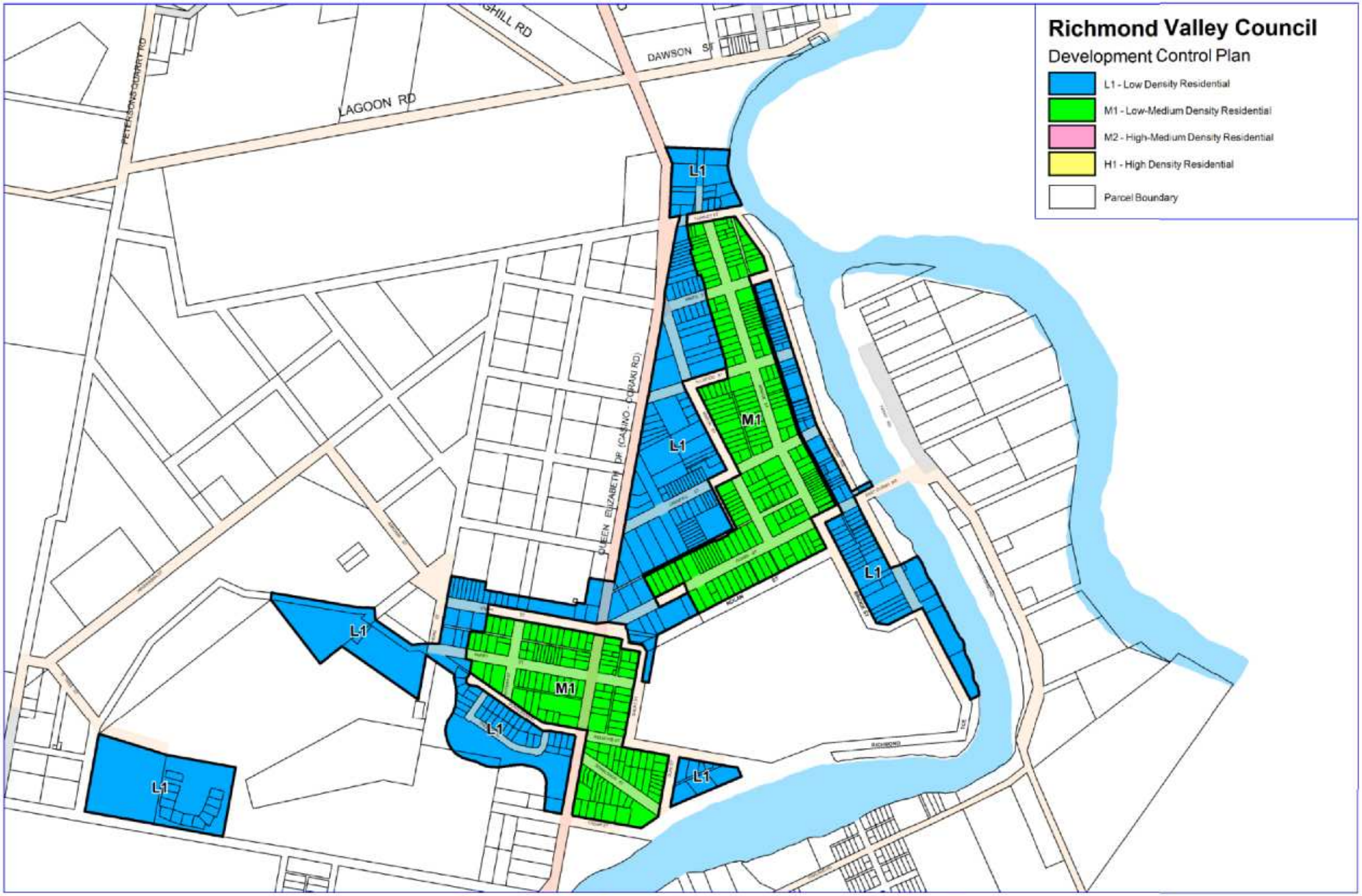

Richmond Valley Development Control Plan 2015

MAP A-3
CORAKI

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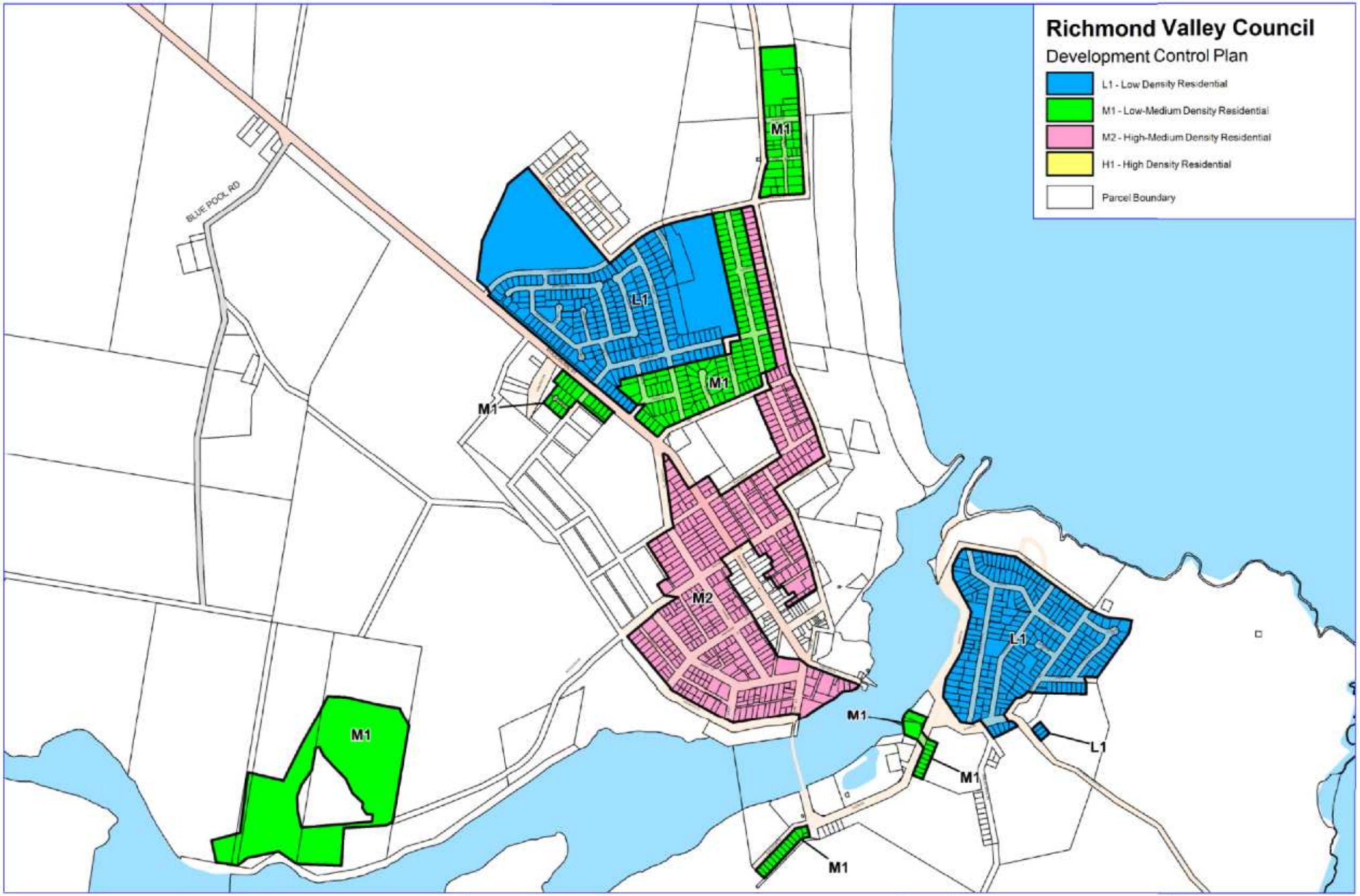

Richmond Valley Development Control Plan 2015

MAP A-4
EVANS HEAD

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Kilometres

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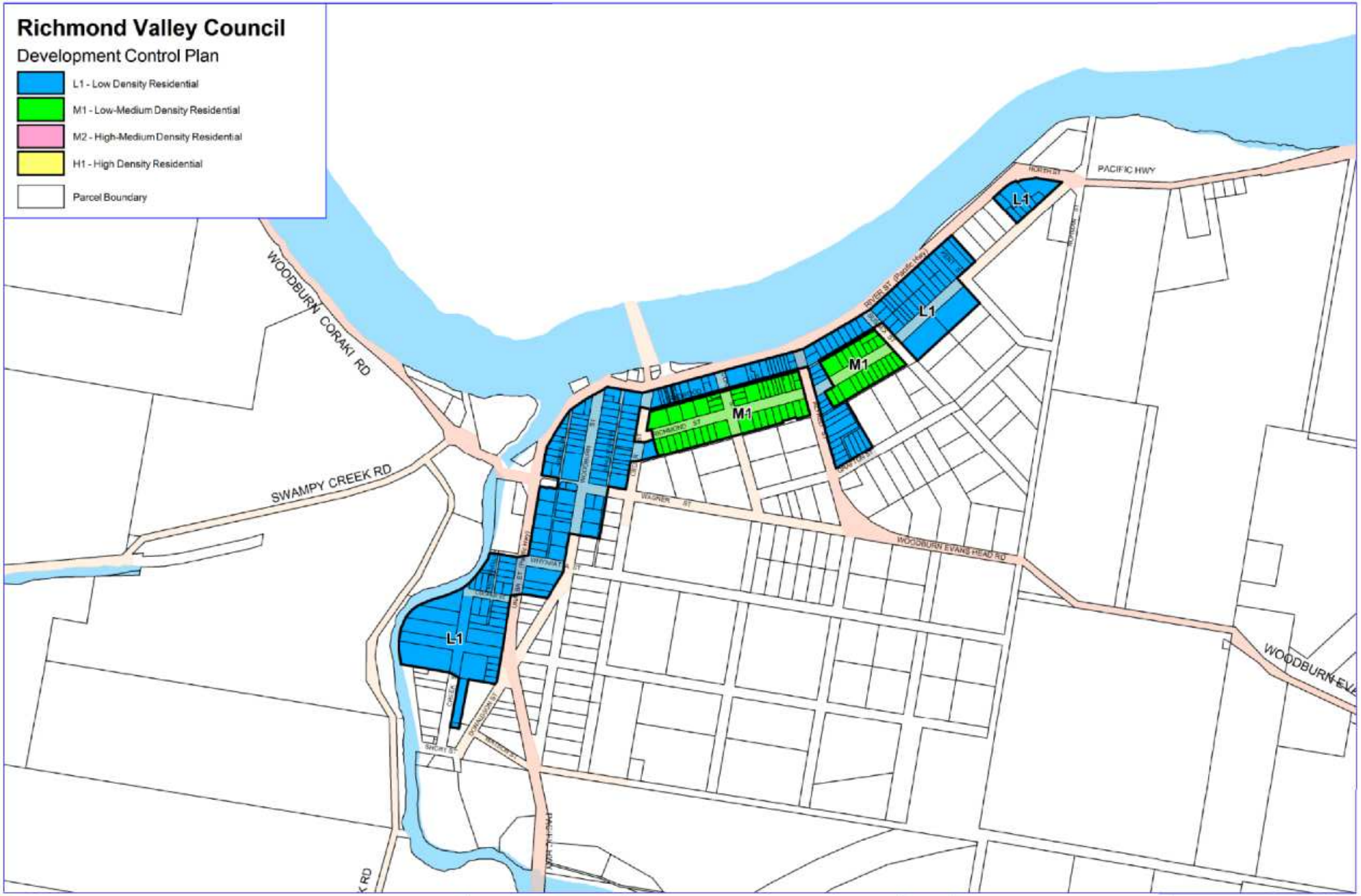

Richmond Valley Development Control Plan 2015

MAP A-5
WOODBURN

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Kilometres

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GDA

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14/12/2015

Part A-1. Dwelling Houses – (Summary Table)

A-1.1 Visual and Amenity Impact

Dwelling houses are to be consistent with the streetscape. Particular attention is to be given to dwellings adjoining a heritage item or in a heritage conservation area.

Visual & Amenity Impact considerations include:

(a) bulk and form, character and amenity,
(b) scenic amenity and view loss impacts,
(c) building features fronting the street (articulation zone features),
(d) reducing continuous walls, and
(e) conflicting land uses.

A-1.2 Maximum Site Cover

The maximum site cover is the area within the enclosing walls of the dwelling and includes attached outdoor areas if they are enclosed by more than 30%.

Low Density (L1)

Low Medium (M1)

High Medium (M2)

DCP Area	Maximum Site Cover	Total Roofed Cover	Open Space
L1 – Low Density	55%	70%	30%
M1 – Low Medium Density	65%	70%	30%
M2 – High Medium Density	65%	70%	30%

Note. *Density areas are shown on the Residential Density Maps*

A-1.3 Building Line and Setbacks

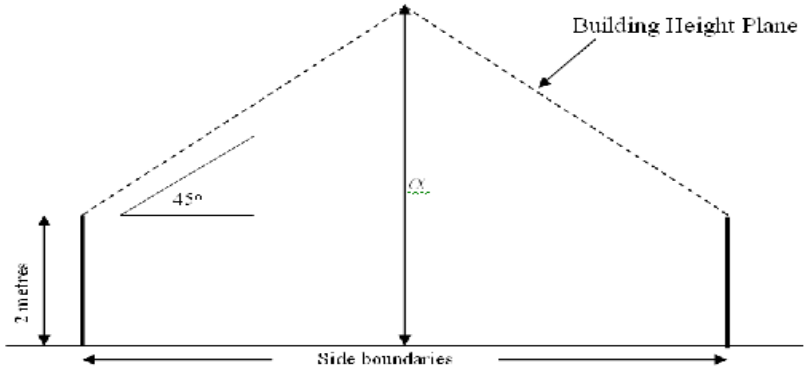
LEP Zone	Building Line	Side & Rear Setback
R1 General Residential	6 metres	900mm
RU5 Village	6 metres	900mm
R5 Large Lot Residential	20 metres	5 metres
RU1 Primary Production	20 metres	5 metres
E3 Environmental Management	20 metres	5 metres

Decreased setbacks are permitted: on secondary frontages;, where adjoining properties are forward of the building line; and for articulation zone features. The articulation zone (4.5–6m setback from the front boundary) allows a building feature (up to 7m^2) to enhance the design and streetscape.

Increased setbacks are required for: Foreshores; Planning for Bushfire Protection; conflicting land uses; an attached garage; and detached garages facing secondary roads.

<table>
<tr>
<td>A-1.4
Building Height Plane</td>
<td>The LEP defines the maximum building height (MBH) as generally 8.5m, with exceptions in limited locations at Evans Head and South Casino (9.5m), and central Casino (14m).

In addition, a building height plane applies. This is measured 2.0m up from the property boundary, thence at an angle of 45^0 towards the centre of the lot. Development is to be contained within the building height plane excepting for encroachments identified in Part I-3.7 and I-3.8.

α is the maximum building height, up to the LEPs MBH</td>
</tr>
<tr>
<td>A-1.5
Open Space – Landscaped and Private</td>
<td>Open Space includes Landscape Open Space and Private Open Space.

<table>
<tr><td colspan="2">Open Space - must be >30% of the lot area.
Includes outdoor areas e.g. gardens, lawns, driveways, paths, unenclosed decks, patio's, etc.</td></tr>
<tr><td>Landscape Open Space
(lawns and gardens)</td><td>Private Open Space
(includes unenclosed decks etc.)</td></tr>
<tr><td>• minimum 10% of the total lot area, inclusive of
• minimum 50% of the area forward of the building line.</td><td>• Minimum $25m^2$, and
• directly accessible from an indoor living area, and
• minimum 3m wide.</td></tr>
</table>
</td>
</tr>
<tr>
<td>A-1.6
Carparking and Access</td>
<td>Minimum two spaces:
• One space only is allowed forward of the building line. It must be hard stand only (i.e. not a structure such as a carport).
• Garages to be at least 7m from primary road boundary or 5.5m from secondary road boundary.
• Generally one access per street frontage.</td>
</tr>
<tr>
<td>A-1.7
Hazards</td>
<td>Any of the following <u>may</u> apply to the land:
• Flood – Habitable floors to be above Flood Planning Level (FPL).
• Bushfire Prone Land – comply with *Planning for Bushfire Protection 2006*.
• Acid Sulfate Soils (ASS) – manage ASS.</td>
</tr>
</table>

	• Coastal Development – see Clause 5.5 RVLEP. • Contaminated Lands – Land to be of standard compatible with residential development • Natural Resource Sensitivity – consisting of any one or more overlays: § Terrestrial Biodiversity (Native Vegetation and/or Wildlife Corridors) § Key Fish Habitat - referral to NSW Fisheries may be required. § Wetland - buffer of 50 metres recommended. § Steep Land - engineering required and consideration of scenic impacts. § Drinking Water Catchments – assess impacts on water quality
A-1.8 Water, Stormwater and Sewage	Water: • serviced by town water—have a 5,000 litre rainwater tank, or • where no town water—have min. 60,000 litres potable water supply, plus, if on bushfire prone land, have an addition 10,000 litre water supply for firefighting installed as per RFS requirements. Sewer: • connect to town sewer, or • where no sewer—install an approved onsite sewage management facility. Stormwater: • connect to stormwater system, and direct 80% of hard stand areas to infiltration (lawn/gardens) and/or tanks.
A-1.9 Earthworks and Retaining Walls	• Imported fill to be VENM and have geotechnical certification. • Retaining walls to be masonry and have engineering certification if within 900mm of a boundary, or if 900mm or higher. • Not cause a concentration of surface water. • Not be located in proximity to easements, or underground infrastructure.
A-1.10 Safety and Security	Incorporate good design features: • Unobstructed views to and from front yards. • Avoid hiding and entrapment spaces. • Have good lighting and security.
A-1.11 Additional Notes and Provisions	• Many types of ancillary development may be undertaken without Council approval if criteria of the *State Environmental Planning Policy (Exempt and Complying Development) 2008* is met. • Rural Lots must have a dwelling opportunity. • Dwelling houses on Industrial land are not permitted. • Access to rear lanes may be permitted or lane widening requirements may apply. • Construction works are to have a Waste Minimisation and Management Plan.

Part A-1. Dwelling Houses

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

This Chapter provides development standards, controls, and guidelines for the development of dwelling houses, a form of Residential Accommodation.

The term dwelling house is defined in the Standard Instrument LEP as being:

Dwelling house means a building containing only one dwelling.

A-1.1 Visual and Amenity Impacts

Objectives

(1) To ensure dwellings are sympathetic to the existing streetscape and consistent with the pattern of existing development.

(2) To ensure dwellings have regard for important features of the street and other dwellings.

(3) To encourage liveable dwellings having privacy, functionality and comfort to occupants.

Controls

(1) Visual Impact can be improved by considering how the dwelling fits into the existing pattern and form of dwellings in the street.

Bulk and Form

(2) Dwellings should be consistent with the bulk and form of others, particularly immediately adjoining and adjacent the lot. Consistency with existing streetscape can include:

- Overall scale and height, roof forms and pitch
- Materials of external front walls
- Street setbacks and spacing between buildings
- The orientation and placement of patios, porches, balconies and decks.

Character and Amenity

(3) The following features should be considered:

- Overall architectural style (e.g. 'Victorian', 'Federation', 'Bungalow', 'Brick & Tile' etc.).
- Maintaining existing Building lines and setbacks.
- Finishes and decorative detailing (e.g. collar ties, finials, verandah brackets, balustrades, window mouldings, colour).
- Architectural features (e.g. verandahs, windows, awnings).
- Heritage items and/or heritage conservation areas need careful consideration. See Chapter I-1 Heritage for further information.

Scenic Amenity

(4) Dwellings in rural areas and prominent locations are to consider visual impacts in relation to the environment, views from other dwellings and from public spaces. The following measures are requires to mitigate impacts on scenic amenity:

- Where the siting of the dwelling will involve the removal of more than 1000m^2 of vegetation. This includes Bushfire requirements such as an Asset Protection Zone and any clearing associated with road access. Also see Chapter H-4 – Natural Resource Sensitivity.
- Where the dwelling is on a ridgeline, coastline, headland or other highly exposed feature.
- View loss is to be considered in accordance with the *Land and Environment Court Planning Principals*, where views from other

dwellings or public spaces are likely to be impacted. The applicant may be required to submit a view loss assessment.

- Where the dwelling and associated development will be visible at a distance of 1 kilometre.
- In areas of high scenic value, materials shall be non-contrasting and non-reflective. Colours such as muted green, grey and brown are to be used.
- Landscaping and vegetation planting may be used to screen the dwelling.

Articulation zone – Building features permitted forward of the Building Line

(5) The Articulation Zone is an area measured 1.5m forward of the Building Line in which features such as entrances, porticos, bay windows, verandas, terraces or similar elements that enhance the buildings appearance may be located. This relaxation of the building line allows for building elements to provide interesting and decorative features to the frontage, to improve residential design and break up possible bland facades.

(6) Building features within the Articulation Zone will be permitted where:

(a) The dwelling is fronting the primary road, and

(b) the feature is at least 4.5m from the road boundary and not more than 1.5m forward of the Building Line, and

(c) the feature does not exceed $7m^2$ and is not higher than the roof, and

(d) the feature is not a short wall.

Building features facing the primary road

(7) The front elevation of a dwelling must:

(a) have an entrance and a window facing the street, and

(b) the window must be at least $4m^2$ for a living or bedroom area, and

(c) any garage doors are to be set back 1m from the main front wall of the dwelling, excepting where the garage is setback at least 7m from the road boundary, and

(d) at least 50% of the area forward of the building line must be set aside for landscaping.

Reducing the impact of continuous walls

(8) A front wall may not exceed 5m in length without a building feature (excluding garage or carport doors).

A side wall may not exceed 14m in length without a building feature.

(9) A building feature may involve recessing the wall or embellishing it with screening or other features to lessen the visual and 'bulky' impact of a continuous wall.

Impacts from possible conflicting land uses

(10) Lots near the Pacific Highway or proposed Highway corridor, or the North Coast Railway may need to consider requirements of *State Environmental Planning Policy (Infrastructure) 2007* and D*evelopment near Rail Corridors*

and Busy Roads Interim Guideline published by the NSW Department of Planning.

Dwellings near industrial, commercial and some rural activities need to consider potential impacts on amenity including, noise, dust, odours and the like.

Further information is provided in Part I-11 Land Use Conflict Risk Assessment.

A-1.2 Maximum Site Cover

Objectives

(1) To ensure the density of residential development is appropriate to the scale and character of each location.

(2) To ensure minimum open space areas are provided around dwellings.

Controls

(1) Maximum site cover (including maximum roofed area & minimum open space) for dwelling houses is shown in the following table:

Table A-1.1 Maximum Site Cover for Dwellings

DCP Area	Maximum Site Cover	Total Roofed Cover	Open Space
L1 – Low Density	55%	70%	30%
M1 – Low Medium Density	65%	70%	30%
M2 – High Medium Density	65%	70%	30%

(2) Building features attached to the dwelling may be excluded from site cover where:

(a) they are not enclosed by more than 30%, for example open patios, entrances, carports, decks etc., and

(b) they result in not more than 70% of the lot area being covered by roofed structures.

(3) On a battle axe lot the area of any access handle is to be excluded from the Lot area.

(4) Maximum site cover may not be achieved in all situations and may be limited by the ability to provide Open Space. A minimum 30% Open Space is required to be set aside on every lot.

A-1.3 Front Building Line, Side and Rear Setbacks

Objectives

(1) To ensure consistency of development in residential areas and maintain streetscape character.

(2) To retain land forward of the dwelling for landscaping and creation of attractive streetscapes.

(3) To provide sunlight, privacy, and space between buildings.

(4) To provide safe vehicle egress from properties.

Controls

Building Lines

(1) Dwellings in the following zones must be setback, from the boundary with a primary road frontage, a minimum distance of:

Zone R1 – General Residential Zone	6 metres
Zone RU5 – Village	6 metres
Zone R5 – Large Lot Residential	20 metres
Zone RU1 – Primary Production	20 metres
Zone E3 – Environmental Management	20 metres

(2) Despite subclause (1) the following building lines will apply:

(a) garages and sheds attached to dwellings are required to be setback an additional 1m behind the Building line, and

(b) in zones R1 and RU5 the opening or roller door of a detached shed, carport or garage to a secondary road must be a minimum of 5.5m from the road boundary, and

(c) where a building line variation has been granted.

(3) Variation to the Building Line

Variation to the building line is possible in restricted circumstances. Part I-3-Setbacks and Building Height provides details on when variations can be supported.

A variation may be possible for:

(a) lots with more than one road frontage—a 50% variation to the Building line is permitted for any secondary road frontage, excluding classified roads, and

(b) where adjoining properties are located forward of the building line—averaging of those setbacks may be applied, and

(c) Articulation Zone features.

Side and Rear Setbacks

(4) Land in the following zones must be setback from side and rear boundaries a minimum distance of:

Zone R1 – General Residential Zone	900mm
Zone RU5 – Village	900mm
Zone R5 – Large Lot Residential	5 metres
Zone RU1 – Primary Production	5 metres
Zone E3 – Environmental Management	5 metres

(5) Despite subclause (4) the following minimum setbacks will apply:

(a) Lots adjoining a foreshore—either 15m in urban zones, or 40m in other zones.

(b) Setbacks on roads subject to lane widening—shall be increased by the width of land to be resumed as part of the widening.

Increased Setbacks

(6) The setbacks provided in this Section are a minimum requirement. In some cases greater setbacks may be required, for example:

(a) Planning for Bushfire Protection may require increased setbacks on Bushfire Prone Land.

(b) Buffers may be required to separate conflicting land uses, e.g. dwellings from industries or rural activities.

Further details are provided in Part I-3-Setbacks and Building Height and Part I-11 - LUCRA.

A-1.4 Height of Buildings

Objectives

(1) To describe the maximum height of dwellings in terms of Building Height and Building Height Plane.

(2) To ensure the height of buildings compliments the streetscape and character of the area.

(3) To ensure buildings do not unreasonably impact by way of overshadowing, privacy or disruption of views.

(4) To ensure buildings are setback progressively from side and rear boundaries as height increases.

Controls

Maximum Height of Buildings

(1) The maximum height a dwelling may be built (MBH) is shown in the Height of Buildings Map in *Richmond Valley Local Environmental Plan 2012*.

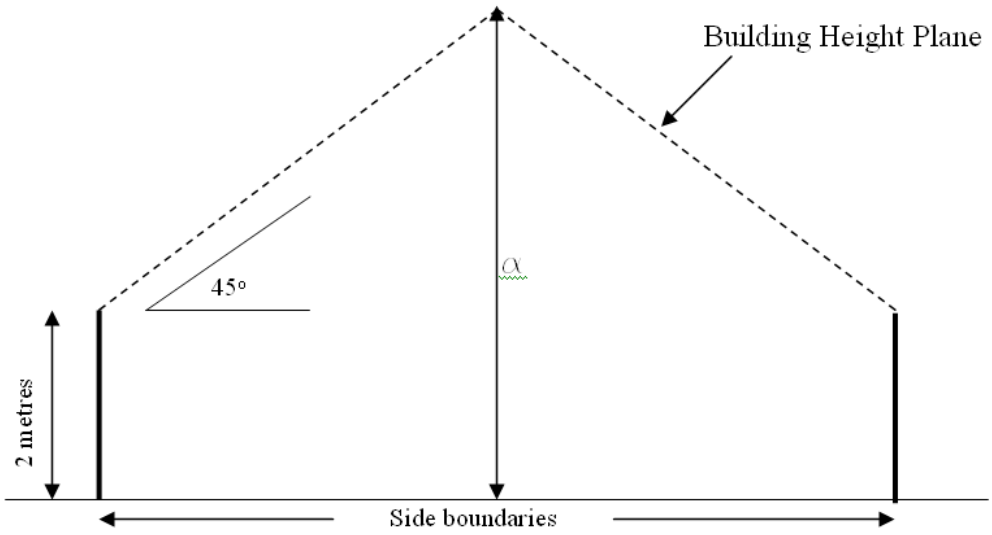
(a) Generally the maximum height is 8.5m.

(b) Some areas of Evans Head and South Casino have 9.5m maximum.

Building Height Plane

(2) The building height plane, see Figure A-1.1, is an imaginary ceiling over a lot under which all construction must be located.

Further detail on the building height plane is provided in Chapter I-3 Setbacks and Building Heights.



α is the maximum building height, up to the LEPs MBH

Figure A-1.1 Building Height Plane

(3) Exceptions and Variations to the Building Height Plane

Despite subclause (2) the following exceptions to the Building Height Plane apply:

(a) Eaves and gutters up to a maximum of 700mm from the external wall.

(b) Open form or translucent balustrading.

(c) Minor climate control features that do not impact adjoining properties.

(d) Buildings on slopes >8 degrees, may have encroachments on the north and east elevations where:

- the wall is less than 6.5m high, from the existing ground level to the wall/eave junction, and
- the encroachment is at least 1.2m from a side and/or rear boundary.

(e) On land affected by a Flood Planning Level—the Building Height Plane will be measured from the 1 in 100 year flood level (instead of natural ground), however shadow cast onto adjoining land must be considered.

(f) Single storey outbuildings with a gable end roof or similar roof design, may encroach where:

- the wall height is a maximum 2.9m, and
- the wall length is no longer than 10m, and
- the roof slope is <25°.

(g) A variation has been granted in accordance with Part I-3.8.

A-1.5 Landscaped and Private Open Spaces

Objectives

(1) To ensure landscaping is provided to the street frontage, to enhance the character of the streetscape and define areas of private and public land.

(2) To ensure functional private open space is provided and integrated with the dwelling.

(3) To soften development, create privacy, amenity and visual appeal of development.

(4) To enable infiltration of stormwater.

Controls

Open Space

(1) Dwellings must provide 30% of the lot area as Open Space.

Open Space includes Landscape Open Space and Private Open Space.

Landscape Open Space

(2) Landscape Open Space is the area of pervious surfaces. It includes gardens and lawns as well as gravel or similar surfaced areas that allow infiltration. Landscape open space is required to be:

(a) At least 10% of the area of the lot, inclusive of

(b) a lawn and/or garden area being at least 50% of the area forward of the building line (between the dwelling and the road boundary).

Private Open Space

(3) Private Open Space is an area set aside for the private enjoyment of residents. Private Open space may include areas of lawn, gardens, decks and patios. Private Open Space must meet the following requirements:

(a) be directly accessible from a living area in the dwelling, and

(b) be a minimum area of $25m^2$, and

(c) be a minimum of 3m wide.

A-1.6 Carparking, Access, and Driveways

Objectives

(1) To provide for the efficient and safe movement of vehicles.

(2) To ensure on-site car parking is provided within the property and designed to complement the streetscape.

Controls

Car Parking

(1) The minimum parking requirement is 2 car parking spaces per dwelling.

One stacked parking space only may be considered forward of the building line. A stacked parking space is to be located on the driveway in front of the garage. It is permitted where:

(a) the space is located wholly within the property boundaries, and

(b) it will not interfere with pedestrian access or landscaped open space requirements, and

(c) it is a hard stand only and not part of any structure e.g. carport, shed, detached garage.

(2) Garages and sheds attached to dwellings are required to be setback an additional 1m behind the building line.

The opening or roller door of a detached shed, carport or garage must be setback a minimum of 5.5m from any secondary road boundary.

(3) Spaces are to be constructed of an all-weather surface such as concrete or gravel.

Access and Driveways

(4) Generally 1 access per street or lane frontage is allowed. If there is sufficient lot width and a suitable road, 2 accesses may be allowed.

Each access must be designed in accordance with the *Northern Rivers Local Government Development, Design and Construction Manual*, or as otherwise specified by Council.

(5) Works in a road reserve require approval under section 138 of the *Roads Act 1993*. Works to construct or maintain vehicular access to private property shall be conducted in accordance with Council's Vehicular Accessway Policy and specifications.

(6) Infrastructure may be required, or existing infrastructure upgraded, including:

(a) Layback, dish or pipe guttering,

(b) kerb and driveway - light duty aprons,

(c) repair to any road, footpath, or services damaged as a result of construction works.

A-1.7 Hazards and Constraints

Objectives

(1) To provide for the protection of human life and minimise impacts on property from bushfires, floods and other hazards.

(2) To ensure effective management of areas affected by bushfire, flooding, acid sulfate soils, contaminated land and to protect the environment.

(3) Identify each of the Natural Resource Sensitivities mapped within the LEP.

Controls

Flooding

(1) The floor level of habitable rooms is to be above the 1 in 100 year ARI flood event plus a 500mm freeboard (the Flood Planning Level).

(2) New residential development is not permitted where the flood depth of a 1 in 100 year ARI flood event is greater than 2m, excepting:

(a) for minor extensions to existing dwellings, or

(b) in justifiable circumstances, such as where an existing dwelling must be rebuilt after it has been damaged.

(3) Flood Mapping is available on request. In areas outside current flood modelling, information will be provided where available.

For properties outside a modelled area, the proponent may be required to predict the flood planning level by conducting a localised flood assessment using anecdotal evidence of past flood heights.

Bushfire

(4) Dwellings must comply with the NSW Rural Fire Service's publication *Planning for Bush Fire Protection (2006)*, and *Australian Standard AS3959–1999 Construction of Buildings in Bush Fire Prone Areas*.

(a) Applications to build in BAL-40 or a Flame Zone, or providing for any alternative solution, will be referred to the District RFS Fire Control Centre for approval.

(b) Applications to build in BAL-Low, BAL-12.5, BAL-19, and BAL-29 that conform to acceptable solutions can be determined by the Council.

NSW Rural Fire Service has extensive information available on their website about building in Bush Fire Prone areas, including assessment and submission requirements.

Further details are provided in Part H-2 Bush Fire Prone Land.

Acid Sulfate Soils (ASS)

(5) Excavation works in certain areas have the potential to disturb Acid Sulfate Soils. Land subject to ASS constraints is shown on the LEP Acid Sulfate Soils Map, along with the Class of ASS Hazard.

The table below shows when further assessment of acid sulfate soils is required:

Class of land	Works
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.

Clause 6.1 of *Richmond Valley Local Environmental Plan 2012* and Part H-3 Acid Sulfate Soils provides further information.

Coastal Development

(6) Clause 5.5 of *Richmond Valley Local Environmental Plan* 2012 identifies issues associated with development in the coastal zone. Development must have regard for:

(a) public access to or along the foreshore, and

(b) impacts on the environment, and

(c) impacts associated with coastal hazards.

Contaminated Lands

(7) Contaminated lands will require remediation to a level compatible with a residential land use.

Where a land use history assessment (Preliminary Assessment) indicates the potential for contamination, sampling and analysis may be required.

Development on potentially contaminated land is to be undertaken in accordance with the Regional Policy for the *Management of Contaminated Land*, and *SEPP55 Remediation of Land*.

Natural Resource Sensitivity

(8) *Richmond Valley Local Environmental Plan 2012* includes overlay mapping, and contains several clauses, relating to management of natural resources. These are:

- Terrestrial Biodiversity Map—representing native vegetation and habitat (wildlife) corridors - LEP clause 6.6.
- Landslip Risk Map—representing steep land with slopes greater than 18 degrees (33%) - LEP clause 6.7.
- Riparian Lands and Watercourses Map—representing key fish habitat plus a 40 metre buffer -LEP clause 6.8
- Drinking Water Catchments Map—representing the watershed catchment for Casino's Jabour Weir, and a 500 metre buffer area around each of the Rous Water Groundwater Bores at Woodburn - LEP clause 6.9, and
- Wetlands Map—representing wetlands and floodplain wetland vegetation communities - LEP clause 6.10.

The extent the resource is to be considered in an application varies based upon the sensitivity of the resource and the level of impacts.

Further details are provided in Part H-4 – Natural Resource Sensitivity (NRS).

A-1.8 Water, Stormwater and Sewage

Objectives

(1) To ensure all development is adequately serviced by water, sewer and stormwater infrastructure.

(2) To ensure that development is located and designed so that it will not impact upon existing infrastructure.

Controls

Stormwater

(1) All dwellings must:

(a) connect to urban water, sewer & stormwater infrastructure where provided,

(b) install a rainwater tank being a minimum 5000 litres connected to the dwelling, and

(c) have a minimum 80% of impermeable surface area diverted to an infiltration area e.g. lawn or garden areas, or water tank.

Erosion and sediment controls are to be implemented during construction to prevent sediment and pollution leaving the site.

Part I-9 Water Sensitive Urban Design provides further details.

Sewage

(2) Each dwelling is to have adequate arrangements for the disposal of wastewater:

(a) Dwellings serviced by reticulated town sewer—All greywater and toilets are required to be connected to sewer infrastructure, subject to any Council requirements, or

(b) Dwellings not serviced by reticulated town sewer—are to have an approved onsite sewage management facility designed in accordance with Council's *Onsite Sewage and Wastewater Strategy* and associated guidelines.

Water Supply

(3) Each dwelling is to have a suitable potable water supply being:

(a) Dwellings serviced by reticulated town water—connection to a reticulated water supply is required unless a solution meeting NSW Health requirements can be demonstrated, or

(b) Dwellings not serviced by reticulated town water—a minimum 60,000 litres of potable water supply per dwelling.

(4) Where reticulated water is unavailable, an additional water source is to be provided that is dedicated for firefighting purposes:

(a) land having an area <2ha—a minimum 10,000 litres per dwelling, or

(b) land having an area =>2ha)—a minimum 20,000 litres per dwelling.

Tanks and fittings are to be installed as per appropriate Australian Standards, and *Planning for Bushfire Protection 2006*.

Underground infrastructure

(5) All development is to be a minimum of 1.5 metres clear of infrastructure.

Footings are to be engineered for increased depth and structural adequacy where the footings will be located within the Zone of Influence.

Zone of Influence is an area either side of an underground pipe where it is considered that a structure may impose a load through the ground onto the pipe, or where settlement or excavation of the pipe trench may cause damage to a structure. The gradient of the zone of influence extends upwards to the ground surface from the pipe at an angle of 45 degrees for clay soils, or 30 degrees for sandy soils.

A-1.9 Earthworks and Retaining Walls

(1) Applications involving earthworks and retaining walls must:

(a) provide details of the extent of all cut and fill, and

(b) where fill is greater than 600mm high provide geotechnical certification to verify the structural stability of any fill material, and

(c) not redirect the flow of any surface water or ground water in a concentrated manner onto an adjoining property, and

(d) be located a minimum of:

- 1m from any registered easement, and
- 1.5m from any Council sewer main, water main, or stormwater pipeline, and

(e) have footings extend below the Zone of Influence for any sewer main, water main, or stormwater pipeline, and

(f) have adequate drainage lines connected to the existing stormwater drainage system for the site, and

(g) retaining walls must be of masonry construction and have engineering certification if:

- 900mm or higher in height, or
- if located within 900mm of a boundary, and

(h) if the fill is imported to the site—be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*.

A-1.10 Safety and Security

(1) Safety considerations and principles are particularly important for residential design. Safety and security considerations are referred to as *Crime Prevention Through Environmental Design* (CPTED) and are outlined in detail in Chapter I-10.

(2) Good design features include:

(a) the ability for occupants or people in the street to view their surroundings well (natural surveillance) e.g. windows from living areas and entranceways focused on the front street.

(b) avoiding hiding and entrapment areas e.g. recesses, high solid fencing, dense landscape.

(c) gardens should be designed to include low growing plants (less than 600mm) combined with larger trees with canopies higher than 1.8m.

(d) good lighting and security.

A-1.11 Additional Notes and Provisions

Exempt and Complying Development

(1) *State Environmental Planning Policy Exempt and Complying Development Codes (2008)* provides for many types of development to be carried as either exempt or complying development.

The policy can be downloaded at the NSW Legislation website and much information is available on the Department of Planning & Environment's website at http://www.planning.nsw.gov.au/

As long as the proposed works meet all of the relevant Policy development standards, development approval from Council may not be needed. Please contact Council staff for further information.

Rural Lots – Dwelling Opportunity

(2) Rural Lots must have a Dwelling Opportunity to be able to apply to construct a dwelling house.

Information about Dwelling Opportunities is available:

(a) on the Dwelling Opportunity Map in *Richmond Valley Local Environmental Plan 2012*

(b) a Section 149(5) planning certificate; or

(c) by submitting a Property Information Enquiry request (subject to payment of fees).

Lane Widening and Access

(3) Primary access to laneways will not be permitted, however secondary access may be permitted where the lane is suitable.

Access to rear lanes may be subject to upgrading the land including dish drains/guttering, crossings and surface sealing. Upgrading of rear lane access shall be in accordance with Council's Policy – Vehicular Accessway, or any succeeding documentation.

Council will assess the need for road widening or re-alignment when considering a development application for the land.

Refer to Part I-15 for further information.

Waste Minimisation and Management

(4) Prior to construction, a dwelling must have a Waste Management Plan submitted and approved in accordance with *Richmond Valley Council Waste Minimisation and Management Policy*.

Part A-2. Dual Occupancy and Secondary Dwellings – (Summary Table)

A-2.1 Visual and Amenity Impact

Dual Occupancies and Secondary Dwellings are to be consistent with the streetscape. Particular attention is to be given to dwellings adjoining a heritage item or in a heritage conservation area.

Visual & Amenity Impact considerations include:

(a) bulk and form, character and amenity,
(b) scenic amenity and view loss impacts,
(c) building features fronting the street (articulation zone features),
(d) reducing continuous walls, and
(e) conflicting land uses.

A-2.2 Maximum Site Cover

The maximum site cover is the area within the enclosing walls of the dwelling and includes attached outdoor areas if they are enclosed by more than 30%.

Dual Occupancy

Low Density L)

Low Medium (M1)

High Medium (M2)

DCP Area	Maximum Site Cover	Total Roofed Cover	Open Space
L1 – Low Density	55%	70%	30%
M1 – Low Medium Density	55%	70%	30%
M2 – High Medium Density	65%	70%	30%

Secondary Dwellings

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, or
(b) 25% of the total floor area of the principal dwelling.

Note. *Density areas are shown on the Residential Density Maps*

A-2.3 Minimum Lot Size

Dual Occupancy

DCP Area	Attached	Detached
R1 General Residential	400m^2	600m^2
RU5 Village	400m^2	600m^2
RU1 Primary Production	1.5ha	1.5ha
R5 Large Lot Residential	1.5ha	1.5ha
E3 Environmental Management	5ha	NA

Secondary Dwellings

DCP Area	Attached	Detached
R1 General Residential	No minimum	450m^2
RU5 Village	No minimum	450m^2
R5 Large Lot Residential	1 ha	1 ha

A-2.4 Building Line and Setbacks

LEP Zone	Building Line	Side & Rear Setback
R1 General Residential	6 metres	900mm
RU5 Village	6 metres	900mm
R5 Large Lot Residential	20 metres	5 metres
RU1 Primary Production	20 metres	5 metres
E3 Environmental Management	20 metres	5 metres

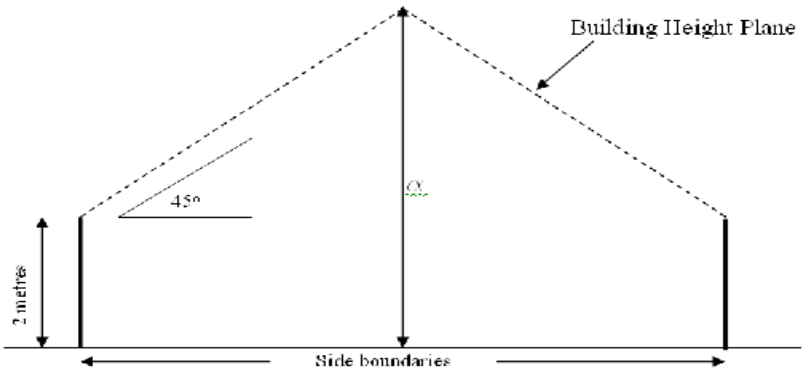
Decreased setbacks are permitted: on secondary frontages;, where adjoining properties are forward of the building line; and for articulation zone features. The articulation zone (4.5–6m setback from the front boundary) allows a building feature (up to 7m^2) to enhance the design and streetscape.

Increased setbacks are required for: Foreshores; Planning for Bushfire Protection; conflicting land uses; an attached garage; and detached garages facing secondary roads.

A-2.5 Building Height Plane

The LEP defines the maximum building height (MBH) as generally 8.5m, with exceptions in limited locations at Evans Head and South Casino (9.5m), and central Casino (14m).

In addition, a building height plane applies. This is measured 2.0m up from the property boundary, thence at an angle of 45^0 towards the centre of the lot. Development is to be contained within the building height plane excepting for encroachments identified in Part I-3.7 and I-3.8.



α is the maximum building height, up to the LEPs MBH

<table>
<tr><td>A-2.6
Open Space – Landscaped and Private</td><td>Open Space includes Landscape Open Space and Private Open Space.

<table>
<tr><td colspan="2">Open Space - must be 30% of the lot area.
Includes outdoor areas e.g. gardens, lawns, driveways, paths, unenclosed decks, patio's, etc.</td></tr>
<tr><td>Landscape Open Space
(lawns and gardens)</td><td>Private Open Space
(includes unenclosed decks etc.)</td></tr>
<tr><td>• minimum 10% of the total lot area, inclusive of
• minimum 50% of the area forward of the building line.</td><td>• Minimum 25m^2, and
• directly accessible from an indoor living area, and
• minimum 3m wide.</td></tr>
</table>

Secondary Dwellings are not required to provide Private Open Space.</td></tr>
<tr><td>A-2.7
Carparking and Access</td><td>Minimum two spaces for each dwelling:
• One space only is allowed forward of the building line. It must be a hard stand only (i.e. not a structure such as a carport).
• Garages to be at least 7m from primary road boundary or 5.5m from secondary road boundary.
• Generally one access per street frontage.

Secondary Dwellings are not required to provide additional car parking.</td></tr>
<tr><td>A-2.8
Subdivision of Dual Occupancy</td><td>Only Dual Occupancies on land in Zones R1 and RU5 may be subdivided.
Secondary dwellings, and rural dual occupancy may not be subdivided.
Strata Subdivision – No minimum lot size.
Torrens Title subdivision permitted for constructed urban dual occupancies where each dwelling:
• will be on a minimum 350m^2 lot, and
• have individual connection to mains sewer, water & stormwater, and
• have 2 carparking spaces for each dwelling, and equitable division of open space.</td></tr>
<tr><td>A-2.9
Hazards</td><td>Any of the following <u>may</u> apply to the land:
• Flood – Habitable floors to be above Flood Planning Level (FPL).
• Bushfire Prone Land – comply with Planning for Bushfire Protection 2006.
• Acid Sulfate Soils (ASS) – manage ASS.
• Coastal Development – see Clause 5.5 RVLEP.
• Contaminated Lands – Land to be of standard compatible with residential development
• Natural Resource Sensitivity – consisting of any one or more overlays:
§ Terrestrial Biodiversity (Native Vegetation and/or Wildlife Corridors)
§ Key Fish Habitat - referral to NSW Fisheries may be required.
§ Wetland - buffer of 50 metres recommended.
§ Steep Land - engineering required and consideration of scenic</td></tr>
</table>

	impacts. § Drinking Water Catchments – assess impacts on water quality
A-2.10 Water, Stormwater and Sewage	Water: • serviced by town water—have a 5,000 litre rainwater tank, or • where no town water—have min. 60,000 litres potable water supply, plus, if on bushfire prone land, have an addition 10,000 litre water supply for firefighting installed as per RFS requirements. Sewer: • connect to town sewer, or • where no sewer—install an approved onsite sewage management facility. Stormwater: • connect to stormwater system, and direct 80% of hard stand areas to infiltration (lawn/gardens) and/or tanks.
A-2.11 Earthworks and Retaining Walls	• Imported fill to be VENM and have geotechnical certification. • Retaining walls to be masonry and have engineering certification if within 900mm of a boundary, or if 900mm or higher. • Not cause a concentration of surface water. • Not be located in proximity to easements, or underground infrastructure.
A-2.12 Safety and Security	Incorporate good design features: • Unobstructed views to and from front yards. • Avoid hiding and entrapment spaces. • Have good lighting and security.
A-2.13 Additional Notes and Provisions	• Many types of ancillary development may be undertaken without Council approval if criteria of the *State Environmental Planning Policy (Exempt and Complying Development) 2008* is met. • Rural Lots must have a dwelling opportunity. • Dwellings on Industrial land are not permitted. • Access to rear lanes may not be permitted or lane widening requirements may apply. • Construction works are to have a Waste Minimisation and Management Plan. Secondary Dwelling Incentives- • Council and Rous Water offer financial incentives for Secondary Dwellings in certain circumstances. See Chapter A-2.13 for details.

Part A-2. Dual Occupancy and Secondary Dwellings

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Dual Occupancy and Secondary Dwellings are important contributors to housing stock and choice. Both styles of housing involve two dwellings being located on a single parcel of land, however there are subtle differences.

Secondary dwellings are established in conjunction with a principal dwelling; they are limited in size; and they may not be subdivided from the principal dwelling. Secondary dwellings are commonly referred to as "Granny Flats".

Dual occupancy may be subdivided either by Strata Titled, or Torrens Titled in certain situations.

The following land use definitions apply to development in this Part.

Dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

Dual occupancy (attached) means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

Dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

Secondary dwelling means a self-contained dwelling that:

(a) is established in conjunction with another dwelling (the principal dwelling), and

(b) is on the same lot of land as the principal dwelling, and

(c) is located within, or is attached to, or is separate from, the principal dwelling.

A-2.1 Visual and Amenity Impacts

Objectives

(1) To ensure dwellings are sympathetic to the existing streetscape and consistent with the pattern of existing development.

(2) To ensure dwellings have regard for important features of the street and other dwellings.

(3) To encourage liveable dwellings having privacy, functionality and comfort to occupants.

Controls

(1) Visual Impact can be improved by considering how the dwelling fits into the existing pattern and form of dwellings in the street.

Bulk and Form

(2) Dwellings should be consistent with the bulk and form of others, particularly immediately adjoining and adjacent the lot. Consistency with existing streetscape can include:

- Overall scale and height, roof forms and pitch
- Materials of external front walls
- Street setbacks and spacing between buildings
- The orientation and placement of patios, porches, balconies and decks.

Character and Amenity

(3) The following features should be considered:

- Overall architectural style (e.g. 'Victorian', 'Federation', 'Bungalow', 'Brick & Tile' etc.).
- Maintaining existing Building lines and setbacks.
- Finishes and decorative detailing (e.g. collar ties, finials, verandah brackets, balustrades, window mouldings, colour).
- Architectural features (e.g. verandahs, windows, awnings).
- Heritage items and/or heritage conservation areas need careful consideration. See Chapter I-1 Heritage for further information.

Scenic Amenity

(4) Dwellings in rural areas and prominent locations are to consider visual impacts in relation to the environment, views from other dwellings and from public spaces. The following measures are requires to mitigate impacts on scenic amenity:

- Where the siting of the dwelling will involve the removal of more than 1000m^2 of vegetation. This includes Bushfire requirements such as an Asset Protection Zone and any clearing associated with road access. Also see Chapter H-4 – Natural Resource Sensitivity.
- Where the dwelling is on a ridgeline, coastline, headland or other highly exposed feature.
- View loss is to be considered in accordance with the *Land and Environment Court Planning Principals*, where views from other

dwellings or public spaces are likely to be impacted. The applicant may be required to submit a view loss assessment.

- Where the dwelling and associated development will be visible at a distance of 1 kilometre.
- In areas of high scenic value, materials shall be non-contrasting and non-reflective. Colours such as muted green, grey and brown are to be used.
- Landscaping and vegetation planting may be used to screen the dwelling.

Articulation zone – Building features permitted forward of the Building Line

(5) The Articulation Zone is an area measured 1.5m forward of the Building Line in which features such as entrances, porticos, bay windows, verandas, terraces or similar elements that enhance the buildings appearance may be located. This relaxation of the building line allows for building elements to provide interesting and decorative features to the frontage, to improve residential design and break up possible bland facades.

(6) Building features within the Articulation Zone will be permitted where:

(a) The dwelling is fronting the primary road, and

(b) the feature is at least 4.5m from the road boundary and not more than 1.5m forward of the Building Line, and

(c) the feature does not exceed $7m^2$ and is not higher than the roof, and

(d) the feature is not a short wall.

Building features facing the primary road

(7) The front elevation of a dwelling must:

(a) have an entrance and a window facing the street, and

(b) the window must be at least $4m^2$ for a living or bedroom area, and

(c) any garage doors are to be set back 1m from the main front wall of the dwelling, excepting where the garage is setback at least 7m from the road boundary, and

(d) at least 50% of the area forward of the building line must be set aside for landscaping.

Reducing the impact of continuous walls

(8) A front wall may not exceed 5m in length without a building feature (excluding garage or carport doors).

A side wall may not exceed 14m in length without a building feature.

(9) A building feature may involve recessing the wall or embellishing it with screening or other features to lessen the visual and 'bulky' impact of a continuous wall.

Impacts from possible conflicting land uses

(10) Lots near the Pacific Highway or proposed Highway corridor, or the North Coast Railway may need to consider requirements of *State Environmental Planning Policy (Infrastructure) 2007* and D*evelopment near Rail Corridors*

and Busy Roads Interim Guideline published by the NSW Department of Planning.

Dwellings near industrial, commercial and some rural activities need to consider potential impacts on amenity including, noise, dust, odours and the like.

Further information is provided in Part I-11 Land Use Conflict Risk Assessment.

A-2.2 Maximum Site Cover

Objectives

(1) To ensure the density of residential development is appropriate to the scale and character of each location.

(2) To ensure minimum open space areas are provided around dwellings.

Controls

Dual Occupancy

(1) Maximum site cover (including maximum roofed area & minimum open space) for dual occupancies is shown in the following tables:

Table A-2.1 Maximum Site Cover for Dual Occupancy

DCP Area	Maximum Site Cover	Total Roofed Cover	Open Space
L1 – Low Density	55%	70%	30%
M1 – Low Medium Density	55%	70%	30%
M2 – High Medium Density	60%	70%	30%

(2) Building features attached to the dwellings may be excluded from site cover where:

(a) they are not enclosed by more than 30%, for example open patios, entrances, carports, decks etc., and

(b) they result in not more than 70% of the lot area being covered by roofed structures.

(3) On a battle axe lot the area of any access handle is to be excluded from the Lot area.

(4) Maximum site cover may not be achieved in all situations and may be limited by the ability to provide Open Space. A minimum 30% Open Space is required to be set aside on every lot.

Secondary Dwellings

(5) See Chapter A-1.2 for details on maximum site cover for dwelling houses (the principal dwelling).

No additional site cover standards apply to the secondary dwelling as long as it's floor area does not exceed:

(a) 60 square metres, or

(b) 25% of the total floor area of the principal dwelling,

whichever is the greater. This standard is set by Clause 5.4(9) of the LEP.

A-2.3 Minimum Lot Sizes

Objectives

(1) To achieve planned residential density in certain zones.

(2) To ensure the density of residential development is appropriate to the scale and character of each location.

(3) To ensure a variety and choice of housing is available.

(4) To ensure there is sufficient land area available for developments to manage on-site wastewater, where necessary.

Controls

Dual Occupancy

(1) The minimum lot size required for a dual occupancy is shown in the following table.

Table A-2.3 Minimum Lot Size for Dual Occupancy

DCP Area	Attached	Detached
R1 General Residential	400m^2	600m^2
RU5 Village	400m^2	600m^2
RU1 Primary Production	1.5ha	1.5ha
R5 Large Lot Residential	1.5ha	1.5ha
E3 Environmental Management	5ha	NA

(2) Clause 4.1C of the *Richmond Valley Local Environmental Plan 2012* permits a constructed detached dual occupancy, on Urban land (Zones R1 and RU5), to be subdivided by a Torrens Title subdivision, where each dwelling following subdivision will be located upon a lot having a minimum 350m^2 of area. In this situation the minimum lot size for the dual occupancy would need to be 700m^2.

Each lot will need to be separately serviced by reticulated water, sewer and stormwater, and comply with minimum setback requirements.

Secondary Dwellings

(3) The minimum lot size required for a secondary dwelling is shown in the following table.

Table A-2.4 Minimum Lot Size for Secondary Dwellings

DCP Area	Attached	Detached
R1 General Residential	No minimum	450m^2
RU5 Village	No minimum	450m^2
R5 Large Lot Residential	1 ha	1 ha

A-2.4 Front Building Line, Side and Rear Setbacks

Objectives

(1) To ensure consistency of development in residential areas and maintain streetscape character.

(2) To retain land forward of the dwelling for landscaping and creation of attractive streetscapes.

(3) To provide sunlight, privacy, and space between buildings.

(4) To provide safe vehicle egress from properties.

Controls

Building Lines

(1) Dwellings in the following zones must be setback, from the boundary with a primary road frontage, a minimum distance of:

Zone R1 – General Residential Zone	6 metres
Zone RU5 – Village	6 metres
Zone R5 – Large Lot Residential	20 metres
Zone RU1 – Primary Production	20 metres
Zone E3 – Environmental Management	20 metres

(2) Despite subclause (1) the following building lines will apply:

(a) garages and sheds attached to dwellings are required to be setback an additional 1m behind the Building line, and

(b) in zones R1 and RU5 the opening or roller door of a detached shed, carport or garage to a secondary road must be a minimum of 5.5m from the road boundary, and

(c) where a building line variation has been granted.

(3) Variation to the Building Line

Variation to the building line is possible in restricted circumstances. Part I-3-Setbacks and Building Height provides details on when variations can be supported.

A variation may be possible for:

(a) lots with more than one road frontage—a 50% variation to the Building line is permitted for any secondary road frontage, excluding classified roads, and

(b) where adjoining properties are located forward of the building line—averaging of those setbacks may be applied, and

(c) Articulation Zone features.

Side and Rear Setbacks

(4) Land in the following zones must be setback from side and rear boundaries a minimum distance of:

Zone R1 – General Residential Zone	900mm
Zone RU5 – Village	900mm
Zone R5 – Large Lot Residential	5 metres
Zone RU1 – Primary Production	5 metres
Zone E3 – Environmental Management	5 metres

(5) Despite subclause (4) the following minimum setbacks will apply:

(a) Lots adjoining a foreshore—either 15m in urban zones, or 40m in other zones.

(b) Setbacks on roads subject to lane widening—shall be increased by the width of land to be resumed as part of the widening.

Increased Setbacks

(6) The setbacks provided in this Section are a minimum requirement. In some cases greater setbacks may be required, for example:

(a) Planning for Bushfire Protection may require increased setbacks on Bushfire Prone Land.

(b) Buffers may be required to separate conflicting land uses, e.g. dwellings from industries or rural activities.

Further details are provided in Part I-3-Setbacks and Building Height and Part I-11 - LUCRA.

Separation of Detached Dwellings on a lot

(7) Detached Dual Occupancies require a minimum of 1.8m separation measured from the external wall of each dwelling. Eaves between each dwelling shall have a minimum 1.35m separation.

(8) Rural Dual Occupancy within Zones RU1 and R5 must:

(a) have a separation between each dwelling of not more than 100 metres, and

(b) not impair the use of the land, or adjoining land, for agriculture or rural industries, and

(c) each dwelling must use the same vehicular access to and from a public road, and

(d) the land must be physically suitable for the development, and

(e) the land must be capable of accommodating the on-site disposal and management of wastewater, and

(f) the development will not have an adverse impact on the scenic amenity or character of the rural environment, and

(g) if located upon Bushfire Prone Land, must meet requirements of *Planning for Bushfire Protection 2006*.

A-2.5 Height of Buildings

Objectives

(1) To describe the maximum height of dwellings in terms of Building Height and Building Height Plane.

(2) To ensure the height of buildings compliments the streetscape and character of the area.

(3) To ensure buildings do not unreasonably impact by way of overshadowing, privacy or disruption of views.

(4) To ensure buildings are setback progressively from side and rear boundaries as height increases.

Controls

Maximum Height of Buildings

(1) The maximum height a dwelling may be built (MBH) is shown in the Height of Buildings Map in *Richmond Valley Local Environmental Plan 2012*.

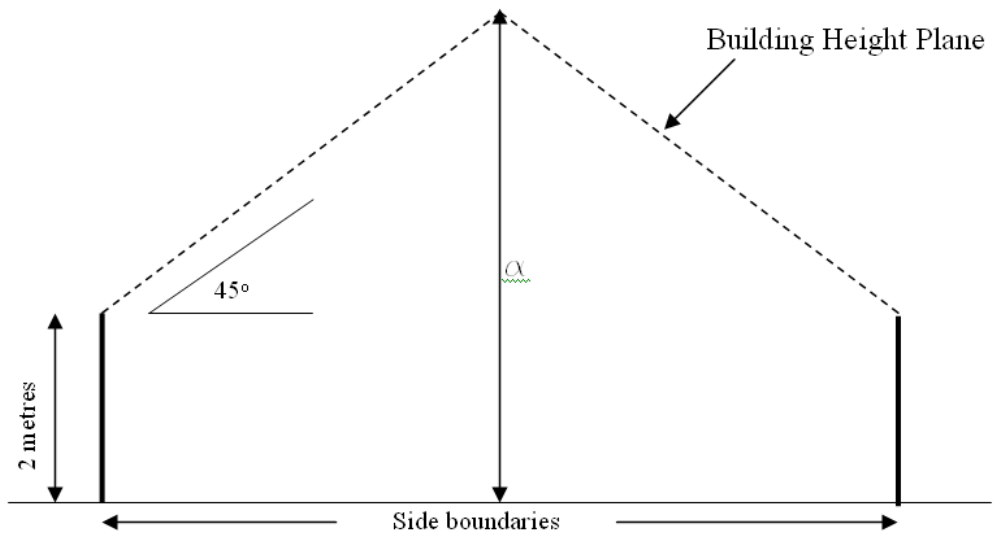
(a) Generally the maximum height is 8.5m.

(b) Some areas of Evans Head and South Casino have 9.5m maximum.

Building Height Plane

(2) The building height plane, see Figure A-1.1, is an imaginary ceiling over a lot under which all construction must be located.

Further detail on the building height plane is provided in Chapter I-3 Setbacks and Building Heights.



α is the maximum building height, up to the LEPs MBH

Figure A-1.1 Building Height Plane

(3) Exceptions and Variations to the Building Height Plane

Despite subclause (2) the following exceptions to the Building Height Plane apply:

(a) Eaves and gutters up to a maximum of 700mm from the external wall.

(b) Open form or translucent balustrading.

(c) Minor climate control features that do not impact adjoining properties.

(d) Buildings on slopes >8 degrees, may have encroachments on the north and east elevations where:

- the wall is less than 6.5m high, from the existing ground level to the wall/eave junction, and
- the encroachment is at least 1.2m from a side and/or rear boundary.

(e) On land affected by a Flood Planning Level—the Building Height Plane will be measured from the 1 in 100 year flood level (instead of natural ground), however shadow cast onto adjoining land must be considered.

(f) Single storey outbuildings with a gable end roof or similar roof design, may encroach where:

- the wall height is a maximum 2.9m, and
- the wall length is no longer than 10m, and
- the roof slope is <25°.

(g) A variation has been granted in accordance with Part I-3.8.

A-2.6 Landscaped and Private Open Space

Objectives

(1) To ensure landscaping is provided to the street frontage, to enhance the character of the streetscape and define areas of private and public land.

(2) To ensure functional private open space is provided and integrated with the dwelling.

(3) To soften development, create privacy, amenity and visual appeal of development.

(4) To enable infiltration of stormwater.

Controls

Open Space

(1) Dwellings must provide 30% of the lot area as Open Space.

Open Space includes Landscape Open Space and Private Open Space.

Landscape Open Space

(2) Landscape Open Space is the area of pervious surfaces. It includes gardens and lawns as well as gravel or similar surfaced areas that allow infiltration. Landscape open space is required to be:

(a) At least 10% of the area of the lot, inclusive of

(b) a lawn and/or garden area being at least 50% of the area forward of the building line (between the dwelling and the road boundary).

Private Open Space

(3) Dual Occupancy - Private Open Space is an area set aside for the private enjoyment of residents. Private Open space may include areas of lawn, gardens, decks and patios. Private Open Space must meet the following requirements:

(a) be directly accessible from a living area in the dwelling, and

(b) be a minimum area of $25m^2$, and

(c) be a minimum of 3m wide.

(4) Secondary dwellings are not required to provide additional Private Open Space.

A-2.7 Carparking, Access, and Driveways

Objectives

(1) To provide for the efficient and safe movement of vehicles.

(2) To ensure on-site car parking is provided within the property and designed to complement the streetscape.

Controls

Car Parking

(1) Minimum parking requirements are shown in the following table:

Land Use	Parking Rate
Residential Accommodation	
Dual Occupancy	1 per dwelling, plus1 visitor space; or 2 per dwelling (where the development will be Torrens Title subdivided)(1 space per dwelling may be stack parked)
Secondary Dwelling	2 for the Primary Dwelling, with no additional parking required for the Secondary Dwelling

One stacked parking space only may be considered forward of the building line. A stacked parking space is to be located on the driveway in front of the garage. It is permitted where:

(a) the space is located wholly within the property boundaries, and

(b) it will not interfere with pedestrian access or landscaped open space requirements, and

(c) it is a hard stand only and not part of any structure e.g. carport, shed, detached garage.

(2) Garages and sheds attached to dwellings are required to be setback an additional 1m behind the building line.

The opening or roller door of a detached shed, carport or garage must be setback a minimum of 5.5m from any secondary road boundary.

(3) Spaces are to be constructed of an all-weather surface such as concrete or gravel.

Access and Driveways

(4) Generally 1 access per street or lane frontage is allowed. If there is sufficient lot width and a suitable road, 2 accesses may be allowed.

Each access must be designed in accordance with the *Northern Rivers Local Government Development, Design and Construction Manual*, or as otherwise specified by Council.

(5) Works in a road reserve require approval under section 138 of the *Roads Act 1993*. Works to construct or maintain vehicular access to private property shall be conducted in accordance with Council's Vehicular Accessway Policy and specifications.

(6) Infrastructure may be required, or existing infrastructure upgraded, including:

(a) Layback, dish or pipe guttering,

(b) kerb and driveway - light duty aprons,

(c) repair to any road, footpath, or services damaged as a result of construction works.

A-2.8 Subdivision of Dual Occupancy

Objectives

(1) To describe the subdivision opportunities for Dual Occupancy development.

(2) To exclude Rural Dual Occupancy from this clause.

Controls

(1) Dual Occupancy on land Zoned R5, RU1, or E3 may not be subdivided.

(2) Dual Occupancy on land Zoned R1 and RU5 may be subdivided subject to the following:

(a) Strata Subdivision:

- visitor parking spaces must form part of the common property.

(b) Torrens Title Subdivision of detached dual occupancy is permitted in accordance with clause 4.1C of *Richmond Valley Local Environmental Plan 2012* where:

- the dual occupancy has been constructed, and
- each resulting lot contains a dwelling house and will be a minimum 350m^2, and
- each lot will have separate access and a minimum of two compliant carparking spaces, and
- each lot will have separate mains connections to water, sewage and stormwater in accordance with Council requirements, and
- each dwelling will conform to minimum setbacks and building height planes, and
- each lot will have equitable division of open space or, satisfy the minimum dwelling house requirements relating to open space.

A-2.9 Hazards and Constraints

Objectives

(1) To provide for the protection of human life and minimise impacts on property from bushfires, floods and other hazards.

(2) To ensure effective management of areas affected by bushfire, flooding, acid sulfate soils, contaminated land and to protect the environment.

(3) Identify each of the Natural Resource Sensitivities mapped within the LEP.

Controls

Flooding

(1) The floor level of habitable rooms is to be above the 1 in 100 year ARI flood event plus a 500mm freeboard (the Flood Planning Level).

(2) New residential development is not permitted where the flood depth of a 1 in 100 year ARI flood event is greater than 2m, excepting:

   (a) for minor extensions to existing dwellings, or

   (b) in justifiable circumstances, such as where an existing dwelling must be rebuilt after it has been damaged.

(3) Flood Mapping is available on request. In areas outside current flood modelling, information will be provided where available.

   For properties outside a modelled area, the proponent may be required to predict the flood planning level by conducting a localised flood assessment using anecdotal evidence of past flood heights.

Bushfire

(4) Dwellings must comply with the NSW Rural Fire Service's publication *Planning for Bush Fire Protection (2006)*, and *Australian Standard AS3959–1999 Construction of Buildings in Bush Fire Prone Areas*.

   (a) Applications to build in BAL-40 or a Flame Zone, or providing for any alternative solution, will be referred to the District RFS Fire Control Centre for approval.

   (b) Applications to build in BAL-Low, BAL-12.5, BAL-19, and BAL-29 that conform to acceptable solutions can be determined by the Council.

   NSW Rural Fire Service has extensive information available on their website about building in Bush Fire Prone areas, including assessment and submission requirements.

   Further details are provided in Part H-2 Bush Fire Prone Land.

Acid Sulfate Soils (ASS)

(5) Excavation works in certain areas have the potential to disturb Acid Sulfate Soils. Land subject to ASS constraints is shown on the LEP Acid Sulfate Soils Map, along with the Class of ASS Hazard.

   Clause 6.1 of *Richmond Valley Local Environmental Plan 2012* and Part H-3 Acid Sulfate Soils provides further information.

The table below shows when further assessment of acid sulfate soils is required:

Class of land	Works
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.

Coastal Development

(6) Clause 5.5 of *Richmond Valley Local Environmental Plan* 2012 identifies issues associated with development in the coastal zone. Development must have regard for:

(a) public access to or along the foreshore, and

(b) impacts on the environment, and

(c) impacts associated with coastal hazards.

Contaminated Lands

(7) Contaminated lands will require remediation to a level compatible with a residential land use.

Where a land use history assessment (Preliminary Assessment) indicates the potential for contamination, sampling and analysis may be required.

Development on potentially contaminated land is to be undertaken in accordance with the Regional Policy for the *Management of Contaminated Land*, and *SEPP55 Remediation of Land*.

Natural Resource Sensitivity

(8) *Richmond Valley Local Environmental Plan 2012* includes overlay mapping, and contains several clauses, relating to management of natural resources. These are:

- Terrestrial Biodiversity Map—representing native vegetation and habitat (wildlife) corridors - LEP clause 6.6.
- Landslip Risk Map—representing steep land with slopes greater than 18 degrees (33%) - LEP clause 6.7.
- Riparian Lands and Watercourses Map—representing key fish habitat plus a 40 metre buffer -LEP clause 6.8
- Drinking Water Catchments Map—representing the watershed catchment for Casino's Jabour Weir, and a 500 metre buffer area around each of the Rous Water Groundwater Bores at Woodburn - LEP clause 6.9, and
- Wetlands Map—representing wetlands and floodplain wetland vegetation communities - LEP clause 6.10.

The extent the resource is to be considered in an application varies based upon the sensitivity of the resource and the level of impacts.

Further details are provided in Part H-4 – Natural Resource Sensitivity (NRS).

A-2.10 Water, Stormwater and Sewage

Objectives

(1) To ensure all development is adequately serviced by water, sewer and stormwater infrastructure.

(2) To ensure that development is located and designed so that it will not impact upon existing infrastructure.

Controls

Stormwater

(1) All dwellings must:

(a) connect to urban water, sewer & stormwater infrastructure where provided,

(b) install a rainwater tank being a minimum 5,000 litres connected to the dwelling, and

(c) have a minimum 80% of impermeable surface area diverted to an infiltration area e.g. lawn or garden areas, or water tank.

Erosion and sediment controls are to be implemented during construction to prevent sediment and pollution leaving the site.

Part I-9 Water Sensitive Urban Design provides further details.

Sewage

(2) Each dwelling is to have adequate arrangements for the disposal of wastewater:

(a) Dwellings serviced by reticulated town sewer—All greywater and toilets are required to be connected to sewer infrastructure, subject to any Council requirements, or

(b) Dwellings not serviced by reticulated town sewer—are to have an approved onsite sewage management facility designed in accordance with Council's *Onsite Sewage and Wastewater Strategy* and associated guidelines.

Water Supply

(3) Each dwelling is to have a suitable potable water supply being:

(a) Dwellings serviced by reticulated town water—connection to a reticulated water supply is required unless a solution meeting NSW Health requirements can be demonstrated, or

(b) Dwellings not serviced by reticulated town water—a minimum 60,000 litres of potable water supply per dwelling.

(4) Where reticulated water is unavailable, an additional water source is to be provided that is dedicated for firefighting purposes:

(a) land having an area <2ha—a minimum 10,000 litres per dwelling, or

(b) land having an area =>2ha)—a minimum 20,000 litres per dwelling.

Tanks and fittings are to be installed as per appropriate Australian Standards, and *Planning for Bushfire Protection 2006*.

Underground infrastructure

(5) All development is to be a minimum of 1.5 metres clear of infrastructure.

Footings are to be engineered for increased depth and structural adequacy where the footings will be located within the Zone of Influence.

Zone of Influence is an area either side of an underground pipe where it is considered that a structure may impose a load through the ground onto the pipe, or where settlement or excavation of the pipe trench may cause damage to a structure. The gradient of the zone of influence extends upwards to the ground surface from the pipe at an angle of 45 degrees for clay soils, or 30 degrees for sandy soils.

A-2.11 Earthworks and Retaining Walls

(1) Applications involving earthworks and retaining walls must:

(a) provide details of the extent of all cut and fill, and

(b) where fill is greater than 600mm high provide geotechnical certification to verify the structural stability of any fill material, and

(c) not redirect the flow of any surface water or ground water in a concentrated manner onto an adjoining property, and

(d) be located a minimum of:

- 1m from any registered easement, and
- 1.5m from any Council sewer main, water main, or stormwater pipeline, and

(e) have footings extend below the Zone of Influence for any sewer main, water main, or stormwater pipeline, and

(f) have adequate drainage lines connected to the existing stormwater drainage system for the site, and

(g) retaining walls must be of masonry construction and have engineering certification if:

- 900mm or higher in height, or
- if located within 900mm of a boundary, and

(h) if the fill is imported to the site—be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*.

A-2.12 Safety and Security

(1) Safety considerations and principles are particularly important for residential design. Safety and security considerations are referred to as *Crime Prevention Through Environmental Design* (CPTED) and are outlined in detail in Chapter I-10.

(2) Good design features include:

(a) the ability for occupants or people in the street to view their surroundings well (natural surveillance) e.g. windows from living areas and entranceways focused on the front street.

(b) avoiding hiding and entrapment areas e.g. recesses, high solid fencing, dense landscape.

(c) gardens should be designed to include low growing plants (less than 600mm) combined with larger trees with canopies higher than 1.8m.

(d) good lighting and security.

A-2.13 Additional Notes and Provisions

Exempt and Complying Development

(1) *State Environmental Planning Policy Exempt and Complying Development Codes (2008)* provides for many types of development to be carried as either exempt or complying development.

The policy can be downloaded at the NSW Legislation website and much information is available on the Department of Planning & Environment's website at http://www.planning.nsw.gov.au/

As long as the proposed works meet all of the relevant Policy development standards, development approval from Council may not be needed. Please contact Council staff for further information.

Rural Lots – Dwelling Opportunity

(2) Rural Lots must have a Dwelling Opportunity to be able to apply to construct a dwelling house.

Information about Dwelling Opportunities is available:

(a) on the Dwelling Opportunity Map in *Richmond Valley Local Environmental Plan 2012*

(b) a Section 149(5) planning certificate; or

(c) by submitting a Property Information Enquiry request (subject to payment of fees).

Lane Widening and Access

(3) Primary access to laneways will not be permitted, however secondary access may be permitted where the lane is suitable.

Access to rear lanes may be subject to upgrading the land including dish drains/guttering, crossings and surface sealing. Upgrading of rear lane access shall be in accordance with Council's Policy – Vehicular Accessway, or any succeeding documentation.

Council will assess the need for road widening or re-alignment when considering a development application for the land.

Refer to Part I-15 for further information.

Waste Minimisation and Management

(4) Prior to construction, a dwelling must have a Waste Management Plan submitted and approved in accordance with *Richmond Valley Council Waste Minimisation and Management Policy*.

Part A-3. Multi Dwelling Housing and Residential Flat Buildings – (Summary Table)

<table>
<tr><td>A-3.1
Visual Impact</td><td>Multi dwelling housing and residential flat buildings are to be consistent with the streetscape. Particular attention is to be given to dwellings adjoining a heritage item or in a heritage conservation area.

Visual & Amenity Impact considerations include:
(a) bulk and form, character and amenity,
(b) scenic amenity and view loss impacts,
(c) building features fronting the street (articulation zone features),
(d) reducing continuous walls, and
(e) conflicting land uses.</td></tr>
<tr><td>A-3.2
Density & Maximum Site Cover

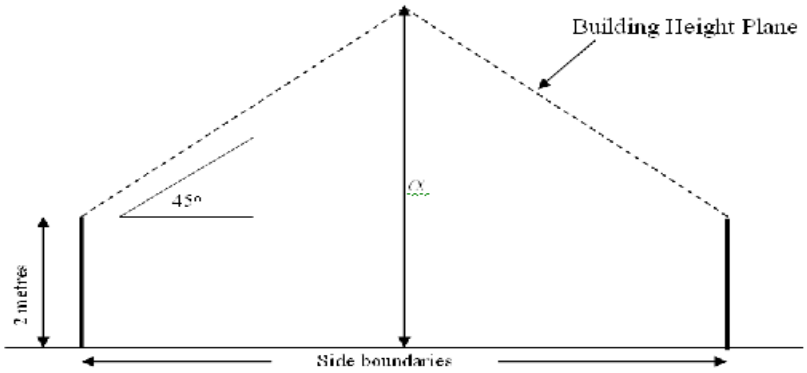
Low Medium M1

High Medium M2

High Density – H1</td><td>Multi dwelling housing and residential flat buildings are permissible within M1, M2 and H1 designated areas in Zones R1 – General Residential and RU5 – Village Zones.

The following densities are a guide only. It is based on a standard 3 bedroom unit. The density may be relaxed if other DCP controls are achieved and a good overall design is demonstrated:
<table>
<tr><td>M1 – Low Medium Density</td><td>335 m^2 per unit</td></tr>
<tr><td>M2 – High Medium Density</td><td>250 m^2 per unit</td></tr>
</table>
The maximum site cover is the area within the enclosing walls of the building(s) and includes attached outdoor areas if they are enclosed by more than 30%.
<table>
<tr><th>DCP Area</th><th>Maximum Site Cover</th><th>Total Roofed Cover</th><th>Open Space</th></tr>
<tr><td>M1 – Low Medium Density</td><td>55%</td><td>70%</td><td>30%</td></tr>
<tr><td>M2 – High Medium Density</td><td>65%</td><td>70%</td><td>30%</td></tr>
<tr><td>H1 – High Density</td><td>65%</td><td>70%</td><td>30%</td></tr>
</table>
Note. Density areas are shown on the Residential Density Maps

Developments exceeding three storeys may only be proposed within areas with a building height limit of 14 metres.</td></tr>
</table>

A-3.3 Buildings 3 or more storeys and with 4 or more dwellings	*State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* applies. The state policy prevails if inconsistent with this Control Plan. Development is to comply with NSW Department of Planning's *Apartment Design Guide* and will be referred to a Design Review Panel where applicable.
A-3.4 Building Line and Setbacks	Building Line is a minimum 6 metres, (attached garages are to be setback at least 7 metres). Side setback is a minimum 2.5 metres. Rear setback is a minimum 3.0 metres. Any building height exceeding three (3) storeys must be set back a minimum of six (6) metres from the side and rear boundaries from the ceiling height of the second storey up. Decreased setbacks are permitted on: secondary frontages; where adjoining properties are forward of the building line; and for articulation zone features. The articulation zone (4.5–6m setback from the front boundary) allows a building feature (up to $7m^2$), or two features (up to $5m^2$ each) to enhance the design and streetscape. Increased setbacks are required for: Foreshores; Planning for Bushfire Protection; conflicting land uses; an attached garage; and detached garages facing secondary roads.
A-3.5 Building Height Plane	The LEP defines the maximum building height (MBH) as generally 8.5m, with exceptions in limited locations at Evans Head and South Casino (9.5m), and central Casino (14m). In addition, a building height plane applies. This is measured 2.0m up from the property boundary, thence at an angle of 45^0 towards the centre of the lot. Development is to be contained within the building height plane excepting for encroachments identified in Part I-3.7 and I-3.8.  α is the maximum building height, up to the LEPs MBH

<table>
<tr><td>A-3.6
Open Space – Landscaped and Private</td><td>Open Space includes Landscape Open Space and Private Open Space.

Open Space - must be 30% of the lot area.
Includes outdoor areas e.g. gardens, lawns, driveways, paths, unenclosed decks, patio's, etc.

<table><tr><th>Landscape Open Space
(lawns and gardens)</th><th>Private Open Space
(includes unenclosed decks etc.)</th></tr><tr><td>• minimum 10% of the total lot area, inclusive of
• minimum 50% of the area forward of the building line.
• A Landscaping Plan is required.</td><td>• Ground floor units:
- minimum 25m^2, and
- directly accessible from an indoor living area, and
- minimum 3m wide.
• Upper floor unit:
- minimum 7m^2 balconey, and
- directly accessible from an indoor living area,
Or
• Consideration of quality communal space can be given.</td></tr></table></td></tr>
<tr><td>A-3.7
Carparking and Access</td><td>Minimum:
• 1 space per dwelling < 150m^2 GFA, plus
• 1.5 space per dwelling > 150m^2 GFA, plus
• 1 visitor space per 4 dwellings (or part thereof).
Spaces to be located behind the building line.
• Garages to be at least 7m from primary road boundary or 5.5m from secondary road boundary.
• Vehicles to enter and leave in a forward direction.
• Generally one access per street frontage.</td></tr>
<tr><td>A-3.8
Hazards</td><td>Any of the following <u>may</u> apply to the land:
• Flood – Habitable floors to be above Flood Planning Level (FPL).
• Bushfire Prone Land – comply with *Planning for Bushfire Protection 2006*.
• Acid Sulfate Soils (ASS) – manage ASS.
• Coastal Development – see Clause 5.5 RVLEP.
• Contaminated Lands – Land to be of standard compatible with residential development
• Natural Resource Sensitivity – consisting of any one or more overlays:
§ Terrestrial Biodiversity (Native Vegetation and/or Wildlife Corridors)
§ Key Fish Habitat - referral to NSW Fisheries may be required.
§ Wetland - buffer of 50 metres recommended.
§ Steep Land - engineering required and consideration of scenic impacts.
§ Drinking Water Catchments – assess impacts on water quality</td></tr>
</table>

A-3.9 Water, Stormwater and Sewage	• Connect to urban infrastructure essential, and • must have a 5,000 litre rainwater tank, and • 80% hard stand areas are to be diverted to infiltration (lawn/gardens) • Stormwater management plan for larger developments.
A-3.10 Earthworks and Retaining Walls	• Imported fill to be VENM and have geotechnical certification. • Retaining walls to be masonry and have engineering certification if within 900mm of a boundary, or if 900mm or higher. • Not cause a concentration of surface water. • Not be located in proximity to easements, or underground infrastructure.
A-3.11 Safety and Security	Incorporate good design features: • Unobstructed views to and from front yards. • Avoid hiding and entrapment spaces. • Have good lighting and security. • Safe pedestrian pathways and connection to streets.
A-3.12 Additional Notes and Provisions	• When located on Bushfire Prone Land—Strata Subdivision requires referral to NSW Rural Fire Service under section 100B of the *Rural Fires Act 1997*. • Access to rear lanes may only be permitted if adequate arrangements are made to upgrade the lane, or lane widening requirements apply. • Construction works are to have a Waste Minimisation and Management Plan.

Part A-3. Multi Dwelling Housing and Residential Flat Buildings

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Well-designed higher density housing is encouraged to provide diversity of housing choice and efficient use of land. Both multi dwelling housing and residential flat buildings are types of higher density housing.

Multi dwelling housing and Residential Flat Buildings are permitted in Zones R1 General Residential and RU5 Village.

This housing style is, however, limited to the M1 – Low-Medium Density, M2 – Medium-High Density and H1 – High Density areas.

The following definitions apply to development in this Part:

Multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Note. Residential accommodation (including multi dwelling housing and residential flat buildings) is prohibited in the Commercial Zones B1, B2, and B3 – however Shop Top housing is permitted. Refer to Part A4 – Shop Top Housing.

A-3.1 Visual and Amenity Impact

Objectives

(1) To ensure development is consistent with the desired character of the area.

(2) To contribute to the provision of a variety of dwelling types to meet population growth.

(3) To maximise amenity, safety and security for the benefit of occupants and the wider community

Controls

(1) Visual Impact can be improved by considering how the development fits into the existing pattern in the street and its future character. While not required for all applications the Design Quality Principals outlined in the NSW Department of Planning's *Apartment Design Guide* may be useful.

Character, Bulk and Form

(2) Development should be consistent with the existing streetscape. This can include:

- a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings particularly in areas undergoing or identified for change.
- built form should define the public domain, contribute to the character of streetscapes and parks, including their views and vistas, and provide internal amenity and outlook.
- all parking to be contained behind the building line to achieve an attractive streetscape and functional private open space.
- entries and fences are to be designed to provide direct access and encourage activation of surrounding streets.

Scenic Amenity

(3) Development in prominent locations is to consider visual impacts in relation to natural environment, views from other dwellings and from public spaces. The following circumstances require measures to mitigate impacts on scenic amenity:

- where the development is on a ridgeline, coastline, headland or other highly exposed feature.
- where the development may impact views from other dwellings or public spaces. View Loss is to be considered in accordance with the Land and Environment Court Planning Principals. The applicant may be required to submit a view loss assessment.
- in areas of high scenic value, materials shall be non-contrasting and non-reflective. Colours such as muted green, grey and brown are to be used.
- landscaping and vegetation planting may be used to screen the development.

Articulation zone – Building features permitted forward of the Building Line

(4) The Articulation Zone is an area measured 1.5m forward of the Building Line in which features such as entrances, porticos, bay windows, verandas, terraces or similar elements that enhance the buildings appearance may be located. This relaxation of the building line allows for building elements to provide interesting and decorative features to the frontage, to improve residential design and break up possible bland facades.

Building features within the Articulation Zone will be permitted where:

(a) The dwelling is fronting the primary road, and

(b) the feature is at least 4.5m from the road boundary and not more than 1.5m forward of the Building Line, and

(c) the feature does not exceed:

- for a single feature—7m^2, or
- for up to 2 features on the land—5m^2 for each, and

(d) the feature is not higher than the roof, and

(e) the feature is not a short wall.

Waste Management

(5) The location of waste facilities is to be shown on the site plan.

Suitable pick up areas are to be provided, the use of narrow street frontages for a large number of bins is to be avoided.

Waste bin storage areas are to be:

- located behind the front setback area; and
- adequately screened from the street, and
- not to cause odour or noise impacts to neighbours.

Building features facing the primary road

(6) The front elevation of a dwelling must:

(a) have an entrance and a window facing the street, and

(b) the window must be at least 4m^2 for a living or bedroom area, and

(c) any garage doors are to be set back 1m from the main front wall of the dwelling, excepting where the garage is setback at least 7m from the road boundary, and

(d) at least 50% of the area forward of the building line must be set aside for landscaping.

Reducing the impact of continuous walls

(7) A front wall may not exceed 5m in length without a building feature (excluding garage or carport doors).

A side wall may not exceed 14m in length without a building feature.

(8) A building feature may involve recessing the wall or embellishing it with screening or other features to lessen the visual and 'bulky' impact of a continuous wall.

Impacts from possible conflicting land uses

(9) Lots near the Pacific Highway or proposed Highway corridor, or the North Coast Railway may need to consider requirements of *State Environmental Planning Policy (Infrastructure) 2007* and D*evelopment near Rail Corridors and Busy Roads Interim Guideline* published by the NSW Department of Planning.

Dwellings near industrial, commercial and some rural activities need to consider potential impacts on amenity including, noise, dust, odours and the like.

Further information is provided in Part I-11 Land Use Conflict Risk Assessment.

A-3.2 Maximum Site Cover

Objectives

(1) To ensure the density of residential development is appropriate to the scale and character of each location.

(2) To ensure a variety and choice of housing is available.

(3) To ensure minimum open space areas are provided around dwellings.

Controls

(1) As a general rule, the following minimum site area is required per unit:

DCP Area	Minimum Land Area per unit
M1 – Low Medium Density	335 m^2
M2 – High Medium Density	250 m^2

Note. The densities above are a guide only and relate to a standard 3 bedroom unit. This density may be relaxed if all other DCP controls are satisfied and good design is demonstrated.

(2) Maximum site cover is the percentage shown in the following table.

Table A-3.1 Maximum Site Cover for Multi Dwelling Housing

DCP Area	Maximum Site Cover	Total Roofed Cover	Open Space
M1 – Low Medium Density	55%	70%	30%
M2 – High Medium Density	65%	70%	30%
H1 – High Density	65%	70%	30%

(3) Building features attached to the dwelling may be excluded from site cover where:

(a) they are not enclosed by more than 30%, for example open patios, entrances, carports, decks etc., and

(b) they result in not more than 70% of the lot area being covered by roofed structures.

(4) On a battle axe lot the area of any access handle is to be excluded from the Lot area.

(5) Maximum site cover may not be achieved in all situations and may be limited by the ability to provide Open Space. A minimum 30% Open Space is required to be set aside.

A-3.3 Buildings 3 storeys and containing at least 4 dwellings

Objectives

(1) To advise *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* applies to some buildings being 3 or more storeys.

Controls

(1) *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development* applies if:

(a) the development consists of any of the following:

- the erection of a new building,
- the substantial redevelopment or the substantial refurbishment of an existing building,
- the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

(2) The development is to comply with the NSW Department of Planning *Apartment Design Guide* and will be referred to a Design Review Panel where applicable.

A-3.4 Front Building Line, Side and Rear Setbacks

Objectives:

(1) To ensure consistency of development in residential areas and maintain streetscape character.

(2) To retain land forward of the dwellings for landscaping and creation of attractive streetscapes.

(3) To provide sunlight, privacy, and space between buildings.

(4) To provide safe vehicle egress from properties.

Controls:

Building Lines

(1) Development must be setback:

(a) a minimum 6 metres from the front property boundary, and

(b) for that part of any development above 3 storeys a minimum of 10 metres.

(2) Despite subclause (1) the following building lines will apply:

(a) Garages and sheds attached to a building are required to be setback an additional 1m behind the Building Line.

(b) The opening or roller door of a detached shed, carport or garage to a secondary road must a minimum of 5.5m from the road boundary.

(c) Where a building line variation has been granted.

(3) Variation to the Building Line

Variation to the building line is possible in restricted circumstances. Part I-3 - Setbacks and Building Height provides details on when variations can be supported.

A variation may be possible for:

(a) lots with more than one road frontage—a 50% variation to the Building line on any secondary road frontage, excluding any classified road, and

(b) where adjoining properties are located forward of the building line—averaging of those setbacks may be applied, and

(c) Articulation Zone features.

Side and Rear Setbacks

(4) Single and two story development must be setback a minimum of the following:

(a) 2.5m to any side boundary, and

(b) 3.0m to any rear boundary

(5) That part of any development above 3 storeys shall be setback a minimum of 6m.

Despite subclause (4) the following minimum setbacks apply:

(a) Lots adjoining a foreshore—either 15m in urban zones, or 40m in other zones.

(b) Setbacks on roads subject to lane widening—shall be increased by the width of land to be resumed as part of the widening.

Increased Setbacks

(6) The setbacks provided in this Section are a minimum requirement. In some cases greater setbacks may be required, for example:

(a) Planning for Bushfire Protection may require increased setbacks on Bushfire Prone Land.

(b) Buffers may be required to separate conflicting land uses, e.g. dwellings from industries or rural activities.

Further details are provided in Part I-3 - Setbacks and Building Height and Part I-11 - LUCRA.

A-3.5 Height of Buildings

Objectives

(1) To describe the maximum height of dwellings in terms of Building Height and Building Height Plane.

(2) To ensure the height of buildings compliments the streetscape and character of the area.

(3) To ensure buildings do not unreasonably impact by way of overshadowing, privacy or disruption of views.

(4) To ensure buildings are setback progressively from side and rear boundaries as height increases.

Controls

Maximum Height of Buildings

(1) The maximum height a dwelling may be built (MBH) is shown in the Height of Buildings Map in *Richmond Valley Local Environmental Plan 2012*.

(a) Generally the maximum height is 8.5m.

(b) Some areas of Evans Head and South Casino have 9.5m maximum.

(c) The High density area in proximity to the Casino CBD has a 14m maximum.

Building Height Plane

(2) The building height plane, see figure A-3.1, is an imaginary ceiling over a lot under which all construction must be located.

Further detail on the building height plane is provided in Chapter I-3 Setbacks and Building Heights.

(3) The Building Height Plane shall only apply to development up to and including 3 storeys. That part of development above 3 storeys shall be setback a minimum of 6 metres from the side and rear boundaries. This standard may be varied by application.

(4) Exceptions and Variations to the Building Height Plane

Despite subclauses (2) & (3) the following exceptions to the Building Height Plane apply:

(a) Eaves and gutters up to a maximum of 700mm from the external wall.

(b) Open form or translucent balustrading.

(c) Minor climate control features that do not impact adjoining properties.

(d) Buildings on slopes >8 degrees, may have encroachments on the north and east elevations where:

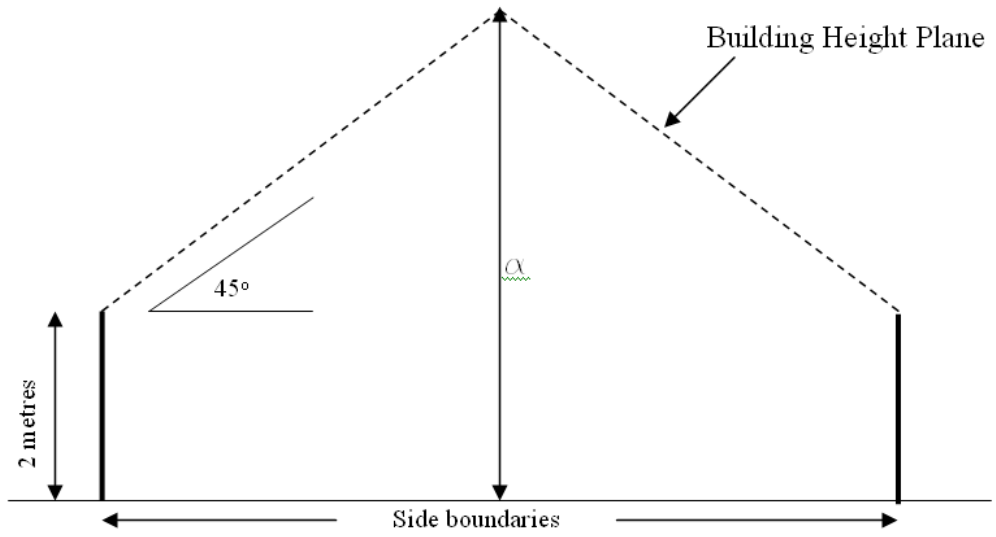
- the wall is less than 6.5m high, from the existing ground level to the wall/eave junction, and
- the encroachment is at least 1.2m from a side and/or rear boundary.

(e) On land affected by a Flood Planning Level—the Building Height Plane is measured from the 1 in 100 year flood level (instead of natural ground), however, shadow cast onto adjoining land must be considered.

(f) Single storey outbuildings with a gable end roof or similar roof design, may encroach where:

- Ø the wall height is a maximum 2.9m, and
- Ø the wall length is no longer than 10m, and
- Ø the roof slope is <25°.

(g) A variation has been granted in accordance with Part I-3.8.



α is the maximum building height, up to the LEPs MBH

Figure A-3.1 Building Height Plane

A-3.6 Landscaped and Private Open Spaces

Objectives

(1) To ensure landscaping is provided to the street frontage, to enhance the character of the streetscape and define areas of private and public land.

(2) To ensure functional private open space is provided and integrated with the dwelling.

(3) To soften development, create privacy, amenity and visual appeal of development.

(4) To enable infiltration of stormwater.

Controls

Open Space

(1) Dwellings must provide 30% of the lot area as Open Space.

Open Space includes Landscape Open Space and Private Open Space.

Landscape Open Space

(2) Landscape Open Space is the area of pervious surfaces. It includes gardens and lawns as well as gravel or similar surfaced areas that allow infiltration. Landscape open space is required to be:

(a) At least 10% of the area of the lot, inclusive of

(b) a lawn and/or garden area being at least 50% of the area forward of the building line (between the dwellings and the road boundary).

(3) The visual impact of hard landscaping is to be minimised by soft landscaping.

Private Open Space

(4) Private Open Space is an area set aside for the enjoyment of residents. Private Open space may include areas of lawn, gardens, decks and patios. Private Open Space must meet the following requirements:

(a) each ground floor unit must have minimum area of $25m^2$ being a minimum 3m wide, and

(b) each upper floor unit must have a minimum unenclosed area of $7m^2$, and

(c) the private space must be directly accessible from the living areas of the unit.

(5) In unique circumstances a variation to Private Open Space may be sought. The following minimum criteria apply:

(a) A high quality communal space is provided to residents as common property e.g. a combination of gardens, pool, bbq areas, and other recreation spaces.

(b) The communal space must be equivalent to $25m^2$ per unit of the land.

(c) A minimum $7m^2$ private open space is retained in each unit.

Landscape Plan

(6) A Landscape plan is to be submitted in accordance with requirements of Part I-5 – Landscaping Guidelines.

Attention is to be given to the area forward of the Building Line and appearance of the street frontage. The following minimum requirements apply:

(a) Fencing or walls higher than 1.2m must be located at least 1.5m from the property boundary and the street frontage must be landscaped. Small encroachments are permitted to provide articulation to the fence.

(b) a minimum of 3 native shrubs or trees (preferably endemic to the area) with minimum mature height of 3 metres shall be included in the front setback of the development lot.

(c) Suitable grass shall be established within the front setback and within any other open space areas dedicated for landscaping.

(d) Council reserves judgement as to whether the objectives and requirements for landscaping and open space have been satisfied.

A-3.7 Carparking, Access, and Driveways

Objectives:

(1) To provide for the efficient and safe movement of vehicles.

(2) To ensure adequate parking to service the development is provided, and

(3) To ensure on-site car parking is provided within the property and designed to complement the streetscape.

Controls:

Car Parking

(1) Minimum parking requirements are shown in the following table:

Land Use	Parking Rate*
Residential Accommodation	
Residential Flat Buildings and Multi-dwelling Housing	1 per dwelling (<150 m^2 GFA), plus 1.5 per dwelling (>= 150 m^2 GFA), plus 1 visitor space per 4 dwellings

(a) All parking spaces must be located behind the building line, and

(b) garages and sheds attached to any building are required to be setback an additional 1m behind the building line, and

(c) the opening or roller door of a detached shed, carport or garage must be setback a minimum of 5.5m from any secondary road boundary, and

Access and Driveways

(2) Generally 1 access per street or lane frontage is allowed. If there is sufficient lot width and suitable roads 2 accesses may be allowed.

(3) Vehicles must be able to enter and leave the site in a forward direction.

(4) Each access must be designed in accordance with the *Northern Rivers Local Government Development, Design and Construction Manual*, or as otherwise specified by Council.

(5) Works in a road reserve require approval under section 138 of the *Roads Act 1993*. Works to construct or maintain vehicular access to private property shall be conducted in accordance with Council's Vehicular Accessway Policy and specifications.

(6) Infrastructure may be required or existing infrastructure upgraded including:

(a) Layback, dish or pipe guttering,

(b) kerb and driveway - light duty aprons,

(c) repair to any road, footpath, or services damaged as a result of construction works.

A-3.8 Hazards and Constraints

Objectives

(1) To provide for the protection of human life and minimise impacts on property from bushfires, floods and other hazards.

(2) To ensure effective management of areas affected by bushfire, flooding, acid sulfate soils, contaminated land and to protect the environment.

(3) Identify each of the Natural Resource Sensitivities mapped within the LEP.

Controls

Flooding

(1) The floor level of habitable rooms is to be above the 1 in 100 year ARI flood event plus a 500mm freeboard (the Flood Planning Level).

(2) New residential development is not permitted where the flood depth of a 1 in 100 year ARI flood event is greater than 2m, excepting:

(a) for minor extensions to existing dwellings, or

(b) in justifiable circumstances, such as where an existing dwelling must be rebuilt after it has been damaged.

(3) Flood Mapping is available on request. In areas outside current flood modelling, information will be provided where available.

For properties outside a modelled area, the proponent may be required to predict the flood planning level by conducting a localised flood assessment using anecdotal evidence of past flood heights.

Bushfire

(4) Dwellings must comply with the NSW Rural Fire Service's publication *Planning for Bush Fire Protection (2006)*, and *Australian Standard AS3959–1999 Construction of Buildings in Bush Fire Prone Areas*.

(a) Applications to build in BAL-40 or a Flame Zone, or providing for any alternative solution, will be referred to the District RFS Fire Control Centre for approval.

(b) Applications to build in BAL-Low, BAL-12.5, BAL-19, and BAL-29 that conform to acceptable solutions can be determined by the Council.

NSW Rural Fire Service has extensive information available on their website about building in Bush Fire Prone areas, including assessment and submission requirements.

Further details are provided in Part H-2 Bush Fire Prone Land.

Acid Sulfate Soils (ASS)

(5) Excavation works in certain areas have the potential to disturb Acid Sulfate Soils. Land subject to ASS constraints is shown on the LEP Acid Sulfate Soils Map, along with the Class of ASS Hazard.

The table below shows when further assessment of acid sulfate soils is required:

Class of land	Works
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.

Clause 6.1 of *Richmond Valley Local Environmental Plan 2012* and Part H-3 Acid Sulfate Soils provides further information.

Coastal Development

(6) Clause 5.5 of *Richmond Valley Local Environmental Plan* 2012 identifies issues associated with development in the coastal zone. Development must have regard for:

(a) public access to or along the foreshore, and

(b) impacts on the environment, and

(c) impacts associated with coastal hazards.

Contaminated Lands

(7) Contaminated lands will require remediation to a level compatible with a residential land use.

Where a land use history assessment (Preliminary Assessment) indicates the potential for contamination, sampling and analysis may be required.

Development on potentially contaminated land is to be undertaken in accordance with the Regional Policy for the *Management of Contaminated Land*, and *SEPP55 Remediation of Land*.

Natural Resource Sensitivity

(8) *Richmond Valley Local Environmental Plan 2012* includes overlay mapping, and contains several clauses, relating to management of natural resources. These are:

- Terrestrial Biodiversity Map—representing native vegetation and habitat (wildlife) corridors - LEP clause 6.6.
- Landslip Risk Map—representing steep land with slopes greater than 18 degrees (33%) - LEP clause 6.7.
- Riparian Lands and Watercourses Map—representing key fish habitat plus a 40 metre buffer -LEP clause 6.8
- Drinking Water Catchments Map—representing the watershed catchment for Casino's Jabour Weir, and a 500 metre buffer area around each of the Rous Water Groundwater Bores at Woodburn - LEP clause 6.9, and
- Wetlands Map—representing wetlands and floodplain wetland vegetation communities - LEP clause 6.10.

The extent the resource is to be considered in an application varies based upon the sensitivity of the resource and the level of impacts.

Further details are provided in Part H-4 – Natural Resource Sensitivity (NRS).

A-3.9 Water, Stormwater and Sewage

Objectives

(1) To ensure all development is adequately serviced by water, sewer and stormwater infrastructure.

(2) To ensure that development is located and designed so that it will not impact upon existing infrastructure.

Controls

Stormwater

(1) All dwellings must:

(a) connect to urban water, sewer & stormwater infrastructure where provided,

(b) install a rainwater tank being a minimum 5,000 litres connected to the dwelling, and

(c) have a minimum 80% of impermeable surface area diverted to an infiltration area e.g. lawn or garden areas, or water tank.

Erosion and sediment controls are to be implemented during construction to prevent sediment and pollution leaving the site.

Part I-9 Water Sensitive Urban Design provides further details.

Sewage

(2) Each dwelling is to have adequate arrangements for the disposal of wastewater:

(a) Dwellings serviced by reticulated town sewer—All greywater and toilets are required to be connected to sewer infrastructure, subject to any Council requirements, or

(b) Dwellings not serviced by reticulated town sewer—are to have an approved onsite sewage management facility designed in accordance with Council's *Onsite Sewage and Wastewater Strategy* and associated guidelines.

Water Supply

(3) Each dwelling is to have a suitable potable water supply being:

(a) Dwellings serviced by reticulated town water—connection to a reticulated water supply is required unless a solution meeting NSW Health requirements can be demonstrated, or

(b) Dwellings not serviced by reticulated town water—a minimum 60,000 litres of potable water supply per dwelling.

(4) Where reticulated water is unavailable, an additional water source is to be provided that is dedicated for firefighting purposes:

(a) land having an area <2ha—a minimum 10,000 litres per dwelling, or

(b) land having an area =>2ha)—a minimum 20,000 litres per dwelling.

Tanks and fittings are to be installed as per appropriate Australian Standards, and *Planning for Bushfire Protection 2006*.

Underground infrastructure

(5) All development is to be a minimum of 1.5 metres clear of infrastructure.

Footings are to be engineered for increased depth and structural adequacy where the footings will be located within the Zone of Influence.

Zone of Influence is an area either side of an underground pipe where it is considered that a structure may impose a load through the ground onto the pipe, or where settlement or excavation of the pipe trench may cause damage to a structure. The gradient of the zone of influence extends upwards to the

ground surface from the pipe at an angle of 45 degrees for clay soils, or 30 degrees for sandy soils.

A-3.10 Earthworks and Retaining Walls

(1) Applications involving earthworks and retaining walls must:

(a) provide details of the extent of all cut and fill, and

(b) where fill is greater than 600mm high provide geotechnical certification to verify the structural stability of any fill material, and

(c) not redirect the flow of any surface water or ground water in a concentrated manner onto an adjoining property, and

(d) be located a minimum of:

- 1m from any registered easement, and
- 1.5m from any Council sewer main, water main, or stormwater pipeline, and

(e) have footings extend below the Zone of Influence for any sewer main, water main, or stormwater pipeline, and

(f) have adequate drainage lines connected to the existing stormwater drainage system for the site, and

(g) retaining walls must be of masonry construction and have engineering certification if:

- 900mm or higher in height, or
- if located within 900mm of a boundary, and

(h) if the fill is imported to the site—be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*.

A-3.11 Safety and Security

(1) Safety considerations and principles are particularly important for residential design. Safety and security considerations are referred to as *Crime Prevention Through Environmental Design* (CPTED) and are outlined in detail in Chapter I-10.

(2) Good design features include:

(a) the ability for occupants or people in the street to view their surroundings well (natural surveillance) e.g. windows from living areas and entranceways focused on the front street.

(b) avoiding hiding and entrapment areas e.g. recesses, high solid fencing, dense landscape.

(c) gardens should be designed to include low growing plants (less than 600mm) combined with larger trees with canopies higher than 1.8m.

(d) good lighting and security.

A-2.12 Additional Notes and Provisions

Exempt and Complying Development

(1) *State Environmental Planning Policy Exempt and Complying Development Codes (2008)* provides for many types of development to be carried as either exempt or complying development.

The policy can be downloaded at the NSW Legislation website and more information is available on the Department of Planning & Environment's website at http://www.planning.nsw.gov.au/

As long as the proposed works meet all of the relevant Policy development standards, development approval from Council may not be needed. Please contact Council staff for further information.

Lane Widening and Access

(2) Primary access to laneways will not be permitted unless it can be demonstrated that:

(a) the lane can and will be upgraded to an acceptable standard, including dish drains/guttering, crossings and surface sealing. Upgrading of rear lane access shall be in accordance with Council's Policy – Vehicular Accessway, or any succeeding documentation, or

(b) the lane is subject to future lane widening. Council will assess the need for road widening or re-alignment when considering a development application for the land.

Waste Minimisation and Management

(3) Prior to construction, a dwelling must have a Waste Management Plan submitted and approved in accordance with *Richmond Valley Council Waste Minimisation and Management Policy*.

Strata Title Subdivision

(4) Development seeking consent for Strata Subdivision must submit a plan of proposed subdivision and payment of applicable fees.

(5) Applications for Strata Subdivision on Bushfire Prone Land will be referred to NSW Rural Fire Service under Section 100B of the *Rural Fires Act 1997*.

Part A-4. Shop Top Housing

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Shop Top Housing forms an important mixed development style which contributes important housing supply without compromising valuable commercial development area.

The Local Environmental Plan (LEP) template provides the definition:

Shop Top Housing means one or more dwellings located above ground floor retail premises or business premises.

Shop Top Housing may be undertaken in Zones B1 Neighbourhood, B2 Local Centre and B3 Commercial Core.

A-4.1 Visual and Amenity Impacts

(1) Shop Top Housing is located above retail or business premises in the Commercial areas. Mixed use developments are generally to take the form of podium buildings with an upper level setback to residential development. The visual impact of development is to have regard for the commercial activities and style of buildings.

Particular attention is to be given within Heritage Conservation Areas or nearby Heritage buildings.

Bulk and Form

(2) The proposed Development should be consistent with the bulk and form of existing elements within the streetscape, particularly immediately adjoining and adjacent. Consistency with existing streetscape elements includes:

- Overall Scale and Height
- Roof Forms and Pitch
- Materials of External Front Walls
- Street Set-backs and Spacings between Buildings

Character and Amenity

(3) The proposed development should be consistent with the prevailing character of the neighbourhood, the following elements are to be considered:

- Overall architectural Style (i.e. 'Victorian', 'Federation', 'Bungalow', 'Brick & Tile' etc.).
- Maintaining or Continuing existing Horizontal Lines or any 'Stepping'.
- Finishes and Decorative Detailing (and to a lesser extent colour) (i.e Collar Ties, Finials, Verandah Brackets, Balustrades, etc.).
- Architectural Elements (i.e. Verandahs, Awnings, etc).
- A heritage item, or a development proposed within a Heritage Conservation Area should have high regard for detail within Chapter I-1 Heritage within this DCP.

Reducing the impact of continuous walls

(4) Windows or structures (entranceways, porticos, windows including bay windows, balconies etc.) are to be used to break up the façade. Any section of front façade may not exceed five metres without a building element to disrupt continuous wall area.

In addition, any side wall may not exceed 14 metres in length without a recess, or building element, in the wall to break the continuity and lessen visual and 'bulky' impacts.

How to assess the elements of Shop Top Housing

(5) Shop Top Housing is best assessed in accordance with the separate components of which it is made up. The ground floor Commercial component may be assessed as per Part B – Commercial Development. The second floor, although comprising a residential component, may exhibit densities similar to what may be permitted as 2nd floor development in Part B – Commercial, however must satisfy many provisions as per above ground floor residential in Parts A-1, A-2 or A-3.

A-4.2 Building Footprint & Floor Space Area

(1) Density on the Ground Floor Commercial component to be assessed as per Part B – Commercial Development.

(2) Zone B1 – Neighbourhood Centre—development is required to most closely align with residential development and the surrounding area.

If there are commercial examples to draw upon nearby, and generally the streetscape is dominated by similar 'older' style development, higher density 'shopfront'/'awning' development may be acceptable if the design aligns closely.

(3) Zone B2 & B3—As per Part B – Commercial Development for first 2 storeys.

(4) Density Area H1 – High Density—there is likely to be little or no examples of the ideal form to follow, however the podium style typology described within Chapter A-4.3 will be considered atop Commercial density.

(5) The development shall have a high regard for provisions relating to the residential development style proposed, however with leniency concerning the second floor density and setbacks which may mirror the commercial ground floor component.

A single dwelling may refer to Chapter A-1 – Dwelling Houses, however follow the same building lines on the second floor determined as per the commercial ground floor. Duplexes should refer to Chapter A-2 – Dual Occupancies, except for density, landscaping, etc.

Developments exceeding Three Storeys

(6) Developments exceeding three storeys may only be proposed within areas with a building height limit of 14 metres within Casino near the CBD area.

The Density and site cover provisions do not apply to a development 3 storeys or greater, above the ceiling height of the second storey. This is because the building height plane would in effect cancel out the higher storeys.

Any building height three (3) storeys and higher as a stand-alone development must be set back a minimum of six (6) metres from the side and rear boundaries, from the ceiling height of the second storey up. When proposed within a commercial area, lesser or even zero building line setback from the side boundaries may be permissible dependent upon dominant adjacent building bulk and form. Council reserves the right to ultimate resolution as to the proposal's built form and setbacks.

A-4.3 Height of Buildings

Objectives:

(1) To describe the maximum height of buildings in terms of Building Height and Building Height Plane.

(2) To ensure buildings do not unreasonably impact by way of overshadowing, privacy or disruption of views.

(3) To ensure buildings are setback progressively from side and rear boundaries as height increases.

Controls:

Maximum Height of Buildings

(1) The maximum height a structure may be built is shown in the Height of Buildings Map in *Richmond Valley Local Environmental Plan 2012*.

(a) Generally the maximum height is 8.5m.

(b) Some areas of Evans Head and South Casino have 9.5m maximum.

(c) The High density area in proximity to the Casino CBD has a 14m maximum.

Building Height Plane

(2) The building height plane, see Figure A-4.1, is an imaginary ceiling over a lot under which all construction must be located. The Building Height Plane is measured 2.0m up from the side and rear boundaries, then at an angle of 45° towards the centre of the lot as indicated in the following diagram.

The building height plane only applies to development up to and including 3 storeys. That part of development above 3 storeys shall be setback a minimum of 6 metres from the side and rear boundaries. This standard may be varied by application.

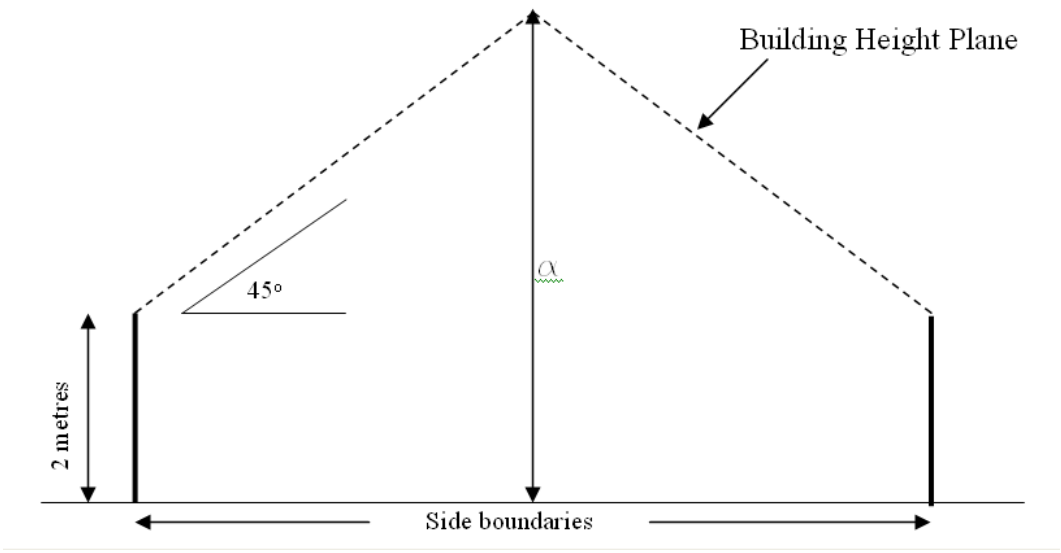


Figure A-4.1 Building Height Plane (only applies to development at or below 3 storeys)

(3) Exceptions and Variations to the Building Height Plane

Despite subclause (2) the following exceptions to the Building Height Plane apply:

(a) Eaves and gutters up to a maximum of 700mm from the external wall.

(b) Open form or translucent balustrading.

(c) Minor climate control features that do not impact adjoining properties.

(d) Buildings on slopes >8 degrees, may have encroachments on the north and east elevations where:

- Ø the wall is less than 6.5m high, from the existing ground level to the wall/eave junction, and
- Ø the encroachment is at least 1.2m from a side and/or rear boundary.

(e) On land affected by a Flood Planning Level—the Building Height Plane is measured from the 1 in 100 year flood level (instead of natural ground), however shadow cast onto adjoining land must be considered.

(f) Single storey outbuildings with a gable end roof or similar roof design, may encroach where:

- Ø the wall height is a maximum 2.9m, and
- Ø the wall length is no longer than 10m, and
- Ø the roof slope is <25°.

(g) A variation has been granted in accordance with Part I-3.8.

A-4.4 Building Lines and Setbacks

Objectives

(1) To ensure consistency of development in areas and maintain streetscape character.

(2) To provide sunlight, privacy, and space between buildings.

(3) To provide safe vehicle egress from properties.

(4) To advise Part I-3 Setbacks and Building Height of this DCP provides further detail.

Controls

(1) Building Lines – as per Part B – Commercial Development up to the second storey.

(2) Side and Rear Setbacks:

(a) 3rd Storey and below—as necessary to comply with the Building Height Plane,

(b) 3rd Storey and Higher—6.0 metres.

A-4.5 Driveways and Access

(1) Generally one (1) access per street or lane frontage is appropriate. In instances where there is ample width to the development lot, two (2) accesses may be permitted if the development has frontage to appropriately constructed and dimensioned streets or laneways.

Each access must be compliant with all other provisions within this Plan and any other requirements set by the *Northern Rivers Local Government Development, Design and Construction Manual*, or as otherwise specified by Council.

(2) Council's Works Department will determine whether line of sight distances are adequate dependent upon vegetation, distance from intersections, orientation and gradient.

(3) In general, all infrastructure may be required to be upgraded, whether existing or required to be provided as a part of new development:

- Layback, Dish or Pipe guttering.
- Kerb and Driveway light or heavy duty aprons dependent on whether for domestic or commercial/industrial/units use.
- Any road damaged as a result of works undertaken.
- Turf and any other disturbed vegetation.

All work shall be designed and constructed in accordance with all relevant and current Australian Standards. AS2890 is relevant for all access and parking specifications. AS2890 or any subsequent standard for this purpose must be complied with for all works.

(4) In limited cases lane widening may be required as part of proposed development. Council will assess the need for road widening or re-alignment when considering a development application for the land. Such consideration of a development application will have regard to the existing and likely future traffic needs in the locality and those areas designated as requiring road widening are outlined within Chapter I-15.

A-4.6 Car Parking

Car Parking Requirements

(1) One (1) car-parking space must be provided per dwelling (unit) wholly within the building lines and setbacks of the development, plus

one visitor car parking space, or part thereof, for every ten (10) units, which must also be wholly within the building lines and setbacks of the development.

(2) All work shall be designed and constructed in accordance with all relevant and current Australian Standards. AS2890 is relevant for all access and parking specifications.

(3) Where existing Gross Floor Area is being converted to Shop Top Housing—no additional car parking shall be required for the conversion of that floor area, however, any car parking provided on site must be retained.

Accessibility – Car Parking

(4) Car parking provision for mobility impaired must be provided minimum one (1) per development and located closest to the most suitable entranceway.

(5) Unit development must provide one (1) mobility impaired space per five (5) units, or as prescribed by most recent Australian Standards and requirements.

Additional relevant detail is available within Chapter I-4 – Car Parking.

A-4.7 Open Space – Landscaped and Private

(1) Private Open Balcony Space – units wholly above the ground floor:

- Upstairs Units must provide a minimum of 15m^2 per dwelling of private balcony or rooftop area, which may only be exclusively accessed by the

unit to which it is attributed. Balconies or rooftop areas must be greater than $7m^2$, with a minimum width of 3 metres.

- The height plane at the rear of the premises may be relaxed slightly to provide for balcony and rooftop Private Open Space provision in addition to the required $7m^2$ area.
- Balconies and Rooftop areas may protrude outside the building plane by a maximum of 1.2 metres, to the extent they are providing additional balcony/rooftop area and are not roofed.

A-4.8 Hazards and Constraints

(1) Development is required to be assessed for the potential impacts that various hazards or constraints may present. Natural Hazards are dealt with in more detail within Chapter H – Natural Resources and Hazards in this DCP. The following Natural Hazards should be considered:

- Flooding
- Acid Sulfate Soils (ASS)
- Contaminated Lands
- Bushfire
- Contaminated Land
- Natural Resource Sensitivity Overlays – comprising:
  - Native Vegetation
  - Key Fish Habitat
  - Habitat Corridor
  - Wetland
  - Steep Land

A-4.9 Water, Stormwater and Sewage

Objectives

(1) To ensure all development is adequately serviced by water, sewer and stormwater infrastructure.

(2) To ensure that development is located and designed so that it will not impact upon existing infrastructure.

Controls

Stormwater

(1) All development must be connected to urban water, sewer & stormwater infrastructure where provided.

Erosion and sediment controls are to be implemented during construction to prevent sediment and pollution leaving the site.

Part I-9 Water Sensitive Urban Design provides further details.

Sewage

(2) All greywater and toilets are required to be connected to sewer infrastructure, subject to any Council requirements.

Water Supply

(3) Each dwelling is to be connected to town water infrastructure subject to any Council requirements.

Underground infrastructure

(4) All development is to be a minimum of 1.5 metres clear of infrastructure.

Footings are to be engineered for increased depth and structural adequacy where the footings will be located within the Zone of Influence.

Zone of Influence is an area either side of an underground pipe where it is considered that a structure may impose a load through the ground onto the pipe, or where settlement or excavation of the pipe trench may cause damage to a structure. The gradient of the zone of influence extends upwards to the ground surface from the pipe at an angle of 45 degrees for clay soils, or 30 degrees for sandy soils.

A-4.10 Earthworks and Retaining Walls

(1) Applications involving earthworks and retaining walls must:

(a) provide details of the extent of all cut and fill, and

(b) where fill is greater than 600mm high provide geotechnical certification to verify the structural stability of any fill material, and

(c) not redirect the flow of any surface water or ground water in a concentrated manner onto an adjoining property, and

(d) be located a minimum of:

- 1m from any registered easement, and
- 1.5m from any Council sewer main, water main, or stormwater pipeline, and

(e) have footings extend below the Zone of Influence for any sewer main, water main, or stormwater pipeline, and

(f) have adequate drainage lines connected to the existing stormwater drainage system for the site, and

(g) retaining walls must be of masonry construction and have engineering certification if:

- 900mm or higher in height, or
- if located within 900mm of a boundary, and

(h) if the fill is imported to the site—be free of building and other demolition waste, and only contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*.

A-4.11 Overshadowing, Solar Access and Orientation

Overshadowing

(1) Council may require a shadow diagram if it suspects there will be excessive overshadowing of an adjacent lot or public land.

The shadow diagram shall identify shadowing at 9am, 12 noon & 3pm for the shortest day of the year (Winter Solstice – on 21st June). In this way it may be determined whether the proposal could unduly impact upon living and private open space areas of adjoining allotments and development.

Solar Access

(2) Consideration should also be given to the orientation of design elements and the location of central living rooms and open space areas within any proposed development to maximise:

- Energy Conservation - Development should orientate living areas to best maximise conservation of heat gained from solar access, and utilise predominating breezes and other natural light, wind, water occurrences to provide maximum efficiency within dwellings reducing the need for artificial energy usage.
- Sunlight Infusion - Important daytime living areas within a dwelling should be orientated toward the northernmost areas of the design to provide warmth and light.
- Solar Power Generating Equipment - North-facing roofing should have consideration for the ideal slope, surface area, orientation and structural integrity to facilitate the immediate or possible future installation of Solar Power receptacles (Solar Hot Water Systems and Photovoltaic Cells).

Orientation

(3) The proposed development should be orientated in a way to benefit street and front yard surveillance (as satisfying CPTED principles, see below). The orientation of the development should also have regard for the other existing elements within the streetscape, and the way and style in which they are orientated.

A-4.12 Safety and Security

(1) Safety considerations and principles are particularly important for residential design. Safety and security considerations are referred to as *Crime Prevention Through Environmental Design* (CPTED) and are outlined in detail in Chapter – I-10.

Good design features include:

(a) the ability for occupants or people in the street to view their surroundings well (natural surveillance) e.g. windows from living areas and entranceways focused on the front street.

(b) avoiding hiding and entrapment areas e.g. recesses, high solid fencing, dense landscape.

(c) gardens should be designed to include low growing plants (less than 600mm) combined with larger trees with canopies higher than 1.8m.

(d) good lighting and security.

A-4.13 Additional Notes and Provisions

Lane Widening and Access

(2) Primary access to laneways will not be permitted unless it can be demonstrated that:

(a) the lane can and will be upgraded to an acceptable standard, including dish drains/guttering, crossings and surface sealing. Upgrading of rear lane access shall be in accordance with Council's Policy – Vehicular Accessway, or any succeeding documentation, or

(b) the lane is subject to future lane widening. Council will assess the need for road widening or re-alignment when considering a development application for the land.

Waste Minimisation and Management

(3) Prior to construction, a dwelling must have a Waste Management Plan submitted and approved in accordance with *Richmond Valley Council Waste Minimisation and Management Policy*.

Richmond Valley Development Control Plan 2015

Part A-5. Seniors Housing and Affordable Housing

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

A-5.1 General Objectives

The general objectives of this Chapter are:

(1) Provide information regarding Seniors Living and Affordable Housing options.

A-5.2 Legislative Provisions

(1) The following *State Environmental Planning Policies* provide development controls for the provision of Seniors Housing and Affordable Housing.

(a) *SEPP (Housing for Seniors or People with a Disability)*

This SEPP aims to encourage developments for the elderly and disabled. The State policy seeks to provide incentives and guidelines for 'high quality' accommodation and offers floor-space-ratio and other density concessions to developments meeting desirable criteria as accommodation providers to a disadvantaged sector of the community.

(b) *SEPP (Affordable Rental Housing) 2009*

This policy provides for a relaxation of local provisions if demonstrated that multi-development provision of affordable rental housing. The policy provides incentives for new affordable rental housing, facilitates the retention of existing affordable rentals, and provides incentives for role expansion of not-for-profit providers. It also aims to support local centres by providing housing for workers close to places of work, and facilitate development of housing for the homeless and other disadvantaged people. As with all SEPPs, it operates almost independently and overrides the LEP on the proviso that proposals in accordance with this policy are proposed within residentially zoned land in accordance with the new LEP. Reference should be made to the *SEPP (Affordable Rental Housing) 2009* for further detail regarding requirements of development proposed under this policy.

(2) Notwithstanding these Policies, Chapters A-2 Dual Occupancy, A-3 Multi Dwelling Housing and Residential Flat Buildings, and A-4 Shop Top Housing may be used to provide for Seniors Housing and Affordable Housing.

Richmond Valley Development Control Plan 2015

Part B. Commercial Development

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

The Development Control Plan (DCP) seeks to provide achievable Commercial Development controls to complement and improve upon existing commercial precincts and street amenity within Richmond Valley. The DCP provides uniform control requirements across the Local Government Area (LGA) and seeks to elevate and standardise Richmond Valley Commercial Development.

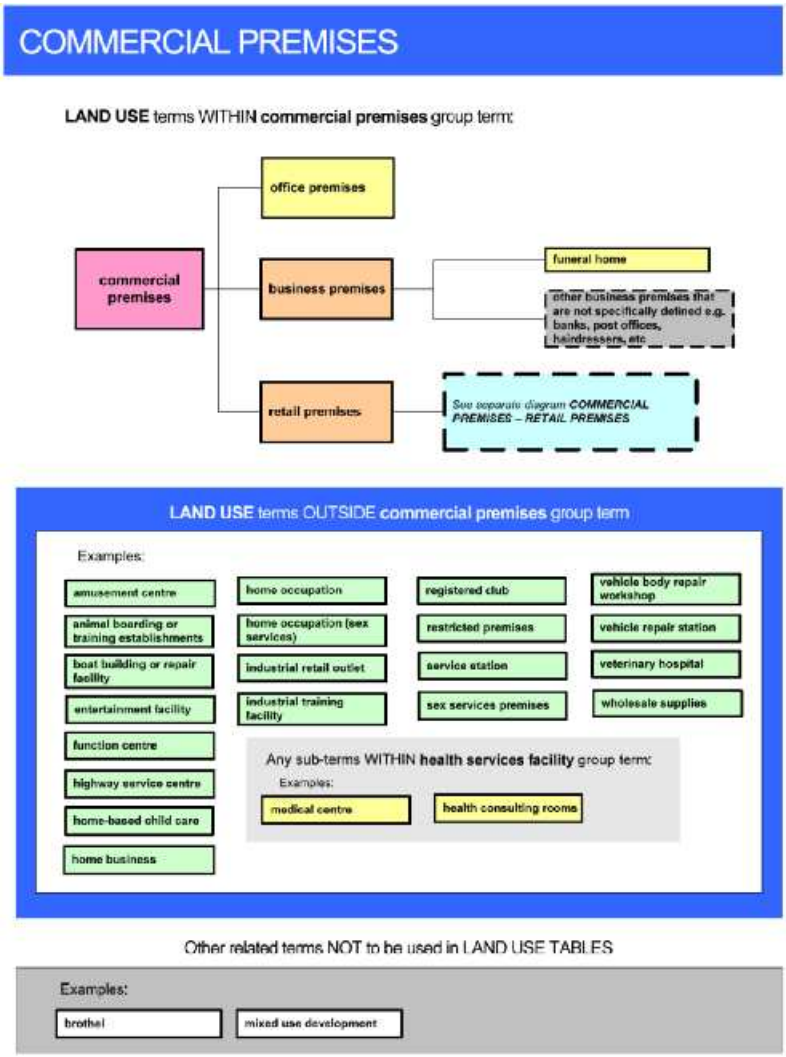


Figure B.1 General relationships between land use terms in the Standard Instrument LEP (Source Dept of Planning Practice Note PN11-004)

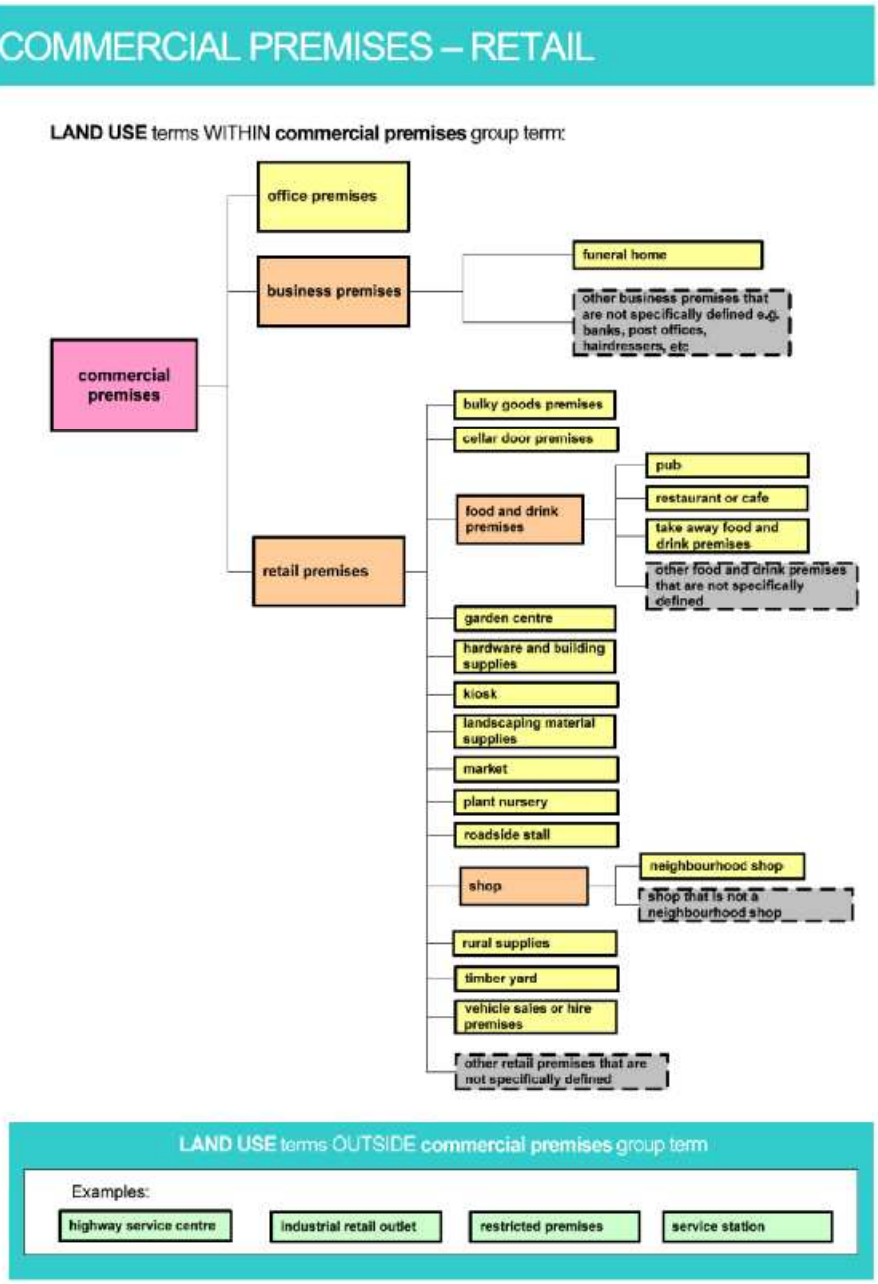


Figure B.1 continued General relationships between land use terms in the Standard Instrument LEP (Source Dept of Planning Practice Note PN11-004)

B-1 General Objectives

The general objectives of this Part are to:

(1) provide increased opportunity for commercial and business activity within the Casino and Evans Head Central Business Districts as well as Neighbourhood and Local Centres within the Richmond Valley Local Government Area (LGA)

(2) have high regard for existing streetscape components, particularly features important to heritage and the built environment

(3) provide for improved design considerations for all forms of Commercial Development

(4) maintain an urban form throughout the main streets and business districts replicating existing characteristics where appropriate, and encouraging newer built form in the periphery for future expansion of existing commercial areas

(5) provide for commercial development which compliments or accentuates street beautification programmes

B-2 Visual Impact

(1) The visual impact of Commercial Development may be assessed using selected elements to determine the overall impact of proposed development in relation to adjoining commercial premises and the overall streetscape. Any proposed Commercial Development should integrate effectively and give particular consideration for the following:

- Heritage Significance – if the land on which development is proposed has any item of heritage significance.
- Heritage Items – adjoining and adjacent listed items
- Heritage Area - if the development is proposed within an identified area
- Adjoining or adjacent to a Significant Streetscape Element

An adjacent building presenting relatively unaltered from the era for which it represents may be considered a Significant Streetscape Element, with particular regard for the following:

- being more than fifty years old
- having largely original decorative embellishments.

In circumstances where the assessing officer is of the opinion adjoining existing commercial (or other) development has little or no architectural significance, or is proposed in an area where the majority of development components within the street are not homogenous, it may be considered onerous to require consistency with surrounding existing development.

The proponent will be required to demonstrate within the application's Statement of Environmental Effects how the design contributes favourably to the overall streetscape and functionality of the Commercial locality.

(2) Bulk and Form

Commercial Development should be consistent with the bulk and form of existing elements within the streetscape, particularly immediately adjoining and adjacent Commercial Development. Consistency with existing streetscape elements include:

- Overall Scale and Height
- Roof Forms and Pitch (particularly awnings and associated structures).
- Materials of External Front Walls, awnings and embellishments
- Scale and position of windows and other architectural features.

Development shall also have particular regard for any embellishments in the vicinity of a Commercial premise to provide continuity within the surrounding locality, particularly in regards to:

- Footpaths (within the road reserve, or any encroachments)
- Landscaping,
- Air conditioning units, exhaust vents, and the like, must be unobtrusive.

(3) Character and Amenity

The proposed Commercial Development should be consistent with the prevailing character of the street and neighbourhood, particularly immediately adjoining and adjacent commercial development (or residential where proposed within Village or Local Centre).

Proposed Commercial Development adjacent to a heritage item or proposed within a heritage conservation area should have high regard Chapter I-1 of this DCP within this DCP.

Some possible sympathetic design suggestions are:

- More closely aligning the scale, height, roof form & pitch, etc with the predominating and/or nearby building styles within the neighbourhood.
- Decorative detail on gable ends, expanses of walling and awnings.
- Use of traditional colour schemes to better reflect the street character.
- Use of traditional styling and other detail.

Any of the above or similar measures shall be implemented where necessary to contribute positively to the locality and reduce potential visual disparity with the existing built environ.

(4) Design

- New Commercial Development is required to respect the scale and qualities of important community buildings and landmarks within the precinct.
- New development shall incorporate active retail or office uses and provide direct and inviting access from the street level.
- Alterations and additions shall be of similar in design and style to any existing development, and shall be consistent with any favourable existing elements described above. In all instances, Council reserves final judgement as to the appropriateness of commercial additions or alterations, and the proponent will be required to provide justification for dissimilarity to existing style and design.

B-3 Building Footprint

(1) The building footprint may extend to the boundary of the allotment in zones B2 – Local Centre and B3 – Commercial Core. The bulk and form of any existing adjacent development is the defining measure, and this extends to a degree within zone B1 – Neighbourhood Centre as well. Any proposed development within an area for which there is little or no guiding development to compare will be largely limited by car parking requirements.

B-4 Building Height

(1) Determining maximum height for proposed Commercial Development

The maximum height a development may be built is depicted within the Height of Buildings Map – Sheet HOB_INDEX within the *Richmond Valley Local Environmental Plan 2012*. Richmond Valley has a general maximum height limit of 8.5 metres (two (2) storeys) which is relaxed within areas of Evans Head and South Casino to 9.5 metres. A limited area within the Casino CBD has a maximum height of 14 metres (about 5 storeys).

Refer to the Chapter I-3 – Setbacks and Building Height for additional detail concerning building height plane.

(2) Consistency in Scale

Building height shall be in a scale consistent with adjoining commercially zoned land. Development on the CBD or other commercial zone fringe should be in a scale respectful to adjacent one or two storey residential development. Development within the zone (not on the zone boundary) shall have consideration for any possibility of future scale and height. Building height is required to be in proportion to any existing CBD street or other commercial district hierarchy, particularly as viewed from the primary street.

(3) Building Height Plane at the Rear of Commercial Premises

The Building Height Plane, as described within I-3 – Setbacks and Building Heights and elsewhere within this DCP, shall apply to the rear of the development lot (not that adjoining the primary street frontage) to provide sufficient 'tapering' of the development and integrate with non-commercial development and other surrounding built form.

B-5 Building Line, Side & Rear Boundary Setbacks

(1) Any proposed Commercial Development is required to have complimentary form and design consistent with the existing street façade (existing adjoining developments as viewed as an elevation from the primary road perspective).

In addition, building setbacks have an opportunity to be considered on merit based upon the integration of the development with streetscape/beautification plans and existing building lines within the locality. Generally, the building lines are set within a given zone and/or control plan area, and may only be adjusted where an application can demonstrate improved design and environmental outcomes. Chapter I-3 – Setbacks and

Building Height provides detail as to what concession to required setbacks may be allowed.

(2) The Casino CBD area, covered by parts of Barker and Walker Streets, is included in a Heritage Conservation Area. Development above the height of the facade of existing development must achieve a front building line setback of 10 metres to ensure the new construction does not impact upon the significance of this heritage streetscape.

B-6 Access and Loading

(1) Vehicular access must be to Australian Standards and will require approval for works within a road reserve, as set within section 138 of the *Roads Act 1993*.

All works to procure or maintain vehicular access to private property must be conducted in accordance with Council's Vehicular Accessway Policy. It is the responsibility of the applicant to ensure that any contractor engaged to carry out work within the road reserve is conversant with this policy to ensure any part of any road reserve is maintained in a satisfactory state of repair.

Australian Standard AS2890 is relevant for all access, parking and loading/unloading specifications. AS2890 or any subsequent standard for this purpose must be complied with for all works.

(2) In limited cases, lane widening may be required as part of proposed development in Casino. Those areas designated as requiring road widening are outlined within Chapter I-15 of this DCP. Council will assess the need for road widening or re-alignment when considering a development application for the land and will have regard to the existing and likely future traffic needs of the locality.

B-7 Car Parking Provision

(1) Car parking is required to be provided onsite in order to protect the street and amenity of the area from unnecessary congestion. The number of car parking spaces required on a property is dependent upon the Commercial Development proposed and any past credit for car parking which may be assumed from historic uses conducted on the site.

(2) Table B.1 contains the minimum car parking requirements for commercial development.

A flat rate of parking shall apply to all existing floor area in the Business Zones of B1 Neighbourhood Centre, B2 Local Centre, & B3 Commercial Core. As such a change of use within a B Zone will not require additional car parking to be provided. The only additional car parking that will be required in these B Zones will be for the provisions of additional floor area.

Table B.1 Provides the minimum car parking requirements for commercial development. For other types of development see Chapter I-4.

Land Use	Parking Rate*
Commercial Development	
Zone B1, B2 or B3 – Change of Use of existing GFA to another use (including to shop top housing)	No additional parking will be required. No loss of existing parking will be permitted.
Commercial premises - Office Premises - Retail Premises - Business Premises	1 per 30 m^2 of GFA (<=1000m^2), or 1 per 40 m^2 of GFA (>1000m^2)
Pub/Hotel Premises Restaurants or Cafes Function Centres	1 per 30 m^2 of GFA (<=1000m^2), or 1 per 40m^2 of GFA (>1000m^2)
Take Away Food and Drink Premises	1 per 30 m^2 of GFA (including external dining areas), plus where a drive thru is provided—2 waiting bays, plus queuing area for 10 cars
Kiosks	1 per 40 m^2 of GFA
Restricted Premises	1 per 30 m^2 of GFA (<=1000m^2), or 1 per 40 m^2 of GFA (>1000m^2)
Sex Service Premises	1.5 per working room
Garden Centres Landscaping Material Supplies Plant Nurseries Rural Supplies Timber Yards Wrecking Yards	1 per 200 m^2 of display area (internal and external)
Vehicle Sales or Hire Premises	1 per 100 m^2 of showroom area
Amusement Centres	1 per 25 m^2 of GFA
Service Stations including convenience store	1 per fuel pump, plus 1 per 100 m^2 of GFA (Additional parking to be provided if a vehicle repair station is included)
Highway Service Centres	2 per fuel pump, plus 1 per 50 m^2 of GFA
Roadside Stalls	3 spaces with sufficient area for vehicles to manoeuvre and exit the land in a forward direction.

Land Use	Parking Rate*
Notes. • Car Parking requirements for other uses shall be determined based upon considering it as a comparable use to those listed, or to be determined on merit. • In all instances a merit consideration may override the rate listed based upon exceptional circumstance and thorough justification. • GFA = Gross Floor Area • DOM = Determine on Merit • Reference to the number of employees is reference to the peak number of employees on duty at any one time.	

B-8 Signage

(1) All signage intended for the proposed Commercial Development must be outlined within formal application for the development. Part F of this DCP relates to signage. In addition, some forms of Business Identification Signage may be carried out as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

(2) Care should be taken to check if the property is heritage listed or in a conservation area before erecting any new signage, or replacing existing signage.

(3) An elevation of the proposed Commercial Development shall be required detailing signage size, colour and style for approval purposes.

B-9 Natural Hazards

(1) Natural hazards may need to be considered in some areas for Commercial Development, and the design and construction methods may require refinement to minimise risk to life and property. Natural hazards are dealt with in more detail within Part H of this DCP.

(2) Flooding

Commercial development is required to be designed to endure flooding events of a 1 in 100 year ARI frequency, or as otherwise assessed within an updated Risk Management Plan.

Commercial development must have its floor levels located:

- in the Casino area—above the 1 in 100 year ARI flood event,
- in the Mid-Richmond area—above the 1 in 20 year ARI Flood event,
- in areas of the Council outside a formal flood study area—to be determined on researching historic data, anecdotal information, and a risk assessment.

Council can provide property specific flood information for areas within formal flood studies covering the Mid-Richmond and Casino areas.

All potential flood risks associated with the development must be considered, including potential risks to emergency personnel (SES) in the event evacuation may be required. Flood consideration is mostly directed toward

dwellings and habitable areas, however Council must also consider flood impacts upon other assets and access to and from the development. Chapter H1 – Flooding provides additional detail concerning flooding issues.

(3) Acid Sulfate Soils (ASS)

All works which are likely to impact on ASS will require extra consideration during the construction phase of the development. Chapter H-3 – Acid Sulfate Soils provides additional information concerning the risks posed by various classes of ASS.

(4) Contaminated Lands

Contaminated lands may require rehabilitation prior to development being initiated. Alternatively, confinement of the source of contamination may be acceptable in low-risk situations. The foremost option is to locate any proposed development outside any area considered unsafe, however rehabilitation is the most usual option for Commercial Development.

B-10 Development over Roads

(1) Commercial Development often incorporates some form of development over public roads. This development may be in the form of Footway Activities (kerbside dining, footpath trading, erection of signage), erection of awnings and verandahs, flagpoles etc.

Appropriate approvals and consents will be required to carry out any activity or construction on a public road. Chapter I-2 provides further information on Council's consent and approval processes.

B-11 Landscaping

(1) Landscaping allows for the built environment to blend more successfully with the natural environment and contributes to streetscape amenity for all to enjoy. Streets devoid of vegetation provide no shade and fail to soften harsh and contrasting solid construction elements found within streetscapes. Landscaping is most likely not required for the majority of Commercial Development, however Zone B1 – Neighbourhood Centre and some areas where the existing built form incorporates landscaping components may be required to provide landscaping as part of the development based on merit consideration.

- Landscaping Plan may be required and should be prepared in consultation with Chapter I-5 – Landscaping.

(2) A landscaping component is required for Commercial Development in situations where adjoining uses and overall built form also incorporates landscaping.

Shop top housing is likely to require a landscaping component. Where the rear of a commercial premise is proposed to adjoin residential development, particularly where car parking areas are required, landscaping shall be incorporated to screen these areas from adjoining land uses.

B-12 Stormwater and Sewage

(1) Where water and sewer connections are not available to a lot in an urban area, Council will require the extension of Council's main to service that lot at the developers cost.

For all infrastructure connections within the property the proponent is required to take into consideration possible subsidence areas ('Zone of influence'). The Zone of Influence is calculated based on soil type and the depth of the piped infrastructure. The zone must be observed on all plans and all footings either must avoid this zone or be appropriately engineered in accordance with Council standards.

(2) Stormwater

All urban lots are required to connect or maintain adequate connection to town infrastructure where provided and have consideration for Water Sensitive Urban Design principles. All stormwater is to be directed to the street drainage system, or to an interallotment drainage easement where available.

(3) Sewage

All greywater and toilets are required to be connected to sewer infrastructure, where provided.

(4) Water Sensitive Urban Design

WSUD principles to apply and Chapter I-9 of this DCP provides detail as to what design consideration may be required to be incorporated into Commercial Developments.

(5) Erosion and Sediment Control

Erosion and sediment controls are to be incorporated into the construction phase of the development as to prevent sediment and pollution leaving the construction site.

B-13 Earthworks and Retaining Walls

(1) All earthworks and retaining walls proposed for the development must be detailed within the development application.

(2) Consideration of Acid Sulfate Soils (ASS)

Acid Sulfate Soils are relatively prevalent within the lower river regions of Richmond Valley, and due consideration of the risk and structural adequacies must be considered within any application proposing earthworks and retaining walls. ASS considerations must accompany any engineering certification. Further information may be obtained in Chapter H-3 of this DCP.

(3) Engineering Certification Required

Retaining walls in excess of 600 mm height require engineering certification. All materials to be utilised as fill, ballast or for retaining walls must be accompanied by a geotechnical certification to verify structural stability and that they are free from contamination.

Erosion and Sediment Control safeguards and practices are required to be implemented during construction.

Any material resulting from demolition, including concrete and brick which may be sourced as ballast, is classified as a waste. It is an offence under the *Protection of the Environment Operations Act* to transport waste to a place that cannot lawfully be used to deposit waste. Ballast or fill cannot be sourced from a demolition site unless it has been certified as clean and de-classified as waste.

B-14 Overshadowing, Solar Access, Orientation and View Loss

(1) The following considerations are intended for development proposed on the fringe of commercially zoned land and where there is potential for the development to negatively impact upon adjoining sensitive land uses.

(2) Overshadowing

If the assessing officer is of the opinion there is likely to be excessive overshadowing of adjoining residentially zoned land, a shadow diagram will be required (showing the Winter Solstice at 9am, 12 noon, and 3 pm). In this way it may be determined whether the proposal may unduly impact upon living and private open space areas of the existing development. This requirement may also apply to similarly sensitive land uses such as parklands, childcare centres, community use buildings, and the like.

(3) Solar Access

Some consideration should be made concerning the orientation of commercial development where excessive loss of solar access is likely to occur on adjoining properties, particularly residential development.

Consideration should be given to the orientation of design elements having regard to the location of adjoining living rooms, open space areas, solar equipment, skylights, pergolas, rooftop balconies, etc.

(4) Orientation

In addition to the considerations discussed relating to sunlight infusion and energy conservation, the proposed development should consider locating service areas of the development as to minimise negative impacts on adjoining sensitive receivers.

(5) View Loss

Consideration and respect of views to and from important community landmarks from adjoining public places must form part of the assessment process in allowing high rise commercial development. New development shall respect view corridors within and along main streets and out to the surrounding landscape. A view loss assessment shall form part of any commercial application in excess of three (3) storeys.

B-15 Safety and Security

(1) Security considerations and principles are particularly important for commercial design to provide for the safety of all intended users of the development. The provisions for safety and security considerations within the DCP standards vary dependent on the type of commercial development. More information concerning Crime Prevention Through Environmental Design (CPTED) is outlined within Chapter I-10 of this DCP.

The design and orientation of important elements of any proposed Commercial Development shall have regard to the basic strategies outlined for CPTED. Most commercial developments will be referred for comment to the NSW Police Force as part of the assessment process. Council may require alterations to the design if it is of the opinion the proposed commercial development demonstrates an undue propensity for providing crime opportunity. Unsafe design features include:

- Poor lighting/shadowing
- Isolation
- Lack of sightlines
- Hiding and entrapment areas
- Inadequate security

Part C.
Industrial Development

This DCP applies to all land within the Richmond Valley Local Government Area.

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22 December 2015

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4 January 2016

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Nil

Industrial areas are essential to support the economic productivity of an area, provide employment opportunities and provide spaces for activities requiring larger lots and buildings and in some cases separation from other land uses.

Industrial areas require careful consideration to ensure the development is functional has an attractive appearance to the street and minimises adverse impacts upon the surrounding area. Emphasis is given to buildings and layout that improves the amenity of an area.

C.1 General Objectives

The general objectives are to:

(1) ensure new industrial development provides functional and efficient areas for buildings, vehicle movements and parking, storage areas and landscaping.

(2) provide for a wide range of light industrial activities, and increased employment opportunities within appropriate areas.

(3) encourage industrial development which is functional, visually appealing, which positively contributes to the area and provides buildings and land uses that are appropriate to their context.

(4) ensure industrial development provides landscaping, parking and setbacks to reduce impacts on public land and adjoining properties.

C.2 How to Address Amenity & Visual Impacts

Objectives

(1) to utilise the building design, materials, layout, parking, landscaping and screening of unsightly matter to improve the amenity of the area.

(2) provide for particular consideration where sites are located at the entrances to towns, are visible from main roads, residential areas or other public places such as parks and reserves.

(3) integrate new development with existing surrounding land uses in the area.

(4) to provide attractive and functional areas between the public road and the building frontage.

(5) To ensure development relates sympathetically to nearby and adjoining sites particularly residential land uses and public spaces.

(6) To reduce land use conflict between residential and non-residential land uses

(7) Provide adequate separation between the development and adjoining properties and public spaces.

Controls

Building Line Setbacks

(1) Front Building Line Setbacks

Buildings are to maintain a minimum 6 metre front building line setback.

(2) Exceptions to the front building line setback apply only to:

(a) an articulation zone element—which may be permitted to encroach up to 1.5 metres into the front building line of a primary frontage, and

(b) a secondary frontage—where a minimum setback of 2 metres will be required.

(3) Foreshore Building Line Setbacks

If a foreshore building line setback applies, no part of the building will be permitted within the foreshore building line setback, which is:

(a) in Zone R1 or IN1—15 metres from the foreshore boundary; or

(b) in all other zones—40 metres from the foreshore boundary.

(4) Side and Rear Boundary Setbacks

Where development sites share a boundary with residential land uses, a minimum setback of 900 mm shall apply to that side or rear boundary. Additionally consideration of overshadowing, privacy and amenity must also be given.

(5) In other cases, side and rear setbacks may be reduced to zero subject to requirements of the Building Code of Australia and consideration of adverse impacts upon any adjoining property.

Building Height

(6) Consideration must be given to the maximum height for buildings as contained within the *Richmond Valley LEP 2012*. If the particular needs of an industry require a greater height, and it can be demonstrated amenity and shadowing impacts are minor or can be mitigated, a variation may be sought under clause 4.6 of the LEP.

Note. Variations greater than 10% will require determination by Council resolution.

(5) The Building Height Plane shall apply to sites development sites adjoining residential or other sensitive land uses. Chapter I-3 provides further details on the Building Height Plane.

(6) Consistency in Scale

Development adjoining non-industrial land uses shall demonstrate a transition in height and scale to avoid overshadowing, privacy, bulk and scale impacts. This will be particularly relevant for sites adjoining public spaces or residential land uses.

Noise Impacts

(7) Sources of development noise, from machinery, vehicles, loading areas, motors and plant, should be located away from sensitive receivers and/or be acoustically treated.

Potential noise generating development, particularly where sensitive noise receivers are nearby, should include an acoustic assessment prepared in accordance with the New South Wales Industrial Noise Policy. See Chapter I-7 for further details.

(8) The proposed hours of operation are to be nominated on the application. Where doubt exists over hours of operation, it will be assumed that they are:

- Monday to Friday (public holidays excepted)—between 7am and 6pm,
- Saturdays—between 7am and 1pm
- Sundays and Public Holidays—between 8am and 1pm.

External Appearance of Buildings & Development

(9) To improve the external appearance of building elements the following principles should be employed:

(a) Use non-industrial aspects of the development, e.g. Offices, to address and activate the street.

(b) Provide articulation to the façade and avoid long blank walls facing streets.

(c) All construction between the 6.0 metre setback and 7.5 metres back from the principle road frontage shall be of contrasting materials, finishes or colourings from the principal building.

(d) Ventilation, exhaust systems, motors and other similar plant shall be suitably screened where located on the exterior of the building.

(e) The following materials are not suitable for use on any elevation facing a street, residential dwelling, or where visible from public place such as a park or reserve, unless suitable screening or landscaping can be applied:

- Ø un-rendered and uncoloured brick or concrete block.
- Ø uncoloured corrugated iron, cliplock or any other similar metal.

(9) Articulation zone

The Articulation Zone is an area 1.5 metres forward of the building line within which entry features may be located. The relaxation of the building line allows for additional building elements to provide interesting and decorative elements to improve design and 'break up' possible bland facades.

The articulation zone may include the following:

(a) An area of 15m^2, or two-thirds the width of the façade, whichever is greater, is permitted within the articulation zone. No part of any building or structure may be erected within 4.5 metres of any road frontage.

(b) The finished material within the articulation zone should be contrasting and stand out from the rest of the building

(c) An articulation zone element may not exceed 4 metres in height above the lower floor level of the development.

(d) The front façade and articulation zone must incorporate at least one window being a minimum 4m^2 and a door (other than a roller door).

(10) Open Storage and Work Areas

Open storage areas for unsightly material are to be avoided. Use landscaping to screen unsightly matter.

Open work areas may be unsuitable for any activity likely to generate dust, noise or odours.

If Open storage or work areas are proposed, full details of the materials stored and work practices in the area are to be provided. Such areas to be located at the rear of buildings, screened from view, and may be required to be set back from boundaries.

(11) No area for work or storage purposes is permitted within front building line setbacks.

Landscaping

(12) Landscaping allows for the development to be softened and contributes to streetscape amenity. Landscaping should be concentrated at the front of the premises although may be required where it adjoins non-industrial land uses and roads.

A Landscaping plan shall be submitted providing the following minimum requirements:

- A minimum 1.0 metre deep landscaping strip at the front building line setback area and wherever screening is required. This strip should be located forward of any on-site car parking that may be located in the front building line setback.
- Landscaping areas are required to be located within an edged garden bed.
- Species should be selected for their relatively fast growth, low water demand, and easy maintenance characteristics.
- Avoid landscaping that obscures natural surveillance.
- Landscaping is to be protected from vehicle damage and is to be maintained throughout the duration of the development.

Refer to Chapter I-5 for further details on landscaping.

Fencing

(13) Careful consideration of materials and the style of fencing is essential to ensure Industrial areas present an attractive streetscape. Aim for low heights and open styles forward of the main building.

Chain wire or mesh fencing forward of the front building line is to be avoided unless security is an issue at the site.

The style and height of the fence behind the front building line must be compatible with the surrounding area. Sites adjoining public spaces or residential areas should be of a compatible style.

Razor wire or other similar styles will require justification.

Acoustic fencing and or other treatments may be required for noise generating development adjacent to sensitive receivers.

C.3 Crime Prevention

Objectives

(1) To reference Crime Prevention Through Environmental Design principles.

Controls

(1) Crime Prevention Through Environmental Design (CPTED) principals are outlined within section I-10 of this DCP.

(2) Safe design features include: Having clearly defined public/private spaces, good natural surveillance by incorporating open windows or doors where people are working, avoiding steps in the building which create hiding and entrapment areas and adequate security.

C.4 Signage

(1) Some Business Identification Signage may be undertaken as Exempt Development in accordance with *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Chapter F provides further information on signage.

C5. Functionality of Industrial Development

Objectives

(1) To ensure sufficient car parking is provided on-site to satisfy the likely peak parking demands of the development.

(2) To create an attractive streetscape.

(3) To ensure facilities are provided within an industrial development for the loading and unloading of goods.

(4) To ensure adequate provision is made for connection of sewage, water and stormwater.

Controls

Vehicular Access and Loading Facilities

(1) Vehicular access shall be:

(a) to a standard determined by Council's Engineering section,

(b) generally in accordance with Council's Vehicular Accessway Policy, the *Northern Rivers Development and Design Manual*, and Australian Standards (AS2890).

Generally the following standards will apply:

- Provision is to be made for a minimum six (6) metre wide heavy duty driveway.
- All loading and unloading shall be located wholly within the property.
- Council will assess the need for pavement widening or re-alignment in some instances.

On-Site Carparking

(2) Car parking shall be required in accordance with Table C-6 and Chapter I-4.

Refer to Chapter I-4 for a number of exceptions to the required car parking provisions.

Car parking will be permitted forward of front building line setback of the primary frontage, provided there is a minimum 1 metre wide landscaping strip provided between the parking area and the road frontage.

Car parking spaces are to be designed in accordance with AS2890.

An accessible space with compliant travel paths to the principal entrance is to be provided.

Stormwater & Sewage

(3) All stormwater is to be directed to Council's stormwater drainage system or to an interallotment drainage easement via an approved method.

Surface water must not be directed onto adjoining properties.

Water Sensitive Urban Design principles shall apply, refer to Chapter I- 9 for details.

(4) Erosion and Sediment Control measures are to be provided.

(5) All greywater and toilets are required to be connected to sewer infrastructure.

Table C-6 Minimum On-site Car Parking Requirements for Industrial Development (see Chapter I-4 for further development types)

Land Use	Parking Rate*
Industrial Development	
Vehicle repair stations	4 per hoist & workbay
Body Repair Stations	2 per hoist & workbay
General (Light) Industry	1 per 50 m^2 of GFA
Bulky goods premises Warehouse or distribution centre	1 per 300 m^2 of GFA
Waste or Resource Management Facility	1 per employee
Storage Sheds	Adequate manoeuvring areas (trailer and vehicles) with isles wide enough for 2 vehicles to pass safely
Depot Truck Depot Transport Deport	Sufficient off-street employee and visitor parking to satisfy peak demand, plus 1 truck space for each vehicle present at the time of peak vehicle accumulation.
Rural Industries	1 per 50 m^2 of GFA

Notes.

- Car Parking requirements for other uses shall be determined based upon considering it as a comparable use to those listed, or to be determined on merit.
- In all instances a merit consideration may override the rate listed based upon exceptional circumstance and thorough justification.
- GFA = Gross Floor Area
- DOM = Determine on Merit
- Reference to the number of employees is reference to the peak number of employees on duty at any one time.

Waste

(6) Details of the types of waste to be generated by a development are to be provided along with the proposed management practices.

(7) Industries generating liquid trade waste will require an approval under S68 of the *Local Government Act 1993* before they will be permitted to discharge to sewer. Reference should be made to Councils Policy *Discharge of Liquid Trade Waste to the Sewerage System*.

Chemicals and Dangerous Goods

(8) Developments involving the use or storage of fuels, oils and chemicals are required to have a storage area located above the 1 in 100 year event or an approved plan of management.

(9) Developments having larger quantities of Hazardous Materials will require an assessment be undertaken in accordance with *State Environmental Planning Policy No 33 – Hazardous and Offensive Development*.

Impacts on Infrastructure Services

(10) Consideration of the location and design of existing services shall be given and include:

- Electricity and telecommunications,
- Water, sewer and stormwater,
- Zone of influence impacts on underground infrastructure.

Earthworks and Retaining Walls

(11) Retaining walls adjoining Public Land, including roads, shall be of masonry construction.

Retaining walls in excess of 600 mm in height, or within 900 mm of a property boundary, will require engineering certification.

(12) Only fill containing virgin excavated natural material (VENM), as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, may be imported to the site.

(13) Acid Sulfate Soil may be present on some sites and further investigation may be required. See Chapter H-3 for further details.

C-6. Additional Notes and Provisions

Industrial Retail Outlets

(1) Clause 5.4 of the LEP provides for miscellaneous permissible uses with subsection (4) permitting retailing of goods produced on the premises. Consent may be granted for a retail component not exceeding 20% of the combined gross floor area of the premises.

Hazards

(2) Hazards may need to be considered in some areas for Industrial Development, refer to Section H for further details relating to:

- Flooding – Council can provide flood information including:
  - Design Flood levels
  - Minimum floor levels
  - Flood Hazard categories
  - Velocity and direction of flows
- Acid Sulfate Soils (ASS)
- Contaminated Lands

Part D.
Rural Land Uses

This DCP applies to all land within the Richmond Valley Local Government Area.

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22 December 2015

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4 January 2016

Amendments:
Nil

This Part primarily contains standards, requirements and considerations for development relating to rural land use types. It should be noted that not all rural land uses are covered by this Part and many maybe addressed in other Parts of this DCP. For example, dwellings in rural areas would be addressed in Part A, or Animal Boarding or Training Establishments are addressed in Chapter I-6.

Chapters contained within this Part are:

Chapter		Page No. in this Part
Part D-1.	Roadside Stalls	5
Part D-2.	Kiosks (as General Stores)	11
Part D-3.	Intensive Livestock Agriculture	15

Rural land uses cover a large range of land use types and activities including agriculture, rural industries, forestry, animal boarding or training establishments, Tourist and visitor accommodation, dwelling houses & dual occupancies, rural workers' accommodation, roadside stalls, kiosks and so on. Further examples can be seen in Figure D.1.

It is not the intent of this Part to capture all rural land uses but instead to concentrate on those warranting additional detail or explanation.

Agriculture is the main term associated with rural lands and consists of a vast range of primary production activities for the commercial production of food and fibre. Likewise, reference to rural development (other than agriculture) is equally vast.

The type of Rural development covered in this Part include:

- roadside stalls,
- kiosks (the new term covering general stores), and
- Intensive Livestock Agriculture (previously known as animal establishments, or intensive animal establishments).

Other rural land uses or activities that are addressed elsewhere in this DCP are as follows:

- rural subdivision—Part G Subdivision,
- dwelling houses, dual occupancies, rural workers' dwellings—Part A Residential Accommodation
- farm stay accommodation, eco-tourist facilities, caravan parks and camping grounds—Part E Visitor Accommodation, Caravan Parks and Camping Grounds
- caravan parks, camping grounds—Part E Manufactured Home Estates, Caravan Parks and Manufactured Home Estates
- Animal boarding or training establishments, and non-commercial animal boarding or training establishments—Chapter I-9 Animal Boarding and Training Establishments.

Information on standards and considerations presented within this Part are not exhaustive. Additional information may be required to address issues under section 79C of the EP&A Act.

It is recommended that preliminary discussions take place at an early planning stage for such developments to identify any specific issues needing consideration.

Undefined Land use terms

The Group term for agriculture, see structure of term in figure D.1, has scope to incorporation land uses that have not yet been specifically defined by the Standard Instrument LEP. Such land uses adopt the permissibility of the "parent" term, in this case Agriculture. The same can be said of other rural activities.

This DCP does not contain specific Chapters covering such undefined terms. As the case may be, the DCP provisions for a closely representative term may be used where applicable. Applicants will be required to undertake formal pre-lodgement consultation with Council under these circumstances. Council reserves the right to provide written guidelines or instructions to an applicant regarding such applications.

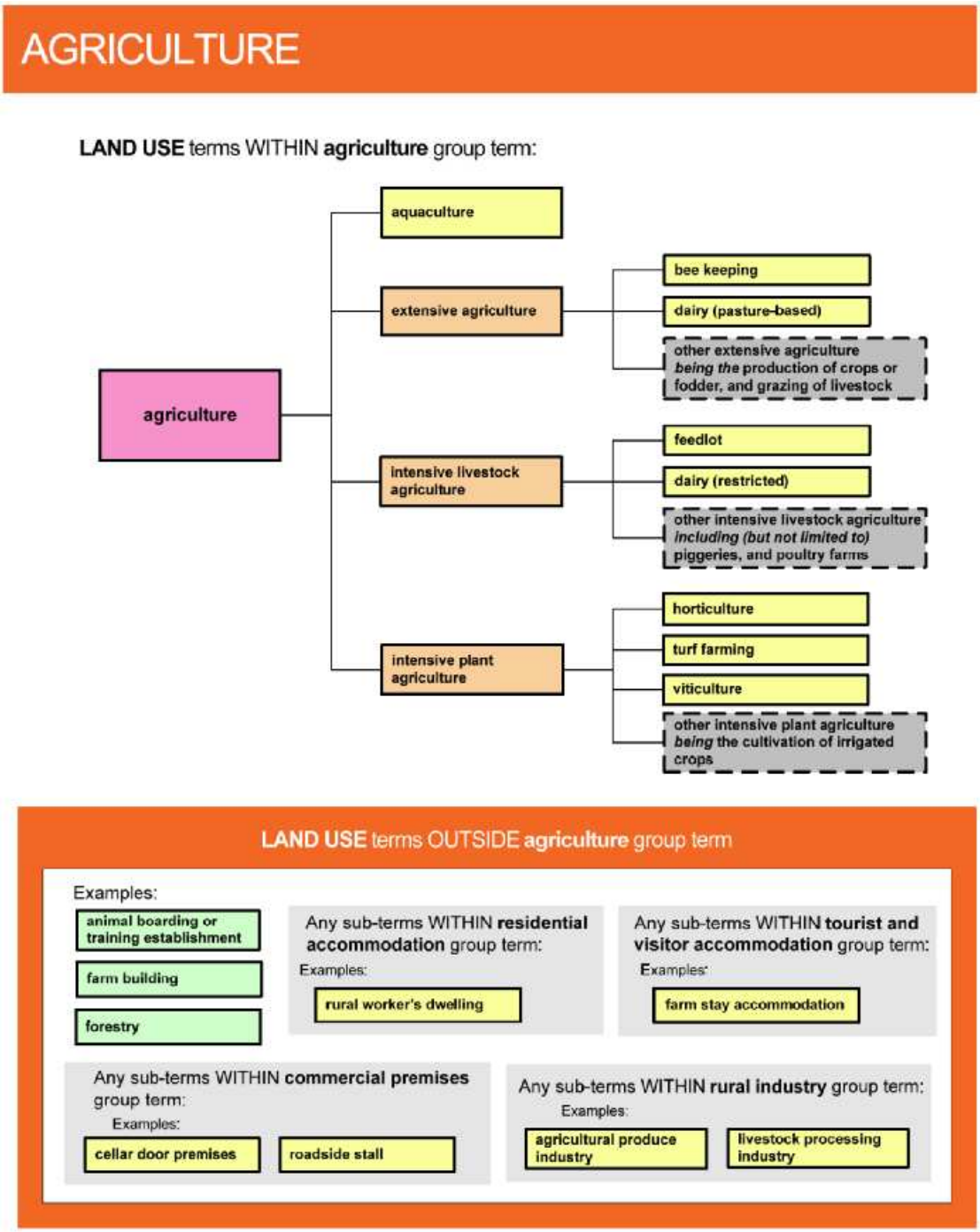

Figure D.1 General relationships between land-use terms in the Standard Instrument LEP (Source Dept of Planning Practice Note PN11-004)

Part D-1. Roadside Stalls

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Amendments:
Nil

Roadside Stalls can provide legitimate means of distributing locally produced goods to consumers within localities and to people who commute through rural areas. In addition, Roadside Stalls greatly minimise distribution energy costs as they negate the need to transport produce to a point of sale as they are sold close to property where it was grown or produced.

Roadside stalls and Roadside Vending

There is a very important distinction between 'Roadside Stalls' which are situated entirely within a private property, and 'Roadside Traders' or 'Roadside Vendors' which are situated and attended entirely within a public road.

This Chapter relates to the development consent requirements for 'Roadside Stalls'.

'Roadside Vendors' do not require development consent as they are itinerant users and require Council approval under section 68 of the *Local Government Act 1993*. If works are required a section 138 approval may be required under the *Roads Act 1993*. These approvals are not covered by this DCP. A Roadside Trading Application Form may be sourced from Council and may require a lease agreement to be drawn up between Council and the applicant, payment of annual fees, and submission of certificates of currency for public liability insurance.

A combination of 'Roadside Stall' and 'Roadside Trading' may also be proposed where circumstantial limitations arise and the activity might require the use of both private land and a public road.

D-1.1 General Objectives

The general objectives of this Chapter are to:

(1) provide for the sale of local grown and/or manufactured produce in appropriate rural locations on private land throughout the Local Government Area, as subject to development consent.

(2) promote locally grown production of food.

(3) encourage smaller scale agricultural pursuits which are more manageable for the rural landowner and more likely to be profitable and rewarding due to reduced production overheads.

(4) provide adequate design considerations to avoid unacceptable adverse impact upon amenity of the surrounding locality (Noise, traffic etc) and any endangerment to local road users.

D-1.2 Planning Requirements

Objectives

(1) to summarise LEP provisions relating to Roadside Stalls.

Controls

(1) The dictionary to the *Richmond Valley Local Environmental Plan 2012* defines-

Roadside stalls as means a place or temporary structure used for the retail sale of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

Note. See clause 5.4 for controls relating to the gross floor area of roadside stalls.

Roadside stalls are a type of retail premises—see the definition of that term in this Dictionary.

(2) Land use Permissibility

Roadside stalls are permissible with development consent in the following Land Zones under the LEP:

- RU1 Primary Production
- R5 Large Lot Residential
- E3 Environmental Management
- B2 Local Centre
- B3 Commercial Core

(3) Additional LEP Controls

(a) Clause 5.4(8) of the LEP applies additional controls for Roadside Stalls restricting such developments to an area no more than $10m^2$. This provides an opportunity to establish a small stall of approximately 2x5 metres.

(b) Council considers the $10m^2$ only applies to the stall's display area and allowance will be made for additional awnings to be attached to the stall for weather protection.

D-1.3 Development Application Requirements

Objectives

(1) to describe the information that should be included in a Statement of Environmental Effects, including site selection criteria, to support a development application for a Roadside Stall.

(2) outline assessment criteria and procedures for development applications to operate roadside stalls.

(3) identify conditions of consent that should ensure the roadside stall can be operated in a safe manner.

Controls

(1) Retailing is prohibited in rural zones, however, special considerations are in place to permit Roadside stalls with development consent.

(2) Consent may be granted for roadside stalls within Zones RU1, R5 or E3 where it can be demonstrated that it will not adversely impact upon the amenity, access and safety of the local area and commuters.

(3) Development application for a Roadside Stall

Development application for a Roadside Stall should include the following:

- Show accurately on a plan where components of the stall are to be sited. Include a scale and location of all residences on adjoining land that are within 250 metres of the proposed stall.
- The reason for the establishment of the Roadside Stall.
- A description of produce intended for sale at the Roadside Stall.
- Show clearly where access to the property is proposed detailing adequate manoeuvring area(s) to ensure visiting vehicles enter and exit the property in a forward motion. Car parking wholly within the property for a minimum of three vehicles should also be provided.
- Entrance/exit-way(s) to the local road network must be constructed to Council specification and provide suitable line-of-sight distance for exiting vehicles. As a guide, around 150 metres is required to safely de-accelerate and pull off the road in a 100 km/h speed zone. In all instances, Council reserves the right to determine whether the placement and access to a stall is suitable and safe. All works required to be undertaken must be financed by the owner of the property or proponent of the Roadside Stall, including any works proposed on the road reserve verge.
- The physical construction and display area of the Roadside Stall shall have a gross floor area not exceeding $10m^2$ (in accordance with clause 5.4(8) of the LEP) and a height not exceeding 2.4 metres.
- The Statement of Environmental Effects (SEE) accompanying the application is required to designate hours of operation for the Roadside Stall as well as any operational detail which will constitute a Management Plan for the stall operation. In addition, the management plan shall detail the source and nature of produce on sale, with reference to the permissible produce list provided below.

- If the proposal will require the construction of a stall, design specifications shall be provided to demonstrate structural stability to the satisfaction of Council. Roadside Stalls are required to be small-scale semi permanent structures which may easily be dismantled if abandoned or removed upon expiry of the consent period.
- Display or storage of food items must be a minimum of 700 mm above the floor or ground level and must preclude dust, vermin, pests and animals to the satisfaction of Council.

(4) Site Suitability

The suitability of the site for the purpose of accommodating a Roadside Stall will be assessed during the application process. Particular attention should be paid, but will not necessarily be limited to, satisfactorily addressing the following requirements:

- Line-of-sight distance – turnout(s) from the stall must provide adequate vision for drivers of vehicles exiting the property,
- Car-parking must be provided wholly within the property for a minimum of three (3) vehicles,
- Maintaining road safety is paramount and signage can distract and be extremely hazardous to drivers. Therefore, temporary signage for the stall will not be permitted to be erected by the proponent within or along the road. All other signage will be determined on merit, however, Council may deem it to be in the interest of safety that only signs warning the approach of a stall are appropriate.
- Additional works may be required to be undertaken within the Council road reserve to ensure the safety of all road users and may be required solely at the discretion of Council. Works within the road reserve will require additional approval in accordance with section 138 of the *Roads Act 1993*.

(5) Each development application will be considered and decided on its individual merits and is subject to all other requirements with other State & Council policies and those found elsewhere within this DCP. Depending on the nature of produce for retail, there may be additional health requirements concerning food preparation, handling and labelling of produce.

(6) Concurrence of State roads authority may be required

Roadside Stalls fronting a Classified Road and that will involve direct vehicular access to, or within 90 metres of, that Classified Road, will require concurrence from the State roads authority. It is recommended that discussions are held with Council and the State roads authority early in the planning process.

(7) Conditions, Management Plan & Operation of the Roadside Stall

(a) Limited Consent

Any approval granted will be restricted to an operating period of 5 years after which this period may be extended upon application for a further period of 5 years as an amendment to the original consent. The granting of a limited consent facilitates the possible need for Council to review any changes or impacts the stall might have made on local traffic, and have regard to any possible road redesigns. A review also

allows for a review of the management plan and operational compliance of the Roadside Stall.

Extension of the consent period will require lodgement of a section 96 Application to Vary a Development Consent.

(b) Standard Conditions

The following conditions of consent (or similar wording) shall be applied to any consent granted for a roadside stall:

- Only offer for sale at the stall:
  - Fruit, vegetables and other produce grown or made on the property or from adjoining properties.
  - Cut fruit and vegetables grown on the property and manufactured food items, will be subject to health and hygiene requirements.
- One simply worded sign (i.e. 'Fruit Stall'), located at the entrance to the stall will be permitted as per 'business identification signage' (or otherwise as per merit consideration and condition of consent).
- Entry/exit points to the development must be in accordance with Council requirements, with vehicle manoeuvring to enable vehicles to enter and exit the property in forward manner.
- Any chemical treatment of food items shall be disclosed alongside the sale price of the item, including treatment during the growing of the fruit, nut or vegetable as well as any treatment following harvest. Any bottled preserves shall identify ingredients as per health requirements and perishables will require refrigeration.
- Adherence to the hours of operation and management plan specified within the application and the accompanying Statement of Environmental Effects (SEE).

Part D-2. Kiosks (as General Stores)

Kiosks are a type of small scale retail premises selling food, light refreshments and convenience goods.

The Standard Instrument LEP no longer defines a land use term for 'General Store' therefore the term 'Kiosk' has been recommended by the Department of Planning as the substitute.

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

D-2.1 General Objectives

The general objectives of this Chapter are to:

(1) provide for small scale retail premises that can service the local community.

(2) ensure the premises are of a scale that is in keeping with the character of the locality.

D-2.2 Planning Requirements

Objectives

(1) to summarise LEP provisions relating to Kiosks in rural areas.

Controls

(1) The dictionary to the *Richmond Valley Local Environmental Plan 2012* defines-

kiosk means premises that are used for the purposes of selling, food, light refreshments and other small convenience items such as newspapers, films and the like.

Note. See clause 5.4 for controls relating to the gross floor area of a kiosk.

Kiosks are a type of retail premises—see the definition of that term in the Dictionary to the LEP.

(2) Land use Permissibility

Kiosks are permissible with development consent in the following Land Zones under the LEP:

- RU1 Primary Production
- RU5 Village (as part of the group term Commercial Premises)
- R1 General Residential (as part of the group term Commercial Premises)
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- RE1 Public Recreation
- RE2 Private Recreation
- E3 Environmental Management

, however, this Chapter only relates to Kiosks in Rural zones.

(3) Additional LEP Controls

(a) Clause 5.4(6) of the LEP applies additional controls for Kiosks restricting such developments to an area no more than 150 m^2 of gross floor area.

D-2.3 Development Application Requirements

Objectives

(1) to describe the information that should be included in a Statement of Environmental Effects, including site selection criteria, to support a development application for a Kiosk.

(2) outline assessment criteria and procedures for development applications to operate Kiosk.

(3) identify conditions of consent that should ensure the Kiosk can be operated in a safe manner.

Controls

(1) Retailing and other commercial premises are prohibited in rural zones, , however, special considerations are in place to permit Kiosks with development consent.

(2) kiosks are permitted with development consent where it can be demonstrated that it will not adversely impact upon the amenity, access and safety of the local area.

(3) Development application for a Kiosk

An application for a kiosk should include the following information:

- Show accurately on a plan where components of the Kiosk are to be sited. Include a scale and location of all residences on adjoining land that are within 250 metres of the proposed stall.
- A description of the types of products and services intended to be sold or provided at the premises.
- Show clearly where access to the property is proposed detailing adequate manoeuvring area(s) to ensure visiting vehicles enter and exit the property in a forward motion. Car parking wholly within the property with a minimum of 1 car parking space per 40 m^2 of gross floor area.
- Kiosks in rural areas should be operated in conjunction with a dwelling house on the same land.
- Entrance/exit-way(s) to the local road network must be constructed to Council specification and provide suitable line-of-sight distance for exiting vehicles. As a guide, around 150 metres is required to safely de-accelerate and pull off the road in a 100km an hour speed zone. In all instances, Council reserves the right to determine whether the placement and access to a Kiosk is suitable and safe. All works required to be undertaken must be financed by the owner of the property or proponent of the kiosk, including any works proposed on the road reserve verge.
- The physical construction and display area of the kiosk shall have a gross floor area not exceeding 150 m^2 (in accordance with clause 5.4(6) of the LEP).
- The Statement of Environmental Effects (SEE) accompanying the application is required to designate hours of operation for the kiosk.

- If the proposal will require the construction of a stall, design specifications shall be provided to demonstrate structural stability to the satisfaction of Council. Roadside Stalls are required to be small-scale semi permanent structures which may easily be dismantled if abandoned or removed upon expiry of the consent period.

(4) Site Suitability

The suitability of the site for the purpose of accommodating a kiosk will be assessed during the application process. Particular attention should be paid, but will not necessarily be limited to, satisfactorily addressing the following requirements:

- Line-of-sight distance – turnout(s) from the kiosk must provide adequate vision for drivers of vehicles exiting the property.
- Car-parking must be provided wholly within the property.
- Maintaining road safety is paramount and signage can distract and be extremely hazardous to drivers. Signage for the premises will not be permitted to be erected by the proponent within or along the road reserve. All other signage will be determined on merit, however, Council may deem it to be in the interest of safety that only signs warning the approach of a Kiosk are appropriate.
- Additional works may be required to be undertaken within the Council road reserve to ensure the safety of all road users and may be required solely at the discretion of Council. Works within the road reserve will require additional approval in accordance with section 138 of the *Roads Act 1993*.

(5) Each development application will be considered and decided on its individual merits and is subject to all other requirements with other State & Council policies and those found elsewhere within this DCP. Depending on the nature of produce for retail, there may be additional health requirements concerning food preparation, handling and labelling of produce.

(6) Concurrence of State roads authority may be required

Kiosks fronting a Classified Road and that will involve direct vehicular access to, or within 90 metres of, that Classified Road, will require concurrence from the State Roads authority. It is recommended that discussions are held with Council and the State Roads authority early in the planning process.

Part D-3. Intensive Livestock Agriculture

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Intensive Livestock Agriculture is permissible in areas designated by the following zones:

- RU1 Primary Production
- IN1 General Industry

Such development is prohibited in all other zones.

By definition, *Intensive Livestock Agriculture* is for the keeping or breeding of livestock, for commercial purposes, where they are wholly or substantially fed by a supplementary feed source. However, it explicitly excludes extensive agriculture (primarily pasture based grazing of livestock) and aquaculture (see SEPP62 – Sustainable Aquaculture for details).

D-3.1 General Objectives

The general objectives of this Chapter are to:

(1) define what is considered to be Intensive Livestock Agriculture for the purposes of the *Richmond Valley LEP 2012*.

(2) determining the maximum number of animals that may be kept before an establishment is considered to be commercial in nature and therefore Intensive Livestock Agriculture.

(3) guide what information will be required to support an application for Intensive Livestock Agriculture.

(4) provide controls to protect rural amenity.

(5) provide adequate design considerations to avoid unacceptable adverse impacts to a locality.

D-3.2 What is Intensive Livestock Agriculture?

Objectives

(1) define *Intensive Livestock Agriculture* in the context of the *Richmond Valley LEP 2012.*

(2) establish what is considered to be Intensive.

Controls

(1) The Richmond Valley LEP 2012 is a Standard Instrument LEP. The dictionary to the Standard Instrument LEP defines:

Intensive Livestock Agriculture means the keeping or breeding, for commercail pruposes, of cattle, poultry, pigs, goats, hourses or other livestock that are fed wholly or substantially on externally-sourced fee, and includes any of the following:

(a) dairies (restricted),

(b) feedlots,

(c) piggeries,

(d) poultry farms,

but does not include extensive agriculture, aquaculture or the operation of facilities for drought or similar emergency relief.

Note. Intensive livestock agriculture is a type of ***agriculture***—see the definition of that term in the Dictionary to the LEP.

(2) Intensive Livestock Agriculture is prohibited in all zones except:

- RU1 Primary Production
- IN1 General Industry

(3) Development consent is required to operate an Intensive Livestock Agriculture.

(4) What does intensive mean?

For the purposes of this Chapter, intensive is where the population density of livestock kept on the land, or within premises, will exceed the general carrying capacity of the land, and necessitates supplementary feeding. This supplementary feed may be sourced from elsewhere on the property, or from external sources.

D-3.3 Development Application requirements

Objectives

(1) to assist with the presentation of information to accompany a development application.

Controls

(1) The keeping of agricultural livestock at concentrated populations will warrant the lodgement of a development application.

(2) Council may consider on merit whether a population is considered too small to be commercial. Notwithstanding, the following guide is provided:

- § yards or buildings that can accommodate more than ten (10) cattle, and where the animals have access to pasture based grazing for less than 10 hours in a 24 hour period,
- § piggery (including free range) containing more than five (5) breeding sows,
- § poultry farm (including free range) containing more than twenty (20) birds,
- § rabbit farm consisting of over twenty rabbits (20).

(3) Areas where Intensive Livestock Agriculture is unlikely to be supported-

- Ø Proximity to established residential, rural residential developments and to future residential or rural residential developments as delineated within Urban or Rural Land Use Strategies prepared for Richmond Valley.
- Ø Proximity to either approved, established and operating forms of intensive livestock agriculture or animal boarding and training establishments.
- Ø In addition, Council cannot support the establishment of Intensive Animal Establishments where cumulative developments may present an increased amenity risk. The establishment of intensive livestock agriculture adjoining or close to sites will be considered and ultimately determined on a merit basis with the onus strongly on the applicant to demonstrate through detailed analysis why additional establishments will not be a risk.
- Ø Intensive Poultry sheds will not be supported where they are:
  - (i) within 1.5 kilometres from any existing poultry establishment, or
  - (ii) within 500 metres of areas identified within Land Release Strategies, or
  - (iii) if the road access is unsealed.

(4) Development Application Requirements

A Development Application for an Intensive Animal Establishment must include but not necessarily be limited to the following detail within a comprehensive Statement of Environmental Effects:

(a) **Odour -** Odour Modelling Report prepared by a suitably qualified person which outlines the extent of impacts of any odours both from the proposed land use and any cumulative impacts due to any existing land uses which may already emit offensive odours. Such report is to be prepared with regard for likely climatic and prevailing conditions. The Odour Report is also to submit operational procedures to further mitigation any impacts and to identify the extent of reduction based upon these practices.

(b) **Noise** - A Noise Impact Report prepared by a suitably qualified person which outlines the extent of impacts of noise from the proposed use including the full extent and activities to be operating on site and also the activities associated with the proposal including the type and numbers of traffic which will be generated by the land use. The Report is also to make recommendations for the mitigation of any noise impacts and is to identify the extent of noise reduction as a result of these measures being implemented. *Section I-7 – Noise Impact Assessment* (NIA) provides additional detail as to what is required for the preparation of a detailed application involving NIA.

(c) **Traffic and Road Haulage** - A Traffic Report is required to be submitted and must be prepared by a suitably qualified person, detailing, but not necessarily limited to:

- the types and numbers of traffic to be generated by the proposal;
- details of the existing condition, widths, depths of pavement and its suitability or otherwise for the carriage of transport to be associated with the land use;
- proposed upgrading to be undertaken by the applicant including location(s) of width or depth of pavement, sealing of pavement and extension of stormwater pipes or culverts along the route(s).
- Detailed plans showing where access to the property is proposed and adequate manoeuvring area(s) are provided to ensure visiting vehicles enter and exit the property in a forward motion. Car parking is to be provided wholly within the property for a minimum of three vehicles, however more may be required based upon detail supplied as to staffing numbers and operational procedures.

(d) **Access** - Entrance/exit-way(s) to the local road network must be constructed to Council specification and provide suitable line-of-sight distance for exiting vehicles. As a guide, around 150 metres is required to safely de-accelerate and pull off the road in a 100km an hour speed zone. In all instances, Council reserves the right to determine whether the placement and access is suitable and safe. All works required to be undertaken must be financed by the owner of the property or proponent of the development, including any works proposed on the road reserve verge.

(e) **Statement of Environmental Effects** - The Statement of Environmental Effects (SEE) accompanying the application is required to describe in detail all aspects of the operation of the establishment which may then be transcribed into a Management Plan for the land use.

(f) **Environmental Management Plan** - An Environmental Management Plan shall be prepared for the operation of the animal establishment detailing, but not necessarily limited to the following matters:

- Treatment and disposal of litter and effluent;
- Odour Management;
- Noise Management;
- Biosecurity measures for the control and quarantine of exotic, endemic or emergency diseases;
- Disposal of dead animals;
- Food Storage and Vermin control;
- Erosion control measures;
- Water and Drainage management;
- Chemicals and Fuel storage;
- Complaints register;
- Guidelines for the Operation, e.g. NSW Meat Chicken Farming Guidelines (NSW);
- Water storage and harvesting methods; and
- Dust and air-borne particulate matter management.

(g) **On-Site Sewage Management** - The preparation and review of On-Site Sewage Effluent Disposal for these forms of land use is to be undertaken in accordance with Council's On-Site Sewage and Wastewater Strategy and associated guidelines. Further effluent treatment methods and devices may be required for solids disposal and it is recommended pre-lodgement discussions be held with Council to confirm the treatment level and technique.

(h) **Land Use Conflict Risk Assessment (LUCRA)** - A LUCRA component to provide a site specific conflict risk assessment relevant to the location and sensitivity of adjacent, adjoining and nearby landuses to ultimately determine the feasibility of the establishment in the location proposed and any required management response to potential conflicts. Section I-11 addresses the requirements of a LUCRA in detail and should be referenced comprehensively for this component of the application.

(5) Public Exhibition and Consultation

The Public Exhibition and any required consultation shall be conducted in accordance with DCP *Section I-15 – Notification and Advertising of Development* and generally requires a minimum 14 day exhibition period.

(6) Site Suitability

The suitability of the site for the purpose of accommodating an Animal Establishment will be assessed during the application process. Particular

attention should be made, but not limited to, the following site suitability specifications so as to minimise poor site choices and wasted resources.

(a) **Large and isolated rural allotment** so as to provide ample distance between sensitive receivers in respect to noise, odour and biohazard 'buffer' requirements.

(b) **Adequate access** so as to provide ample entry turnout and line-of-sight distance relevant to the intended vehicular type and numbers proposed for the use of the property. The local road network from the larger arterial roads must be of a suitable width, grade and condition to be able to adequately support the intended establishment. The proponent may be required to upgrade the road (and any associated works) to a condition suitable and/or pay contributions for use of the local road network based upon the assessment of Council.

(c) **Relatively Flood and Bushfire Free**.

(d) **Relatively free of other Environmental Constraints** – in particular those indicated within a Natural Resource Sensitivity map and associated provisions (see *Section H-4 – Natural Resource Sensitivity* for further detail and requirements).

Part E.
Visitor Accommodation, Caravan Parks and Manufactured Home Estates

This DCP applies to all land within the Richmond Valley Local Government Area.

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22 December 2015

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4 January 2016

Amendments:
Nil

This Part primarily contains standards, requirements and considerations for development relating to tourism, short-stay or temporary accommodation within the Richmond Valley Council area. However, it also incorporates additional land uses for caravan parks, camping grounds and manufactured home estates which may also provide for permanent accommodation.

Each of the Chapters listed below relates to development principles and standards specific for that land use type:

Chapter		Page No. in this Part
Part E-1.	Eco-tourist facilities	5
Part E-2.	Bed and Breakfast Accommodation	15
Part E-3.	Serviced Apartments	23
Part E-4.	Hotel and Motel Accommodation	31
Part E-5.	Backpacker's Accommodation	39
Part F-6.	Farm Stay Accommodation	49
Part E-7.	Manufactured Home Estates, Caravan Parks and Camping Grounds	55

This Part primarily covers the land use terms that together form the 'Group-term' *Tourist and visitor accommodation*, but it also includes other types of land uses involving short-stay accommodation such as *Eco-tourist Facilities*, *Manufactured Home Estates*, *Caravan Parks*, and *Camping Grounds*. This Part has been divided into Chapters with each chapter specifying different development standards and considerations. Each Chapter in turn contains major headings for introduction, objectives, development principles and development standards.

This Part and each Chapter does not contain an exhaustive inventory of standards or considerations. Additional information may be required to address issues under section 79C of the EP&A Act. It is recommended that preliminary discussions take place at an early planning stage for such developments to identify any specific issues needing consideration.

Undefined Land-use terms

The Group term for Tourist and visitor accommodation, see structure of term in figure E.1, has scope to incorporation land-uses that have not yet been specifically defined by the Standard Instrument LEP. Such land-uses adopt the permissibility of the "parent" term, in this case Tourist and visitor accommodation. This DCP may not contain a specific Chapter covering such undefined terms. As the case may be, the Chapter for a closely representative term may be used where applicable.

Applicants will be required to undertake formal pre-lodgement consultation with Council under these circumstances. Council reserves the right to provide written guidelines or instructions to an applicant regarding such applications.

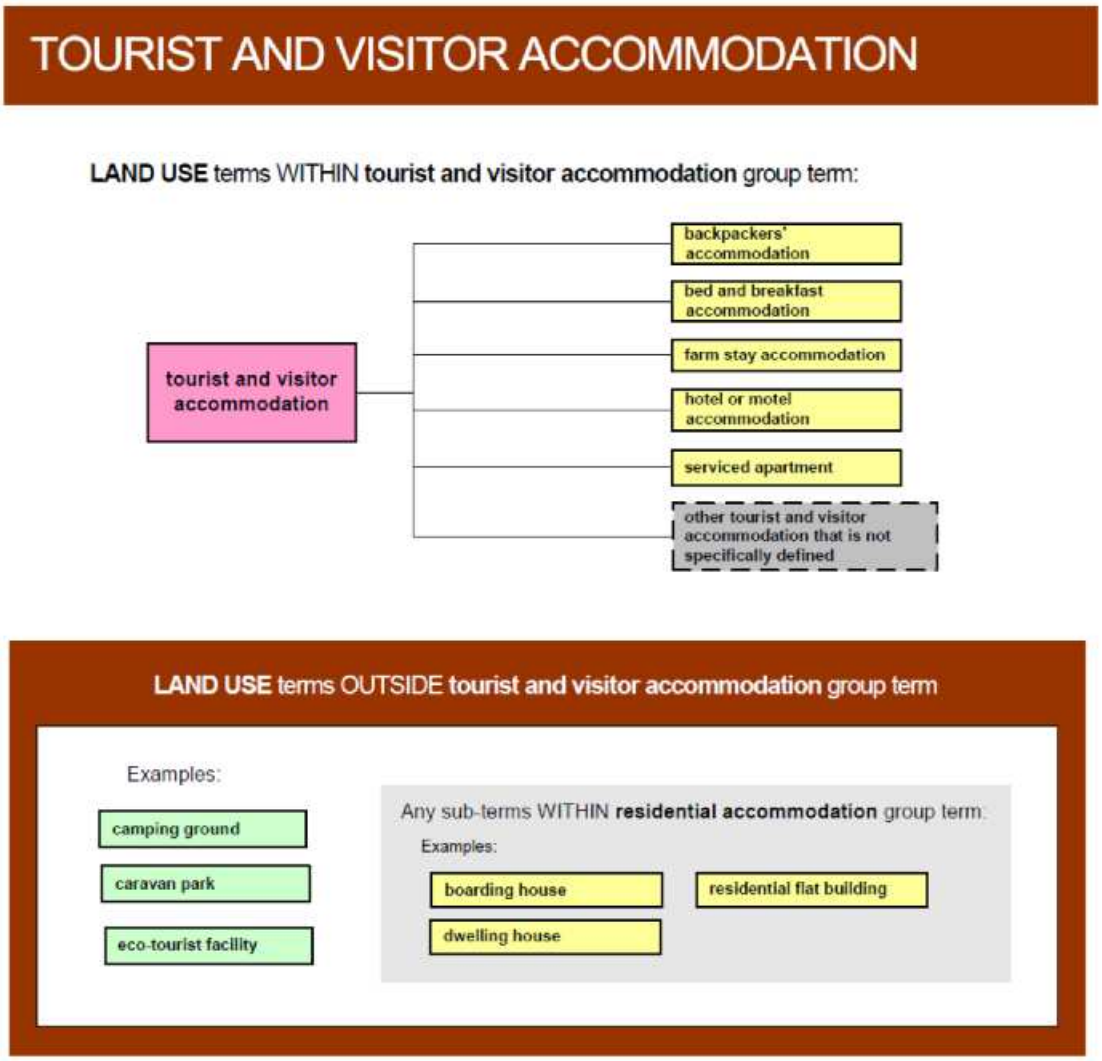

Figure E.1 General relationships between land use terms in the Standard Instrument LEP (Source Dept of Planning Practice Note PN11-004)

Summary of Land use Permissibilities

Development types captured within this Part have the following permissibilities under the *Richmond Valley Local Environmental Plan 2012*.

Table E.1 Land use Permissibilities under the *Richmond Valley LEP 2012*.

Land Zones		Defined Land-use Terms									
		Eco-tourist facilities	Tourist and visitor accommodation [1]	Bed and breakfast accommodation [2]	Backpackers' accommodation	Farm stay accommodation	Hotel and motel accommodation	Serviced apartments	Manufactured Home Estates	Caravan Parks	Camping Grounds
RU1	Primary Production	Y	X	Y	X	Y	X	X	Y [4]	Y	Y
RU5	Village	Y	Y	Y	Y	X	Y	Y	Y [4]	Y	Y [3]
R1	General Residential	X	Y	Y	Y	X	Y	Y	Y [4]	Y	Y [3]
R5	Large Lot Residential	X	X	Y	X	X	X	X	X	X	X
B1	Neighbourhood Centre	X	Y	X	X	X	Y	Y	Y [4]	Y	Y
B2	Local Centre	X	Y	Y	Y	Y	Y	Y	Y [4]	Y	Y
B3	Commercial Core	X	Y	Y	Y	X	Y	Y	Y [4]	Y	Y
RE1	Public Recreation	X	X	X	X	X	X	X	Y [4]	Y	Y [3]
RE2	Private Recreation	X	Y	X	Y	Y	Y	Y	Y [4]	Y	Y [3]
E3	Environmental Management	Y	X	Y	X	Y	X	X	X	X	Y

Notes. [1] This is a defined 'Group-term'.
[2] B&B Accom. may be undertaken as Complying Development under *Part 4A – General Development Code*, of the Exempt and Complying Development Codes SEPP, within a zone permitting B&Bs, and within an existing dwelling, but excludes Bushfire Prone Land. See the Codes SEPP for all development requirements and standards.
[3] Caravan Parks may include camping grounds.
[4] SEPP36 generally permits Manufactured Home Estates where ever Caravan Parks are permissible, although there are exceptions contained within Schedule 2 of SEPP36.

Integrated development

The *Rural Fires Act 1997* identifies "*Hotel, motel or other tourist accommodation*" as being "special fire protection purposes" and therefore requiring a section 100B bush fire safety authority, where located on bush fire prone land. EP&A Act identifies any development requiring a section 100B bush fire safety authority as

integrated development (s.91). Such applications get referred to the NSW Rural Fire Service for their general terms of approval.

To assist with processing Integrated Development Applications they must be accompanied with a Statement of Environmental Effects including a report demonstrating compliance with the *Planning for Bushfire Protection 2006* guidelines. Notwithstanding, special exceptions may apply to Bed and breakfast accommodation exempting them from requiring a Section 100B. See Chapter E-2 for further information.

Part E-1. Eco-tourist facilities

This DCP applies to all land within the Richmond Valley Local Government Area.

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22 December 2015

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4 January 2016

Amendments:
Nil

Eco-tourist facilities are defined within the *Richmond Valley LEP 2012* (the LEP) and relate to the establishment of short-term accommodation that has been sensitively designed to enhance and manage environmental or cultural values of the land. They should not be confused with the generic term "Eco-tourism" which relates holistically to nature based tourism, including accommodation.

The LEP defines Eco-tourist facilities as a stand alone term, outside the Group-term for Tourist and visitor accommodation. This has be done so that such development can be permitted within more sensitive environments.

Clause 5.13 Eco-tourist facilities within the LEP, along with the definition of *Eco-tourist facilities*, provide that such development be designed and located so as to minimise bulk, scale, overall physical footprint, as well as any ecological and visual impact.

This Chapter provides an explanation of the LEP provisions and establishes development assessment considerations as well as design standards.

The Department of Planning's guideline *Tourism Development Near Natural Areas* (1989) has been consulted in the preparation of this Chapter.

E-1.1 General Objectives

The general objectives of this Chapter are to:

(1) compliment the objectives for eco-tourist facilities as provided by the LEP

(2) promote developments that enhance rather than erode the values of adjacent natural areas

(3) assist potential developers and landowners in developing appropriate eco-tourist facility projects, taking into account location, scale, site, design, operations and feasibility, and

(4) provide guidelines for assessing applications.

E-1.2 Permissibility

(1) Richmond Valley Local Environmental Plan 2012

(a) Definitions and LEP Provisions

Eco-tourist facilities are defined within the Dictionary attached to the LEP. Critical to the definition is the accommodation must be temporary or short stay, that it be located on or adjacent to an area of special ecological or cultural features, and that it be sensitively designed for the environment hosting the development. Further development considerations are contained within *clause 5.13 Eco-tourist facilities* under the LEP.

The LEP definition and clause 5.13 are reproduced below.

Extract from *Richmond Valley Local Environmental Plan 2012*

Definition of Eco-tourist Facility

Eco-tourist facility means a building or place that:

(a) provides temporary or short-term accommodation to visitors on a commercial basis, and

(b) is located in or adjacent to an area with special ecological or cultural features, and

(c) is sensitively designed and located so as to minimise bulk, scale, and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

Note. See clause 5.13 for requirements in relation to the granting of development consent for eco-tourist facilities.

Eco-tourist facilities are not a type of ***tourist and visitor accommodation***—see the definition of that term in this dictionary.

Clause 5.13 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 Plan.

(3) The consent authority must not grant consent under this Plan 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 indigenous 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 indigenous 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.

(b) Land use Permissibilities

Eco-tourist facilities are permissible with development consent in the following Land Zones under the LEP:

- RU1 Primary Production
- RU5 Village
- E3 Environmental Management.

E-1.3 Issues for Eco-tourist facilities

(1) Conservation Issues

Conservation issues essentially relate to maintenance of environmental and cultural resources within the site and their protection for the long term. They include:

- maintenance of visual character and scenic values.
- maintenance of natural systems for their physical values and for the protection of ecology and biodiversity including rare and endangered species.
- maintenance of natural areas not reserved in the Parks system including SEPP14 Coastal Wetlands, and other “E” type environmental Land Zonings.
- protection of elements of particular ecological, scientific or visual significance.
- maintenance of recreation settings ranging from a wilderness area to a higher level of development facilities.
- the provision of information, education and interpretation facilities to increase public awareness of the environmental values of the area.

- maintenance of cultural heritage values, both Aboriginal and Non-Aboriginal.

(2) Development Issues

These issues relate to the encouragement of appropriate forms of development and balancing the levels of facilities, the intensity of development, and the nature of recreation use with the natural and cultural values of the site. It is important that such development:

- respect the natural character of the site and its surrounds.
- not detract from the natural and cultural values and include appropriate management to safeguard these values.
- provide a return to investors.
- result in direct and indirect economic benefits to the community.

(3) Planning Issues

The essential planning issues are centred on achieving environmentally sensitive development. The key concept underlying these issues is that of "environmentally sustainable development" which should provide benefits but not decrease the natural values or options available to future generations. They include:

- recognition of the characteristics of acceptable and unacceptable development.
- provide guidelines to assist in preparing appropriate development proposals that are likely to be supported by the consent authority.
- establish development parameters to encourage the concept of sustainability for adjacent natural and cultural areas, and sustainable use of natural resources.

E-1.4 Design standards/controls

(1) Location

- The definition of Eco-tourist facilities has a strong emphasis on being located within or adjacent to areas with special ecological or cultural features. These features need to be described with reference to the sites physical, ecological and cultural values and how they will be enhanced by the proposal.
- Development applications for Eco-tourist facilities within Zone RU5 Village must be accompanied by a Social Impact Assessment.
- Critical to this Social Impact Assessment will be an evaluation of potential impacts upon adjacent residential properties and the amenity of the neighbourhood.

(2) Environmental

- Site restoration works should be incorporated into the development so as to enhance the sites special ecological or cultural features.
- Buffering the Eco-tourist facilities to special ecological or cultural features will reduce potential impacts. For example, buildings should be sited within existing clearings.

- Minimise ecological impacts by:
  - reducing the scale of proposals.
  - incorporating the proposal into the environment.
  - clustering the development to reduce the need for multiple asset protection zones.
  - being serviced by a centralised On-site Sewage Management System.
  - Reducing the extent of internal access roads.
- Have regard to the Coastal SEPP and the NSW Coastal Policy in the design and siting of a development.
- Avoid prime agricultural land (State or Regionally significant farmland).

(3) Hours of Operation – Neighbour Friendly

- Facilities such as swimming pool operation and use to be restricted where there is potential to impact upon neighbours.
- Management will be responsible for inappropriate behaviour of guests in public places surrounding the establishment.

(4) Access

- Most visitors to the Area will be travelling by private car. Therefore, the land must be serviced by a road of appropriate standard or upgraded (as a condition of consent) to such a standard. Furthermore, internal access must be appropriate so as to facilitate arrival but also safe evacuation in emergencies. Where a road or internal access is to be upgraded or provided new, the impact of construction and operation must be considered.
- Site access onto a public road must be safe for guests as well as the travelling public. Consideration will be given to speed limits along the road, the design speed for the road, available sight distances along the road, design of the intersection, the volume of traffic to be generated.
- As a general rule vehicular access to the Pacific Highway/Motorway is prohibited.
- Direct vehicular access to other Classified roads is undesirable, however may be permitted where the Roads and Maritime Services agree to access arrangements.
- Entry and exit to the property must be in a forward direction.

(5) Hazards

- Landform and stability
  - Preference will be given to a stable landform where risk of erosion, subsidence, and landslip are minimised.
  - Siting of developments on slopes having a grade greater than 1 in 4 should be avoided.
- Bushfire prone land
  - Where located on Bushfire Prone Land (see Council's Bushfire Prone Land maps) the proposal will be Integrated Development.

- § The proposal must be assessed against the *Planning for Bushfire Protection* guidelines (2006) either complying with the deemed to satisfy provisions or supplying an alternative solution.
- § Vegetation removal for asset protection needs to be balanced with retention of natural and cultural features of the site. In this regard preference will be given to a concentrated rather than dispersed layout. Council may permit habitat loss where there will be a positive biodiversity off-set established within the development site and where appropriate consents under the *Native Vegetation Act* can be achieved. Such consents should be investigated prior to lodging the development application.

Ø Flood

- § See Chapter H-1 Flooding.
- § Habitable floors are to be located above the flood planning level, defined as a level 500mm above the 1 in 100 year ARI flood event for the site.
- § Development will not be permitted within an identified high flood hazard area.

Ø Climate Change

- § Development must incorporate adaptive design for climate change.
- § Development should be located beyond the 100 year predicted coastal erosion zone. Where such modelling is unavailable for coastal sites it must be provided with the Development Application to justify the development layout.
- § Buffers should be naturally enhanced to protect the development from coastal hazards, eg. Dune restoration and rehabilitation.
- § An Adaptation Plan must be developed where the development site is adjacent to coastal hazards. Buffering development from such hazards must be the primary focus. Subsequent enhancement of natural protective measures will be encouraged. Engineered solutions to protect development from hazards are considered inconsistent with the principles of Eco-tourism facilities. Planned retreat is considered the ultimate solution to protect development. Therefore, structures should be designed to be readily relocated away from the hazard front. If planned retreat is not an option then abandoning the development (demolition) may be required.

Ø Emergency management plan

- § For proposals located within hazard areas, an Emergency Management Plan should be prepared and include emergency evacuation procedures for guests.

Ø Natural Resources

- § It is more than likely that Eco-tourist facilities will be located within one or more of the mapped Natural Resources identified within the LEP. These include biodiversity (native vegetation, habitat

corridors), wetlands, riparian and waterways (key fish habitat), and landslip risk (steep slopes).

§ Clauses 6.6, 6.7, 6.8 & 6.10 of the LEP require the assessment of the various Natural Resources as a head of consideration for development applications. See Chapter H4 Natural Resources (NRS) for further details.

(6) Design

Ø Have regard to appropriate design guidelines, eg Chapter A of this DCP contains design guidelines for residential accommodation, Coastal Development Guidelines, Eco-tourism guidelines.

Ø Design, Scale and Density

§ Scale of the development should be in perspective to the site and its special features.

§ Emphasis should be given to providing a low-tech environmental experience for guests.

§ Minimum land area for Eco-tourist facilities, in Zone RU1, RE1, RE2 or E3, shall be 10ha.

§ Density

o Zone R1 and RU5—1 unit/cabin per 200m^2 of land area

o RU1, RE1 & RE —1 unit/cabin per 1 ha of land area

o E3—1 unit/cabin per 2 ha of land area

o Density for dormitory style accommodation will be a calculated at 1 unit/cabin = 4 persons accommodated.

§ Units/cabins will be restricted to a maximum of 2 bedrooms and a capacity to accommodate a maximum of 4 guests at any one time, dormitory style accommodation being excepted.

Ø Setbacks

§ See Chapter I-3 for front, rear/side boundary building line setbacks and foreshore building lines.

§ Adopt the largest development setback from the following table, where multiple standards apply.

Land Zones	Situation	Front Building Line (metres)	Side and Rear Building Line (metres)
RU1, RE1, RE2 and E3	Access to a Local Road	15	15
	Access to a Classified Road	50	15
	For Bushfire Prone Land	30	30
All other Zones		6	2

- Height and Overshadowing
  - The LEP – Height of Buildings Map generally adopts an 8.5 metre building height above natural ground.
  - Development shall be restricted to single storey. Exceptions may be granted where:
    - topography dictates an alternative (ie. elevation above flood, justification that structure will not be visible from outside the property boundaries, slope etc.)
    - established development on adjacent land establishes a precedent for additional storeys
    - additional storeys consist of internal mezzanines, attics, or basement storage.
  - Development should not protrude above the tree-line or be visible externally from the development site so as to detract from the scenic values of the natural area.
  - Development overshadowing adjoining properties should permit a minimum of 2 hours un-interrupted solar access within the living areas of the affected property.
- Parking
  - 1 space to be provided per unit/cabin plus 1 per 3 employees.
  - Car parking to be located so as to minimise the impact on scenic amenity of the locality and the streetscape.
  - See Chapter I-4.
- Signage
  - As per signage policy (see Part F Signage).
  - Signage to be designed in keeping with special ecological or cultural features but would generally be limited to a business identification sign, located on the land, and having a maximum display area of dimension of 2x2 metres with an display area not exceeding $8m^2$.
- Infrastructure
  - Energy Efficiency
    - Eco-tourist facilities should embrace renewable energy sources
    - Consideration should be given to the nature of renewable energy sources to ensure their impact on the amenity of the locality is not impacted upon ((having regard to the type of systems proposed and their potential environmental impacts (visual, noise, alterations to natural systems) and impacts upon neighbours).
    - BASIX energy and resource efficiency principles should be employed in the design of the development.
    - Orientation of buildings should favourably capture local climatic conditions to maximise potential for passive heating and cooling of buildings.

- § Development that cannot be connected to a public reticulated sewage treatment system will need to demonstrate that the development can be serviced with On-site Sewage Management System (OSMS). Refer to Council's OSMS Strategy.
- § Water efficiency
  - o Water Sensitive Urban Design needs to be incorporated into the design. This includes roof water harvesting and on site storage, stormwater detention, erosion/sediment control, AAA rated plumbing and devices.
  - o Sites not connected to the mains water supply should provide a minimum of 10,000 litres rainwater tank capacity per unit/cabin and an additional 5,000 litres capacity per unit/cabin dedicated for fire fighting purposes. A reduction in this capacity may be considered where an alternative source of suitable water can be demonstrated.

Ø Landscaping

- § The natural features of the surrounding environment should be drawn into the development precinct as part of landscaping.
- § Landscaping should include a minimum 50m^2 per unit/cabin.

Ø Education and experience

- § Eco-tourism embraces environmental and cultural education. An Educational Strategy should be supplied with the Development Application to demonstrate the types of programs to be employed, and the audience targeted by those programs.

Ø Public Health and Food Safety

- § All public health requirements shall be complied with, in particular, but not limited to, the *Public Health Act* 1991.
- § All proposed bars and food preparation areas shall comply with the NSW Food Standards Code and AS4674-2004 (current at the time of DCP – refer to any succeeding legislative requirements).

Ø Refuse Facilities

- § Refuse facilities shall be made for the storage and removal of rubbish in accordance with Council Policy and for the suitable screening of the refuge storage area.
- § Disposal of refuse on-site will not be permitted.

(7) Temporary or Short-term Accommodation

Ø No person shall be permitted to reside on the land, other than within Residential Accommodation, for a period exceeding 3 months in any continuous 12 month period.

(8) Notification and advertising

Ø See Chapter I-15 for details.

Ø Tourist and visitor accommodation is identified as Category "B" development, therefore, requiring a published notice and written notice for 14 days.

(9) No subdivision unless compliant with Lot Size Map

- The subdivision of such developments will not be permitted unless compliant with minimum lot sizes provided on the Lot Size Map for the land.

(10) Waste Minimisation and Management

- The construction phase of any development must have a plan submitted and approved in accordance with Richmond Valley Council Waste Minimisation and Management Policy.

Richmond Valley Development Control Plan 2015

Part E-2. Bed and Breakfast Accommodation

This Chapter provides guidance for the establishment of bed and breakfast accommodation, a type of Tourist and visitor accommodation, in the Richmond Valley Council area.

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

E-2.1 Objectives

The objectives of this Chapter are to:

(1) describe the permissibility of Bed and breakfast accommodation under the LEP

(2) ensure that Bed and breakfast accommodation is kept in scale with surrounding development so as to minimise its impacts on the amenity of the neighbourhood

(3) provide for minimal signage

(4) ensure that infrastructure and facilities are satisfactory to service the development and needs of guests

(5) ensure the safety of the occupants having regard to natural hazards, such as bush fire

(6) describe other legislative considerations.

E-2.2 Design principles

(1) Richmond Valley Local Environmental Plan 2012

(a) Definition and LEP Provisions

Bed and breakfast accommodation is defined within the Dictionary attached to the LEP. Critical to the definition is that the accommodation must be short stay, be located within a dwelling, and operated on a commercial basis by the permanent residents of the dwelling. Clause 5.4 of the LEP applies additional controls that restrict Bed and breakfast accommodation to a maximum of 3 guest bedrooms.

Extract from *Richmond Valley Local Environmental Plan 2012*

Definition of Bed and Breakfast Accommodation

bed and breakfast accommodation means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:

(a) meals are provided for guests only, and

(b) cooking facilities for the preparation of meals are not provided within guests' rooms, and

(c) dormitory-style accommodation is not provided.

Note. See clause 5.4 for controls relating to the number of bedrooms for bed and breakfast accommodation. Bed and breakfast accommodation is a type of ***tourist and visitor accommodation***—see the definition of that term in this Dictionary.

(b) Permissibility of Bed and breakfast accommodation

Bed and breakfast accommodation may be undertaken with development consent under the LEP, or as Complying Development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (the Codes SEPP) in the following zones:

- RU1 Primary Production
- RU5 Village #
- R1 General Residential #
- R5 Large Lot Residential

- B2 Local Centre #
- E3 Environmental Management

Note. # Within this zone B&B Accom. is permitted with development consent within the Group-term Tourist and visitor accommodation.

Clause 5.4(1) of the LEP applies additional controls on Bed and breakfast accommodation restricting such developments to no more than 3 guest bedrooms.

Extract from *Richmond Valley Local Environmental Plan 2012*

Clause 5.4 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 Plan, 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) Complying development

Bed and breakfast accommodation is specified as complying development under *Part 4A - General Development Code* of the Codes SEPP. To be complying development it must be fully compliant with the requirements and development standards prescribed for that development type in the SEPP. These requirements and standards are:

Extract from *SEPP (Exempt and Complying Development Codes) 2008*

Part 4A General Development Code

Note 1. Schedule 3 contains variations to this code.

Note 2. In addition to the requirements specified for development under this code, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to development in this code may be contained in the Act, the *Environmental Planning and Assessment Regulation 2000*, various State environmental planning policies, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993*, the *Swimming Pools Act 1992* and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

Division 1 Specified development and development standards under this code

Subdivision 1 Bed and breakfast accommodation

4A.1 **Specified complying development**

Bed and breakfast accommodation is development specified for this code if it is:

(a) carried out on land in a land use zone where bed and breakfast accommodation is a permissible use, and

(b) not constructed or installed on bush fire prone land.

4A.2 **Development standards**

The standards specified for that development are that the development must:

(a) be in an existing dwelling house, and

(b) consist of not more than 4 guest bedrooms or, if there is a local environmental plan applying to the land that was made under section 33A of the Act, the maximum number of bedrooms specified in clause 5.4 (1) of that plan, and

(c) have at least 1 guest bathroom, and

(d) have a fire extinguisher and fire blanket in the kitchen, and

(e) have at least 1 off-road car parking space per guest bedroom, and

(f) not display any advertisement on the premises (other than a notice or sign indicating the name and occupation of the resident), and

(g) if the dwelling house is subject to the *Strata Schemes Management Act 1996* or the *Community Land Management Act 1989*—have the prior approval of the owners corporation, or the community, precinct or neighbourhood association.

Note. The use of a dwelling as bed and breakfast accommodation will result in a change of building class for the dwelling under the *Building Code of Australia*. There will be new fire safety and access requirements.

Division 2 Conditions applying to complying development certificates under this code

Note 1. Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Part.

Note 2. A contributions plan setting out the contribution requirements towards the provision or improvement of public amenities or public services may specify that an accredited certifier must, under section 94EC of the Act, impose a condition on a complying development certificate requiring the payment of a monetary contribution in accordance with that plan.

Note. For the purposes of Clause 4A.2(b) of the Codes SEPP, the LEP restricts bed and breakfast accommodation to no more than 3 guest bedrooms.

(3) Adoption of Code SEPP Development Standards by this DCP

The Code SEPP establishes a number of requirements and development standards that must all be met for a development to be granted a Complying Development Certificate. For consistency, these standards shall be adopted by this DCP for consideration when assessing development applications for Bed and breakfast accommodations.

(4) Integrated development

Development requiring a section 100B authority, under the *Rural Fires Act 1997*, is integrated development under the EP&A Act. A section 100B authority is required in respect of, amongst other things, development of land for special fire protection purposes, which include "tourist accommodation".

(a) Exclusion from requiring a 100B Authority

Bed and breakfast accommodation is excluded from requiring a section 100B authority, and therefore as being integrated development, by clause 45 of the *Rural Fires Regulation 2008*, but only where:

- it uses an existing building, and
- where the building is more than 30 metres from native vegetation.

Extract from *Rural Fires Regulation 2008*

Clause 45 Development excluded from requirements for bush fire safety authority

(1) Pursuant to section 100B (5) (a1) of the Act, the following development is excluded from the operation of section 100B:

...

(g) development for the purposes of bed and breakfast accommodation using an existing building, but only if the building is more than 30 metres from native vegetation,

...

Note. For the purposes of this exception "native vegetation" is taken to exclude native species contained within managed landscaping around the building, but only where fuel loads do not exceed the maximums prescribed for asset protection zones.

(5) Sale or supply of liquor

The *Liquor Act 2007* contains exemptions for the sale or supply of liquor to guests of Bed and breakfast accommodation. These provisions go beyond the regulatory responsibilities of Richmond Valley Council and have been extracted below for information purposes only.

Extract from *Liquor Act 2007*

Section 6 Exemptions from Act

...

(2) **Exemption for bed and breakfast establishments in certain circumstances**

This Act does not apply to or in respect of the sale or supply of liquor to the guests of a bed and breakfast establishment (***the B&B***), but only if the following requirements are complied with:

(a) no more than 8 adult guests are staying at the B&B at the one time,

(b) the liquor is not supplied to a minor,

(c) the liquor has been purchased by the proprietor of the B&B on a retail basis,

(d) the sale or supply is ancillary to the provision of accommodation or a meal,

(e) any person who sells, supplies or serves liquor to a guest has obtained the same qualifications with respect to responsible service of alcohol as licensees and employees of licensees are required to obtain under this Act,

(f) the proprietor of the B&B has notified the Authority, in the form and manner approved by the Authority, that the B&B sells or supplies liquor to guests as provided by this subsection.

...

Section 25 Authorisation conferred by on-premises licence (generally)

...

(8) **Special provisions relating to licensed accommodation premises**

An on-premises licence that relates to accommodation premises also authorises the licensee to sell liquor by retail on the licensed premises:

(a) for consumption on the licensed premises only—at any time on any day (including a restricted trading day) to a resident (or a guest of a resident while in the resident's company) or an employee of the licensee, and

(b) to a resident at any time for consumption away from the licensed premises, but only if:

(i) the sale is ancillary to the provision of a meal for consumption away from the licensed premises, and

(ii) the volume of liquor supplied to any such resident on any one day does not exceed 2 litres.

...

Note. Council is not the regulator agency for the Liquor Act. The above extract from the Liquor Act is subject to change without notice and should not be relied upon without checking the legislation or with the appropriate authority.

E-2.3 Design standards/controls

(1) Location

- Permissible in any Land Zone where a dwelling-house is permissible.
- Must be located within a dwelling-house and be operated by the permanent residents of that dwelling.

(2) Hours of Operation – Neighbour Friendly

- Facilities such as swimming pool operation and use is to be restricted where there is potential to impact upon neighbours.
- Sale of alcohol and entertainment to be restricted to guests of the B&B only.
- Management will be responsible for inappropriate behaviour of guests in public places surrounding the establishment.

(3) Access

- Most visitors to the Area will be travelling by private car. Therefore, the land must be serviced by a road of appropriate standard or upgraded (as a condition of consent) to such a standard. Furthermore, internal access must be appropriate so as to facilitate arrival but also safe evacuation in emergencies. Where a road or internal access is to be

upgraded or provided new, the impact of construction and operation must be considered.

- Site access onto a public road must be safe for guests as well as the travelling public. Consideration will be given to speed limits along the road, the design speed for the road, available sight distances along the road, design of the intersection, the volume of traffic to be generated.

(4) Hazards

- Bushfire prone land
  - Where located on Bushfire Prone Land (see Council's Bushfire Prone Land maps) the proposal will be Integrated Development unless the dwelling is located more than 30 metres from native vegetation. For the purposes of this exception native vegetation is taken to be native vegetation comprising potential bushfire hazard that is outside a maintained asset protection zone around the dwelling. As such it will exclude maintained native gardens.
  - The proposal must be assessed against the *Planning for Bushfire Protection* guidelines (2006) either complying with the deemed to satisfy provisions or supplying an alternative solution.
  - Vegetation removal for asset protection needs to be balanced with retention of natural and cultural features of the site. Council may permit habitat loss where there will be a positive biodiversity off-set established within the development site and where appropriate consents under the Native Vegetation Act can be achieved. Such consents should be investigated prior to lodging the development application.
- Flood
  - See Chapter H1 Flooding.
  - Habitable floors are to be located above the flood planning level, defined as a level 500mm above the 1 in 100 year ARI flood event for the site.
  - Dwelling extensions consisting of habitable floors below the flood planning level may be permitted where:
    - there is existing habitable floors area below the flood planning level.
    - the additional floor area will be <10% of the dwelling's existing ground floor area.
    - It can be demonstrated that the dwelling and additions cannot be practically raised to comply with the standard.
  - Development will not be permitted within an identified high flood hazard area.
- Emergency management plan
  - For proposals located within hazard areas, an Emergency Management Plan should be prepared and include emergency evacuation procedures for guests.

(5) Design

- Scale Density
  - Maximum of 3 guest bedrooms may be provided, having the capacity to accommodate a maximum of 8 guests.
- Parking
  - 1 off-street car parking space to be provided per guest bedroom plus 1 for residents of the dwelling.
- Signage
  - As per signage policy (Part F)
  - A single Business identification sign will be permitted having a maximum display area of $0.75m^2$.
  - The sign may only be erection on the land containing the Bed and breakfast accommodation.
  - Such a sign may be erected as exempt development.
- Infrastructure
  - Where the dwelling is serviced by an On-site Sewage Management System (OSMS) the system must be assessed to ensure it is capable of handle the additional effluent loads resulting from the bed and breakfast accommodation. Refer to Council's OSMS Strategy.
  - Water efficiency
    - Water Sensitive Urban Design needs to be incorporated into the design. This includes installation of roof water harvesting and on site storage, stormwater detention, erosion/sediment control, AAA rated plumbing and devices.
    - Sites not connected to the mains water supply should provide a minimum of 60,000 litres rainwater tank capacity plus an additional 10,000 litres per guest bedroom, and an additional 10,000 litres capacity dedicated for fire fighting purposes. A reduction in this capacity may be considered where an alternative source of suitable water can be demonstrated.
  - Recommended to have at least one dedicated guest bathroom (separate to domestic bathrooms).
- Public Health and Food Safety
  - All public health requirements shall be complied with, in particular, but not limited to, the *Public Health Act* 1991.
  - All proposed food preparation areas shall comply with the NSW Food Standards Code and AS4674-2004 (current at the time of DCP – refer to any succeeding legislative requirements).
  - Sale of food or beverages shall be restricted to guests being accommodated at the premises.
  - Cooking facilities shall not be provided within guest bedrooms.

(6) Notification and advertising

- See Chapter I-15.
- Tourist and visitor accommodation is identified as Category "B" development, therefore, requiring a published notice and written notice for 14 days.

(7) Waste Minimisation and Management

- The construction phase of any development must have a plan submitted and approved in accordance with Richmond Valley Council Waste Minimisation and Management Policy.

Richmond Valley Development Control Plan 2015

Part E-3. Serviced Apartments

This Chapter provides guidance for the establishment of Serviced apartments, a type of Tourist and visitor accommodation, in the Richmond Valley Council area.

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

E-3.1 Objectives

The objectives of this Chapter are to:

(1) describe the permissibility of Serviced apartments under the LEP

(2) ensure that Serviced apartments are kept in scale with surrounding development so as to minimise its impacts on the amenity of the neighbourhood

(3) ensure that infrastructure and facilities are satisfactory to service the development and needs of guests

(4) ensure the safety of the occupants having regard to natural hazards, such as bush fire

(5) describe other legislative considerations.

E-3.2 Design principles

(1) Richmond Valley Local Environmental Plan 2012

(a) Definition

Serviced apartments is a standard definition within the Dictionary attached to the LEP. Critical to the definition is that they provide self-contained, short stay accommodation with regular servicing or cleaning.

Extract from *Richmond Valley Local Environmental Plan 2012*

Definition of Serviced Apartments

serviced apartment means a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

Note. Serviced apartments are a ***type of tourist and visitor accommodation***—see the definition of that term in this Dictionary.

(b) Permissibility of Serviced Apartments

Serviced apartments may be undertaken with development consent under the LEP within these specified zones:

- RU5 Village #
- R1 General Residential #
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- RE2 Private Recreation #

Note. # Within this zone Serviced apartments are permitted with development consent within the group term Tourist and visitor accommodation.

E-3.3 Design standards/controls

(1) Location

- Development applications for Tourist and visitor accommodation, other than Bed and breakfast accommodation, within Zone R1 or RU5 must be accompanied by a Social Impact Assessment.
- Critical to this assessment will be an evaluation of potential impacts upon adjacent residential properties and the amenity of the neighbourhood.

(2) Hours of Operation – Neighbour Friendly

- Facilities such as swimming pool operation and use to be restricted where there is potential to impact upon neighbours.
- Sale of alcohol and entertainment to be restricted guests only.
- Management will be responsible for inappropriate behaviour of guests in public places surrounding the establishment.

(3) Access

- Most visitors to the Area will be travelling by private car. Therefore, the land must be serviced by a road of appropriate standard or upgraded (as a condition of consent) to such a standard. Furthermore, internal access must be appropriate so as to facilitate arrival but also safe evacuation in emergencies. Where a road or internal access is to be upgraded or provided new, the impact of construction and operation must be considered.
- Site access onto a public road must be safe for guests as well as the travelling public. Consideration will be given to speed limits along the road, the design speed for the road, available sight distances along the road, design of the intersection, the volume of traffic to be generated.
- Provision is to be made for a minimum 4.5 metre wide crossing from the kerb and channelling to the road frontage of the property in accordance with relevant design standards of Council.
- No vehicular access shall be permitted to any road or laneway having a reserve width <10 metres.
- Where service vehicles are required to enter the site, adequate loading/unloading facilities are to be provided on-site to ensure that vehicles leave the property in a forward direction. Where side loading/unloading is proposed a turn around bay is to be provided on site.

(4) Hazards

- Bushfire prone land
  - Where located on Bushfire Prone Land (see Council's Bushfire Prone Land maps) the proposal will be Integrated Development.
  - The proposal must be assessed against the *Planning for Bushfire Protection* guidelines (2006) either complying with the deemed to satisfy provisions or supplying an alternative solution.

- Flood
  - See Chapter H1 Flooding.
  - Habitable floors are to be located above the flood planning level defined as a level 500mm above the 1 in 100 year ARI flood event for the site.
  - Development will not be permitted within an identified high flood hazard area.
- Climate Change
  - Development must incorporate adaptive design for climate change.
  - Development should be located beyond the 100 year predicted coastal erosion zone. Where such modelling is unavailable for coastal sites it must be provided with the Development Application to justify the development layout.
  - An Adaptation Plan must be developed where the development site is adjacent to coastal hazards. Buffering development from such hazards must be the primary focus. Subsequent enhancement of natural protective measures will be encouraged. Planned retreat is considered the ultimate solution to protect development, therefore, structures should be designed to be readily relocated away from the hazard front. If planned retreat is not an option abandoning the development (demolition) may be required.
- Emergency management plan
  - For proposals located within hazard areas, an Emergency Management Plan should be prepared and include emergency evacuation procedures for guests.

(5) Design

- Have regard to appropriate design guidelines, eg Part A contains design guidelines for residential accommodation, Coastal Development Guidelines.
- Scale and Density
  - The same density, site coverage, floor space ratios, and landscaping requirements as residential flat development shall be applied to Serviced apartments.
  - See Chapter A3.
- Privacy and Security
  - The design consideration of proposed buildings is to maintain the level of privacy enjoyed by adjoining properties.
  - The outlook to public and communal spaces should be maximised whilst maintaining internal privacy within the site.
  - The design is to avoid dark and non-visible areas, provide clear, safe access points and provide suitable open spaces to cater for recreational uses. Appropriate lighting for the location is to be installed and there is to be clear definition between public and private spaces. See CPTED guidelines in Chapter I10.

- **Built Form**
  - Long building lines are to be stepped, appropriately broken with patios, change in materials or appropriate landscaping.
- **Heritage**
  - Heritage impact must be minimised by consideration of the Heritage Item and/or Conservation Area's significance in the design.
  - Adaptive reuse of heritage buildings is to be encouraged.
  - See Chapter I-1.
- **Front & side boundary setbacks**
  - See Chapter I-3.
  - Setbacks will be as per the following table.

Land Zone	Front setback	Side and Rear boundary Setback	Where
R1, RU5 and RE2	6m	3m setback, then per building height plane	Less than 4 storeys
	6m	3m setback, then per building height plane to 6m setback, then 6m setback for development above that height	>4 storeys
B1, B2, B3	Zero	Zero	For that part of land setback <20m from front boundary
	na	3m setback, then per building height plane	For that part of land setback >20m from front boundary
	na	3m setback, then per building height plane to 6m setback, then 6m setback for development above that height	>4 storeys

Note. the Building Code of Australia should be consulted regarding fire rating of external walls and window openings within prescribed distances from property boundaries.

- **Height and Over Shadowing**
  - Height will be determined from a combination of the LEP – Height of Buildings Map, and the building height plane.
  - Occupants within the proposed development and on adjoining sites are to enjoy the optimum extent of winter sun and summer shade.
  - Development overshadowing adjoining properties should permit a minimum of 2 hours un-interrupted solar access within the living areas of the affected property.

- Building Height Plane
  - See Chapter I-3.
  - The building height plan will apply to all development, excluding that component of any development permitted a zero setback, and that component of development >3 storeys. See Chapter I3 for details of building height planes.

    Note. The building height plane is defined by projecting it at an angle of 45 degrees over the actual land to be built upon, starting at the boundaries at a height 2 metres above natural ground level.
- Parking
  - The following off-street car parking shall be provided:

Land Use	Parking Rate*
Serviced Apartments	1 per unit (<150 m^2 GFA), and 1.5 per unit (>= 150 m^2 GFA), and 1 visitor space per 10 units
Notes. • Car Parking requirements for other uses shall be determined based upon considering it as a comparable use to those listed, or to be determined on merit. • In all instances a merit consideration may override the rate listed based upon exceptional circumstance and thorough justification. • GFA = Gross Floor Area	

- Signage
  - As per signage in Part F.
- Infrastructure
  - Energy Efficiency
    - BASIX energy and resource efficiency principles should be employed in the design of the development.
    - Orientation of buildings should favourably capture local climatic conditions to maximise potential for passive heating and cooling of buildings.
  - Water and Sewerage Infrastructure
    - Clause 6.2 of the LEP prevents consent being granted for any development unless it has been satisfactorily demonstrated that public utility infrastructure is available or that arrangements have been made to make that infrastructure available.
    - Development consent for Serviced apartments will only be granted where it will be connected to a public sewerage system. Therefore, use of OSMS will be unacceptable.
    - Development consent for Serviced apartments will only be granted where it will be connected to a public water supply system. This water supply may be supplemented by rainwater harvesting or an approved water recycling facility.

- § Water efficiency
  - o Water Sensitive Urban Design needs to be incorporated into the design. This includes roof water harvesting and on site storage, stormwater detention, erosion/sediment control, AAA rated plumbing and devices.

- Ø Landscaping and Amenity
  - § Landscaping must ensure that landscape design builds on the locations natural features to result in greater aesthetic quality and amenity for both occupants and the community.
  - § Council will encourage developments which enhance natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values.
  - § The minimum landscaped open space shall be 35% of the site area.
  - § Each lower floor dwelling is to have a minimum 25m^2 of private open space with direct connection to indoor living areas.
  - § A landscaping and open space plan is to be submitted with the development application.
  - § Council will encourage the incorporation of access to sunlight, natural ventilation, visual and acoustic privacy, efficient layouts and outlook in addition to the integration of these design elements with detailed landscape and streetscape plans external to the site.
  - § The design and use of building colour, bulk, materials of construction and angle and height of roof line are to be in harmony with the surrounding built and natural environment.
  - § Any new development (including additions and alterations to existing buildings) is to allow for the reasonable sharing of views. In areas with significant views (as determined by Council), a view loss assessment should accompany the development application.

- Ø Public Health and Food Safety
  - § All public health requirements shall be complied with, in particular, but not limited to, the *Public Health Act* 1991.
  - § All proposed bars and food preparation areas shall comply with the NSW Food Standards Code and AS4674-2004 (current at the time of DCP – refer to any succeeding legislative requirements).

- Ø Refuse Facilities
  - § Refuse facilities shall be made for the storage and removal of rubbish in accordance with Council Policy and for the suitable screening of the refuge storage area.

(6) Temporary or Short-term Accommodation

- Ø No person shall be permitted to reside on the land, other than within Residential Accommodation, for a period exceeding 3 months in any continuous 12 month period.

(7) Notification and advertising

- See Chapter I-15.
- Tourist and visitor accommodation is identified as Category "B" development, therefore, requiring a published notice and written notice for 14 days.

(8) Subdivision

- Strata subdivision or Community Title subdivision of units may be granted development consent.

(9) Waste Minimisation and Management

- The construction phase of any development must have a plan submitted and approved in accordance with Richmond Valley Council Waste Minimisation and Management Policy.

Richmond Valley Development Control Plan 2015

Part E-4. Hotel and Motel Accommodation

This Chapter provides guidance for the establishment of Hotel and motel accommodation, a type of Tourist and visitor accommodation, in the Richmond Valley Council area.

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

E-4.1 Objectives

The objectives of this Chapter are to:

(1) describe the permissibility of Hotel and motel accommodation under the LEP.

(2) ensure that Hotel and motel accommodation are kept in scale with surrounding development so as to minimise its impacts on the amenity of the neighbourhood.

(3) ensure that infrastructure and facilities are satisfactory to service the development and needs of guests.

(4) ensure the safety of the occupants having regard to natural hazards, such as bush fire.

(5) describe other legislative considerations.

E-4.2 Design principles

(1) Richmond Valley Local Environmental Plan 2012

(a) Definition

Hotel and motel accommodation is defined within the Dictionary attached to the LEP. Critical to the definition is that the accommodation is for short stay.

Extract from *Richmond Valley Local Environmental Plan 2012*

Definition of Hotel or motel accommodation

hotel or motel accommodation means a building or place (whether or not licensed premises under the *Liquor Act 2007*) that provides temporary or short-term accommodation on a commercial basis and that:

(a) comprises rooms or self-contained suites, and

(b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

Note. Hotel or motel accommodation is a type of ***tourist and visitor accommodation***—see the definition of that term in this Dictionary.

(b) Permissibility of Hotel and Motel Accommodation

Hotel and Motel Accommodation may be undertaken with development consent under the LEP within these specified zones:

- RU5 Village #
- R1 General Residential #
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- RE2 Private Recreation #

Note. # Within this zone Hotel and Motel Accommodation are permitted with development consent within the group term Tourist and visitor accommodation.

E-4.3 Design standards/controls

(1) Location

- Development applications for Tourist and visitor accommodation, other than Bed and breakfast accommodation, within Zone R1 or RU5 must be accompanied by a Social Impact Assessment.
- Critical to this assessment will be an evaluation of potential impacts upon adjacent residential properties and the amenity of the neighbourhood.

(2) Environmental

- Hours of Operation – Neighbour Friendly
  - Facilities such as swimming pool operation and use to be restricted where there is a potential to impact upon neighbours.
  - Sale of alcohol and entertainment to be restricted.
  - Management responsible for inappropriate behaviour of guests in public places surrounding the establishment.

(3) Access

- Most visitors to the Area will be travelling by private car. Therefore, the land must be serviced by a road of appropriate standard or upgraded (as a condition of consent) to such a standard. Furthermore, internal access must be appropriate so as to facilitate arrival but also safe evacuation in emergencies. Where a road or internal access is to be upgraded or provided new, the impact of construction and operation must be considered.
- Site access onto a public road must be safe for guests as well as the travelling public. Consideration will be given to speed limits along the road, the design speed for the road, available sight distances along the road, design of the intersection, the volume of traffic to be generated.
- Provision is to be made for a minimum 4.5 metre wide crossing from the kerb and channelling to the road frontage of the property in accordance with relevant design standards of Council.
- The primary vehicular access to the land shall not be permitted to any road or laneway having a reserve width <10 metres.
- Where service vehicles are required to enter the site, adequate loading/unloading facilities are to be provided on-site to ensure that vehicles leave the property in a forward direction. Where side loading/unloading is proposed a turnaround bay is to be provided on site.

(4) Hazards

- Bushfire prone land
  - Where located on Bushfire Prone Land (see Council's Bushfire Prone Land maps) the proposal will be Integrated Development.
  - The proposal must be assessed against the *Planning for Bushfire Protection* guidelines (2006) either complying with the deemed to satisfy provisions or supplying an alternative solution.

- Flood
  - See Chapter H-1 Flooding.
  - Habitable floors are to be located above the flood planning level defined as a level 500mm above the 1 in 100 year ARI flood event for the site.
  - Development will not be permitted within an identified high flood hazard area.
- Climate Change
  - Development must incorporate adaptive design for climate change.
  - Development should be located beyond the 100 year predicted coastal erosion zone. Where such modelling is unavailable for coastal sites it must be provided with the Development Application to justify the development layout.
  - An Adaptation Plan must be developed where the development site is adjacent to coastal hazards. Buffering development from such hazards must be the primary focus. Subsequent enhancement of natural protective measures will be encouraged. Planned retreat is considered the ultimate solution to protect development, therefore, structures should be designed to be readily relocated away from the hazard front. If planned retreat is not an option abandoning the development (demolition) may be required.
- Emergency management plan
  - For proposals located within hazard areas, an Emergency Management Plan should be prepared and include emergency evacuation procedures for guests.

(5) Design

- Have regard to appropriate design guidelines, eg Part contains design guidelines for residential accommodation, Coastal Development Guidelines.
- Scale and Density
  - Where facilities such as kitchens or laundries are incorporated into accommodation units, the site density will be calculated on the basis of a "Serviced apartment" for those units.

Hotel and Motel Accommodation	Site Density (land area required per unit)
1 bedroom	60 m^2
2 bedroom	80 m^2

Note. Where units include facilities such as kitchens and laundries the density will be calculated on the basis of a Residential Flat Building.

  - Minimum site area of 1200m^2 will be required.
  - Where the development includes residential accommodation, such as a "Manager's residence", the site density for this unit of accommodation shall be calculated as if it were a residential flat building, with the corresponding number of bedrooms.

- Privacy and Security
  - The design consideration of proposed buildings is to maintain the level of privacy enjoyed by adjoining properties.
  - The outlook to public and communal spaces should be maximised whilst maintaining internal privacy within the site.
  - The design is to avoid dark and non-visible areas, provide clear, safe access points and provide suitable open spaces to cater for recreational uses. Appropriate lighting for the location is to be installed and there is to be clear definition between public and private spaces. See CEPTED guidelines in Chapter I-10.
- Setbacks
  - See Chapter I-3.
  - Setbacks will be as per the following table.

Land Zone	Front setback	Side and Rear boundary Setback	Where
R1, RU5 and RE2	6 metres	3 metre setback, then per building height plane	Less than 4 storeys
	6 metres	3 metre setback, then per building height plane to 6 metres setback, then 6 metres setback for development above that height	>4 storeys
B1, B2, B3	Zero	Zero	For that part of land setback <20 metres from front boundary
	NA	3 metre setback, then per building height plane	For that part of land setback >20 metres from front boundary
	NA	3 metre setback, then per building height plane to 6 metres setback, then 6 metres setback for development above that height	>4 storeys

Note. the Building Code of Australia should be consulted regarding fire rating of external walls and window openings within prescribed distances from property boundaries.

A Zero Front Building Line will only be supported where architectural relief has been designed in the front facade, and where landscaping has been provided along the frontage to soften the visual impact of the proposal.

- Built Form
  - Long building lines are to be stepped, appropriately broken with patios, change in materials or appropriate landscaping.
- Heritage
  - Heritage impact must be minimised by consideration of the Heritage Item and/or Conservation Areas significance in the design.
  - Adaptive reuse of heritage buildings is to be encouraged.
  - See Chapter I-1.

- Height and Over Shadowing
  - Height will be determined from a combination of the LEP – Height of Buildings Map, and the building height plane.
  - Occupants within the proposed development and on adjoining sites are to enjoy the optimum extent of winter sun and summer shade.
  - Development overshadowing adjoining properties should permit a minimum of 2 hours un-interrupted solar access within the living areas of the affected property.
- Building Height Plane
  - See Chapter I-3.
  - The building height plan will apply to all development, excluding that component of any development permitted a zero setback, and that component of development above 3 storeys. See Chapter I-3 for details of building height planes.

    Note. The building height plane is defined by projecting it at an angle of 45 degrees over the actual land to be built upon, starting at the boundaries at a height 2 metres above natural ground level.
- Parking
  - The following off-street car parking shall be provided:

Land Use	Parking Rate*
Hotel or Motel Accommodation	1 per unit, plus 1 for management, plus 1 visitor space per 20 units, plus parking for a function room/restaurant/bar (if provided)
Pub/Hotel Premises Restaurants or Cafes Function Centres	1 per 30 m^2 of GFA (<=1000m^2), or 1 per 40m^2 of GFA (>1000m^2)
Notes. • Car Parking requirements for other uses shall be determined based upon considering it as a comparable use to those listed, or to be determined on merit. • In all instances a merit consideration may override the rate listed based upon exceptional circumstance and thorough justification. • GFA = Gross Floor Area	

- Signage
  - As per signage in Part F.
- Infrastructure
  - Energy Efficiency
    - BASIX energy and resource efficiency principles should be employed in the design of the development.
    - Orientation of buildings should favourably capture local climatic conditions to maximise potential for passive heating and cooling of buildings.

- Water and Sewerage Infrastructure
  - Clause 6.2 of the LEP prevents development consent being granted for any development unless it has been satisfactorily demonstrated that public utility infrastructure is available or that arrangements have been made to make that infrastructure available.
  - Development consent for Hotel and motel accommodation will only be granted where it will be connected to a public sewerage system. Therefore, use of OSMS will be unacceptable.
  - Development consent for Hotel and motel accommodation will only be granted where it will be connected to a public water supply system. This water supply may be supplemented by rainwater harvesting or an approved water recycling facility.
- Water efficiency
  - Water Sensitive Urban Design needs to be incorporated into the design. This includes roof water harvesting and on site storage, stormwater detention, erosion/sediment control, AAA rated plumbing and devices.

Ø Landscaping and Amenity

- Landscaping must ensure that landscape design builds on the natural features of the location to result in greater aesthetic quality and amenity for both occupants and the community.
- Council will encourage developments which enhance natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values.
- The minimum landscaped open space will be determined on merits. A Landscaping Plan must be submitted with the development application.
- Landscaping will be required to soften the visual impact of the proposal towards the streetscape, especially where a zero front building line is proposed.
- Council will encourage the incorporation of access to sunlight, natural ventilation, visual and acoustic privacy, efficient layouts and outlook in addition to the integration of these design elements with detailed landscape and streetscape plans external to the site.
- The design and use of building colour, bulk, materials of construction and angle and height of roof line are to be in harmony with the surrounding built and natural environment.
- Any new development (including additions and alterations to existing buildings) is to allow for the reasonable sharing of views. In areas with significant views (as determined by Council), a view loss assessment should accompany the development application.

- Public Health and Food Safety
  - All public health requirements shall be complied with, in particular, but not limited to, the *Public Health Act* 1991.
  - All proposed bars and food preparation areas shall comply with the NSW Food Standards Code and AS4674-2004 (current at the time of DCP – refer to any succeeding legislative requirements).
- Refuse Facilities
  - Refuse facilities shall be made for the storage and removal of rubbish in accordance with Council Policy and for the suitable screening of the refuge storage area.

(6) Temporary or Short-term Accommodation

- No person shall be permitted to reside on the land, other than within Residential Accommodation, for any continuous period exceeding 3 months in any 12 month period.

(7) Notification and advertising

- See Chapter I-15.
- Hotel and motel accommodation is identified as Category "B" development, therefore, requiring a published notice and written notice for 14 days.

(8) Waste Minimisation and Management

- The construction phase of any development must have a plan submitted and approved in accordance with Richmond Valley Council Waste Minimisation and Management Policy.

Richmond Valley Development Control Plan 2015

Part E-5. Backpacker's Accommodation

This Chapter provides guidance for the establishment of Backpacker accommodation, a type of Tourist and visitor accommodation, in the Richmond Valley Council area.

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

E-5.1 Objectives

The objectives of this Chapter are to:

(1) describe the permissibility of backpacker accommodation under the LEP.

(2) ensure that Backpacker accommodation are kept in scale with surrounding development.

(3) ensure that Backpacker accommodation is designed and managed so as to minimise its impacts on the amenity of the neighbourhood.

(4) ensure that infrastructure and facilities are satisfactory to service the development and needs of guests.

(5) ensure the safety of the occupants having regard to natural hazards, such as bush fire.

(6) describe other legislative considerations.

E-5.2 Design principles

(1) Richmond Valley Local Environmental Plan 2012

(a) Definition

Backpacker accommodation is a standard definition within the Dictionary attached to the LEP. Critical to the definition is that accommodation is short stay on a per bed basis with shared facilities and amenities.

Extract from *Richmond Valley Local Environmental Plan 2012*

Definition of Backpackers' accommodation

backpackers' accommodation means a building or place that:

(a) provides temporary or short-term accommodation on a commercial basis, and

(b) has shared facilities, such as a communal bathroom, kitchen or laundry, and

(c) provides accommodation on a bed or dormitory-style basis (rather than by room).

Note. Backpackers' accommodation is a type of ***tourist and visitor accommodation***—see the definition of that term in this Dictionary.

(b) Permissibility of Backpacker Accommodation

Backpacker Accommodation may be undertaken with development consent under the LEP within these specified zones:

- RU5 Village #
- R1 General Residential #
- B2 Local Centre
- B3 Commercial Core
- RE2 Private Recreation #

Note. # Within this zone Backpacker Accommodation are permitted with development consent within the group term Tourist and visitor accommodation.

E-5.3 Design standards/controls

(1) Environmental

- Development applications for Tourist and visitor accommodation, other than Bed and breakfast accommodation, within Zone R1 or RU5 must be accompanied by a Social Impact Assessment.
- Critical to this assessment will be an evaluation of potential impacts upon adjacent residential properties and the amenity of the neighbourhood.

(2) Environmental

- Hours of Operation – Neighbour Friendly
  - Facilities such as swimming pool operation and use, and laundry facilities to be restricted where there is a potential to impact upon neighbours and guest bedrooms.
  - Sale of alcohol, provision of entertainment, and use of outdoor communal areas are also to be restricted.
  - Restrictions should at least apply during the hours of 10pm to 8am.
  - Management will be responsible for inappropriate behaviour of guests within the establishment and public places surrounding the establishment.

(3) Access to Roads, Transport, Services and Facilities

- The land must be serviced by a road of appropriate standard or upgraded (as a condition of consent) to such a standard. Furthermore, internal access must be appropriate so as to facilitate arrival but also safe evacuation in emergencies. Where a road or internal access is to be upgraded or provided new, the impact of construction and operation must be considered.
- Site access onto a public road must be safe for guests as well as the travelling public. Consideration will be given to speed limits along the road, the design speed for the road, available sight distances along the road, design of the intersection, the volume of traffic to be generated.
- Consideration should be given to locating Backpacker accommodation within close proximity to public transport and within easy access to facilities and services.

(4) Hazards

- Landform and stability
  - Preference will be given to a stable landform where risk of erosion, subsidence, and landslip are minimised.
  - Slopes having a grade greater than 1 in 4 should be avoided.
- Bushfire prone land
  - Where located on Bushfire Prone Land (see Council's Bushfire Prone Land maps) the proposal will be Integrated Development.
  - The proposal must be assessed against the *Planning for Bushfire Protection* guidelines (2006) either complying with the deemed to satisfy provisions or supplying an alternative solution.

- Vegetation removal for asset protection needs to be balanced with retention of natural and cultural features of the site. In this regard preference will be given to a concentrated rather than dispersed layout. Council may permit habitat loss where there will be a positive biodiversity off-set established within the development site and where appropriate consents under the Native Vegetation Act can be achieved. Such consents should be investigated prior to lodging the development application.

- Flood
  - See Chapter H-1 Flooding.
  - Habitable floors are to be located above the flood planning level defined as a level 500mm above the 1 in 100 year ARI flood event for the site.
  - Development will not be permitted within an identified high flood hazard area.
- Climate Change
  - Development must incorporate adaptive design for climate change.
  - Development should be located beyond the 100 year predicted coastal erosion zone. Where such modelling is unavailable for coastal sites it must be provided with the Development Application to justify the development layout.
  - Buffers should be naturally enhanced to protect the development from coastal hazards, eg. Dune restoration and rehabilitation.
  - An Adaptation Plan must be developed where the development site is adjacent to coastal hazards. Buffering development from such hazards must be the primary focus. Subsequent enhancement of natural protective measures will be encouraged. Planned retreat is considered the ultimate solution to protect development, therefore, structures should be designed to be readily relocated away from the hazard front. If planned retreat is not an option abandoning the development (demolition) may be required.
- Emergency management plan
  - For proposals located within hazard areas, an Emergency Management Plan should be prepared and include emergency evacuation procedures for guests.
- Natural Resources
  - It is more than likely that Eco-tourist facilities will be located within one or more of the mapped Natural Resources in the LEP. These include biodiversity (native vegetation, habitat corridors), wetlands, riparian and waterways (key fish habitat), and landslip risk (steep slopes).
  - Clauses 6.6, 6.7, 6.8 & 6.10 require the assessment of the various Natural Resources. See Chapter H-4 for further details.

(5) Design

- Have regard to appropriate design guidelines, eg Part A contains design guidelines for residential accommodation, Coastal Development Guidelines.
- The layout of Backpacker accommodation should be designed and constructed to respect the amenity of immediately adjoining land uses, particularly that of residential accommodation.
- Design, Scale and Density
  - Bedrooms and Occupancy rates
    - The maximum number of persons accommodated in a guest bedroom, or in a dormitory, is to be determined on the basis of $5m^2$ per person.
    - Bedrooms providing shared or dormitory-style accommodation must accommodate no more than 10 guests.
    - Shared bedrooms or dormitory-style accommodation must provide lockable secure storage facilities with a minimum capacity of $0.6m^2$ per person to allow guests to individually store baggage and travel items within their sleeping room.
    - Staff accommodation is to be provided separate to that of guest accommodation.
  - Communal Areas
    - Communal recreation areas must be provided within the premises at a minimum rate of $2m^2$ per person.
    - Communal recreation areas should be provided internal to the building, however, where areas are to be provided outdoors they may only account for up to a maximum of 20% of the minimum area required.
    - Each area provided (whether internal or external) must have a minimum total area of $30m^2$ and a minimum width of 3 metres.
    - Bedrooms, bathrooms, laundries, reception areas, storage, kitchens, car parking, loading docks, driveways, clothes drying areas, corridors, landscaped gardens, and the like are not counted when calculating the area of communal areas. Dining areas may be included as a communal area.
  - Kitchen
    - An internal self-catering kitchen with a separate dining room must be provided on site for the use of guests.
    - The kitchen and dining room must allow for 15% of the maximum number of guests to prepare and consume meals at any one time.
    - Kitchen facilities in sleeping rooms will not be permitted.
    - All public health requirements shall be complied with, in particular, but not limited to, the *Public Health Act 1991*.

- o All proposed bars and food preparation areas shall comply with the NSW Food Standards Code and AS4674-2004 (current at the time of DCP – refer to any succeeding legislative requirements).

§ Bathrooms

- o Toilets are to be in a separate compartment to common showers/bathrooms.
- o Provision of toilet and shower facilities shall comply with the BCA Class 3 requirements.

§ Laundry

- o A washtub, clothes washing machine and clothes dryer (or clothesline with minimum 20 metres that may be retractable) must be provided for every 30 guests or part thereof.
- o Where provided, outdoor clothes drying facilities are to be open to breezes and receive at least 2 hours solar access between 9am and 3pm on 21 June.

Ø Setbacks

§ See Chapter I-3.

§ Setbacks will be as per the following table.

Land Zone	Front setback	Side and Rear boundary Setback	Where
R1, RU5 and RE2	6m	3m setback, then per building height plane	Less than 4 storeys
	6m	3m setback, then per building height plane to 6m setback, then 6m setback for development above that height	>4 storeys
B2, B3	Zero	Zero	For that part of land setback <20m from front boundary
	na	3m setback, then per building height plane	For that part of land setback >20m from front boundary
	na	3m setback, then per building height plane to 6m setback, then 6m setback for development above that height	>4 storeys

Note. the Building Code of Australia should be consulted regarding fire rating of external walls and window openings within prescribed distances from property boundaries.

A Zero Front Building Line will only be supported where architectural relief has been designed in the front facade, and where landscaping has been provided along the frontage to soften the visual impact of the proposal.

- Height and Overshadowing
  - The LEP – Height of Buildings Map should be consulted regarding building height above natural ground.
  - Development overshadowing adjoining properties should permit a minimum of 2 hours un-interrupted solar access within the living areas of the affected property.
- Parking
  - The following off-street car parking shall be provided:

Land Use	Parking Rate*
Backpackers Accommodation	1 per 3 beds, plus 1 visitor space per 5 beds; or 1 per room, plus 1 visitor space per 5 rooms (Whichever is the greater)
Notes. • Car Parking requirements for other uses shall be determined based upon considering it as a comparable use to those listed, or to be determined on merit. • In all instances a merit consideration may override the rate listed based upon exceptional circumstance and thorough justification. • GFA = Gross Floor Area	

- Signage
  - As per signage in Part F.
- Infrastructure
  - Energy Efficiency
    - Should embrace renewable energy sources (having regard to the type of systems proposed and their potential environmental impacts (visual, noise, alterations to natural systems) and impacts upon neighbours).
    - BASIX energy and resource efficiency principles should be employed in the design of the development.
    - Orientation of buildings should favourably capture local climatic conditions to maximise potential for passive heating and cooling of buildings.
  - Water and Sewerage Infrastructure
    - Clause 6.2 of the LEP prevents development consent being granted for any development unless it has been satisfactorily demonstrated that public utility infrastructure is available or that arrangements have been made to make that infrastructure available.
    - Development consent for Backpacker accommodation will only be granted where it will be connected to a public sewerage system. Therefore, use of OSMS will be unacceptable.

- o Development consent for Backpacker accommodation will only be granted where it will be connected to a public water supply system. This water supply may be supplemented by rainwater harvesting or an approved water recycling facility.

§ Water efficiency

- o Water Sensitive Urban Design needs to be incorporated into the design. This includes roof water harvesting and on site storage, stormwater detention, erosion/sediment control, AAA rated plumbing and devices.
- o Development must have access to a mains water supply system. This supply may be supplemented by alternative water sources.

Ø Landscaping and Amenity

§ Landscaping must ensure that landscape design builds on the natural features of the location to result in greater aesthetic quality and amenity for both occupants and the community.

§ Council will encourage developments which enhance natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values.

§ The minimum landscaped open space will be determined on merits. A Landscaping Plan must be submitted with the development application.

§ Landscaping will be required to soften the visual impact of the proposal towards the streetscape, especially where a zero front building line is proposed.

§ Council will encourage the incorporation of access to sunlight, natural ventilation, visual and acoustic privacy, efficient layouts and outlook in addition to the integration of these design elements with detailed landscape and streetscape plans external to the site.

§ The external appearance of the building should be designed to complement or improve on the streetscape, particularly in areas of identified and valued character.

§ The design and use of building colour, bulk, materials of construction and angle and height of roof line are to be in harmony with the surrounding built and natural environment.

§ Any new development (including additions and alterations to existing buildings) is to allow for the reasonable sharing of views. In areas with significant views (as determined by Council), a view loss assessment should accompany the development application.

Ø Refuse Facilities

§ Refuse facilities shall be made for the storage and removal of rubbish in accordance with Council Policy and for the suitable screening of the refuge storage area.

(6) Temporary or Short-term Accommodation

- No person shall be permitted to reside on the land for a period longer than 30 days or for a period exceeding 3 months in any continuous 12 month period, excluding Residential accommodation or staff accommodation provided on site.

(7) Notification and advertising

- See Chapter I-15.
- Tourist and visitor accommodation is identified as Category "B" development, therefore, requiring a published notice and written notice for 14 days.

(8) Waste Minimisation and Management

- The construction phase of any development must have a plan submitted and approved in accordance with Richmond Valley Council Waste Minimisation and Management Policy.

Richmond Valley Development Control Plan 2015

Part E-6. Farm Stay Accommodation

This Chapter provides guidance for the establishment of Farm stay accommodation, a type of Tourist and visitor accommodation, in the Richmond Valley Council area.

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

E-6.1 Objectives

The objectives of this Chapter are to:

(1) describe the permissibility of Farm stay accommodation under the LEP

(2) ensure that Farm stay accommodation is kept in scale with surrounding development

(3) ensure that Farm stay accommodation is designed and managed so as to minimise its impacts on the amenity of the neighbourhood

(4) ensure that infrastructure and facilities are satisfactory to service the development and needs of guests

(5) ensure the safety of the occupants having regard to natural hazards, such as bush fire

(6) describe other legislative considerations.

E-6.2 Design principles

(1) Richmond Valley Local Environmental Plan 2012

(a) Definition and LEP Clauses

Farm stay accommodation is a standard definition within the Dictionary attached to the LEP. Critical to the definition is that accommodation is short stay and that it is ancillary to a working farm.

Clause 5.4(1) of the LEP applies additional controls on Farm stay accommodation restricting such developments to no more than 10 guest bedrooms.

Extract from *Richmond Valley Local Environmental Plan 2012*

Definition of Farm stay accommodation

farm stay accommodation means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

Note. See clause 5.4 for controls relating to the number of bedrooms.

Farm stay accommodation is a type of ***tourist and visitor accommodation***—see the definition of that term in this Dictionary.

Clause 5.4 Controls relating to miscellaneous permissible uses

(5) Farm stay accommodation

If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 10 bedrooms.

(b) Permissibility of Farm Stay Accommodation

Farm Stay Accommodation may be undertaken with development consent under the LEP within these specified zones:

- RU1 Primary Production
- B2 Local Centre #
- RE2 Private Recreation #
- E3 Environmental Management

Note. # Within this zone Far Stay Accommodation are permitted with development consent within the group term Tourist and visitor accommodation.

(2) Integrated development

All development requiring a section 100B authority under the *Rural Fires Act 1997* is integrated development under the EP&A Act. A section 100B authority is required in respect of, amongst other things, development of land for special fire protection purposes, which includes "tourist accommodation".

(3) Sale or supply of liquor

The *Liquor Act 2007* contains a number of exemptions for the sale or supply of liquor to guests of accommodation premises. These provisions go beyond the regulatory responsibilities of Richmond Valley Council and have been extracted below for information purposes.

Extract from Liquor Act 2007

Section 25 Authorisation conferred by on-premises licence (generally)

...

(8) **Special provisions relating to licensed accommodation premises**

An on-premises licence that relates to accommodation premises also authorises the licensee to sell liquor by retail on the licensed premises:

(a) for consumption on the licensed premises only—at any time on any day (including a restricted trading day) to a resident (or a guest of a resident while in the resident's company) or an employee of the licensee, and

(b) to a resident at any time for consumption away from the licensed premises, but only if:

(i) the sale is ancillary to the provision of a meal for consumption away from the licensed premises, and

(ii) the volume of liquor supplied to any such resident on any one day does not exceed 2 litres.

...

Note. Council is not the regulator agency for the Liquor Act. The above extract from the Liquor Act is subject to change without notice and should not be relied upon without checking the legislation or with the appropriate authority.

E-6.3 Design standards/controls

(1) Location

- Permissible in any most rural zones but must be associated with located upon a working farm as a secondary business to primary production.

(2) Environmental

- Hours of Operation – Neighbour Friendly
  - Facilities such as swimming pool operation and use to be restricted where there is potential to impact upon neighbours.
  - Management is responsible for inappropriate behaviour of guests in public places surrounding the establishment

(3) Access

- Most visitors to the Area will be travelling by private car. Therefore, the land must be serviced by a road of appropriate standard or upgraded (as a condition of consent) to such a standard. Furthermore, internal access must be appropriate so as to facilitate arrival but also safe evacuation in emergencies. Where a road or internal access is to be upgraded or provided new, the impact of construction and operation must be considered.

- Site access onto a public road must be safe for guests as well as the travelling public. Consideration will be given to speed limits along the road, the design speed for the road, available sight distances along the road, design of the intersection, the volume of traffic to be generated.

(4) Hazards

- Bushfire prone land
  - Where located on Bushfire Prone Land (see Council's Bushfire Prone Land maps) the proposal will be Integrated Development unless the dwelling is located more than 30 metres from native vegetation. In this regard "native vegetation" is taken to mean naturally occurring bushland.
  - The proposal must be assessed against the *Planning for Bushfire Protection* guidelines (2006) either complying with the deemed to satisfy provisions or supplying an alternative solution.
  - Vegetation removal for asset protection needs to be balanced with retention of natural and cultural features of the site. Council may permit habitat loss where there will be a positive biodiversity off-set established within the development site and where appropriate consents under the Native Vegetation Act can be achieved. Such consents should be investigated prior to lodging the development application.
- Flood
  - See Chapter H-1 Flooding.
  - Habitable floors are to be located above the flood planning level. The Flood Planning Level is a height 500mm above the 1 in 100 year ARI flood event for the site.
  - Extensions to an existing dwelling may be permitted at a level below the flood planning level where the additional floor area has an area less than 10% of the dwelling's existing ground floor area.
  - Development will not be permitted within an identified high hazard area.
- Emergency management plan
  - The Plan should be developed include an evacuation plan for guests.

(5) Design

- Have regard to appropriate design guidelines, eg Part A contains design guidelines for residential accommodation, Coastal Development Guidelines.
- Scale and Density
  - Proposed accommodation shall be restricted to a maximum of 10 guest bedrooms accommodating up to 25 guests.
- Siting of Accommodation
  - Any proposed buildings for Farm stay accommodation shall be sited within a 50 metre radius from the principal dwelling-house.

- Privacy and Security
  - The design consideration of proposed buildings is to maintain the level of privacy enjoyed by adjoining properties.
  - The outlook to public and communal spaces should be maximised whilst maintaining internal privacy within the site.
- Parking
  - 1 off-street car parking space to be provided per guest bedroom (plus 1 for residents of the dwelling).
  - Where the accommodation is provided within dormitory-style accommodation the rate will be 1 off-street car parking space per 3 guests or part thereof.
- Signage
  - As per signage within Part F.
- Infrastructure
  - Where the dwelling is serviced by an On-site Sewage Management System (OSMS) the system must be assessed to ensure it can handle additional loads resulting from the Farm stay accommodation. Refer to Council's OSMS Strategy.
  - Water efficiency
    - Water Sensitive Urban Design needs to be incorporated into the design. This includes installation of roof water harvesting and on site storage, stormwater detention, erosion/sediment control, AAA rated plumbing and devices.
    - Sites not connected to the mains water supply should provide a minimum of 10,000 litres rainwater tank capacity per guest bedroom and an additional 10,000 litres capacity dedicated for fire fighting purposes. A reduction in this capacity may be considered where an alternative source of suitable water can be demonstrated.
- Public Health and Food Safety
  - All public health requirements shall be complied with, in particular, but not limited to, the *Public Health Act* 1991.
  - All proposed food preparation areas shall comply with the NSW Food Standards Code and AS4674-2004 (current at the time of DCP – refer to any succeeding legislative requirements).
  - Sale of food or beverages shall be restricted to guests being accommodated at the premises unless consent is granted for Food and drink premises.
  - Cooking facilities shall not be provided within guest bedrooms.
- Refuse Facilities
  - Refuse facilities shall be made for the storage and removal of rubbish in accordance with Council Policy and for the suitable screening of the refuge storage area.
  - Disposal of refuse on-site will not be permitted.

(6) Notification and advertising

- See Chapter I-15.
- Tourist and visitor accommodation is identified as Category "B" development, therefore, requiring a published notice and written notice for 14 days.

(7) Waste Minimisation and Management

- The construction phase of any development must have a plan submitted and approved in accordance with Richmond Valley Council Waste Minimisation and Management Policy.

Part E-7. Manufactured Home Estates, Caravan Parks and Camping Grounds

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

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4 January 2016

Amendments:
Nil

This Chapter is to provide planning controls for the determination of development applications involving manufactured home estates, caravan parks and camping grounds. The planning controls provide must be read in conjunction with *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*, *State Environmental Planning Policy No 21—Caravan Parks* (SEPP21), and *State Environmental Planning Policy No 36—Manufactured Home Estates* (SEPP36).

Terms used within this Chapter have the following meanings:

Extract from *Richmond Valley Local Environmental Plan 2012*

Definitions of Camping Grounds and Caravan Parks

camping ground means an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.

caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

Extract from *State Environmental Planning Policy No 36—Manufactured Home Estates*

manufactured home means a self-contained dwelling (that is, a dwelling that includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities), being a dwelling:
(a) that comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and
(b) that is not capable of being registered under the Traffic Act 1909,
and includes any associated structures that form part of the dwelling.

manufactured home estate means land on which manufactured homes are, or are to be, erected.

E-7.1 Objectives

The objective of this Chapter is to apply local controls over manufactured home estates, caravan parks and camping grounds where there is provision for such controls in applicable Acts, Regulations, or Environmental Planning Instruments.

E-7.2 Principles & Development Standards

(1) Caravan Parks

(a) Richmond Valley LEP 2012 permissibility

Richmond Valley LEP 2012 permits caravan parks, with development consent, on land within:

- Zone RU1 Primary Production
- Zone RU5 Village
- Zone R1 General Residential
- Zone RE1 Public Recreation, and
- Zone RE2 Private Recreation.

(b) State Environmental Planning Policy 21—Caravan Parks

Clauses 8 & 10 of SEPP21 require a Council to determine a number of things including whether it is particularly suitable for a caravan park to be used for long-term residence and whether there are adequate community facilities and services available, see below.

Extract from *State Environmental Planning Policy No 21—Caravan Parks*

Clause 8 Development consent required for caravan parks

…

(2) Before granting development consent to the use of land for the purposes of a caravan park, a Council must determine:

(a) the number of sites (if any) within that land that the Council considers are suitable for long-term residence, within the meaning of the *Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993*, and

(b) the number of sites (if any) within that land that the Council considers are not suitable for long-term residence, but are suitable for short-term residence, within the meaning of that Regulation.

(3) A Council must not grant development consent to the use of land for the purposes of a caravan park unless it imposes as a condition of that consent a condition specifying the maximum number of sites (if any) within that land that may be used for long-term residence.

…

Clause 10 Matters to be considered by Councils

A Council may grant a development consent required by this Policy only after it has considered the following:

(a) whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,

(b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,

(c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,

(d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,

…

(c) Development Standards for Long-term Residents

(i) Where may long-term residences be granted consent

Development consent may only be granted for a caravan park, or extension to an existing caravan park, having a component of long-term residential accommodation, where:

- the land is zoned urban (being in Zone R1 General Residential or Zone RU5 Village)—there are no more than 50% of sites to be used for long-term residences; or
- the land has another zone—long-term residences are prohibited.

Notwithstanding, long-term residences may be permitted within other zones that adjoin land zoned urban, where a Site Compatibility Certificate has been obtained from Council. The Site Compatibility Certificate considerations prescribed by SEPP36 will be used by Council.

(ii) Essential Services

Development consent for a caravan park containing long-term residences may only be granted where:

- it can be demonstrated that reasonable access is available to community facilities and services.
- the park is serviced by reticulated water and sewer systems.
- the land is considered suitable because of flooding.
- the land is not affected to an unacceptable level by an offensive or hazardous industry or any form of pollution.

(iii) Conditions of consent

A condition of consent will be required to specify the maximum number of sites (if any) within the land that may be used for long-term residence.

(iv) Waste Minimisation and Management

The construction phase of any development must have a plan submitted and approved in accordance with Richmond Valley Council Waste Minimisation and Management Policy.

(2) Camping grounds

(a) Richmond Valley LEP 2012 permissibility

Richmond Valley LEP 2012 permits camping grounds, with development consent, on land within:

- Zone RU1 Primary Production
- Zone E3 Environmental Management
- The definition of caravan park includes a camping ground. Therefore camping grounds are also permissible, with development consent, on land within:
- Zone RU5 Village
- Zone R1 General Residential
- Zone RE1 Public Recreation, and

- Zone RE2 Private Recreation.

(3) Manufactured Home Estates

(a) State Environmental Planning Policy 36—Manufactured Home Estates

Manufactured home estates are regulated by SEPP36 and are a key alternative type of medium density residential development and affordable housing.

SEPP36 generally requires that manufactured home estates may be carried out with development consent on any land where development for the purposes of a caravan park may be carried out. However, there are exceptions for categories of land identified within Schedule 2 of SEPP36. Furthermore, the estates must be adequately serviced and have access to essential community facilities and services.

(b) Excluded lands (Schedule 2)

Manufacture home estates are excluded from the following lands by virtue of Schedule 2 of SEPP36:

- land within-
  - Zone RE1 Public Recreation—(open space other than open space (private recreation)).
  - environmental protection—Zone E2 Environmental Conservation, Zone E3 Environmental Management, and Zone W1 Natural Waterway.
  - Zone RU1 Primary Production—where not adjacent to or adjoining land zoned for urban use (Zone R1 General Residential and Zone RU5 Village).
- land identified in *Richmond Valley LEP 2012* as-
  - Terrestrial Biodiversity.
  - Wetlands.
  - Riparian Land and Waterways.
  - a Drinking Water Catchment.
- land described within an environmental planning instrument or strategy as-
  - an extractive resource.
  - services corridor.
  - airport/industry buffer area.
  - habitat corridor.
  - containing significant remnant vegetation.
  - littoral rainforest.
  - water catchment.
  - wetlands.
- land considered unsuitable for residential development because of flooding.
- land affected to an unacceptable level by an offensive or hazardous industry or any form of pollution.

Part F. Signage

This DCP applies to all land within the Richmond Valley Local Government Area.

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Nil

Well designed signage which respects the environment and character of the locality will be appreciated by both residents and visitors whilst enhancing commercial activity. Conversely, when placed without proper thought or planning, signage can be counter productive, obtrusive and dangerous for both pedestrians and road users. Too many signs can result in visual 'clutter' having a detrimental impact on the general public, the business operator and the visual amenity of the locality.

The Standard Instrument LEP provides a defined term for signage (a group term) and includes sub-term definitions for advertising structure, building identification signage, and business identification signage. As such signage comprises of signs, notices, devices, representations or advertisements that advertise or promote goods, services or events.

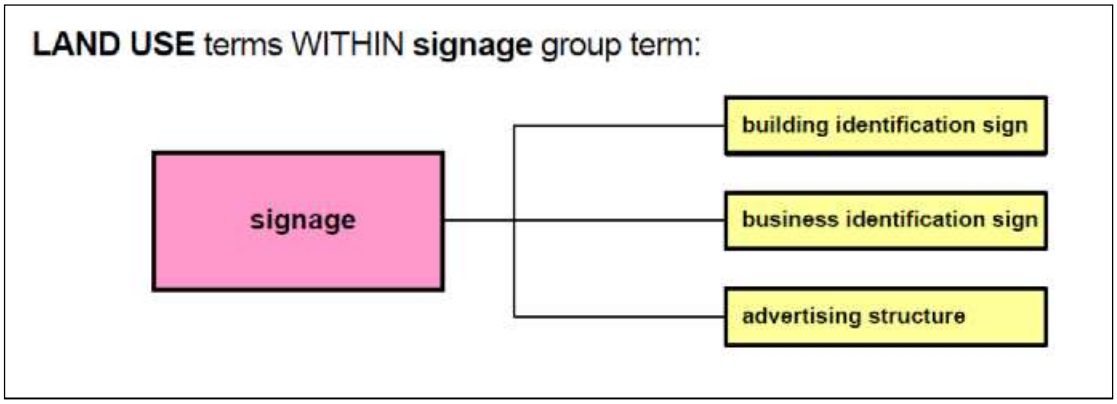


Figure F.1 General relationships for signage in the Standard Instrument LEP (Source Department of Planning – Practice Note PN11-004).

Additional Signage Regulations

Apart from this DCP and *Richmond Valley Local Environmental Plan 2012* there are several key environmental planning instruments that regulate signage. These include *SEPP64—Advertising and Signage* and *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

These policy documents provide for signage permissibility, development standards, and exemptions, and prevail over and above the LEP.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 enables some signage to be undertaken as either exempt or complying development.

F.1 General Objectives

The general objectives of this Part are to:

(1) Enable signage that is compatible with the amenity, heritage and visual character of an area,

(2) Ensure signage does not adversely affect the area in terms of appearance, size, illumination, visual clutter, traffic and pedestrian safety.

(3) Encourage signs which are simple, concise, uncluttered, and that are suitably located on the building or property

F.2 Signage Permissibility

(1) Richmond Valley Local Environmental Plan 2012

Within the Standard Instrument LEP, signage is a defined group term. It has several sub-terms which are also defined in the Dictionary to the Standard Instrument LEP. Definitions have been extracted below:

Extract of terms from *Richmond Valley LEP 2012*

Dictionary

advertisement has the same meaning as in the Act.

Note. The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure has the same meaning as in the Act.

Note. The term is defined as a structure used or to be used principally for the display of an advertisement.

Advertising structures are a type of signage—see the definition of that term in this Dictionary.

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

Note. Building identification signs are a type of signage—see the definition of that term in this Dictionary.

business identification sign means a sign:
(a) that indicates:
(i) the name of the person or business, and
(ii) the nature of the business carried on by the person 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 that does not contain any advertising relating to a person who does not carry on business at the premises or place.

Note. Business identification signs are a type of signage—see the definition of that term in this Dictionary.

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services, or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:
(a) an advertising structures,
(b) a building identification sign,
(c) a business identification sign,
but does not include a traffic sign or traffic control facilities.

(2) Land-use Permissibilities

Table F.1 Land-use Permissibility under *Richmond Valley LEP* and SEPP64

Land Zones and Areas		Defined Land-use Terms			
		SIGNAGE [1,2]	Building Identification	Business Identification	Advertising Structure [2]
RU1	Primary Production	Y	Y	Y	X
R1	General Residential	Y	Y	Y	X
RU5	Village	Y	Y	Y	Y
B1	Neighbourhood Centre	Y	Y	Y	Y
B2	Local Centre	Y	Y	Y	Y
B3	Commercial Core	Y	Y	Y	Y
IN1	General Industry	Y	Y	Y	Y
RE2	Private Recreation	X [3 / 4]	Y	Y	X
R5	Large Lot Residential	X [3 / 4]	Y [4]	Y [4]	X [3]
RE1	Public Recreation	X	Y	Y	X
W1	Natural Waterways	X [4]	Y [4]	Y [4]	X [3]
W2	Recreational Waterways	X [4]			
E1	National Parks and Nature Reserves	X			
E2	Environmental Conservation	X	Y [4]		X
E3	Environmental Management	X	Y	Y	X

Note. [1] Group term within LEP.
[2] Regulated by Part 3 of SEPP64, unless exempt development.
[3] Prohibited by clause 10 of SEPP64, unless exempt development.
[4] May be exempt development Codes SEPP.

F.3 Structures over Public Roads

(1) Chapter I-2 provides guidelines for the erection of structures in, on, over or under a public road. In summary, owners consent (generally Council) will be required to erect any structure, including signage over a public road.

Other approvals may also be required to undertake works within a public road including under the *Roads Act 1993* and *Local Government Act 1993*. Such approvals may still be required even if the signage is exempt development.

F.4 Development Controls Relating to Signage

All signage types

(1) All signage types must-

(a) relate to the use of the land, be visually interesting and be of high quality design and materials.

(b) not detract from the amenity or visual qualities of an area. The sign must have a scale, proportion and form appropriate for the streetscape.

(c) be compatible with the building design in its colour, materials and finishes. Solid block painting of walls particularly in bright colours is to be avoided.

(d) not be constructed over or obscure architectural elements of the building.

(e) not exceed, for total signage per street frontage, one top hamper, one fascia sign, one wall sign or projecting wall sign, and one under awning sign. An additional free standing sign may be permitted in an appropriate location.

Note. Council may require sites with existing "clutter" signage to be removed as part of an approval process.

(f) not be attached to a vehicle, include flashing or animated displays, be located above rooftops or project beyond the building elevation.

(g) , if illuminated, have concealed cables, not cause unacceptable glare, and may be required to have intensity dimmers and restricted hours of operation.

(h) not cause a traffic distraction, obscure or interfere with road traffic sign or signals. If visible from a busy road the sign must be consistent with The Transport Corridor Outdoor Advertising and Signage Guidelines published by the Department of Planning.

(2) Signage located over Council owned land will only be approved where it is located over a footpath area within the central business district.

Under Awning Signs

(3) Under awning signage requirements are-

- (a) Maximum of one sign per tenancy;
- (b) Not project beyond the awning;
- (c) Erected at right angles to the building; and
- (d) Be located at least 2.6m above ground level.

Projecting Wall Signs or Above Awning signs

(4) Projecting Wall Sign or Above Awning Signage requirements are-

- (a) Maximum of one sign of this type per building elevation that does not contain a flush wall sign.
- (b) Be at least 500mm below the wall height including any parapet.
- (c) Not be less than 3.0m above ground level.
- (d) Projects not more than 2.5m from the wall for a wall sign, or 2.6m above the awning for an above awning sign.
- (e) Have a thickness of not more than 300mm.
- (f) Not exceeding 5m2 for each side of the sign.
- (g) Wholly located upon the subject land or have the consent of the adjoining land owner. Where located over Council owned land e.g. footpath the requirements of Chapter I-2 apply.

Flush Wall Signs

(5) Flush Wall Signage requirements are-

- (a) Either attached to or painted onto a wall that does not include a projecting wall sign or an above awning sign.
- (b) Maximum of one per building elevation.
- (c) Maximum of 25% of the wall area.
- (d) Must be at least 500mm below the wall height including any parapet.
- (e) Not project more than 300mm from the wall.
- (f) Be wholly located within the property boundary or have the consent of the adjoining landowner.

Top Hamper Signs

(6) Top Hamper Signage requirements are-

- (a) Located immediately above a doorway or window and below the awning.
- (b) Not exceed the width of the window or opening.
- (c) Freestanding, Pole or Pylon Signs
- (d) Only permitted in Commercial or Industrial areas, advertising the business or products sold on the land.
- (e) Limit of one structure per road frontage. Where multiple tenancies exist locate individual panels for each business on the same structure.
- (f) Must not project beyond the boundary of the premises.

(g) Maximum width of 2.5m

(h) Height must not exceed 6m.

(i) Must not contain any moving, flashing or animated components.

Electronic, Variable Message or Display Signage

(7) Where any signage type will be Electronic in style, with the ability to change its display, will be permitted within Business and Industrial Zones only.

(8) Electronic signage must be located and managed not to cause any traffic distraction or hazard.

(9) Electronic signage must be consistent with SEPP64 and *The Transport Corridor Outdoor Advertising and Signage Guidelines* published by the Department of Planning & Environment. Assessment in accordance with Part 3 of the document will be required. In particular the following requirements will apply-

(a) The speed limit of the road must not be greater than 70 kilometres per hour

(b) The time to change the display must not be greater than 1 second

(c) The display must be completely static from its first appearance to the commencement of a change to another display

(d) A driver should not expect to see more than one (1) message in the period of exposure

(e) The level of illumination must be adjustable

(f) The sign must not-

- obscure or limit the view of the driver of a motor vehicle on a public road, or
- be mistaken for a traffic control device, or
- cause inconvenience or danger in the use of a public road, or
- be otherwise hazardous to traffic.

F.5 State Environmental Planning Policy No 64—Advertising and Signage (SEPP64)

(1) SEPP64 applies to all signage and aims to ensure that it:

- is compatible with the desired amenity and visual character of an area;
- provides effective communication in suitable locations, and
- is of high quality design and finish.

It also provides:

- time-limited consents (maximum 15 years),
- development assessment criteria,
- prohibitions on signage (other than business identification signs, building identification signs, exempt development signs, and signage on vehicles) within:

- § environmentally sensitive areas/ natural or other conservation area (Zones E2 and E3)
- § heritage areas — Casino Central Business District Conservation Area
- § open space — Zone RE1
- § waterways — Zone W1 and W2
- § residential (but not mixed residential and business zones) — Zone R1 and R5
- § national park/nature reserve — Zone E1

Ø development standards for specified types of signage, these being:

- § advertisements on rural or non-rural land,
- § transport corridors,
- § advertisements with a display area >20 m2 or higher than 8 metres above ground,
- § advertisements with a display area >20 m2 and within 250 metres of, and visible from, a classified road,
- § advertising display area >45 m2,
- § roof or sky advertisements,
- § wall advertisements,
- § freestanding advertisements,
- § advertisements on bridges,
- § special promotional advertisements,
- § building wrap advertisements, and
- § advertisements within navigable waters.

Extract from SEPP64

Schedule 1 Assessment criteria

1 **Character of the area**
- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?
- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

2 **Special areas**
- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

3 **Views and vistas**
- Does the proposal obscure or compromise important views?
- Does the proposal dominate the skyline and reduce the quality of vistas?
- Does the proposal respect the viewing rights of other advertisers?

4 **Streetscape, setting or landscape**
- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?
- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?
- Does the proposal reduce clutter by rationalising and simplifying existing advertising?
- Does the proposal screen unsightliness?
- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?
- Does the proposal require ongoing vegetation management?

5 **Site and building**
- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?
- Does the proposal respect important features of the site or building, or both?

	▪ Does the proposal show innovation and imagination in its relationship to the site or building, or both?
6	**Associated devices and logos with advertisements and advertising structures**
	▪ Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?
7	**Illumination**
	▪ Would illumination result in unacceptable glare?
	▪ Would illumination affect safety for pedestrians, vehicles or aircraft?
	▪ Would illumination detract from the amenity of any residence or other form of accommodation?
	▪ Can the intensity of the illumination be adjusted, if necessary?
	▪ Is the illumination subject to a curfew?
8	**Safety**
	▪ Would the proposal reduce the safety for any public road?
	▪ Would the proposal reduce the safety for pedestrians or bicyclists?
	▪ Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

Part G. Subdivision

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Subdivision of land is defined within Section 4B of the EP&A Act.

It generally provides that subdivision of land is the division of land into 2 or more parts that can be used separately or transferred. The term covers freehold title subdivisions as well as strata title and community title subdivisions.

Exclusions from the term subdivision include opening or widening of public roads, consolidation of lots, etc.

This DCP Part applies to the subdivision of land within the Richmond Valley Council area and offers an interpretation of various LEP provisions and development standards.

G.1 General Objectives

The general objectives of this Part are to:

(1) provide guidelines to assist with the design and construction of subdivisions so that they are compatible with the natural and built environments within which they are sited,

(2) provide development standards and requirements for the subdivision of land,

(3) provide criteria for consideration during the preparation of a development application and its subsequent assessment, and

(4) explain provisions of the *Richmond Valley LEP 2012* as they relate to subdivision.

G.2 Subdivision of Land

Objectives

(1) to provide a general overview of the basic subdivision requirements of the *Richmond Valley LEP 2012*.

Controls

(1) Clause 2.6 of *Richmond Valley Local Environmental Plan 2012* requires development consent for the subdivision of land, unless that subdivision is exempt development.

(2) Minimum Subdivision Lot Size

The Lot Size Map (LSZ) identifies the minimum lot size that may be created within a subdivision. The map adopts a number of different minimum lot size standards relating to:

- existing land uses and land use patterns,
- zoning,
- agricultural capabilities, and
- availability of essential infrastructure.

(3) Clause 4.1 calls upon the Lot Size Map and provides that development consent shall not be granted for subdivisions creating lots less than the minimum shown on the Map in relation to that land.

(4) Notwithstanding clause 4.1, the LEP provides several exceptions to complying with the minimum lot size, these being for:

(a) Strata and Community Titles

(b) dual occupancy (in urban zones)

(c) rural subdivisions (agricultural allotments)

(d) special purposes

(e) boundary adjustments.

G.3 Exceptions to Minimum Lot Size

Objectives

(1) to explain the various minimum lot size exceptions provided for in *Richmond Valley LEP 2012*.

Controls

(1) There are a number of clauses within the *Richmond Valley LEP 2012* that permit departures from the minimum lot size standards provided by the Lot Size Map. These exceptions are explained below.

Strata Title or Community Title Subdivision

(2) Clauses 4.1AA and 4.1A prohibit the Strata or Community Title subdivision of land within Zones RU1, R5, E2 and E3 where they relate to the division of a lot used for residential accommodation or tourist and visitor accommodation.

However, residential flat buildings, dual occupancies, shops, industrial units etc. within other zones can be strata titled or community titled with consent, and are not limited by the minimum lot sizes shown on the Lot Size Map.

Rural subdivision

(3) Clause 4.2 contains the rural subdivision provisions from clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* (Rural Lands SEPP).

The clause provides for rural zoned land to be subdivided below the MLS for primary production purposes, as long as:

(a) the lot will not contain a dwelling, and

(b) the lot will not have a dwelling opportunity.

(4) Clause 4.1(4A)(b) permits a single residual allotment to be created below the MLS but only if it comprises the entire residue of a clause 4.2 rural subdivision. The residue lot will retain a dwelling opportunity if the land had an opportunity before the subdivision.

Special Purpose subdivision

(5) Clause 4.2A permits the subdivision of land to create a lot that contains development (other than a dwelling house or a dual occupancy) which has existing development consent.

Clause 4.1(4A)(b) permits a single residual allotment to be created below the MLS but only if it comprises the entire residue of a clause 4.2A subdivision.

Subdivision of Dual Occupancy Development

(6) As a general rule, dual occupancies (other than those of rural zoned land) can be subdivided by Strata Title or Community Title. Clause 4.1C provides additional flexibility for the subdivision of dual occupancies under as Torrens Title lots where each lot must:

- be greater than 350m^2,
- only contain a single dwelling, and
- separately serviced by reticulated water and reticulated sewer infrastructure.

(7) Council will require both dual occupancy dwellings to be fully constructed prior to release of a subdivision certificate.

(8) Existing dual occupancies (whether they are already subdivided by strata/community title or not) may be eligible to be subdivided under this clause.

(9) Development consent for such subdivisions will require all shared services to be separated, as well as having separate water meters, sewer connections, power connections, etc. Further details regarding dual occupancy development and its subsequent subdivision under clause 4.1C can be found in Part A-Chapter A2.

Boundary Adjustment Subdivision

(10) Richmond Valley Local Environmental Plan 2012 is being amended to permit the adjustment of allotment boundaries so as to:

(a) not create any additional lots,

(c) not create an opportunity to create additional lots or dwelling opportunities.

(11) There will be no restriction on the size of the boundary adjusted allotments other than:

(a) there needs to be sufficient land area for on-site wastewater disposal, and

(b) no resulting lot can be of a size that would enable it to be further subdivided, so as to create additional dwelling opportunities.

Note. This means that the larger lot(s) cannot have an area greater than double the MLS.

(12) In considering whether to support a boundary adjustment subdivision, the consent authority should be satisfied that the new lots:

(a) can be adequately serviced by water and sewer,

(b) the land will be suitable for the erection of a dwelling house (where the original allotment has a dwelling opportunity)—this means it will be suitable having regard to flooding, bushfire, contaminated land, nature resource sensitivity, coastal hazard or any other like matter,

(c) the boundary adjustment will not negatively impact the long-term agricultural viability of the land direct involved, or the surrounding locality.

G.4 Subdivision of Secondary Dwellings Prohibited

Objectives

(1) to identify that secondary dwellings cannot be subdivided.

Controls

(1) Clause 2.6(2) of the LEP prohibits the subdivision of land containing a secondary dwelling, if it would result in the primary and secondary dwellings being located on separate allotments, unless the lots each meet the minimum lot size for the land.

G.5 Exceptions to Development Standards (the SEPP1 equivalent clause)

Objectives

(1) to explain the operation of clause 4.6 (the SEPP1 equivalent) under the *Richmond Valley LEP 2012*.

Controls

(1) Clause 4.6 of the LEP replaces *State Environmental Planning Policy No 1* (SEPP1) for granting variations to development standards.

(2) The clause requires an application seeking a development standard variation to justify the standard is unreasonable and unnecessary in the circumstances of the case.

(3) Council has delegation to determine variations under clause 4.6 subject to quarterly reporting of such applications to the Department.

Rural Subdivision Variations

(4) The clause specifically requires that a variation of up to 10% is permissible but for only one allotment in the development.

As such variations greater than 10% cannot be supported even with concurrence of the Director-General. Furthermore, all other lots must meet the minimum lot size.

Commercial Subdivision Variations—Zone RU5

(5) The minimum lot size (MLS) development standard for subdivision of land within Zones B1, B2, and B3 is set at 400m^2 while Zone RU5 Village is generally at 600m^2.

Council will consider applications to vary the 600 m^2 standard down to 400m^2 in Zone RU5 where it involves commercial development.

G.6 Integrated Development

Objectives

(1) to explain how subdivision of bushfire prone land will be Integrated Development.

Controls

(1) Subdivision of bushfire prone land where the lots could be used for residential or rural residential purposes is integrated development under Section 91 of the EP&A Act.

(2) Council must refer such applications to the NSW Rural Fire Service to obtain their general terms of approval, or refusal to issue a Section 100B Bush Fire Safety Authority under the *Rural Fires Act 1997*.

(3) To assist with processing the Integrated Development Application the accompanying Statement of Environmental Effects (SEE) must include a report demonstrating compliance with the *Planning for Bushfire Protection 2006* guidelines.

G.7 Design standards/controls

Objectives

(1) to identify design considerations for the layout of subdivisions.

(2) to achieve the most effective and efficient use of land having regard to topographic, climatic, ecological, and agricultural features, along with land uses patterns, zoning and infrastructure/servicing.

Controls

(1) Applicants are to comply with the following controls unless it can be demonstrated that an alternative solution to all or any of the controls will achieve an improved development outcome.

(2) Site Analysis

(a) A site analysis plan is required to identify opportunities and constraints relating to the subdivision pattern and potential end use of the land.

(b) A site analysis plan should be prepared having regard to the following, where relevant:

- waterways (creeks, rivers, streams),
- natural resources such as significant vegetation, habitat corridors, key fish habitat, wetlands,
- flood prone land,
- steep land/land slip,
- bush fire hazard,
- access points (vehicles, pedestrians, cyclists),
- soil conditions (acid sulfate soils, contaminated land),
- surrounding land uses,
- service connections,
- easements,
- archaeological sites,
- topography (contours to Australian Height Datum at 1 metre intervals),
- aspect,
- drainage systems,
- existing buildings, driveways, septic tanks and disposal areas, and
- street and lot layout of locality.

(3) Subdivision and Road Design

(a) Subdivisions should be designed having regard to the environmental constraints of the site, having regard to:

- Koala Habitat,
- Acid Sulfate Soils,
- Contaminated Land,
- Flood Prone Land,
- Landform Modification,
- Coastal Hazards, and

§ Bush Fire Hazard.

(b) The road hierarchy of subdivisions should also reflect road function, and should be designed accordingly.

(c) The layout of new roads should be designed so as to:

§ provide road links to adjoining properties,

§ facilitate the use of public transport,

§ achieve efficient access to all lots,

§ encourage safe levels of vehicle speed,

§ provide adequate sight distances (particularly at intersections),

§ provide efficient access for service vehicles (bushfire and garbage trucks),

§ provide for safe and functional vehicle and pedestrian movement,

§ adopt CPTED design principles (refer to Chapter I-10), and

§ provide for landscaping, utility services, driveways, mailboxes, street lighting, etc.

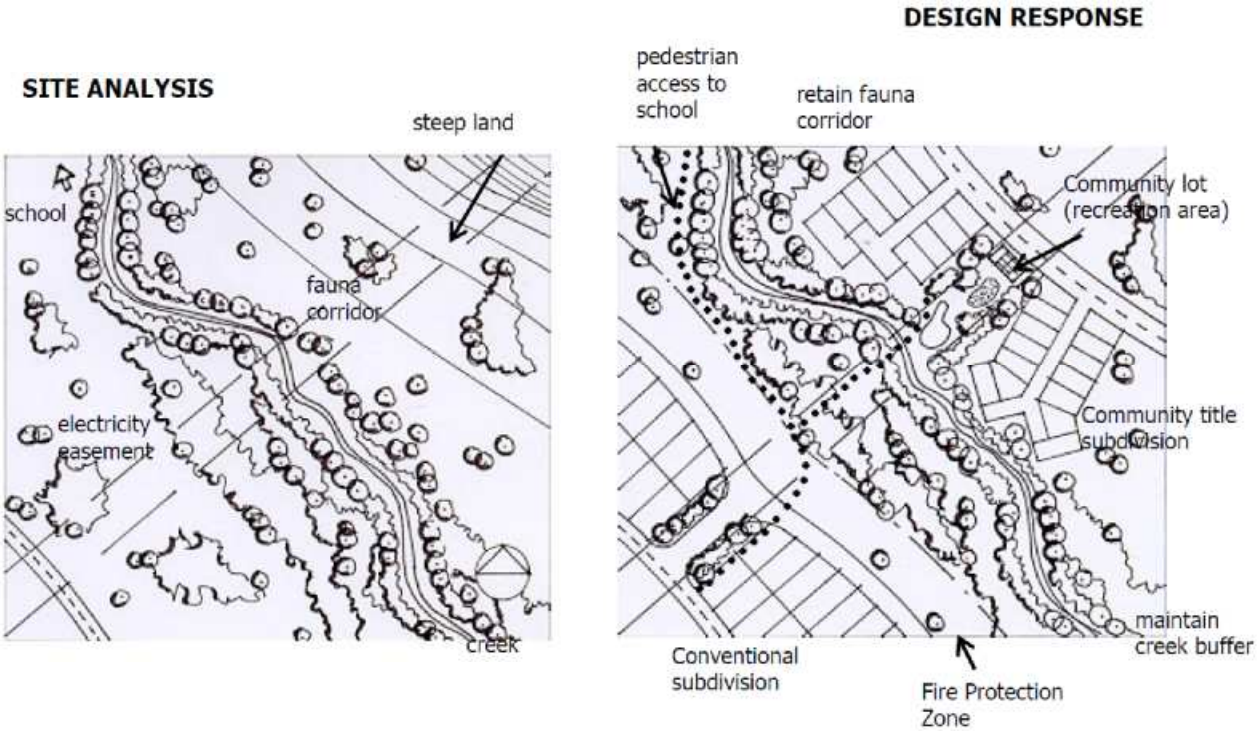


Figure G.1 Example of a subdivision design (right) having regard to the site analysis plan (left)

(d) The layout of main roads should follow a reasonably regular configuration to make the subdivision easy to navigate, and should:

§ provide memorable places to aid navigation,

§ provide people with directional choice to enable traffic to run smoothly and not confuse or overtly hinder thoroughfare,

(e) Cul-de-sacs should be avoided, but be short in length if utilised.

(f) Lots are to be designed to allow the construction of a dwelling which does not involve more than 1 metre cut or fill, measured from natural

ground level, outside the dwellings external walls. Geotechnical reports are required for subdividing steep land.

(g) Subdivisions should be designed to minimise impacts on the natural environment and retain significant landscape features.

(h) Subdivisions should incorporate regular sized lots to avoid clashes involving housing character and amenity.

(i) It must be demonstrated that each allotment to be created, that is capable of being used for residential or rural residential development, has at least one suitable building site having regard to:

- § flooding,
- § effluent disposal,
- § bush fire hazard,
- § safe, practical, access between the building site and a formed public road, and
- § readily capable of being connected to infrastructure and services.

(4) Energy Efficiency – Lot Orientation

(a) Subdivisions should be designed to maximise solar access.

(b) Where possible roads are to be orientated so that the majority of their length are within the range N20°W to N30°E or E20°N to E30°S.

(c) On sloping sites, north-facing slopes improve opportunities for solar access while south facing slopes impose a penalty on solar access. Accordingly, smaller lots should be concentrated on northern slopes and large lots on southern slopes.

(5) Density (Minimum Lot Size) and dimensions

Subdivisions are not to produce lots which have areas less than that set out in the Lot Size Map.

(a) Residential Subdivisions

- Ø Battle Axe Lots
  - § Battle axe allotments are largely to be avoided, except in circumstances to provide access to a small number of allotments which would otherwise be difficult, or cost prohibitive to access by formal road system.
  - § If a small number of battleaxe lots are utilised, they are required to be larger in size, exclusive of the access handle (i.e. 1000 m^2 where regular lots are 600-800 m^2).
  - § The handle should have a minimum width of 4.5 metres in areas requiring line-of-sight and should be constructed of concrete at the subdivision stage.

  Note. The subdivision of dual occupancies under clause 4.1C would have regard for, but not necessarily required to adhere to the abovementioned standards.

- Ø Minimum Frontage
  - § Allotments should have a minimum frontage to a public road of 15 metres, to be measured at the front boundary building line.

- § A subdivision which will involve a lot having vehicular access to a lane will only be permitted after the lot has been substantially developed (i.e. vacant lots off laneways are not to be created), and the lot adjoining the lane is to have 2 metres wide frontage fenced and paved to the primary road, to provide for pedestrian access, mailbox, services (water, sewer, electricity, communication).

Ø Strata/Community Title

- § Inspection of existing buildings will be required to ensure compliance with all relevant building and fire regulations standards.
- § Certification of all building work, including final occupation certificates, will be required prior to release of the strata/subdivision certificate.

Ø Dual Occupancy

- § Both dwellings within the development must be complete prior to release of the subdivision certificate. As such no vacant allotments can be created.
- § Each allotment must comply with BCA requirements for fire separations.
- § Each resulting allotment must maintain private open space requirements for each dwelling along with an equitable distribution of communal open space, car parking etc.

(b) Rural Subdivisions

Ø Battle Axe Lots

- § Battle axe allotments are to be avoided.
- § Reciprocal rights of carriageway are not supported as to avoid conflict between neighbours over maintenance.
- § Where justified, the access handle should be a minimum 10 metres wide, and should be no longer than 200 metres.

(c) Commercial Subdivisions

Ø Battle Axe Lots

- § Battle axe allotments are not permitted for subdivisions in Zones B1, B2 and B3.
- § Each allotment to be subdivided must demonstrate that the resultant allotment is capable of being developed for commercial development based upon its lot size, dimensions, frontage, access and services.

(6) Services

(a) Urban Areas

Ø Subdivisions in urban areas are generally required to provide infrastructure to all lots including:

- § road;
- § footpath;
- § kerb and gutter;

- § drainage (including interallotment drainage);
- § reticulated sewer and water;
- § telecommunications;
- § street lighting; and
- § electricity.

(b) Large Lot Residential Areas

- Ø Subdivisions are to provide infrastructure to all lots:
  - § including road and drainage, incorporating sealed driveways to be provided to battle axe shaped lots.
- Ø It must be demonstrated that each allotment can be adequately serviced by on-site sewage effluent disposal (OSMS).

(c) Rural Areas

- Ø Subdivisions in rural areas may permit access by right-of-carriageway.
- Ø The right-of-carriageway is to be constructed to provide all weather two-wheel drive vehicular access with adequate drainage provision, however, the length of the access handle should be no longer than 200 metres, particularly when located on bush fire prone land.
- Ø It must be demonstrated that each allotment can be adequately serviced by on-site sewage effluent disposal (OSMS).

(7) Stormwater Drainage

(a) Stormwater drainage shall be designed and provided in accordance with Council's specifications.

(b) The design details will need to be certified by Council before the drainage is provided, and will need to be completed to Council's satisfaction prior to the issue of the Subdivision Certificate.

(c) Stormwater is to be gravity drained to Council's drainage system. In some circumstances inter-allotment drainage and easements over downstream properties may be required. This will necessitate a letter of consent from the owner(s) of the downstream properties to be submitted with the development application.

(d) Drainage from sites should reflect the pre-existing or natural situation in terms of location, quantity, quality and velocity.

(e) Water Sensitive Urban Design principles should be employed, particularly with larger subdivisions.

(8) Utility Services

(a) Utility services must be extended to all lots within a subdivision in accordance with the following table (except for common property in community title and strata subdivisions).

(b) Conditions on the development consent will outline how, when and to what standard, these services are to be provided.

Utility Service	Urban Area	Rural Residential Area	Rural area
Council's water main	Yes	No [4]	No [4]
Council's sewer main	Yes	No [3]	No [3]
Telephone	Yes [1]	Yes [1]	No
Electricity	Yes [1]	Yes [1]	Yes [2]

Note. [1] In greenfield subdivisions these services must be underground.

[2] Unless the applicant can demonstrate that alternative methods of providing electricity exists or that the provision of this service is cost prohibitive.

[3] Subject to demonstrating the capability of the lots to accommodate on-site effluent disposal.

[4] Each allotment would be serviced by rain water tank to be provided as part of the construction of subsequent development.

(9) Erosion and Sediment Control

(a) Subdivisions should be designed to minimize the disturbance of lands with topographical constraints.

(b) Conditions on the development consent will indicate whether erosion and sediment controls will be necessary, and if so, these controls will need to be in place before site works commence. The controls will need to be provided in accordance with Landcom (2004) *Blue Book – Managing Urban Stormwater: Soils and Construction*.

(10) Street Tree Masterplan

(a) A Street Tree Masterplan will be required for subdivisions on greenfield sites. The Masterplan aims to guide street tree planting, providing for a more appealing streetscape which complements its natural setting.

(b) Planting proposed by the Masterplan is to be determined having regard to:

- site and dwelling boundaries,
- location and canopy of existing trees, noting any trees that overhang the sit,
- adjacent streets and trees,
- any connection to open space networks or proposed public reserves,
- paving materials and drainage
- treatment,
- details of any existing fencing and walls, and
- location of underground services.

(11) Developer Contributions

(a) In many cases the payment of contributions are required to cover the cost of services and facilities which are provided by Council. These contributions are often levied with subdivision, prior to the issue of the Subdivision Certificate. Contributions levied on developments may include:

- section 64 contributions under the *Local Government Act 1993* for such services as water, sewer and drainage, and/or
- section 94A contributions under the *Environmental Planning and Assessment Act 1979* which consists of a levee up to 2% of the cost of the development.

(b) Conditions on the development consent will indicate whether these contributions are required.

(c) The value of these contributions are outlined in Council's Revenue Policy which is available on-line.

(12) Adoption of Northern Rivers Local Government Development Design and Construction Manuals

(a) The *Northern Rivers Local Government Development Design and Construction Manuals* are utilised for the design and construction of civil engineering works associated with development approvals. The Manual is contained within 3 volumes being:

- Development & Design Manual,
- Construction Manual, and
- Standard Drawings.

(b) For the purposes of engineering and subdivision works reference should be made to the standards contained within the manuals.

(c) Where doubt exists regarding standards contained within the Manuals, or a subject has not been adequately covered, consultation should be made with Council or any relevant Council policy for clarification or reference to alternatively appropriate standards.

Part H.
Natural Resources and Hazards

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

This is a subject based Part relating to natural resources and sensitivities provided for within the *Richmond Valley Local Environmental Plan 2012*. It also includes other matters relating to natural hazards.

This Part contains the following Chapters:

Chapter	Page No. in this Part
Part H-1. Flood Planning	3
Part H-2. Bush Fire Prone Land	7
Part H-3. Acid Sulfate Soils	13
Part H-4. Natural Resources (NRS)	23

Part H-1. Flood Planning

This Chapter provides guidance for development of land below the Flood Planning Level and should be read in conjunction with the *NSW Floodplain Development Manual* and Council's adopted *Floodplain Risk Management Plan(s)*.

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

H-1.1 General Objectives

The general objectives of this Chapter are to:

(1) align flood planning with the NSW Government's Floodplain Policy.

(2) explain the relevance of the adopted Flood Planning Level.

(3) call up Flood Planning Development Controls from Council's *Floodplain Risk Management Plans*, which adopt a flood planning approach taking into account social and environmental considerations alongside economic benefits to reach the most objective balance.

(4) explain the adopted floodplain risk hazard categories and encourage suitable development compatible with flood hazard.

(5) make allowances for alterations to existing development, or on compassionate grounds such as when a building has been lost to fire or storm.

H-1.2 Floodplain Risk Management Plans

Objectives

(1) to explain the flood risk categories adopted by Council's *Floodplain Risk Management Plan(s)*.

(2) to recognise the 1 in 100 year ARI design flood for appropriate flood planning development controls.

(3) explain the probability of the various design flood events occurring.

Controls

(1) Council had 2 adopted *Floodplain Risk Management Plans*, one each for of Casino and the Mid-Richmond.

(2) These Plans have modelled a number of design floods ranging from a 1 in 20 year event to the Probable Maximum Flood (PMF). The models have been calibrated for each event frequency, based upon anecdotal and recorded information, to improve their resilience.

(3) The *NSW Floodplain Development Manual* advocates a merits based approach to selection of appropriate flood planning levels (FPLs) recognising the need to consider the full range of flood sizes, up to and including the PMF, and the corresponding risks associated with each flood. With few exceptions, it recognises that it is neither feasible nor socially or economically justifiable to adopt the PMF as the basis for flood planning.

(4) The Council flood studies undertook cost benefit analysis for each of the modelled design floods. It concluded that the 1 in 100 year Average Recurrent Interval (ARI) flood event was the most appropriate for flood planning.

Note. A 1 in 100 year ARI flood event may also be referred to as a 1% flood—measured as a having a 1% probability of occurring or being exceeded in any single year.

Other flood design levels often cited are 1 in 20 year (or 5% Flood), 1 in 50 year (or 2% Flood), 1 in 500 year (or 0.2% Flood), and PMF (the ultimate flood event that can occur).

(5) The Risk Plans also reference Floodplain Hazard Categories. These are tools for assessing the suitability and minimum requirements for development based on a combination of depth (D) and velocity (V). These categories are:

(a) High Floodway Hazard (HFH) - based on a 100 year design flood – Flow paths that carry significant volumes of flood water during a 100 year flood. Danger to life and limb, evacuation difficult, potential for structural damage, high social disruption, and economic losses.
V>2m/s or VxD>1 [for D>1m] or D+(0.3xV)>1 [for V>1m/s]

(b) High Depth Hazard (HDH) - based on a 100 year design flood – Area where floodwaters are deep but are not flowing with high velocity.
V<1m/s and VxD<1 or D+(0.3xV)>1

(c) High Isolation Hazard (HIH) - based on a 100 year design flood – As per High Depth but with no easy access to safe refuge (ie more than 500m to high ground)

(d) Possible High Depth Hazard (HFH) or Low Hazard (LH) - based on a 100 year design flood – Insufficient ground level information. Final category dependent on the exact ground levels at the particular site.

(e) Low Hazard (LH) - based on a 100 year design flood – Flood depths and velocities are sufficiently low that people and their possessions can be evacuated.
V<2m/s and D+(0.3xV)<1

H-1.3 Flood Planning Level

Objectives

(1) to explain the Flood Planning Level.

Controls

(1) Council's *Floodplain Risk Management Plans* have adopted the 1 in 100 year ARI flood event to be most appropriate for flood planning.

(2) The *Richmond Valley LEP 2012* (clause 6.5) adopts the 1 in 100 year ARI flood event from the Risk Plans, plus a 500mm freeboard, as the *Flood Planning Level* (FPL).

(3) All development at or below the FPL must take into account flood hazards in the area, thereby reducing the risk to life and lowering the health, social, and psychological trauma associated with flooding, and greatly reducing property damage.

H-1.4 Flood Planning Controls for development

Objectives

(1) to adopt appropriate flood planning controls from the *Floodplain Risk Management Plans*, where applicable.

(2) allow some flexibility in the flood planning controls, without compromising the safety of residents and the community, for minor extensions or where there are compassionate grounds.

Controls

(1) Council's *Floodplain Risk Management Plans* adopt various flood development control requirements. The Risk Plans should be the primary source of appropriate development controls, however, some have been reproduced below.

(2) Residential development

(a) The floor level of habitable rooms are to be erected above the Flood Planning Level.

(b) No new residential development is permitted where the flood depth of a 1 in 100 year ARI flood event is >2 metres.

(c) Some exceptions will be permitted for minor extensions to existing dwellings, or on compassionate grounds, such as where an existing dwelling must be rebuilt after it has been damaged.

(3) Commercial & Industrial Development

(a) Areas within the *Mid Richmond Floodplain Risk Management Plan* are requirement to have floor levels located above a 1 in 20 year ARI flood level.

(b) Areas within the *Casino Floodplain Risk Management Plan* are requirement to have floor levels located above the 1 in 100 year ARI flood level.

(c) A combination of design, flood level and freeboard will be used to determine the suitability of development through consultation of the Risk Plans.

(4) Other Development

(a) A combination of design, flood level and freeboard will be used to determine the suitability of development through consultation of the Risk Plans.

H-1.5 Flood information

Objectives

(1) to ensure that flood information is freely available to the community.

Controls

(1) Flood information relevant to individual properties, based upon contemporary design flood modelling, is available free of charge from Council. These models extend along the length of the Richmond River from just north of Casino to below Broadwater and include parts of the lower Bungawalbin Creek and the upper part of the Evans River.

(2) For localities outside a modelled area, the proponent of a development may be required to predict the flood planning level by conducting a localised flood assessment utilising anecdotal evidence of past flood heights and consequences.

(3) Information can be obtained from Council by application.

Part H-2. Bush Fire Prone Land

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

This Chapter provides guidance for development upon bushfire prone land within the Richmond Valley Local Government Area (LGA) and should be read in conjunction with the NSW Rural Fire Service's publication *Planning for Bush Fire Protection* (2006), and Australian Standard *AS3959–1999 Construction of Buildings in Bush Fire Prone Areas*.

H-2.1 General Objectives

The general objectives of this Chapter are to:

(1) define bushfire prone land.

(2) explain the development assessment process for development applications involving bushfire prone land.

H-2.2 Bushfire Prone Land

Objectives

(1) to explain the purpose and content of the Bushfire Prone Land map.

Controls

(1) The *Planning for Bush Fire Protection* 2006 guideline (or any subsequent guideline) is the primary tool for managing land and assessing development of bush fire prone land.

(2) Part 4 of the *Environmental Planning and Assessment Act 1979* references Bushfire Prone Land Maps to determine when development must be assessed against the guideline.

(3) Bushfire Prone Land maps are to be prepared by councils on behalf of the Commissioner of the NSW Rural Fire Service, under the *Rural Fires Act 1997*, whom must certify the maps.

(4) The *Richmond Valley Bushfire Prone Land Map* was certified by the Commissioner on 17 February 2015, see figure H-2.1. The map identifies bushfire vegetation as either Category 1 or Category 2 hazard, depending on its vegetative composition, and applies a 100 or 30 metre buffer, respectively, see figure H-2.2.

- Category 1 Vegetation appears as orange on the map and represents forests, woodlands, heathlands, pine plantations and wetlands. It is the higher hazard category. Land within 100 metres of this category is also captured as a buffer (coloured red on the map) and represents land with the potential to be affected by bushfire attack.
- Category 2 Vegetation appears as yellow on the map and represents grasslands, scrublands, rainforests, open woodlands. Land within 30 metres of this category is also captured as a buffer (coloured red on the map) and represents land with the potential to be affected by bushfire attack.

(5) All land that intersects a category of vegetation hazard or buffer is considered to be bushfire prone land.

(6) Development of bushfire prone land is required to be assessed with regard to the *Planning for Bush Fire Protection* (2006) guideline.

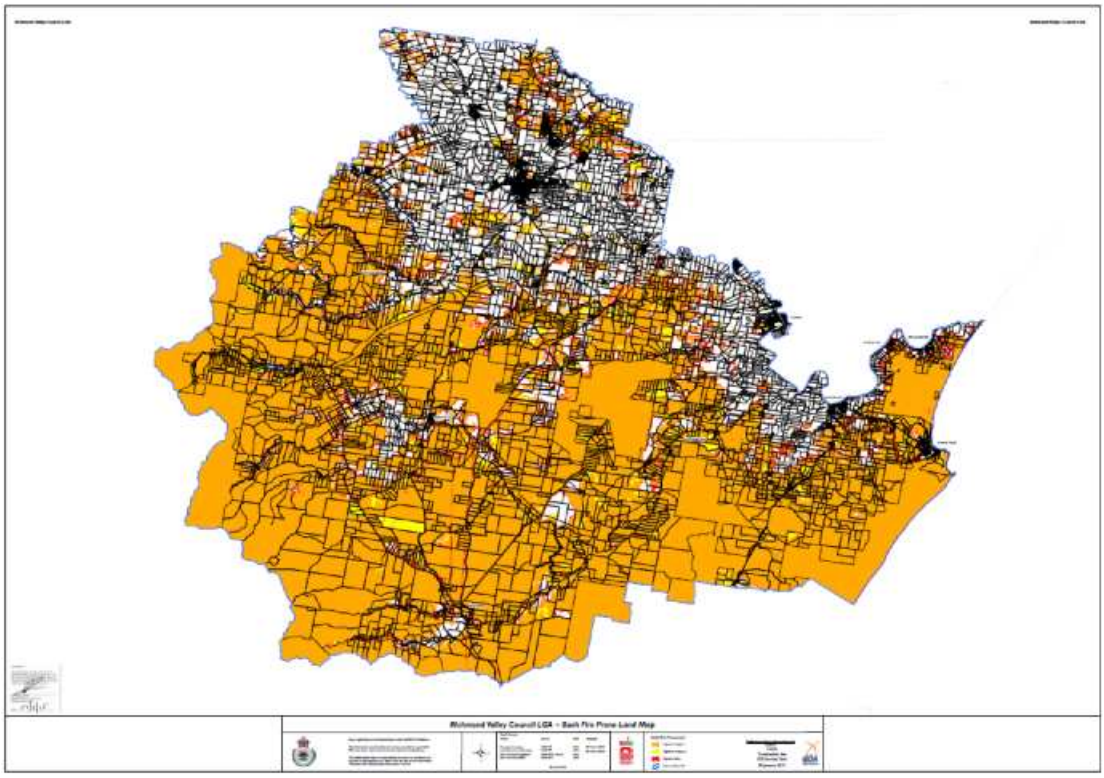


Figure H-2.1 Richmond Valley Council Bush Fire Prone Land Mapping (2015)

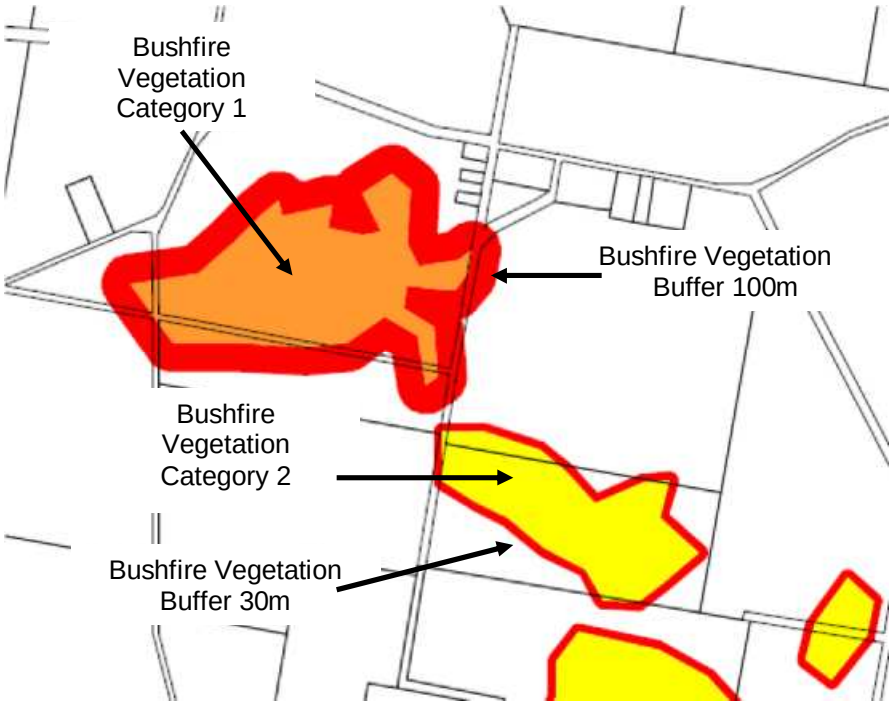


Figure H-2.2 Example of a Bush Fire Prone Land Map at a small scale

H-2.3 Planning for Bushfire Protection

Objectives

(1) to provide a guiding overview of the Planning for Bushfire Protection guideline.

Controls

(1) The *Planning for Bushfire Protection (2006)* guideline is a performance based approach to assessing development. It identifies objectives and detailed performance criteria to satisfy desired outcomes. The performance criteria can be satisfied in either of 2 ways:

- use of the acceptable solutions (deem-to-satisfy); or
- demonstrating another solution satisfying the specific objectives and performance criteria (alternate solution).

(2) Developments that conform to the acceptable solutions can be determined by the consent authority (ie. Council), unless the development is for Integrated Development.

(3) Applications, unless Integrated Development, to build within a flame zone or proposing an alternate solution under the guidelines will be referred to the District RFS Fire Control Centre (FCC) for comment, prior to determination of the application.

H-2.4 Environmental Planning and Assessment Act

Objectives

(1) to explain how the *Environmental Planning and Assessment Act 1979* (EP&A Act) triggers assessment of development under the *Planning for Bushfire Protection (2006)* guidelines.

(2) to discuss the different application and determination types in the EP&A Act for development on bushfire prone land.

Controls

(1) All development under Part 4 of the EP&A Act that is located on Bushfire Prone Land must be assessed against the *Planning for Bushfire Protection (2006)* guidelines.

(2) There are 2 sections of the EP&A Act that require bushfire assessment. These are:

(a) Section 79BA - Consultation and development consent—certain bush fire prone land

- Applies to all development, on bushfire prone land, other than development involving subdivision of land that could lawfully be used for residential or rural residential purposes; or development of land for a special fire protection purpose
- Applications are assessed by Council.
- Assessment must determine whether the proposal conforms to the deem-to-satisfy provisions of the Planning for Bushfire Protection (2006) guidelines.

- Ø Departures from the guidelines (an alternative solution) must receive concurrence from the NSW Rural Fire Service.

(b) Section 91 – What is "integrated Development"?

- Ø Development, on bushfire prone land, involving subdivision of land that could lawfully be used for residential or rural residential purposes, or development of land for a special fire protection purpose, is integrated development.
- Ø Applications must be referred to the NSW Rural Fire Service for their general terms of approval to issue a fire safety authority under Section 100B of the *Rural Fires Act 1997*.
- Ø The application must be accompanied by a Bush Fire Risk Assessment report prepared by a suitably qualified and experienced bush fire consultant.

Note. *Special fire protection purpose* is defined within section 100B of the *Rural Fires Act 1997*.

> ***special fire protection purpose*** means the purpose of the following:
> (a) a school,
> (b) a child care centre,
> (c) a hospital (including a hospital for the mentally ill or mentally disordered),
> (d) a hotel, motel or other tourist accommodation,
> (e) a building wholly or principally used as a home or other establishment for mentally incapacitated persons,
> (f) seniors housing within the meaning of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*,
> (g) a group home within the meaning of *State Environmental Planning Policy No 9—Group Homes*,
> (h) a retirement village,
> (i) any other purpose prescribed by the regulations.

H-2.5 Building Code of Australia

Objectives

(1) to outline Building Code of Australia requirements for buildings.

Controls

(1) The *Building Code of Australia* (BCA) does not provide bush fire specific performance requirements for Classes 5 to 8, and 10 buildings. Hence, the AS3959 'deemed to satisfy' provisions do not apply.

(2) The general fire safety provisions contained in the BCA are taken as acceptable solutions but the aims and objectives of *Planning for Bush Fire Protection 2006* guidelines apply in relation to other matters such as access, water and services, emergency planning and landscaping/vegetation management.

(3) All classes of building are required to comply with the requirements of the guidelines.

(4) Class 10a buildings constructed within 10 metres of a residential class of building must meet the BCA requirements of that residential class or building.

(5) Class 10b buildings are required to be non-combustible. Above ground swimming pools should not adjoin or be attached directly to the walls of Class 1 to 4 Buildings, or a Class 9 Special Fire Protection Purpose.

(6) Any Development Application for a Class 5 to 8 Building must be accompanied by a Bush Fire Risk Assessment report. This report must be prepared by a suitably qualified and experienced bush fire consultant.

(7) Any Development Application for a Class 10 Building must be supported by a Bush Fire Risk Assessment report. This report is recommended to be prepared by a suitably qualified and experienced bush fire consultant, rather than the property owner.

(8) Construction Certificate applications for development upon land classified as bush fire prone land are assessed by Council in accordance with *AS3959 – 1999 Construction of Buildings in Bush Fire Prone* Areas. Therefore, an applicant must provide a schedule of compliance with the applicable construction standards in accordance with section 3 of AS3959. This schedule will form part of the approval documentation and the applicant will be required to comply with it during the course of construction.

H-2.6 Landscape Plans

Objectives

(1) to outline the requirements for preparing a Landscape Plans for bushfire prone land.

Controls

(1) Where a Landscape Plans is required on bushfire prone land it must be prepared in accordance with Appendix 5 of the *Planning for Bush Fire Protection 2006* guidelines.

(2) Landscape plans must identify the location and species type of all existing and proposed trees and shrubs within the site. The plan must also indicate any proposed asset protection zone (including proposed trees and shrubs to be removed as part of the asset protection zone).

Part H-3. Acid Sulfate Soils

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Acid Sulfate Soils (ASS) occur in low lying coastal areas of the LGA that are subject to occasional flooding and high water tables. The soils are usually buried below alluvial sediments, of variable depth, so the ASS may be found close to the surface or several metres deep.

If left undisturbed these soils are relatively harmless, however, when exposed to air, by excavation or dewatering, the oxygen reacts with pyrite in the soil to produce sulfuric acid.

Sulfuric acid has the potential to dissolve metals, such as iron and aluminium, from the soil. When ground water carrying these metals is discharged into waterways the metals can be concentrated to toxic levels. Acid water also corrodes concrete and aluminium, rusts steel, kills water bugs, and causes disease in fish. Acidic waterways may be crystal clear, cloudy white, yellow, orange or blue/green (the colours generally representing flocculation of concentrated minerals and/or metals that have been leached from the adjoining soils). The bed and banks of these waterways may also have an orange (iron) floc, black ooze, or green copper coloured appearance.

Black ooze (monosulfidic black ooze) forms in some waterways and when disturbed contribute to deoxygenation and fish kills.

Acidic soils become infertile because their nutrients are unavailable to plants, and toxic concentrations of metals may stunt or kill plants.

In appearance the soils can range from black gel, to a dull grey clay, to grey sands and peat, and may contain yellow or orange streaks.

Acid tolerant species, such as sedges, rushes or paperbarks, are indicative vegetation types for these soils. However, in extreme situations the soil could be scalded bare, with a red, orange or yellow colouration.

H-3.1 General Objectives

The general objectives of this Chapter are:

(1) to identify what are acid sulfate soils.

(2) explain the provisions of *Richmond Valley LEP 2012* Clause 6.1 Acid Sulfate Soils, and the Acid Sulfate Soils Map.

(3) to ensure effective management of areas affected by acid sulfate soils.

(4) provide guidance to landowners, consultants and the general community on the procedures involved in the management of areas affected by acid sulfate soils.

(5) to outline the preliminary assessment process for acid sulfate soils.

(6) to assist with the preparation of an acid sulfate soil management plan, which is necessary when the nature of development poses an acid sulfate soil risk.

H-3.2 Acid Sulfate Soils Map

Objectives

(1) to reference the acid sulfate soils map and outline each of the 5 classes depicted.

Controls

(1) *Clause 6.1 Acid Sulfate Soils Map* calls upon the *Acid Sulfate Soils Map*.

(2) This map represents the predicted location and likely depth of acid sulfate soil in the Richmond Valley Council area. It was derived from the *NSW Acid Sulfate Soils Risk Maps*, that were produced by the NSW Soil Conservation Service in June 1995, by removing reference to probability.

(3) The map identifies 5 classes of acid sulfate soil, see figure H-3.1-

- Class 1 – representing the bed of creeks and rivers where acid sulfate soil is likely.
- Class 2 – representing where acid sulfate soils may be present at or below the natural ground surface.
- Class 3 – representing where acid sulfate soils may be present from and below a metre of the nature ground surface.
- Class 4 – representing where acid sulfate soils may be present from and below 2 metres of the nature ground surface.
- Class 5 – representing a 500 metre buffer to classes 1, 2, 3 & 4. This class is not expected to have acid sulfate soil present but works in this area must avoid lowering the watertable of an adjoining class.

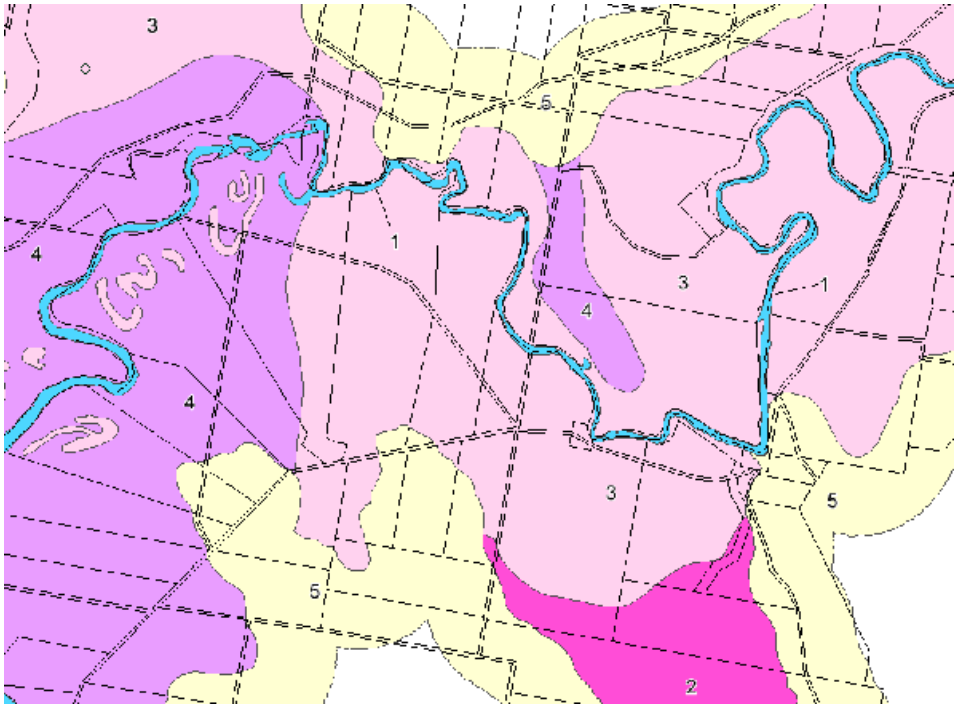


Figure H-3.1 Extract from the Acid Sulfate Soils Map showing the 5 classes.

H-3.3 Development Consent Required for Work

Objectives

(1) to explain the workings of clause 6.1 of the *Richmond Valley LEP 2012* and when development consent is required for works.

(2) give an overview of the development application process when acid sulfate soils are involved.

(3) itemise the requirements of an acid sulfate soils assessment and for drainage management plans.

Controls

(1) Works that require development consent

(a) *Clause 6.1 Acid Sulfate Soils* requires development consent for works that are likely to expose acid sulfate soil.

(b) The Table to clause 6.1 indicates when works will require consent in each of the 5 classes. Eg. Work in Class 3 will be required where they extend over 1 metre below the natural ground surface, or would lower the watertable beyond a 1 metre below the natural ground surface.

Note. Development consent in accordance with the land use tables of the particular zone may still be required even if the Acid Sulfate Soils provisions do not require consent.

(c) The onus is on the landowner, contractor and proponent proposing any works to check which class(es) of acid sulfate soil may apply to the land and whether a development application, or preliminary soil assessment, is required.

Extract from *Richmond Valley Local Environmental Plan 2012*

Clause 6.1 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.

Class of land	Works
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 required 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 management 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, such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial water bodies (including canals, dams and detention basins) or foundations or flood mitigation works, or

(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 n 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 in Zone E2 Environmental Conservation or 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) has been prepared in accordance with the *NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005)*, and

(b) specifies the management practices to be adopted, to avoid or minimise an acid hazard on the land, and
(c) provides information about:
(i) the depth, location and nature of acid sulfate soils on the land, and
(ii) the location and dimensions of existing, new and redesigned drains on the land, and
(iii) the nature of any earth moving activities to be carried out on the land, such as laser levelling, construction or enlargement of dams, and
(d) is endorsed by the Sugar Milling Cooperative as being appropriate for the land.

NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005) means 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 Cooperative 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 (ACN 051 052 209) or its successor.

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

(2) Development Application Procedures

(a) Figure H-3.2 provides a flow-diagram outlining the general procedure landowners, applicants and proponents will need to follow when proposing to undertake certain works within land classes 1 - 5 on the Acid Sulfate Soil Map.

(b) During the preparation of a soil assessment or management plan, applicants are advised to liaise with the local offices of the:

- Department of Primary Industries (Agriculture and Fisheries), and
- Environment Protection Authority (Pollution).

(c) Applications accompanied by copies of correspondence from the above agencies, which provide comments on the Soil Assessment or Management Plan, will be determined by Council more expeditiously than those applications not providing this information. Applications, not accompanied by relevant advice, will be referred to the relevant Departments for comment prior to consideration by Council.

(3) Soils Assessment and/or Soil Management Plan

(a) Development applications triggering assessment under clause 6.1 must be accompanied by a preliminary soils assessment, and/or soil management plan.

(b) A preliminary soils assessment must be prepared by a suitably qualified person. The assessment must include matters outlined in the *Acid Sulfate Soil Manual*. As illustrated in Figure H3.3, an Applicant has an opportunity to assume the proposed development site contains Acid Sulfate Soil. This will by-pass the need to undertake a preliminary soils assessment, however, it will still necessitate a soil management plan to be prepared.

(4) Drainage Management Plans

(a) Where a property contains a series of drains or works that would require development consent for each individual section, the owner is encouraged to submit a drainage management plan for the whole property. This plan would form part of the development application. Such a management plan would cover all the drains on that specific

property, including their maintenance and rehabilitation details, as needed.

(b) Council encourages this approach by landowners as it promotes better overall management and provides Council with a more complete overview of the location, ongoing maintenance and interaction of such drains.

(c) A property owner who has prepared a drainage management plan may also enter into a joint application with adjoining property owners, however, the applicant should be aware that in the case of a joint development consent any amendment to the drainage management plan would require the written support of each landowner involved in the consent.

(5) Determination by Council

(a) Where development consent is granted for drainage work, no further development consent will be required to maintain those works provided the ongoing maintenance and management is carried out in accordance with the terms and conditions of the consent.

(b) An applicant working under a drainage management plan is encouraged to contact Council if there is any question as to the terms and conditions of consent. New owners of land should also contact Council regarding the terms and conditions of any development consent issued by Council and applying to the property. When a property is bought or sold the consent stays with the land and the new owner must comply with the terms of the consent.

(6) Consultation

(a) As stipulated in Section H3.4, proponents, applicants and developers are advised to consult with the following government agencies when preparing a soil assessments or soil management plan.

(b) When considering a development application, Council shall consult with:

- the Environment Protection Authority—where a management plan is submitted (unless advice is supplied that indicates the EPA is satisfied with the Management Plan)
- Department of Primary Industries (Agriculture)—where the development specifically relates to agricultural purposes which involves enhancing and/or maintaining agricultural production
- Department of Primary Industries (Fisheries)—as integrated development where it involves runoff into a Key Fish Habitat

(c) The matters on which the Departments shall be consulted are the adequacy of the soil assessment and/or management plan, the conclusions of those assessments and in the case of the Department of Primary Industries (Agriculture), its likely impact on the agricultural production.

(d) Council shall give Government agencies 21 days to respond to the consultation. If no response is forthcoming within that period Council may proceed to finalise assessment of the application. It should be noted that major applications may take longer than 21 days for a

response from Government agencies. Minor applications may, at Council's discretion, be dealt with without consultation.

(e) In deciding whether to grant consent to the application, Council shall take into consideration the likelihood of the development resulting in the oxidation of acid sulfate soils and the adequacy of any management plan having regard to any government department's comments.

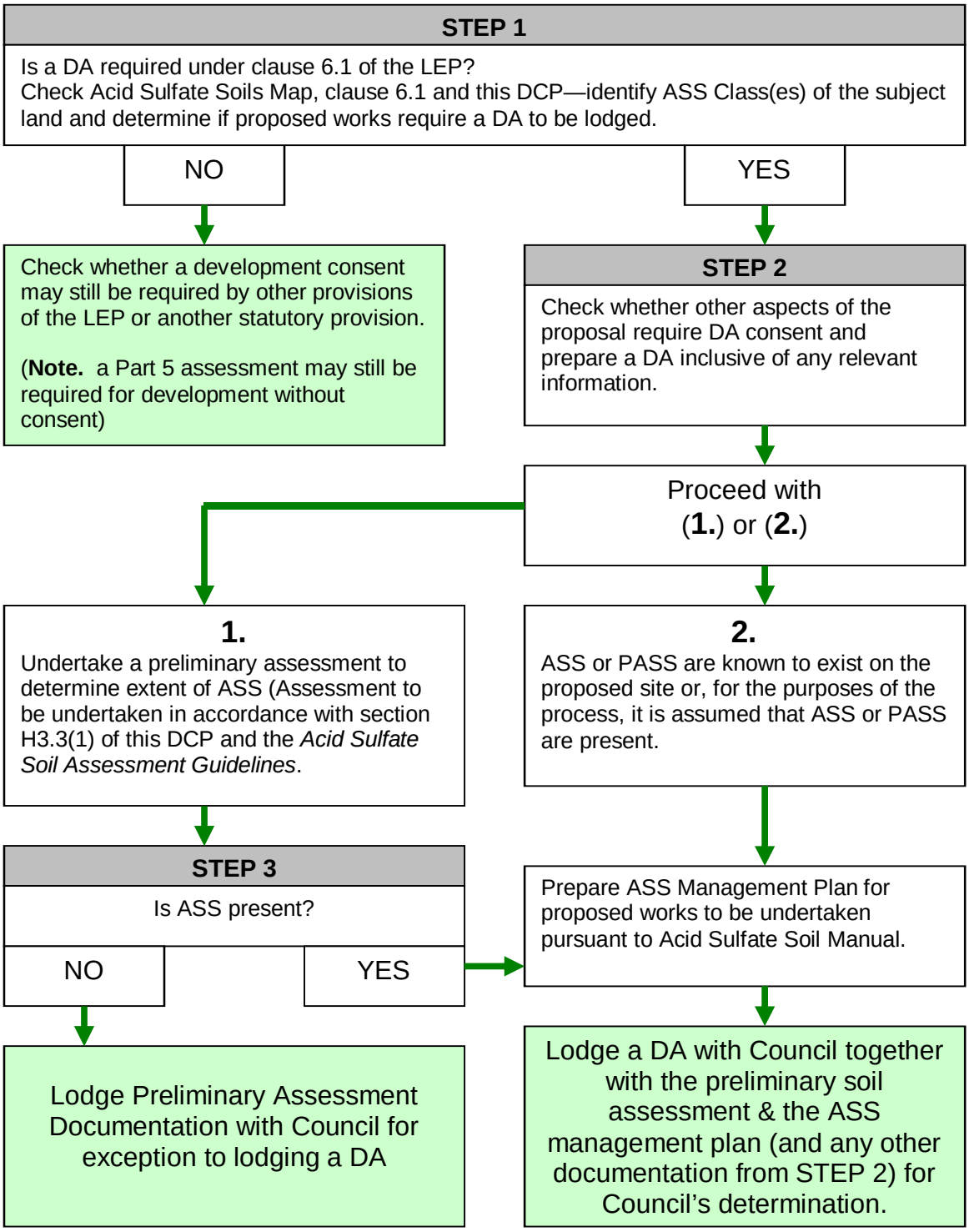


Figure H-3.2 Development Application Process for Proposed Works in Acid Sulfate Soil Areas

H-3.4 Exceptions to requiring development consent

Objectives

(1) to explain development consent exceptions provided for in clause 6.1 of the *Richmond Valley LEP 2012*.

Controls

(1) Preliminary assessment process

(a) When work involves disturbing soil, or lowering the watertable, a preliminary assessment can be undertaken to determine whether acid sulfate soils are present and if the proposed works are likely to disturb these soils.

(b) The purpose of a preliminary assessment is to:

(i) establish the characteristics of the proposed works;

(ii) establish whether acid sulfate soils are present on the site and if they are in such concentrations so as to warrant the preparation of an acid sulfate soils management plan;

(iii) provide information to assist in designing a soil and water assessment program; and

(iv) provide information to assist in decision making.

(c) The preliminary assessment process is outlined in Figure H-3.3.

(d) Development consent under clause 6.1 is not required for the carrying out of works if:

(i) a preliminary assessment of the proposed works has been undertaken and supplied to Council;

(ii) the preliminary assessment indicates that an acid sulfate soils management plan need not be carried out for the works; and

(iii) Council has provided a written confirmation that it accepts the findings of the assessment.

(e) A preliminary assessment must be undertaken in accordance with the *Acid Sulfate Soils Manual* by a suitably qualified person.

(f) Submitting Preliminary Assessments - to assist Council with processing preliminary assessments they should be accompanied by:

(i) a letter requesting Council advice;

(ii) identify the proposed works;

(iii) identify the land (Lot and Deposited Plan numbers);

(iv) contain a map identifying-

- the property;
- location of sample points; and

(v) identify the nature of the proposed works.

(2) Emergency works by a Public Authority

(a) Public Authorities are exempt from requiring development consent for certain works under the provisions of *State Environmental Planning Policy (Infrastructure) 2007* (iSEPP). However, clause 20(2)(d) of the iSEPP requires that exempt development shall have no more than

minimal impact on the environment. Due to the environmental significance of Acid Sulfate Soils, the provisions of the iSEPP may be revoked and will default to a consentable use under clause 6.1.

(b) Notwithstanding clause 6.1(5) provides that development consent is not required for the carrying out of the following works by a public authority:

- emergency work;
- routine management work; and
- minor work.

(c) Such works are without consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, but will require assessment under Part 5 of the Act to determine whether the activity will have a significant impact on the environment.

(3) Minor works

(a) Consent under clause 6.1 is not required to carry out works involving the disturbance of less than 1 tonne of soil (acid sulfate soil), or where the works are not likely to lower the watertable.

(b) Liming the excavated soil material will neutralise any potential acid production. Liming rates should be determined from lab testing of the soils (refer to the Acid Sulfate Soil Manual). Notwithstanding, small volumes of excavated material where the liming rate is unknown can assume a worst case scenario and apply lime at a rate of 24 kg per m^2.

(4) Agricultural works in sugar cane areas

(a) Clause 6.1(7) provides an exemption from requiring development consent under the clause for sugar cane farms with Production Area Entitlements (PAE). It provides that development consent is not required where that work is undertaken in accordance with a drainage management plan.

(b) Clause 6.1(7) operates under the *NSW Sugar Industry Best Practice Guidelines for Acid Sulfate Soils (2005)* with the support of the NSW Sugar Milling Cooperative.

(c) The contents of Drainage Management Plans are determined by the above guidelines, and the *Acid Sulfate Soils Manual*.

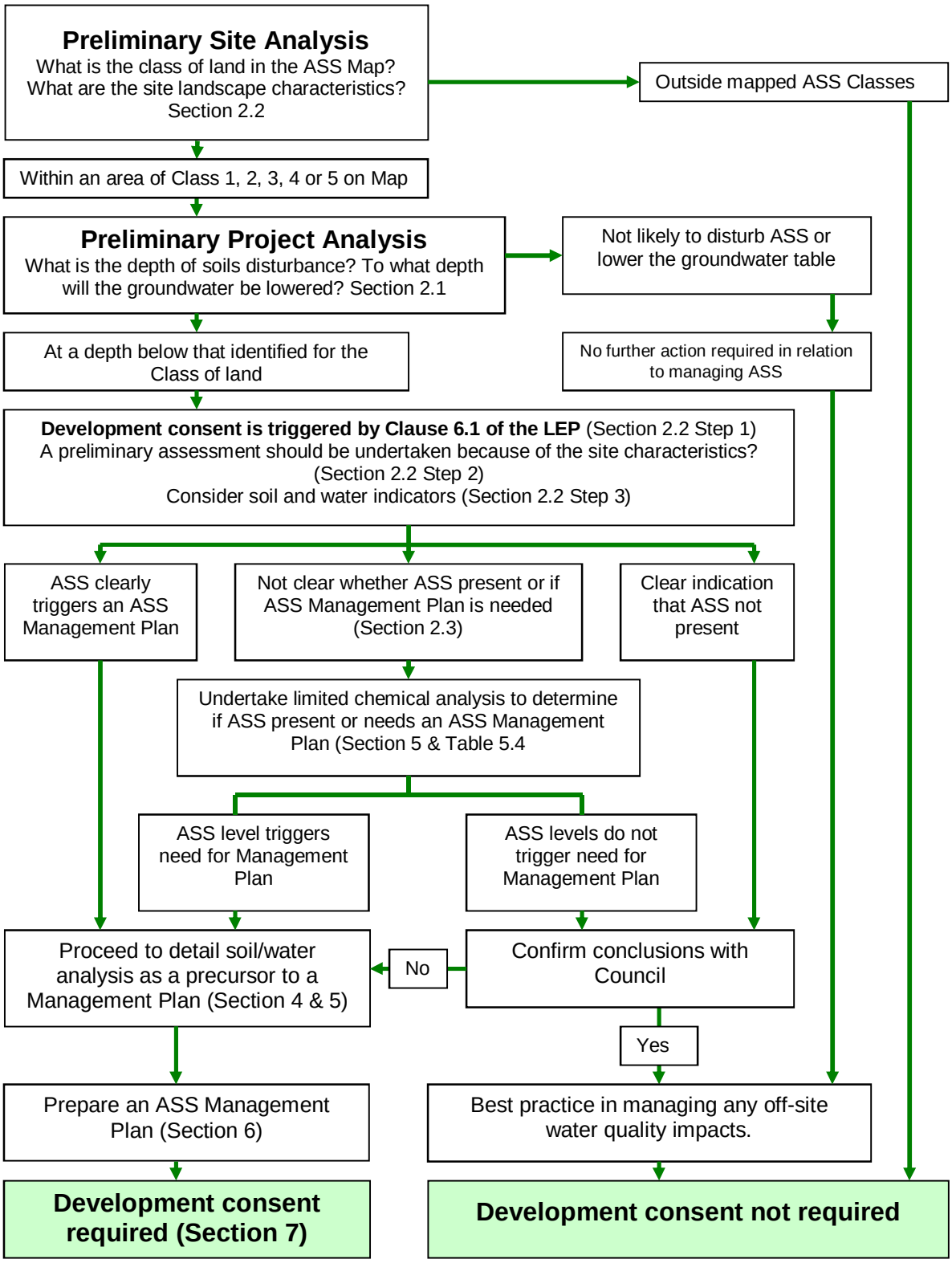


Figure H-3.3 The preliminary assessment process (referenced sections and tables are from Section 2 of the *Acid Sulfate Soils Assessment Guidelines* within the *Acid Sulfate Soil Manual*).

Part H-4. Natural Resources (NRS)

Richmond Valley Local Environmental Plan 2012 contains several clauses relating to management of natural resources. These are:

- clause 6.6 Terrestrial biodiversity
- clause 6.7 Landslide risk
- clause 6.8 Riparian land and watercourses
- clause 6.9 Drinking water catchments
- clause 6.10 Wetlands

These NRS clauses and the associated mapping do not prohibit development or trigger requirements for development consent. Rather, the provisions identify additional heads of consideration to assess the level of impact of the development on the mapped natural resource feature(s), and whether there may be mitigation measures employed to reduce those impacts. In this way, the mapped NRS layers serve as a reference to inform landowners and Council as to the likely presence of environmentally sensitive land issues without placing excessive restrictions over the entire land through an Environmental E Zoning.

H-4.1 General Objectives

The general objectives of this Chapter are to:

(1) provide background information on each of the Natural Resource Sensitivities mapped within the LEP.

(2) provide protective responses and mitigation measures for sensitive environmental locations throughout Richmond Valley.

(3) provide consistency as to how protection of natural resources are implemented throughout Richmond Valley LGA.

(4) require adequate design considerations to avoid unacceptable adverse impacts upon sensitive environs.

H-4.2 LEP NRS Mapping

Objectives

(1) to explain what has been captured in each type of NRS mapping in the *Richmond Valley LEP 2012*.

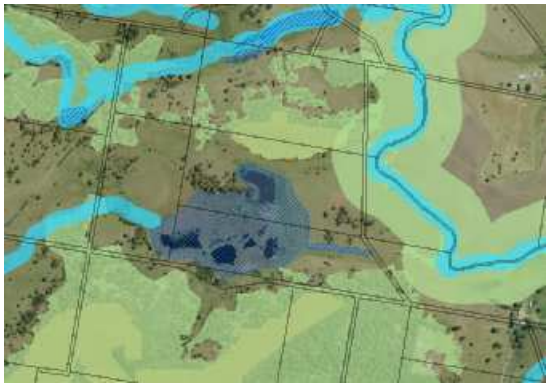
Controls

(1) The LEP contains mapping for each of the following NRS constraints, while clauses 6.6 to 6.10 prescribe development application heads of considerations.

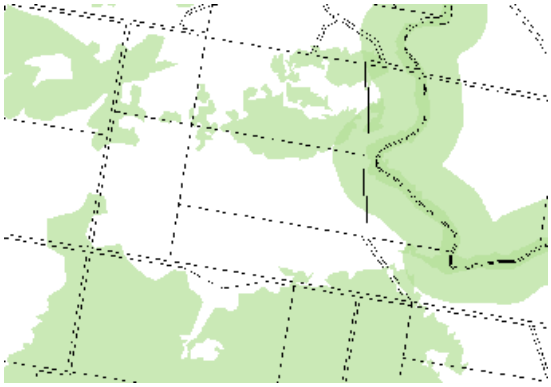
- Terrestrial Biodiversity Map—representing native vegetation and habitat (wildlife) corridors;
- Landslip Risk Map—representing steep land with a slopes greater than 18 degrees (33%);
- Riparian Lands and Watercourses Map—representing key fish habitat plus a 40 metre buffer;
- Wetlands Map—representing wetlands and floodplain wetland vegetation communities; and
- Drinking Water Catchments Map—representing the watershed catchment for Casino's Jabour Weir, and a 500 metre buffer area around each of the Rous Water Groundwater Bores at Woodburn.

Refer to figures H-4.1 and H-4.2 for samples for each of these NRS overlays.

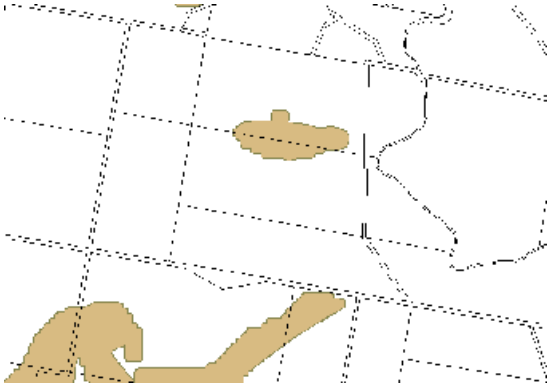
Aerial Photo (source NSW LPI 2009)



All NRS Overlays (excl. Drinking Water Catchments)

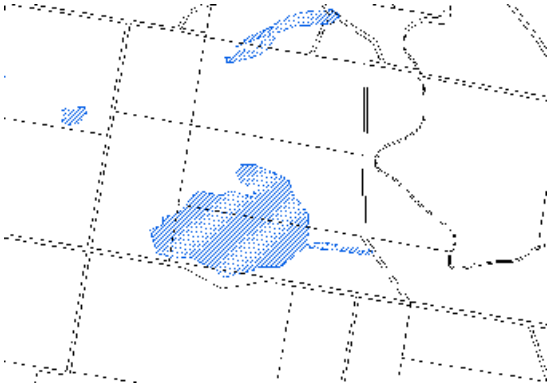


Terrestrial Biodiversity Overlay



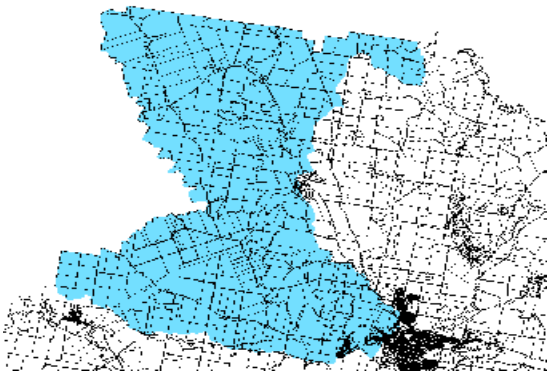
Land Slip Risk Overlay

Riparian Lands and Watercourses Overlay

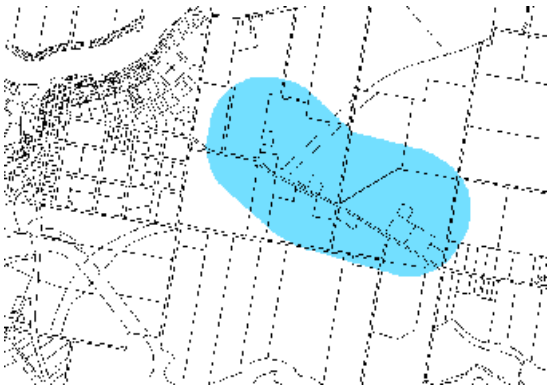


Wetland Overlay

Figure H-4.1 Examples of NRS Overlays (excluding the Drinking Water Catchments)



Casino Drinking Water Catchment



Woodburn Groundwater Bore Catchment

Figure H-4.2 Drinking Water Catchments

H-4.3 Terrestrial Biodiversity

Objectives

(1) to assist with the interpretation of the Terrestrial Biodiversity NRS provisions of the LEP.

Controls

(1) Terrestrial Biodiversity mapping consists of 2 combined data sets depicting natural vegetation and habitat (wildlife) corridors.

(2) Clause 6.6 of the *Richmond Valley LEP 2012* requires consideration of whether a development is likely to have:

- an adverse impact on habitat, the survival of fauna and habitat connectivity; and/or
- cause fragmentation of the habitat, and
- whether there are any actions that can be taken to avoid an impact, to minimise the impact, or to mitigate the impact.

Extract from *Richmond Valley Local Environmental Plan 2012*

Clause 6.6 Terrestrial biodiversity

(1) The objective of this clause is to maintain terrestrial biodiversity by:
  (a) protecting native fauna and flora, and
  (b) protecting the ecological processes necessary for their continued existence, and
  (c) encouraging the conservation and recovery of native fauna and flora and their habitats.

(2) This clause applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:
  (a) whether the development:
    (i) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
    (ii) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
    (iii) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
    (iv) is likely to have any adverse impact on the habitat elements providing connectivity on the land, and
  (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that:
  (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
  (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
  (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

(3) Natural Vegetation

As a reflection of the 'precautionary principle' aligned with ESD principles, all naturally vegetated areas have been mapped. It is proposed that assessment of development will determine whether there is likely to be a significant impact on this natural resource.

It is recognised that not all vegetation mapped will actually be ecologically sensitive, and it is accepted that much of it may constitute regrowth or be highly disturbed. It is further accepted that this mapping is a snap shot in time (around 2009), and that changes in the environment will not be reflected

in the LEP mapping. It was for this reason that the mapping was adopted as an overlay rather than an environmental zoning.

The requirement for additional assessment will be negated in situations where the vegetation is obviously not naturally occurring, or has been removed.

(4) Habitat Corridors

Habitat corridor data was supplied by the National Parks and Wildlife Service based upon predictive modelling to establish strategic links between significant compartments of native vegetation. Additional mapping obtained by Council identifies the need to incorporate riparian zones as corridors.

It is recognised that habitat corridors can function effectively without necessarily being vegetated. As such an assessment of impact and consideration of mitigation measure need only address how the development might prevent the free passage of fauna through the development site.

(5) Possible Mitigation Measures

(a) Terrestrial Biodiversity—Habitat Corridors

Habitat corridors are likely pathways for fauna to move between important conservation areas. They needn't be vegetated to function properly.

Mitigation measures to minimise impacts could include:

- relocating the development outside the wildlife corridor.
- revegetate a compensatory area of vegetation so that the corridor can continue to function in and around the development.
- remove obstacles that prevent the passage of fauna through the development site, such as fences, long continuous buildings, dogs and cats, etc.
- provide alternative means for fauna to traverse the site, such as land bridges, under or over passes, ropes.
- Avoid locating development close to riparian zones.

(b) Terrestrial Biodiversity—Vegetation

This NRS Overlay identifies native vegetation that was visible in aerial photography in 2009. Assessment of the vegetation will be required to determine if it is significant habitat. Clearing of native vegetation is regulated by the *Native Vegetation Act* and *Threatened Species Conservation Act 1995* as well as the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*.

Mitigation measures to minimise impacts could include:

- purchasing Biodiversity Credits to offset habitat loss.
- negotiate a conservation agreement, and/or remediation of land, as offsets to habitat loss.

H-4.4 Landslip Risk

Objectives

(1) to assist with the interpretation of the Landslip Risk NRS provisions of the LEP.

Controls

(1) This mapping represents steep slopes greater than 18 degrees or (33% grade). These steeper lands may be susceptible to mass movement and higher levels of erosion.

(2) Data for this NRS mapping was supplied by the Department of Planning and Environment from its *Far North Coast Regional Strategy*. The data was used as an NRM overlay because there wasn't enough confidence in its accuracy to include it within an Environmental E Zone such as Zone E3 Environmental Conservation.

(3) Clause 6.7 of the *Richmond Valley LEP 2012* requires consideration of:

- measures to avoid, minimise or mitigation the risk of landslide as a result of the development; and/or
- how waste water, stormwater and drainage will be managed.

(4) Possible Mitigation Measures

Development on steep lands requires consideration of geomorphic conditions (mass movement and erosion), as well as an assessment of scenic amenity.

Mitigation measures that could be employed-

- Minimise vegetation removal.
- Rehabilitate exposed slopes with native vegetation, especially using plants with large root systems.
- Avoid cutting into steep slopes, especially at the base of the slope.
- Avoid siting heavy loads at the top of steep slopes.
- Stormwater drainage will need to be dispersed, or contained within protective drainage lines.
- Minimise water infiltration into steep slopes where it can weaken ground stability and cause mass movement.

Extract from *Richmond Valley Local Environmental Plan 2012*

Clause 6.7 Landslide risk

(1) The objectives of this clause are to ensure that development on land susceptible to landslide:
  (a) matches the underlying geotechnical conditions of the land, and
  (b) is restricted on unsuitable land, and
  (c) does not endanger life or property.

(2) This clause applies to land identified as "Landslide risk" on the Landslide Risk Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following matters to decide whether or not the development takes into account the risk of landslide:
  (a) site layout, including access,
  (b) the development's design and construction methods,
  (c) the amount of cut and fill that will be required for the development,
  (d) waste water management, stormwater and drainage across the land,
  (e) the geotechnical constraints of the site,
  (f) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted for development on land to which this clause applies unless:
- (a) the consent authority is satisfied that:
  - (i) the development is designed, sited and will be managed to avoid any landslide risk or significant adverse impact on the development and the land surrounding the development, or
  - (ii) if that risk or impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that risk or impact, or
  - (iii) if that risk or impact cannot be minimised—the development will be managed to mitigate that risk or impact, and
- (b) the consent authority is satisfied that the development will appropriately manage waste water, stormwater and drainage across the site so as to not affect the rate, volume and quality of water leaving the land.

H-4.5 Riparian Land and Watercourses

Objectives

(1) to assist with the interpretation of the Terrestrial Biodiversity NRS provisions of the LEP.

Controls

(1) This mapping consists of Key Fish Habitat data supplied by the Department of Primary Industries—Fisheries. This mapping represents rivers, creeks, streams, drains and wetlands, with a 40 metre riparian zone applied, identified by Fisheries as strategically important for fish habitat.

(2) Fisheries permits, under the *Fisheries Management Act 1994*, are required for work within the identified key fish habitats.

(3) Clause 6.8 of the *Richmond Valley LEP 2012* requires consideration of whether a development is likely to have an adverse impact on:

- water quality and flows; or
- aquatic habitats; or
- bank stability; or
- the passage of aquatic organisms along the watercourse; and
- whether there will be an increase in water extraction, and appropriate measures to avoid, minimise or mitigate impacts.

(4) Possible Mitigation Measures

Development in, or within 40 metres of, a watercourse could result in removal of vegetation, destabilisation of river banks, pollution of waterways, increased recreational activity, increase water removal, or any number of similar impacts.

Mitigation measures that could be employed-

- Harmful elements of the development should be resited away from sensitive areas.
- Stormwater and wastewaters should be treated before discharge into waterways.
- Stormwater flows should not be concentrated so they erode stream or river banks.
- Avoid removal of riparian vegetation and disturbance of stream banks.

- Consider stabilising disturbed embankments by remediating them with native vegetation.
- Do not construct in stream barriers that can prevent the passage of aquatic organisms.

Note. Additional permits may be required from relevant State agencies in accordance with the *Water Management Act* and/or *Fisheries Management Act* to do work in a Key Fish Habitat.

Extract from *Richmond Valley Local Environmental Plan 2012*

Clause 6.8 Riparian land and watercourses

(1) The objective of this clause is to protect and maintain the following:
  (a) water quality within watercourses,
  (b) the stability of the bed and banks of watercourses,
  (c) aquatic and riparian habitats,
  (d) ecological processes within watercourses and riparian areas.

(2) This clause applies to land identified as "Key Fish Habitat" on the Riparian Land and Waterways Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:
  (a) whether or not the development is likely to have any adverse impact on the following:
    (i) the water quality and flows within the watercourse,
    (ii) aquatic and riparian species, habitats and ecosystems of the watercourse,
    (iii) the stability of the bed and banks of the watercourse,
    (iv) the free passage of fish and other aquatic organisms within or along the watercourse,
    (v) any future rehabilitation of the watercourse and its riparian areas, and
  (b) whether or not the development is likely to increase water extraction from the watercourse, and
  (c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that:
  (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
  (b) if that impact cannot be avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
  (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

H-4.6 Drinking Water Catchments

Objectives

(1) to assist with the interpretation of the Terrestrial Biodiversity NRS provisions of the LEP.

Controls

(1) Protection of drinking water catchments is considered important primarily for its public health implications but also for the future health of the waterways.

(2) Two (2) drinking water catchments have been mapped.

(3) Clause 6.9 of the *Richmond Valley LEP 2012* requires consideration of whether a development is likely to adversely impact the water quality and quantities entering the drinking water storage, and whether there are any actions that can be taken to avoid an impact, to minimise the impact, or to mitigate the impact.

Extract from *Richmond Valley Local Environmental Plan 2012*

Clause 6.9 Drinking water catchments

(1) The objective of this clause is to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages.

(2) This clause applies to land identified as "Drinking water catchment" on the Drinking Water Catchment Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:

- (a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to:
  - (i) the distance between the development and any waterway that feeds into the drinking water storage, and
  - (ii) the on-site use, storage and disposal of any chemicals on the land, and
  - (iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development, and
- (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

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

- (a) the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows, or
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

(4) Casino Drinking Water Catchment

The source of Casino's town water supply consists of a weir pool located on the Richmond River above Jabour Weir. The watershed for this weir pool, while extending beyond the LGA, has only been mapped as far as the LGA's boundary with Kyogle Council. At its shortest distance there is about 25 kilometres of stream length between the weir and the nearest LGA boundary. This length of river is currently considered adequate to enable buffering of activities undertaken outside the LGA.

(5) Rous Water's Groundwater Bores at Woodburn

Rous Water operates an extensive reticulated drinking water network servicing Byron Shire, Lismore City, Ballina Shire and the Mid-Richmond areas of Richmond Valley Council. The primary source of water in this network is from Rocky Mouth Dam, however, it is supplemented by several groundwater sources including 3 bores at Woodburn. The Woodburn bores are occasionally used to supplement drinking water in Woodburn, Broadwater and Evans Head.

The mapping identifies a 500 metre buffer around each bore.

H-4.7 Wetlands

Objectives

(1) to assist with the interpretation of the Terrestrial Biodiversity NRS provisions of the LEP.

Controls

(1) Wetland mapping was originally sourced from Wetland Care Australia but has been updated by consultants engaged by Council.

(2) The mapping is inclusive of naturally occurring wetlands as well as artificial wetlands such as farm dams.

(3) Clause 6.10 of the *Richmond Valley LEP 2012* requires consideration of whether a development is likely to have a significant adverse impact on:

- the condition and provision of quality wetland habitat; or
- water quality and flows; and
- whether there are any actions that can be taken to avoid an impact, to minimise the impact, or to mitigate the impact.

(4) Possible Mitigation Measures

Development within, or that drains into, a wetland could cause the removal of vegetation, pollute the wetland, lower the watertable, or cause any number of similar impacts.

Mitigation measures that could be employed-

- On-site Sewage Management Systems may require:
  - upgrading to a higher treatment standards.
  - resiting the system away from the receiving wetland area.
  - diversion of stormwater around and away from the disposal area.
  - water treatment interceptors to improve water quality before it reaches the wetland, or that diverts runoff away from the wetland.
- Stormwater runoff may require diversion around or away from the wetland, or have appropriate water treatment to improve water quality before it reaches the wetland.
- Avoid constructing drains next to wetlands where they could lower the watertable and alter hydrology in the wetland area.

Extract from *Richmond Valley Local Environmental Plan 2012*

Clause 6.10 Wetlands

(1) The objective of this clause is to ensure that wetlands are preserved and protected from the impacts of development.

(2) This clause applies to land identified as "Wetland" on the Wetlands Map.

(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:

(a) whether or not the development is likely to have any significant adverse impact on the following:

(i) the condition and significance of the existing native fauna and flora on the land,

(ii) the provision and quality of habitats on the land for indigenous and migratory species,

(iii) the surface and groundwater characteristics of the land, including water quality, natural water flows and salinity, and

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

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

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Part I.
Other Considerations

This Chapter is a compilation of subject based development controls. Many of these Chapters are referenced throughout the DCP and have been provided here to embellish those subjects with additional detail.

This Chapter contains:

Chapter		Page No. in this Part
Part I-1.	Environmental Heritage	3
Part I-2.	Development In, On, Over or Under a Public Road	25
Part I-3.	Setbacks and Building Height	35
Part I-4.	Car Parking Provisions	49
Part I-5.	Landscaping Guidelines	79
Part I-6.	Animal Boarding and Training Establishments	89
Part I-7.	Noise Impact Assessment	97
Part I-8.	Social Impact Assessment	109
Part I-9.	Water Sensitive Urban Design—WSUD	117
Part I-10.	Crime Prevention through Environmental Design—CPTED	141
Part I-11.	Land Use Conflict Risk Assessment—LUCRA	151
Part I-12.	Context and Site Analysis	159
Part I-13.	Use of shipping containers	165
Part I-14.	Sex Services Premises, Restricted Premises and Home Occupation (Sex Services)	169
Part I-15.	Lane Widening and Access to Narrow Streets	187
Part I-16.	Historic New Italy Village Area	191

Part I-1. Environmental Heritage

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

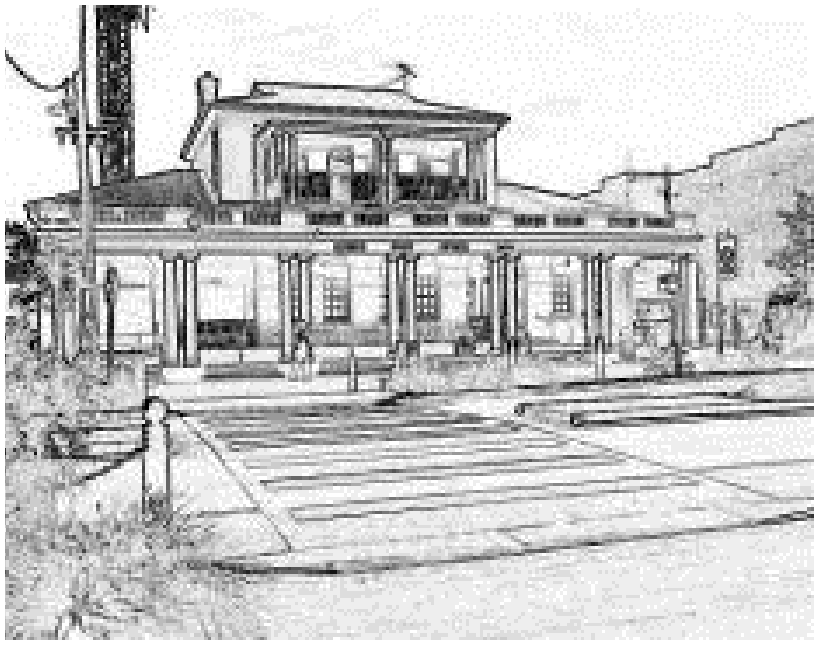
Amendments:
Nil

This Chapter provides information and guidance for heritage conservation within the Richmond Valley Council area. It is acknowledged that heritage takes many forms and incorporates both Aboriginal cultural heritage and post European settlement heritage.

Council aims through this Chapter to protect, conserve and enhance places with heritage significance being places of:

- historic,
- scientific,
- cultural,
- social,
- archaeological,
- architectural,
- natural,
- aesthetic and
- spiritual value,

for the benefit of its community and future generations, and to ensure that any alterations and changes are sympathetic to the heritage significance of these items or places.



I-1.1 General Objectives

The general objectives of this Chapter are to:

(1) recognise the heritage of Richmond Valley Council area.

(2) provide guidance on the implementation of the heritage provisions of the *Richmond Valley LEP 2012*.

(3) recognise the people of the Bundjalung Nation as the first inhabitants of this area and acknowledge the area is rich in cultural heritage.

(4) acknowledge the Due Diligence Code of Conduct for the Protection of Aboriginal Objects and encourage all applicants and land owners to follow these guidelines.

I-1.2 Richmond Valley Local Environmental Plan 2012

Objectives

(1) to outline the heritage provisions of the *Richmond Valley LEP 2012* (the LEP).

Controls

(1) Clause 5.10 of the LEP contains Heritage Conservation provisions.

The clause generally requires consent to demolish, move, or alter heritage items or items within a conservation area, however there are nominated exceptions. These points are explained further in this Chapter.

Schedule 5 and the Heritage Map identify heritage items and conservation areas under the LEP. Data collected from Heritage Studies is maintained by Council and available to the public on-line from the NSW Office of Environment and Heritage's website at:

http://www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx

Note. Search for Local Government Area = "Richmond Valley Council".

(2) Furthermore the clause provides special consideration of Aboriginal places of heritage significance and archaeological sites.

Where Development Consent is Required

(3) Development consent is required to:

(a) demolish or move, or alter the exterior of any:

- heritage item, or
- Aboriginal object, or
- building, work, relic or tree within a heritage conservation area.

Note. Alter includes, in the case of a building, making changes to its detail, fabric, finish or appearance. For example - this might include changing the exterior colour scheme.

(b) make structural changes to the interior of a heritage building.

(c) make non-structural changes to the interior of a heritage building where the interior has been specified within Schedule 5.

(d) disturb or excavate an archaeological site where it is likely that a relic will be discovered, exposed, moved, damaged or destroyed.

(e) disturb or excavate an Aboriginal place of heritage significance.

(f) erect a building on land:

- containing a heritage item, or
- that is within a conservation area, or
- on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(g) subdivide land:

- containing a heritage item, or
- that is within a conservation area, or
- on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

Where Development Consent is Not Required

(4) Development consent under clause 5.10 is not required if:

(a) Council has responded in writing, to the applicant's notification of the proposal, and indicated that it is satisfied that the proposed development:

- is of a minor nature, or
- is for the maintenance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or a building, work, relic, tree or place within a conservation area, and
- would not adversely affect the heritage item, Aboriginal object, Aboriginal place, archaeological site or a building, work, relic, tree or place within a conservation area.

Note. See Appendix I-1.1 for an Exceptions Application Form.

(b) the development or work is consistent with Local Site Specific Exemptions adopted for a specific item, place or area.

(c) the development is within a cemetery or burial ground to:

- create new graves or monuments, or
- excavate or disturb land for the purpose of conserving or repairing a monument or grave marker, and
- there will be no disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance.

(d) it involves removal of a tree or other vegetation that Council is satisfied is a risk to human life or property.

(e) is exempt development.

Assessment of heritage significance

(5) Prior to granting development consent, consideration is required of the effect of the proposed development on the heritage significance of the item or area.

To assist with this assessment, additional information may be required in the form of a Heritage Impact Statement, a Heritage Conservation Management Plan, or a Heritage Management Document.

(6) A Heritage Impact Statement prepared by a qualified heritage consultant will be required for significant alterations to heritage items, including demolition.

I-1.3 General Heritage Principles

Objective

(1) to outline the hierarchy of statutory heritage provisions.

Controls

Heritage Legislation

(1) Heritage is protected and managed by various levels of government under a number of State and Federal Acts, as well as international conventions and treaties.

The majority of heritage items in the Richmond Valley Council area are listed at a local level. These items are assessed by Council and subject to the controls in clause 5.10 of the LEP, and this DCP. A few items are listed at the State level and need to obtain necessary approvals for works through the *Heritage Act 1977*, via the NSW State Government.

Underpinning all heritage conservation is the ICOMOS Burra Charter which is a set of heritage conservation principles which are adopted by governments and practioners Australia wide. These include the following main principles:

- Understand the place before you propose work;
- Assess Significance;
- Prepare a statement of significance;

Also other conservation broad principles:

- Develop policy and options;
- If proposing changes, avoid areas of high and moderate significance and make changes in areas of low significance;
- DAMANBALAP—Do As Much As Necessary But As Little As Possible;
- Repair rather than Replace; and
- Make alterations reversible where possible.

Heritage Studies

(2) The list of heritage items in Schedule 5 of the LEP is supported by community based heritage studies which were completed by Council in 2004 and 2007 (being the *Copmanhurst Community Based Heritage Study*, and *Richmond Valley Community Based Heritage Study*, respective). The final study reports are available on the Heritage Study web page.

Data collected from Heritage Studies is maintained by Council and available to the public on-line from the NSW Office of Environment and Heritage's website at:

http://www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx

I-1.4 General Heritage Maintenance – When do I need consent?

Objectives

(1) to encourage ongoing maintenance of heritage fabric.

(2) to protect heritage fabric from unsympathetic alterations.

Controls

(1) Maintaining heritage items is the most practical way to protect the significance and history of a building, work, relic or place.

Generally speaking, the cost of maintenance increases exponentially the longer it is delayed.

Common maintenance tasks are:

- It is essential to keep a building dry and waterproof.
- It is a priority to stabilise a building, even where more extensive restoration is not proposed until a later date.
- Keep trees and branches pruned and clear of roofs and walls.
- Ensure roof and site drainage systems are dispersing away from the edge of the building. Check condition of gutters, drainpipes and drains regularly and keep clear of debris.
- Regular monitoring of walls and cladding for structural soundness and protection from water, wind, dust and vermin.
- Weed and prune plants, and repair significant garden structures.
- Regularly check and repair broken fencing.
- Maintain adequate under floor ventilation.

(2) Council offers incentives for the maintenance of heritage items through an annual heritage grants program.

Further details are contained in Section I-1.9.

Note. Heritage listings apply to the curtilage, or surrounds, of the listing which will include outbuildings, sheds, trees, and fences. Most listings apply to the entire property and not just the residence or main building.

Exempt and Complying Development

(3) There is a certain amount of small scale development that can be undertaken as exempt development in relation to heritage items and heritage conservation areas. Refer to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Richmond Valley Council is registered with the NSW Planning and Environment's *Electronic Housing Code* (EHC), which is a web based search engine that can identify if exempt or complying development can be undertaken on an identified property. The EHC can be accessed at:

http://www.onegov.nsw.gov.au/new/agencies/ehc

Outside the exempt codes, the LEP requires consent for alterations to fabric, finish and appearance. Re-roofing, repainting and fencing etc. will therefore require prior consent from Council for local items. State listed items can make similar exemption applications through the NSW Heritage Office.

Minor Works and Maintenance

(4) Most maintenance and works of a minor nature can be handled through a written request.

Appendix I-1.1 contains an Exceptions Application Form for minor works or maintenance (no fee), but application can also be done by lodging a letter or email.

Note. Approval is required to be in writing from Council prior to work commencing.

Residential Fences Around Heritage Items and in Conservation Areas

(5) All fences require consent on any boundary of a heritage item.

- Front fences, if any, should be based on historical research and appropriate to the age and style of the heritage item.
- Fences are not to exceed a height of 1.2 metres forward of the front building line setback.
- Side and rear boundary fences should be constructed in a traditional manner using traditional timber or other sympathetic materials.
- Colorbond or sheet metal fences are not an appropriate treatment for the setting of a heritage item or conservation area, and will not be supported.

Solar Panels

(6) Photovoltaic panels may be installed as exempt development onto heritage items (State and local) or in a heritage conservation area, under clause 30 of *State Environmental Planning Policy (Infrastructure) 2007*, but only where (and not limited to):

- the system is not attached to any wall or roof of a building facing a primary road frontage,
- the system does not protrude more than 0.5m from any building to which it is attached, and
- the system is limited to no more than 10kW.

I-1.5 Demolition or Relocation of Heritage

Objectives

(1) to avoid or prevent demolition or relocation of heritage items.

(2) to only consider demolition or relocation as a last resort.

Controls

(1) Demolition or relocation of heritage items is generally not supported.

(2) All alternative solutions should be thoroughly explored before electing to pursue such options.

(3) Council will require a Development Application to demolish or relocate heritage items. The application must be accompanied by a Heritage Impact Statement prepared by a suitably qualified heritage consultant, and include detailed plans for future development.

Note. Heritage listings apply to the item and its curtilage, or surrounds. This will include outbuildings, sheds, trees, and fences. Most listings apply to the entire property and not just the residence or main building. Data sheets are available on-line for each listing.

I-1.6 Alterations and additions to heritage items

Objectives

(1) Protect heritage significance by minimising impacts on the significant elements of heritage items.

(2) Encourage alterations and additions which are sympathetic to the item's significant features and which will not compromise heritage significance.

(3) Ensure that alterations and additions respect the scale, form and massing of the existing item.

Controls

(1) Avoid changes to elevations which are visible to public streetscapes and locate new work to the rear or, behind the original built section.

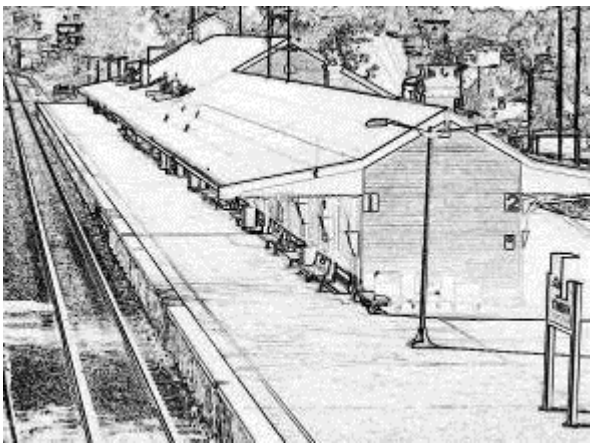
(2) Design new work to respect the scale, form, massing and style of the existing building, and not visually dominate or overwhelm the scale of the original building.

(3) Ensure the original roof line or characteristic roof elements are to remain identifiable and not be dwarfed by the new works.

(4) Retain chimneys and significant roof elements such as gables and finials where present.

(5) Ensure that the new work is complementary but can be subtlety distinguished without direct copying.

(6) Complement the details and materials of the original roof including ridge height and slopes without compromising the ability to interpret the original form.



(7) New materials are to be compatible with the existing finishes. Materials can differentiate new work from original building sections where appropriate, for example by the use of weatherboards where the original building is brick or by the use of "transitional" materials between old and new.

(8) Retain front verandahs. Reinstating verandahs, and removing intrusive changes is encouraged, particularly where there is physical and/ or historic evidence.

(9) Avoid cumulative additions and alterations which overwhelm the scale and integrity of the original building.

New Garages and Sheds

(10) The following principles should be adopted in relation to new outbuildings:

- The size of the shed or outbuilding should not dominate the site or adversely affect the setting of the heritage item or conservation areas.
- Locate the building to retain as much garden and space around the original and shadow lines.
- Use an uncoloured building where possible.
- Minimise intrusion of driveways through rear garden spaces.
- Use a roof pitch of approximately 15-20 degrees to give a more traditional appearance compared to low flat roofs.
- Use a barge roll and fascia with an overhanging eave of 300mm to create a traditional appearance metal roof in relation to similar traditional weatherboard and iron buildings.
- Use a material which harmonises with the main building. Metal cladding in a C profile which resembles horizontal weatherboard appearance, or cement traditional profiled weatherboards, are low maintenance options which look good in proximity to traditional timber weatherboard dwellings.
- Do not dominate the facade with more than 2 garage doors to the street.
- Use a ribbon strip concrete driveway to minimise hard surfacing of driveway areas in the setting of a heritage item.
- If windows are proposed ensure that they are proportioned in keeping with the main building, eg. vertically rather than horizontally.

I-1.7 Materials, finishes and colours

Objectives

(1) to ensure appropriate materials, finishes and colours are used which are suitable to the period of a building.

Controls

(1) Materials for repairs and maintenance should match as closely as possible to the original. Materials for new works such as extensions should be compatible and complementary to the original, but do not need to match exactly. Eg. a weatherboard extension may be suitable at the rear of an original sandstone brick house in keeping with outbuildings which were generally of a more lightweight nature.

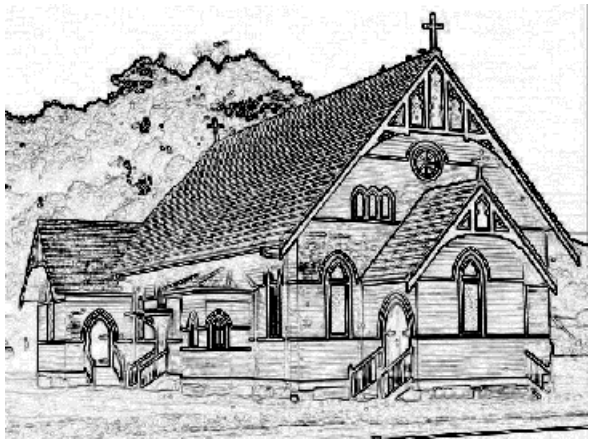
(2) Colour schemes are to reflect the period and detail of the property.

(3) Painting or rendering face brick is generally not supported because it extremely difficult, if not impossible, to return to its original brick.

I-1.8 Adaptive reuse of heritage items

Objectives

(1) Encourage heritage items to be used for purposes appropriate to their heritage significance.



Controls

(1) Adaptive reuse of heritage buildings can provide the necessary viability for the continued use and maintenance of heritage buildings. Accommodating the new use should involve minimal change to significant fabric in order to protect heritage significance.

Elements or artefacts from the original use (where present) may be required to be retained to assist interpretation. Eg. retain machinery in situ.

(2) The adaptive reuse of a heritage item should minimise alterations or interference with significant fabric. The changes should enable the continued interpretation of the original use.

(3) Ensure that new services are sympathetically installed especially where upgrading is required to satisfy fire or BCA requirements.

I-1.9 Heritage Incentives

Objectives

(1) to outline Richmond Valley Council's Heritage incentives policy.

Controls

(1) In order to encourage proactive conservation and management of heritage assets in the Richmond Valley Local Government Area, owners of Heritage Items or items within a Heritage Conservation Area shall be offered a number of incentives for the management of heritage. These incentives include:

- free advice from a qualified Heritage Advisor.
- financial assistance through the local heritage grants program.
- reduction in fees for certain types of development applications.
- granting consent for the use of a heritage building, or land containing an item, for a purpose that might otherwise not be permitted by the *Richmond Valley LEP 2012*.

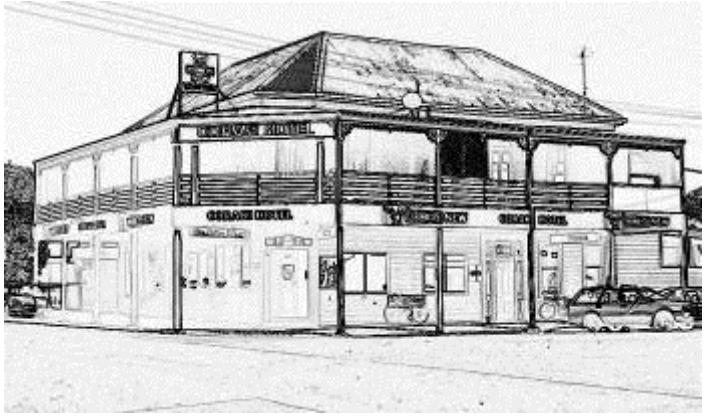
Waiving of prescribed Development Application fees

(2) Development Application fees (not including any applicable advertising fee, archiving fee, or the like) will be waived for proposals pertaining to restoration and conservation works which require a formal development consent, and are outside the minor works provisions of clause 5.10(3).

Council's CEO has the discretion to waive Development Application fees in relation to scheduled Heritage Items or items within a Heritage Conservation Area.

Heritage Advice

(3) Council receives funding from the Heritage Branch which partly funds the engagement of the services of a qualified Heritage Advisor. One of the key roles of the Heritage Advisor is to provide comment and recommendations in relation to development proposals.



Owners and prospective purchasers are encourage to use Council's free Heritage Advisory service at an early stage of considering and development or alterations, prior to formal plan preparation.

In addition, the Heritage Advisor is available to provide free pre-lodgement advice in relation to proposed alterations/additions and infill development for properties which are heritage listed. The Heritage Advisor is also able to provide free advice regarding suitable management strategies, such as Conservation Management Plan preparation, for properties of heritage significance to achieve best heritage outcomes.

Local Heritage Assistance Fund

(4) Each year Council offers owners of Heritage listed properties an opportunity to apply for small grants to assist with the conservation or reinstatement of heritage fabric. This program is partially funded by the Heritage Branch. Grant rounds are generally announced each March/April for funding of projects in the following financial year. To be eligible, the project must have a current heritage listing within the Richmond Valley Council area.

The ongoing provision of the Local Heritage Assistance Fund will be subject to budget provision being made from year to year.

Additional permitted uses may be considered

(5) Clause 5.10(10) of the LEP provides an opportunity for Council to grant development consent for proposals that would not otherwise be permitted by the *Richmond Valley LEP 2012*. Eg. a church to residential or commercial cafe/antique shop, art gallery, or tourist use.

Before Council can grant consent to such incentives it must be satisfied that:

- conservation of the heritage item or Aboriginal Place of heritage significance is facilitated.
- the proposal is in accordance with a heritage management document approved by Council.
- consent would require all necessary conservation work identified within the heritage management document to be carried out.
- the proposal would not adversely affect the heritage significance of the item, including its setting.

- the proposed development would not adversely impact on the amenity of the surrounding area.

(6) Process for Approving a Heritage Management Document containing Additional Development Incentives

Approval of a Heritage Management Document containing incentives for development that would be otherwise prohibited by the *Richmond Valley LEP 2012* or this DCP must only be granted where the following procedures have been followed. This is to ensure the process is transparent, and that heritage significance and conservation outcomes justify the development incentives being sought.

- the Heritage Management Document must be advertised and notified for a minimum period of 21 days.
- the Heritage Management Document must be reported to Council, along with a summary of submissions received, and detail:
  - the incentives proposed and how they depart from the standards contained within the LEP and/or DCP.
  - the conservation measures proposed to be undertaken to justify the development incentives.
  - an evaluation of whether the heritage significance and conservation measures proposed justify proposed development incentives.

(7) Types of Development Incentives that may/may not be considered

Examples of the types of incentives that may be considered are:

- Erection of an additional dwelling on rural land where the heritage item is a dwelling and will be restored and maintained on the land.
- Slightly higher densities for residential flat buildings.

Examples of the types of incentives that would not be supported:

- Rural subdivision below minimum lot size so as to create additional lots with dwelling opportunities.

I-1.10 Development in the vicinity of a heritage item

Objectives

(1) Encourage development in the vicinity of a heritage item to be designed and sited to protect the significance of the heritage item.

Controls

(1) Development in the vicinity of a heritage item can have an impact upon the heritage significance of the item, in particular through impacting its setting. Determining whether a property is within the setting of a heritage item is a necessary component of the site analysis for proposals. Advice from Council's Heritage Advisor may be required to determine this. The analysis should consider historical property boundaries, significant vegetation and landscaping, archaeological features, and significant views.

(a) The adaptive reuse of a heritage item is to minimise alterations or interference.

(b) Alterations and additions to buildings and structures, and new development are to be designed to respect and compliment the heritage item in terms of building envelope, proportions, materials, colours, finishes and building street alignment.

(c) Development in the vicinity of a heritage item is to minimise the impact on the setting of the item by:

- Ø Providing an adequate area around the heritage item to allow its interpretation.
- Ø Providing an adequate area around the heritage item to allow its interpretation.
- Ø Retaining original or significant landscaping associated with the heritage item.
- Ø Protecting and allowing the interpretation of archaeological features associated with the heritage item.
- Ø Retaining and respecting significant views to and from the heritage item.

I-1.11 Development in the Casino Central Business District Conservation Area

Objectives

(1) Retain original intact shop fronts, and any remaining evidence of original shopfronts.

(2) Encourage reinstatement of traditional features and sympathetic new work.

(3) Encourage use of traditional colour schemes based on the period of the building.

(4) Encourage signs that complement, rather than dominate, the architectural characteristics of the building.

(5) Prevent proliferation of signs on buildings.

(6) Encourage infill development and the replacement of non-contributory buildings, see Figure F9.1, to reflect the historic character of the precinct and capturing nearby characteristics of contributory buildings.

(7) Do not locate service elements (solar panels, solar heating, antennas, satellite dishes, air conditioning units and the like) where they are visible from the street.

Controls

(1) The Casino Central Business District Conservation Area extends along Barker and Walker Streets Casino, see Figure I-1.1. This commercial precinct comprises buildings from the Victorian, Edwardian and Inter War periods. While most shopfronts at ground level have been altered, the above awning period detail has in the main been retained.

Important considerations for future proposals are sympathetic facade treatments, signage and colour schemes. Council has detailed guidelines for

alterations and additions, and colour schemes for buildings from a Main Street Study conducted by the former Casino Council in 1992.

Facade treatment

(2) Retain original elements and features, especially facades above awning level, of contributory buildings and heritage listed items (see Figure I-1.1).

(3) Encourage reinstatement of front verandahs and awnings based on historic information.

(4) Where original shopfronts, verandahs or awnings have been altered, their replacement should be based on historic information and/or the interpretation of period details.

(5) Additional storeys can be considered if:

- set at least 10 metres back from road frontage(s).
- the design and materials used for the extensions minimise detrimental impact on contributory building facades.

(6) Service elements (solar panels, solar heating, antennas, satellite dishes, air conditioning units and the like) are to be placed to the rear of the properties or on rear outbuildings, preferably so they are not visible from Barker or Walker Streets.

(7) Rendering or painting face brick is not supported.

Infill development

(8) Infill development should:

- Design infill and replacement buildings are to reflect the general historic character of the precinct and capture characteristic elements from contributory buildings and heritage items in the vicinity, see Figure I-1.1.
- Maintain a two storey building height at the street frontage. This two storey height restriction may be relaxed where such construction is setback 10 metres from road frontages. Refer to facade treatment above.
- Where sites are amalgamated, use articulation to reflect the former subdivision pattern.
- Maintain a balance of solid areas over voids—Large areas of plate glass curtain walls are generally not suitable and may not be supported.
- Use awnings and verandahs to reduce the bulk and scale of buildings.
- Use of articulation in facades such as string courses, cornices, pilasters and other features that break up the scale of facades is encouraged.

Signage

(9) Signage should:

- Painting of facades in bold, primary, vivid, intense or neon colours is not supported.
- Corporate identify should be expressed through limited area of signage in appropriate locations, however, Corporate colours may also need to be amended as a requirement of consent, to a more subtle version of the standard colour palette in order to be sympathetic to the values of the Heritage Conservation Area or Heritage Item context.

Figure I-1.1 Boundary of the Casino Central Business District Conservation Area and identification of contributory buildings.

Local Site Specific Exemptions from Requiring Consent

(9) An applicant may request that Council review the need for development consent, under Clause 5.10(3) of the LEP. Council needs to be satisfied that the proposed development is of a minor nature or is for maintenance and will not adversely affect heritage significance.

This process can be simple, reflecting minor one-off proposals, or complex, capturing a number of minor works or recurrent works at the site. It is for the purposes of the later that Council and the Owner of a property may enter into an agreement, known as a *Local Site Specific Exemption*, to exclude certain identified works from requiring development consent.

(10) What should be included in a Local Site Specific Exemption

Such an agreement should include:

- a description of the works covered by the Local Site Specific Exemption,
- conditions that must be employed to enable the exceptions to be used,

- a description of the land to which the agreement applies,
- a statement of heritage significance, and
- a period of time after which the agreement will expire.

(11) Agreement runs with the land

Once an agreement has been endorsed it will run with the land. This means a new owner of that property is not required to enter into a new agreement for them to be used.

(12) Withdrawal of Agreement

Council or the Owner may at any time withdraw support to a *Local Site Specific Exemption*. Such a withdrawal needs to be in writing and is effective immediately. Where it is Council that withdraws its support for an agreement it shall identify the reasons in its written notice.

I-1.12 Aboriginal Cultural Heritage

Objectives

(1) To outline planning regulations as related to the management and protection of Aboriginal Cultural Heritage.

(2) To outline Council expectations when undertaking Due Diligence assessment of Cultural Heritage.

Controls

(1) Richmond Valley Council acknowledges the peoples of the Bundjalung Nation as the traditional custodians of this region. These traditional owners include the people of the Banjalang, Birihnbal, Galibal, Nyangbal and Wiyabal tribes who engaged in a rich and complex ritual life with language, customs, spirituality and law – the heart of which was connection to country.

Aboriginal cultural heritage consists of places and items that are of significance to Aboriginal people because of their traditions, observances, lore, customs, beliefs and history. It provides evidence of the lives and existence of Aboriginal people before European settlement through to the present. Aboriginal cultural heritage is dynamic and may comprise physical (tangible) or non-physical (intangible) elements. It includes things made and used in traditional societies, such as stone tools, art sites and ceremonial or burial grounds. It also includes more contemporary and/or historical elements such as old mission buildings, massacre sites and cemeteries. Tangible heritage is situated in a broader cultural landscape and needs to be considered in that context and in a holistic manner.

While a number of sites of Aboriginal archaeological and heritage significance are known and have been recorded within the Richmond Valley LGA, specific surveys for Aboriginal objects have not been done over much of the area. Therefore, there is potential for Aboriginal cultural heritage to exist in many locations even though they have not been formally recorded.

Aboriginal Heritage and the LEP

(2) Clause 5.10(8) of the Richmond Valley LEP requires development consent to carry out development within an Aboriginal place of heritage significance. The dictionary defines an Aboriginal place of heritage significance as land identified in an Aboriginal heritage study adopted by Council. At this point Council has not undertaken an Aboriginal heritage study. It is a high priority within Council's Community Strategic Plan but subject to resourcing. As such, and for the purposes of the LEP, clause 5.10(8) will be ineffective until such time as a Study has been prepared, undergone community consultation, been accepted by the Aboriginal community and adopted by Council.

Aboriginal Heritage and the National Parks and Wildlife Act

(3) The *National Parks and Wildlife Act 1974* (NPW Act), administered by the Office of Environment and Heritage (OEH), is the primary legislation for the protection of some aspects of Aboriginal cultural heritage in New South Wales.

Part 6 of the NPW Act provides specific protection for Aboriginal objects and declared Aboriginal places by establishing offences of harm. There are a number of defences and exemptions to the offence of harming an Aboriginal object or Aboriginal place. One of the defences is that the harm was carried out under an Aboriginal Heritage Impact Permit (AHIP)

(4) Aboriginal objects

Aboriginal objects are physical evidence of the use of an area by Aboriginal people. They can also be referred to as 'Aboriginal sites', 'relics' or 'cultural material'.

Aboriginal objects include:

- physical objects, such as stone tools, Aboriginal-built fences and stockyards, scarred trees and the remains of fringe camps
- material deposited on the land, such as middens
- the ancestral remains of Aboriginal people.
- Handicrafts made by Aboriginal people for sale are not 'Aboriginal objects' under the NPW Act.

(5) Aboriginal places

The NPW Act can also protect areas of land that have no Aboriginal objects, that is, they may have no physical evidence of Aboriginal occupation or use. These areas can be declared 'Aboriginal places'.

The Minister can declare an area to be an 'Aboriginal place' if the Minister believes that the place is or was of special significance to Aboriginal culture. An area can have spiritual, natural resource usage, historical, social, educational or other type of significance.

(6) Aboriginal Heritage Information Management System (AHIMS) Database

OEH keeps a register of notified Aboriginal objects and declared Aboriginal places in NSW. The register is called the Aboriginal Heritage Information Management System (AHIMS).

You can search AHIMS to discover if an Aboriginal object has been recorded, or an Aboriginal place declared, on a parcel of land. Or use the AHIMS Web Service (AWS) to carry out an internet-based search for information about

recorded Aboriginal objects, gazetted Aboriginal places and features of significance.

Please note that surveys for Aboriginal objects have not been done in many parts of NSW. Aboriginal objects may exist on a parcel of land even though they have not been recorded in AHIMS.

If you discover something you believe should be registered as an Aboriginal object, contact the Aboriginal Heritage Information Unit.

(7) Due Diligence

Anyone who exercises due diligence in determining that their actions will not harm Aboriginal objects has a defence against prosecution for the strict liability offence if they later harm an object.

The *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*, can be used by individuals or organisations who are contemplating undertaking activities which could harm Aboriginal objects. This code will provide a process whereby a reasonable determination can be made as to whether or not Aboriginal objects will be harmed by an activity, whether further investigation is warranted and whether the activity requires an AHIP application.

Due diligence may also be exercised by complying with industry-specific codes of practice that have been adopted under the *National Parks and Wildlife Regulation 2009*.

For further information of undertaking a Due Diligence assessment refer to the Code. A copy of the Code can be downloaded from the Office of Environment and Heritage website at:

http://www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf

(8) Aboriginal Heritage Impact Permit (AHIP)

An Aboriginal Heritage Impact Permit (AHIP) is the statutory instrument that OEH issues under section 90 of the *National Parks and Wildlife Act 1974* to manage harm or potential harm to Aboriginal objects and places.

When administering its statutory functions under Part 6 of the NPW Act, OEH requires proponents to consult with Aboriginal people about the Aboriginal cultural heritage values of Aboriginal objects and/or places within the proposed project area.

For the purposes of these requirements community consultation must be undertaken in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*. This guideline establishes a process for the open and honest communication between the proponent and Aboriginal people who have cultural heritage knowledge relevant to the proposed project area.

(9) Integrated Development

Any development requiring an AHIP is integrated development under section 91 of the EP&A Act. As such the applicant is required to tick the appropriate box on the development application form and submit the required information for the issue of an AHIP. The application is then referred to the Office of Environment and Heritage for their general terms of approval.

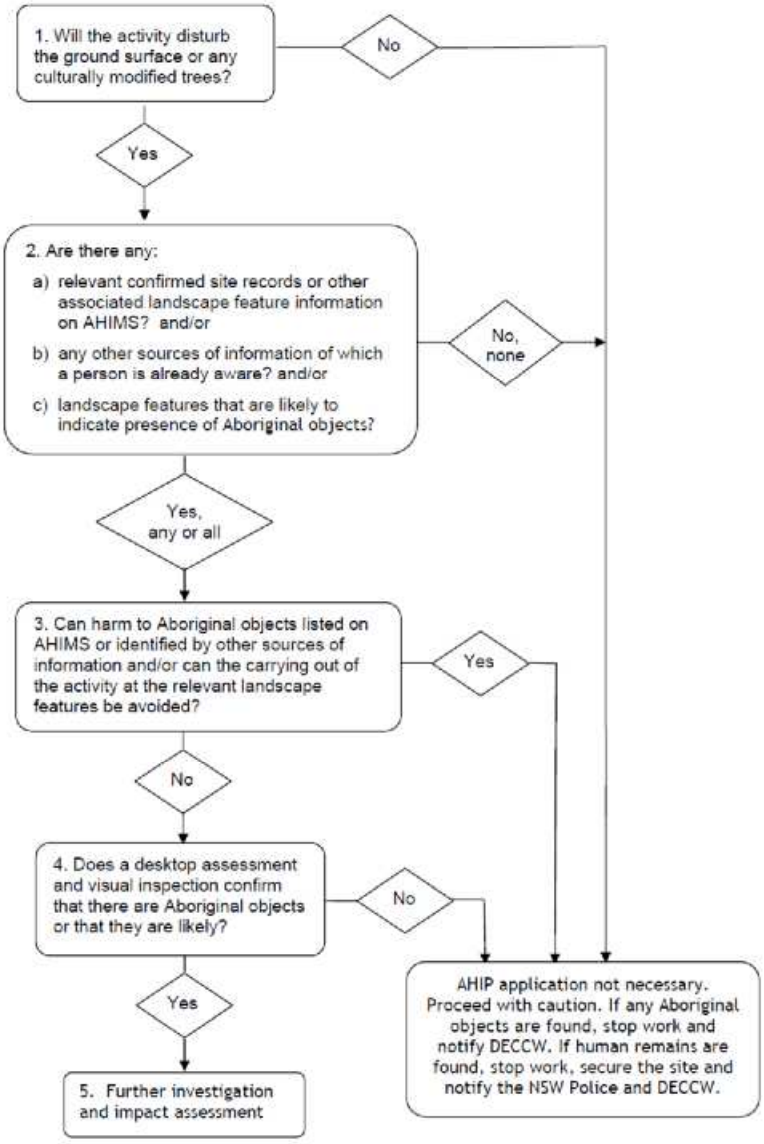


Figure I-1.2 The Generic Due Diligence Process (extracted from *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (2010))

Appendix I-1.1 – Application Form—Minor Works or Maintenance Exceptions

Richmond Valley Council

Richmond Valley Local Environmental Plan 2012

Minor Works or Maintenance to a Heritage Item or Within a Heritage Conservation Area

EXCEPTIONS APPLICATION FORM

Clause 5.10(3) of the *Richmond Valley Local Environmental Plan 2012*

OWNER'S DETAILS

NAME:			
ADDRESS:			
TOWN:		POSTCODE:	
DAYTIME PHONE NUMBER:			
EMAIL ADDRESS:			

PROPERTY DETAILS & ADDRESS

STREET & NUMBER:	
LOCALITY:	
LOT & DEPOSITED PLAN(s) (DP) (the property(ies) can also be identified on The Map)	

HERITAGE STATUS

☐ Heritage Item – Local Listing	☐ Within a Heritage Conservation Area
☐ Heritage Item – State Listing	

THE PROPOSAL

PROPOSED WORKS: (Describe the work being undertaken, to which an exception to development consent is being sought under clause 5.10(3) of the LEP). **Note.** Only maintenance work or work of a minor nature can be excepted, and only where it will not adversely affect the heritage significance of the item, place, object, site or area.	

Clause 5.10(3) Application Form – Minor Works or Maintenance to a Heritage Item or Within a Heritage Conservation Area (2015)

SKETCH OF THE LAND

WHERE ARE THE WORKS PROPOSED ON THE LAND?

(Sketch a map showing where the works will be undertaken on the land. Additional maps, site plans etc. can be attached. Distances to identifiable features, such as boundaries, creeks, buildings etc., should be included)

N

Owner Signature(s)			Date	
			Date	

Clause 5.10(3) Application Form – Minor Works or Maintenance to a Heritage Item or Within a Heritage Conservation Area (2015)

Richmond Valley Council

Richmond Valley Local Environmental Plan 2012

Minor Works or Maintenance to a Heritage Item or Within a Heritage Conservation Area
FACT SHEET
EXCEPTIONS APPLICATION FORM

Clause 5.10(3) of the *Richmond Valley Local Environmental Plan 2012*

Clause 5.10(3) of the *Richmond Valley Local Environmental Plan 2012* provides exception to requiring development consent for minor works or maintenance of heritage items. The clause provides:

> *(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.*

This form can be used to submit details of minor works or maintenance that are proposed to be carried. Please note that work should not commence until a written reply has been received from Council. The types of minor work that might be excepted from development consent include (but are not limited to):

- replacing fences (like for like)
- repainting buildings (need to include a copy of colour patches and photos showing how the colour scheme will be applied)
- letterboxes
- replacing guttering (using same or similar gutter profile)
- replacing rooves
- restumping buildings
- removing trees (although removing significant trees will require a development consent)

Council provides a free Heritage Advisory service to assist owners of heritage on the best ways to maintain their property. Site visits can be arranged with Council's Heritage Advisor when she visits the Council area on the first Tuesday of every other month (Feb, Apr, Jun, Aug, Oct, Dec).

Contact Council on (02) 66600300 or by email at council@richmondvalley.nsw.gov.au for additional information or to make an appointment.

Clause 5.10(3) Application Form – Minor Works or Maintenance to a Heritage Item or Within a Heritage Conservation Area (2015)

Part I-2. Development In, On, Over or Under a Public Road

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

The term public road is defined within the *Roads Act 1993* and applies to public lands declared by reservation to be road. Public roads therefore form a network of corridors that provide access for the conveyance of vehicular, pedestrian, and stock traffic throughout the landscape. Public roads may be:

- formed—containing constructed and maintained carriageway, or
- unformed—there has never been a constructed and maintained carriageway—these are commonly known "paper roads".

A public road may also be leased:

- as an enclosure permit—where an unformed road is leased to an adjoining property owner and is often fenced into the property;
- for commercial purposes—such as alfresco dining, footpath trading, roadside vending; and
- for encroachments of structures—such as awnings over the footpath, or gantries to carry services from one side of the road to the other.

All works and activities within public roads need the consent of the owner. They may also require development consent and/or some other approval, such as under the *Roads Act 1993*, or *Local Government Act 1993*. It is the purpose of this Chapter to explain the minimum standards for construction in, on, over or under a public road and to identify Council's consent or approval requirements.

I-2.1 General Objectives

The general objectives of this Chapter are to:

(1) identify development standards for various types of construction where erected in, on, over or under a public road.

(2) outline Council's administrative requirements for the erection of structures in, on, over or under a public road.

(3) identify Council requirements for kerbside trading.

I-2.2 Roads Authority

Objective

(1) To identify the Roads Authority for roads of particular classification or status and whom is responsible for regulating various kerbside and in road activities.

Controls

(1) Public road reserves consist of public land, so they are available for the entire community to use for access whether formed, unformed, or leased. They are however also owned and controlled by either Council or the Department of Lands, depending upon how they were originally created and whether they have been dedicated.

Generally the rule of thumb for ownership of a public road is:

- unformed—normally Crown lands being owned and controlled by the Department of Lands, while
- formed—most often dedicated under the care and control of the local council.

This rule of thumb isn't correct in all cases so the status of a particular public road reserve should be checked with Council or the Department of Lands prior to undertaking any works or activities.

(2) Classified Roads

Classified Roads are defined within the *Roads Act 1993* and include freeways, highways and main roads. The following roads within Richmond Valley Council's area are Classified Roads:

- Pacific Highway,
- Bruxner Highway,
- Summerland Way,
- Casino-Coraki Road
- Coraki-Woodburn Road, and
- Woodburn-Evans Head Road
- Bentley Road (Lismore-Kyogle)

The *Roads Act 1993* declares that the land on which a Classified Road is situated is owned by the local roads authority (council), but the road infrastructure constructed within the public road reserve may be owned and controlled by NSW Roads and Maritime. As such works and activities within a Classified Road will require owner consent from the local council, but concurrence will also be required from NSW Roads and Maritime to

access/intersect the road infrastructure, or to do works that may impact upon the functionality and safety of the road infrastructure.

(3) Roads Act Approvals

All works and structures to be carried out or erected within a public road require approval under section 138 of the *Roads Act 1993*. This includes works in, on, over or under a public road. Such approvals are required from the appropriate roads authority, being either Council, Roads and Maritime Services, or the Crown, depending on the road ownership and whether it is a Classified Road.

I-2.3 Structures in, on, over or under a Public Road

Objective

(1) To establish the minimum requirements for private/commercial structures to be erected in, on, over or under a public road.

Controls

Roads Act 1993

(1) As a general rule all construction in a road reserve requires Section 138 Approval under the Roads Act.

Consideration will be given to the following when determining such applications.

Projections for protection from the sun or for decoration

(2) Projections designed or intended as protection from the sun, and projections of a decorative nature such as cornices, eaves, sills, mullions and architraves, may project beyond the alignment of a public road if the road reserve is not less than 12.2 metres wide and the projections:

(a) extend not more than 450 mm beyond the road alignment,

(b) are at least 2600 mm above the pathway level of the road over which they project (including any fittings, fixtures, advertisements or the like),

(c) are no closer than 600 mm to any kerb and gutter, table drain or carriageway located within the road reserve, and

(d) are constructed of masonry, reinforced concrete or other approved fire-resisting material.

Sunblind canopies, sun louvres and the like

(3) Sunblind canopies, sun louvres and the like may project beyond the alignment of a public road and the projections:

(a) in their fully open position, extend not more than 450 mm beyond the road alignment,

(b) are at least 2600 mm above the pathway level of the road over which they project (including any fittings, fixtures, advertisements or the like),

(c) do not extend any closer than 600 mm to any kerb and gutter, table drain or carriageway located within the road reserve, and

(d) are constructed of approved non-combustible material throughout.

Footings under public roads

(4) Footings may project beyond the road alignment to the extent of not more than:

(a) 450 mm—if the projecting parts are more than 1350 mm below pathway level at the road alignment, and

(b) 750 mm—if the projecting parts are more than 3000 mm below pathway level at the road alignment,

but in no case may the projections extend under the carriageway of the road.

Traps on sewerage service pipes

(5) Traps on sewerage service pipes must not be installed in a public road.

Pipes and services

(6) Pipes and services must not project beyond the road alignment, except as provided.

Rainwater heads may project not more than 450 mm and rainwater downpipes may project not more than 150 mm above a height of 2700 mm above the pathway level.

In the case of an existing building, the council may consent to the projection of essential service pipes.

Flagpoles

(7) Flagpoles may project beyond the road alignment if:

- no part of a pole, or a flag suspended from it, shall be located within 3600 mm of the pathway level of the road below the pole,
- it does not project over the carriageway of the road, and
- no interference with public services is caused.
-

Construction of projections

(8) Projections beyond the road alignment are to be constructed so that they may be removed at any time after their erection without causing the building, of which they are part, to be structurally unsafe, and without causing a reduction in the required fire-resistance rating of any structural member of the building.

Awnings or Verandahs over roads

(9) The council may require that any or all awnings or verandahs proposed to be erected over a public road be of a cantilever type.

(10) Cantilevered awnings or verandahs

The width of a cantilever awning or verandah that extends beyond a road alignment, from the alignment of the road to the outside edge of the fascia plate is to be at least 600 mm less than the width of the footway over which it is to be erected. However, the decorative treatment on the fascia plate of any such awning may project for a distance not exceeding 75 mm.

The maximum width of a cantilever awning that extends beyond the road alignment must not exceed 3660 mm.

No part of the awning or verandah (including any fittings, fixtures, advertisements or the like) shall be less than 2600 mm above the pathway level of the road over which it projects.

Refer to Figure I-2.1 for details of canterlever awnings and verandahs.

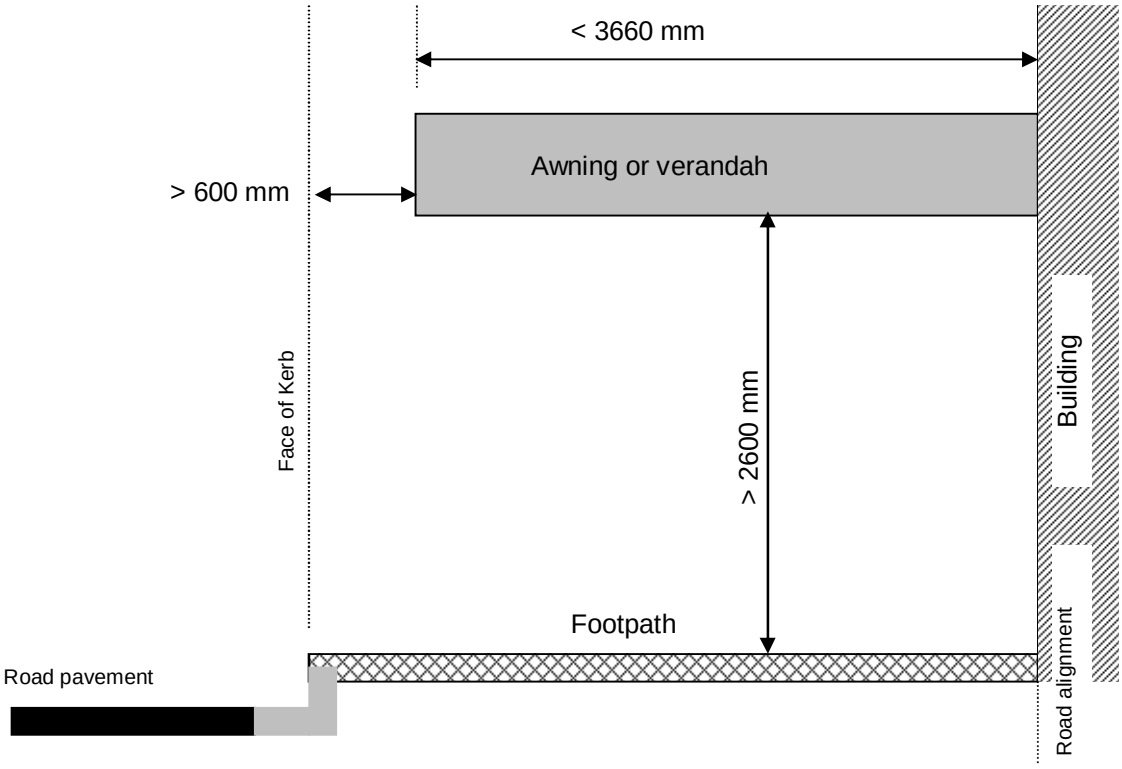


Figure I-2.1 Typical elevation view of development standards for canterlever awnings or verandahs over public roads.

(11) Awnings or verandahs supported by posts

The width of an awning or verandah that extends beyond a road alignment, from the alignment of the road to the outside edge of the fascia plate, is to be at least 600 mm less than the width of the footway over which it is to be erected. However, the decorative treatment on the fascia plate of any such awning may project for a distance not exceeding 75 mm.

No part of the awning or verandah (including any fittings, fixtures, advertisements or the like) shall be less than 2600 mm above the pathway level of the road over which it projects.

The supporting posts of the awning or verandah must maintain a minimum clearance of 2500 metres from the road alignment and be setback at least 1100 mm from the face of kerb.

Refer to Figure I-2.2 for details of awnings and verandahs supported by posts.

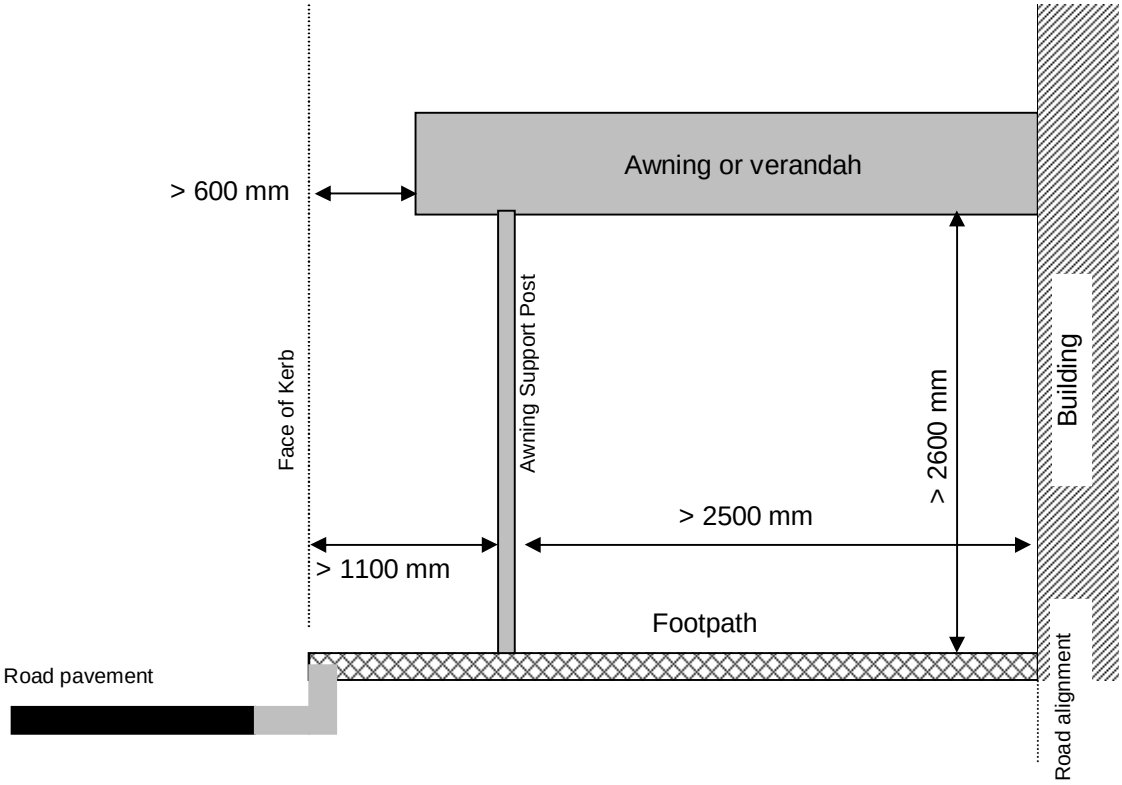


Figure I-2.2 Typical elevation view of development standards for awnings or verandahs supported by posts over public roads.

I-2.4 Footway activities, Kerbside dining, and other trading

Objective

(1) Outline Council's requirements and expectations for Footway Activities, kerbside dining and other trading.

(2) To protect the public health and safety of the community with the siting and design of footway activities, kerbside dining and other trading, and the construction of structures.

Controls

(1) Footway activities consist of street trading, street stalls and fundraising activities from within a public road.

While acknowledging the importance of footway activities, Council must be mindful that footpaths are available for everyone to use and it is critical that it is understood that commercial use of public space is a privilege not a right.

The essential key to an effective accessible pedestrian system throughout shopping precincts is the development and maintenance of a continuous accessible path of travel. This should extend out from the road alignment, the road reserve boundary shared with the adjacent properties, to provide a consistent footpath environment inclusive of the needs of the community, including older persons or people with a disability. In order to achieve this, any street furniture, signs, traders, activities or displays should be located

towards the kerbside not along the road alignment. This is consistent with best practice guidelines issued by the Human Rights and Equal Opportunity Commission.

Suitable and Unsuitable Locations

(2) Footway activities may be approved in all Richmond Valley Council public roads under the control and/or management of Council, where local conditions are favourable for their operation.

Footway activities are not permitted in areas where there exists high to very high pedestrian use or other public uses, such as adjacent to taxi ranks, bus stops, loading zones, fire hydrants, within potentially hazardous locations such as on street corners or an unprotected elevated location, or outside emergency exits.

The location of landscaping, trees, artwork, street furniture and other public infrastructure, as well as the width of the street and footpath, may preclude the establishment of footway activities. Furthermore, such things as *Alcohol Free Zones* will restrict the capacity of an activity to sell or enable the consumption of alcohol within a public road.

Another consideration will be *Crime Prevention Through Environmental Design* (CPTED) which provides guidelines on the sitting of development but also how it should be designed to reduce the potential for crime. See Chapter I-10 for further details.

Activities to be located within Trading Zone

(3) All street trading activities, street stalls and other fundraising activities should be located within the "Trading Zone" as depicted within Figure I-2.3.

Exceptions to this requirement may be extended for kerbside dining or alfresco dining where the trading zone is proposed to be extended beyond the gutter/road carriageway as part of the development application, or in areas with low pedestrian activity.

Pedestrian Zone to be Clear of Obstructions

(4) All footway activities, commercial trading or other uses of footpaths, must retain a clear pedestrian zone that is free of obstructions so as to maintain a safe and efficient passageway.

The recommended minimum width of the pedestrian zone shall be 1.8 metres, measured from the road alignment (the front boundary adjacent to the public road) or shopfront into the road reserve, refer to Figure I-2.3.

Kerbside Dining

(5) Kerbside dining will require approval under section 125 of the *Roads Act 1993*, Development consent under the EP&A Act, and where permanent structures are proposed, a section 138 approval under the *Roads Act 1993*.

The following matter will be considered by Council when determining any consent or approval for kerbside dining:

(a) Kerbside dining to be located adjacent to primary food premises

A kerbside dining area shall only be permitted where there is an existing or proposed food premises within the building located immediately adjacent to the proposed kerbside dining area.

(d) Safety/crash protection

A kerbside dining area is not permitted in a position which, in the opinion of Council, compromises the safety of any users or the kerbside area or will create conflict between pedestrians, vehicles and diners.

Crash protection barriers and/or clearance areas from the kerb must be provided when additional protection for diners is required. These requirements will be determined by Council depending upon the type of road which the proposal fronts, existing car parking arrangements, location of existing services, the condition of the existing footpath and the like.

In the event a crash protection barrier is required by Council, certification from a suitably qualified professional shall be submitted demonstrating the barrier has been designed and constructed so as to maximise safety of diners and vehicle occupants.

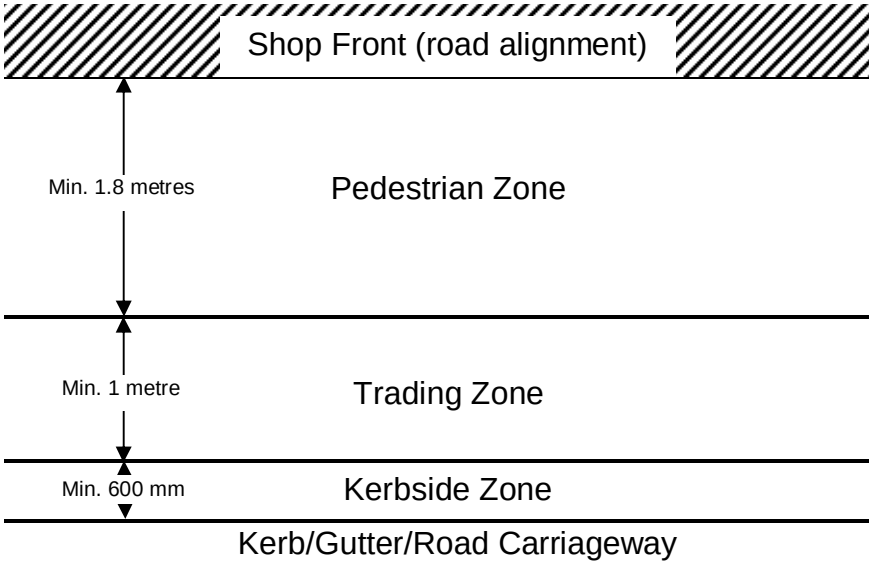


Figure I-2.3 Minimum dimensions for pedestrian zone, trading zone and setback from kerb (birds eye view).

Policies and Requirements

(6) Council has several Policies/Procedures relating to Structures and Kerbside Dining on Council owned and controlled land/roads. These being:

- Operational Procedure No. 15.5 – Structures Encroaching Over Land which is Owned or Controlled by Council (Authorised 14 July 2015).
- Council Policy No 15.1 – Kerbside Dining (Adopted by Council on 23 June 2015).
- Operational Procedure 15.1 – Kerbside Dining (Authorised 21 April 2015)

(7) Leases and licences

Council may authorise footway activities, kerbside dining, or structural encroachments (such as shop front awnings) within a public road subject to a lease or licence agreement.

Such leases or licensing will be done in accordance with section 125 &/or 138 of the *Roads Act 1993*.

Council may adopt a Policy in regard to the workings of such leases or licenses. However, generally speaking, a licence will be required to undertake footway activities using moveable furnishings and fixtures, while a lease may be required if the fixtures and furnishings are permanent. Notwithstanding, such arrangements will be at the discretion of Council.

(8) Public Liability and Professional Indemnity

Council requires that all activities in, on, over or under public roads, or within public places generally, require its authorisation but also relevant consents and approvals prior to commencement.

The person or organisation conducting the activity shall is required to hold current public liability insurance, workers compensation insurance, and professional indemnity insurance, with copies of certificates of currency to be periodically submitted to Council.

Note. The insurances will need to show the footway activity/kerbside dining as a coverage on the policies. Public Liability insurance cover of $20,000,000 is the current minimum requirement.

(9) Periodic Inspection of Structures

Any private structures constructed in, on, over or under a public road must be maintained to a safe standard at all times by the owner of the premises to which it is connected.

Council may require such structures to be covered by a lease or licence and it may be a requirement for such to be periodically inspected and certified by a suitably qualified professional.

Council may adopt a policy in regards to the leasing or licensing of such premises and for periodic inspections.

To minimise Council's Public Liability exposure for such structures over the public road, it will require registration of a Positive Covenant over the adjacent privately owned land.

(10) Development application requirements

Where development consent is required for kerbside trading, or for a structure in, on, over or under a public road, the application should contain:

- a completed development application form accompanied by the relevant fee and per Council's Revenue Policy.
- Consent for the lodgement of the development application will be required from the owner (usually Council), and the owner of the adjoining premises within which the principal business is operated.
- site plans identifying the relevant areas in relationship to the applicant's premises.
- plans of the proposed kerbside dining area, whether it be for a permanent structure, or a moveable area including the location of all structure, street furniture, bollards, barriers, walls, tables and the like.
- a plan identifying any proposed landscaping.

- consideration of the condition and grade of the footpath and whether any improvements to the footpath are required, and any potential loss of car parking as a result of the proposal.
- for larger scale developments, artist impressions, sketches and elevations of the proposed dining area may be required.
- an assessment regarding the impact that the dining area will have upon vehicular movements and pedestrian movements, particularly for the visually impaired, disabled and elderly.
- details of the premises seeking approval for kerbside dining such as hours of operation, service of alcohol etc.
- where necessary, an assessment of the proposed development in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
- All plans supplied must be to scale, and clearly identify furniture and other structures, include dimensions for such things as the pedestrian zone, trading zone and kerbside zone, and identify the location of the principal premises.

In granting development consent, Council may impose conditions requiring:

- the dining facilities to be moveable in nature.
- the facility may only be operated at certain specified times.
- the consent is subject to having a current lease or licence arrangement with Council.
- whether the consumption of alcohol will be permitted in the kerbside dining area.

Part I-3. Setbacks and Building Height

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Included in this Chapter are:

- Front Building Line Setbacks
- Side and Rear Boundary Setbacks
- Foreshore Building Lines
- Building Height Plane

This Chapter contains development restrictions resulting from the establishment of setbacks for development from road frontages, side and rear boundaries and foreshores. It also includes restrictions on building heights resulting from the LEP Height of Buildings Map, and the establishment of a Building Height Plane (BHP).

Setback restrictions are used:

- to ensure that development is sympathetic with the character of the locality,
- to enable sufficient space for landscaping,
- as a transition between development and the public domain,
- for fire protection, and
- to minimise land use conflict.

Building height restrictions and the building height plane are used to:

- restrict the scale of development, and
- reduce the impact of development on adjoining properties from overshadowing, loss of privacy, and bulk and scale.

I-3.1 General Objectives

The general objectives of this Chapter are to:

(1) adopt consistent front building line setbacks throughout the LGA that provide for streetscape and neighbourhood amenity, while having regard to physical constraints as may occur.

(2) adopt minimum side and rear boundary setbacks having regard to neighbourhood amenity, height, design and scale of proposed development, and the *Building Code of Australia* ("BCA").

(3) adopt a foreshore building line to setback development fronting waterways so as to ensure that it will not impact on natural foreshore processes or affect the significance and amenity of the area.

(4) establish a building height plane to minimise the impact of development upon neighbouring sites from taller construction.

I-3.2 Setback Types

Objective

(1) to identify the various types of setback required by this DCP.

Controls

(1) Setbacks are parts of land within which development is not permitted to be constructed or established. This DCP defines a number of setback types these being:

- Front Building Line Setbacks (also known as the Building Line),
- Side and Rear Boundary Setbacks, and
- Foreshore Building Line Setbacks (also referred to as the Foreshore Building Line).

I-3.3 Front Building Line Setbacks

Objective

(1) to establish minimum front building line setbacks for development types.

(2) to provide for safe vehicle egress from properties.

(3) to accommodate future road widening, bushfire hazard separates and heritage into the minimum setback standard

(4) retain sufficient land forward of the building line for landscaping and creation of attractive streetscapes.

Controls

(1) Front Building Line Setbacks are measured from the boundary with a road alignment.

Note. *Road alignment* means those boundaries of an allotment that immediately adjoin a public road, whether that public road is formed or unformed.

(2) The distance of the setback is the lesser of the following:

(a) the distance defined within Table I-3.1, or

(b) the distance defined by measuring to the forward most part of an existing building on the land, including: walls; decks; staircases; posts; columns; patios; coping; and the like, but not eaves.

Note. For the purposes of defining setbacks in this DCP, the term building excludes structures such as fences, screens, retaining walls, letterboxes etc.

Variations to Front Building Line Setbacks—Residential Development

(3) Variations to the Front Building Line Setbacks established within Table I-3.1 may be granted for residential development where:

(a) where the property has more than one frontage to a road alignment (dual road frontage)—refer to I-3.3(4) Dual Road Frontages; or

(b) where residential buildings on adjoining properties are located forward of the building line—refer to I-3.3(9) Regard to Immediately Adjoining Buildings; or

(c) the variation consists of an Articulation Zone—refer to I-3.3(12) Articulation Zone Variation.

(4) Dual Road Frontages

Residential development on land having frontage to more than 1 road alignment (dual road frontage), whether those roads are formed or unformed, may request a Front Building Line Setback variation of up to 50% for the secondary frontages.

Note. For the purposes of this variation, at least one frontage will be treated as a Primary Frontage.

(5) A variation may only be granted on the secondary frontages where:

(a) the development is for residential development,

(b) it can be demonstrated that the neighbourhood amenity will not be affected by the variation,

(c) all existing and proposed structures on the property conform to the minimum building line setbacks contained within Table I-3.1 for the Primary Frontage(s), and

(d) the frontage is not subject to identified road widening.

Note. a building line variation to more than one frontage may be rejected.

(6) Council will determine on merits whether a frontage is primary or secondary have consideration of such things as:

(a) width of road reserves—Narrow roads and laneways are preferred as secondary frontages.

(b) orientation of development (existing and new)—Development orientated towards a road alignment will generally be considered the Primary Frontage, and

(c) the relative length of the frontages—Generally the shortest frontage is the Primary Frontage.

(7) Narrow roads, usually having a road reserve width less than 6 metres, may be treated as a side or rear boundary for the purposes of setbacks.

Note. It will be at Council's discretion to determine what constitutes a narrow road and whether such frontages will be treated as a side or rear boundary.

Table I-3.1 Minimum Front Building Line Setbacks

Zone	Development Types	Minimum Front Building Line Setbacks
R1 General Residential	All development	Ø 6 metres, and Ø garages and sheds must be 1.0 metre behind the building line (see note [1] re: roller door openings)
RU5 Village	Residential accommodation	Ø 6 metres Ø garages and sheds must be 1.0 metre behind the building line (see note [1] re: roller door openings)
	Commercial premises within commercial precinct (being Richmond Terrace, Coraki; and River Street, Woodburn)	Ø Zero
	All Other Land Uses	Ø 6 metres
RU1 Primary Production, R5 Large Lot Residential, and E3 Environmental Management	Residential accommodation	Ø 15 metres—where fronting a local sealed road Ø 50 metres—where fronting a local unsealed road Ø 20 metres—where fronting a Classified Road
	All other development	Ø 20 metres
B1 Neighbourhood Centre	All development	Ø 6 metres
B2 Local Centre	Shop top housing	Ø Zero—where located above ground floor commercial development, else Ø 6 metres
	All other development	Ø Zero
B3 Commercial Core	Shop top housing	Ø Zero—where located above ground floor commercial development, else Ø 6 metres **Note.** Refer to Heritage Conservation Area considerations.
	All other development	Ø Zero **Note.** Refer to Heritage Conservation Area considerations.
IN1 General Industry	All development	Ø 6 metres
Other Zones	All development	Ø As per nearest adjoining zone.

Note. For the purposes of this table external wall includes decks, staircases, posts, columns, patios, and coping, but excludes eaves.

Note [1]. Vehicular access opening of garages and sheds must be a minimum of 5.5 metres from the boundary with a road alignment.

(8) Vehicular access to the land will be prohibited across side or rear boundaries.

(9) Regard to Immediately Adjoining Buildings

Variation to the front building line setback may be granted where development on an immediately adjoining property is forward of the identified setbacks contained within Table I-3.1.

(10) Such a variation shall only be granted where:

(a) the variation is to a primary frontage,

(b) the existing front building lines on adjoining properties, being used to justify this variation, are not facing towards secondary frontages,

(c) the development is for residential purposes,

(d) the adjoining properties have been developed for residential development (not commercial or industrial).

(11) To establish the variation, a straight line shall be drawn between the forward most building elements on the adjoining properties, excluding any building elements considered to be an articulation zone variation. This line shall be the new front building line setback. See Figure I-3.2.

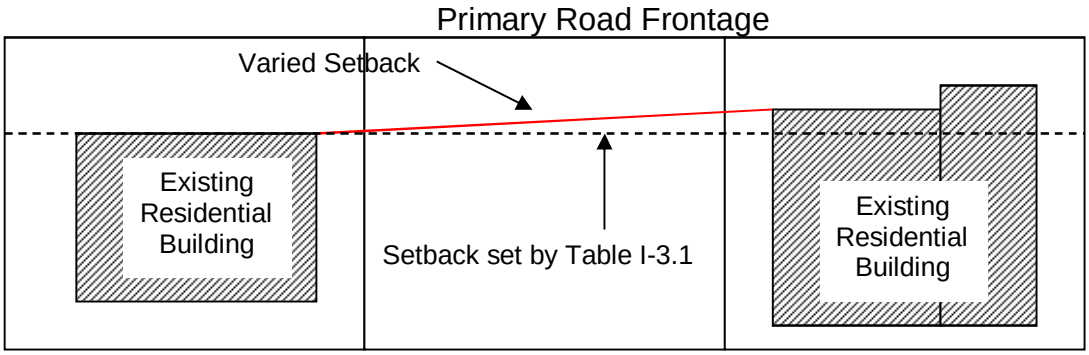


Figure I-3.2 Defining a Front building line Setback Variation based upon adjoining development. (Line drawn between forward most elements on adjoining properties will become the new building line)

Note. Variation excludes consideration of that part of a structure erected within an articulation zone.

(12) Articulation Zone Variation

An Articulation Zone is a part of the development that is permitted to be constructed up to 1.5 metres forward of the front building line setback defined in Table I-3.1.

(13) The Articulation Zone aims to encourage architectural relief along the front of residential development.

(14) The Articulation Zone shall have a maximum area of 7 m^2 forward of the Front Building Line Setback.

Variations to Front Building Line Setbacks—Commercial considerations

(15) Pedestrian areas should be accommodated into commercial developments having a zero front building line setback.

Heritage Conservation Area considerations

(16) Development within the Casino CBD Heritage Conservation Area is required to be setback 10 metres for that part of the development above the height of the existing facade.

(17) This setback is to provide for retention of existing facades while accommodating additional storeys outside the conservation area (10 metres deep measured from the front boundaries along Barker and Walker Streets).

(18) By setting back such additions, and incorporating design considerations (refer to Chapter I-1.11), there should be minimal impact on the streetscape of the conservation area.

Bush fire APZ considerations

(19) Land within or adjoining a bushfire hazard may require larger setbacks than the minimums provided within this Chapter. *Planning for Bushfire Protection* (2006) should be consulted. All Asset Protection Zones should be contained within the boundaries of the land and therefore represent the minimum setback, unless a larger setback is required by this Chapter or a development specific Chapter of this DCP.

(20) Alternative solutions involving reduced Asset Protection Zones may be considered on merit but will be subject to approval by the NSW Rural Fire Service.

Roads subject to Widening

(21) Notwithstanding any other provision of this Chapter, the Front Building Line Setback to a road subject to widening shall be increased by width of land to be resumed by the widening.

(22) In the case of:

(a) Lane Widening proposed in Chapter I-15 of this DCP—the setback shall be increased by 3 metres to accommodate the proposed widening,

(b) land identified as *Classified Road (SP2)* on the *Richmond Valley LEP 2012 Land Reservation Acquisition Map*—the setback shall increase by the width of identified resumption.

I-3.4 Side and Rear Boundary Setbacks

Objective

(1) to establish minimum side and rear boundary setbacks for development types.

(2) to recognise the setback requirements of the Building Code of Australia, particularly for fire protection.

(3) to protect streetscape by maintaining minimum separate between buildings.

(4) to allow access to rear yard space, provide opportunities for cross ventilation and solar access.

(5) to create opportunities for residential open space.

Controls

(1) Side & Rear Boundary Setbacks are measured from property boundaries that adjoin neighbouring properties (that are not roads or waterways).

(2) The distance of the side and rear setback is defined within Table I-3.2.

Table I-3.2 Minimum Side and Rear Boundary Setbacks

Zone	Development Types	Minimum Side and Rear Setbacks
R1 General Residential	Dwellings houses Dual occupancy Secondary dwellings	Ø 900 mm to external wall. **Note.** Structures must remain beneath the Building Height Plane [2]
	Other Residential accommodation	Ø 2.5 metres to side, and Ø 3 metres to rear, for external walls. **Note.** Structures must remain beneath the Building Height Plane [2]
	All development >3 storeys	Ø 6 metres
	Other development [1]	Ø Consider on merits, or Ø As required in a specific Chapter of this DCP.
RU5 Village	Dwellings houses Dual occupancy Secondary dwellings	Ø 900 mm to external wall. **Note.** Structure must remain beneath the Building Height Plane [2]
	Other Residential accommodation	Ø 2.5 metres to side, and Ø 3 metres to rear, for external walls. **Note.** Structures must remain beneath the Building Height Plane [2]
	Commercial premises [1]	Ø Zero
	Other development [1]	Ø 900 mm to external wall, or Ø Consider on merits, or Ø As required in a specific Chapter of this DCP **Note.** Structure must remain beneath the Building Height Plane [2]
RU1 Primary Production	All development	Ø 5 metres **Note.** Setback may need to be greater to accommodate a Bushfire Asset Protection Zone within the boundaries of the property [2]
E3 Environmental Management	All development [1]	Ø As per RU1
R5 Large Lot Residential	All development	Ø 5 metres **Note.** Setback may need to be greater to accommodate a Bushfire Asset Protection Zone within the boundaries of the property [2]

Zone	Development Types	Minimum Side and Rear Setbacks
B1 Neighbourhood Centre	Commercial Premises [1]	Ø Zero
	All other development [1]	Ø 900 mm to external wall, or Ø 675 mm to eave. **Note.** Structure must remain beneath the Building Height Plane [2]
B2 Local Centre	All development [1]	Ø Zero
B3 Commercial Core	Commercial Premises <4 storeys [1]	Ø Zero
	Commercial Premises >3 storeys [1]	Ø Zero—for that part of development below 4 storeys Ø 6 metres setback—for any part of the development above 3 storeys
	All other development <4 storeys [1]	Ø Zero—for that part of development below 3 storeys and within 20 metres of road alignment. Ø Structure to remain beneath the Building Height Plane for that part of the development above 2 storeys. [2]
	All other development >3 storeys	Ø 6 metres setback
IN1 General Industry	Adjoining residential land uses [1]	Ø 900 mm setback
	All other development [1]	Ø Zero
Other Zones	All development [1]	Ø Consider on merit

Note. For the purposes of this table external wall includes decks, staircases, posts, columns, patios, coping, but excludes eaves.

Note[1]. The Building Code of Australia may require the Class of building to incorporate special fire protection measures into the construction to achieve the minimum setbacks contained within Table I-3.2.

Note[2]. Side and rear boundary setbacks may need to increase to achieve minimum Asset Protection Zones (APZ) within bushfire prone areas, or to keep the development below the Building Height Plane.

Outbuildings may Encroach into Side and Rear Boundary Setbacks

(3) Ancillary structures, such as an outbuilding (sheds, carports, lawn lockers), retaining walls, etc., may be granted consent within the prescribed side or rear boundary setbacks, but consideration should be given to:

(a) whether the structure will encroach beyond the Building Height Plane—and the potential impacts of overshadowing, loss of privacy, loss of amenity that this may cause to adjoining properties,

(b) whether similar structures exist on the immediately adjoining property,

(c) the need for access to services or maintenance of the structure,

(d) the cumulative impact of this encroachment having regard to any previous encroachments,

(e) impacts upon the amenity of the locality,

(f) the location of easements and services, and

(g) compliance with BCA.

Bush Fire APZ Considerations

(4) Land within or adjoining a bushfire hazard may require larger setbacks than the minimums provided within this Chapter. *Planning for Bushfire Protection* (2006) should be consulted. The Asset Protection Zone should be contained within the boundaries of the land and therefore represent the minimum setback, unless a larger setback is required by this Chapter or a development specific Chapter of this DCP.

(5) Alternative solutions involving reduced Asset Protection Zones may be considered on merit but will be subject to approval by the NSW Rural Fire Service.

I-3.5 Foreshore Building Line Setbacks

Objective

(1) to establish building line setbacks from foreshores to ensure that development does not impact on riparian zones, habitat, wildlife corridors, and amenity.

Controls

(1) The Foreshore Building Line Setback shall apply to all land fronting rivers, creeks, streams, waterways, or estuaries having a:

- W1 Natural Waterways, or
- W2 Recreational Waterways,

zoning under the *Richmond Valley LEP 2012*.

(2) The minimum foreshore building line setback for development shall be:

Zone	Minimum Foreshore Building Line Setback
R1 General Residential RU5 Village IN1 General Industry	15 metres
All other zones	40 metres

(3) The setback shall be measured from:

- the mean high water mark—where the waterway is tidal, or
- the shoreline—where the waterway is non-tidal.

Note. For the purposes of this Chapter, where there is difficulty defining the shoreline it will be taken as the bottom of the waterway's embankment.

Exceptions to the Foreshore Building Line

(4) Exceptions to the Foreshore Building Line may be granted for that part of a development involving structures such as boat sheds, boat ramps, moorings, jetties or the like, but only where it can be demonstrated that:

(a) the development will have minimal significance to the stability of the bank,

(b) the development will involve minimal clearing of riparian vegetation,

(c) the development will not impact upon the amenity of the foreshore area,

(d) the development can be safely located within a high velocity floodway (if applicable), and

(e) it is essential for the development to be located close to the foreshore.

Note. Regard must also be had to the heads of consideration contained within Clause 6.8 - Riparian Land and Watercourses of the *Richmond Valley LEP 2012*.

Controlled Activities within 40 metres of Waterfront Land

(5) Section 91(2) of the *Water Management Act 2000* requires approval to undertake controlled activities, being the:

- erection of a building or the carrying out of a work,
- removal of material or vegetation from land,
- deposition of material on land, or
- carrying out of any other activity that effects the quantity or flow of water in a water source,

within waterfront land.

Waterfront land is defined in that Act as land between the bed of any river, lake, estuary, and a line drawn parallel to, and 40 metres from, the highest bank, the shore, or mean high water mark, respectively.

(6) A Development Application requiring a controlled activity approval is Integrated Development pursuant to Section 91 of the EP&A Act.

I-3.6 Building Line Setback Variations

Objective

(1) to provide a mechanism for assessing variations to building line setbacks.

(2) to ensure that consideration is given to the potential impacts of development on adjoining neighbours and public open space.

Controls

(1) Setback variations, beyond those identified in Chapter I-3.3 & I-3.4, may be sought by application submitted with a Development Application.

(2) Variations may only be granted to a setback designated within Tables I-3.1 and I-3.2.

(3) Consideration will be given to the following when assessing an application for a setback variation:

(a) Likely effect on adjoining owners, including impact on views to and from the land, overshadowing, privacy, noise, drainage, and the like,

(b) Compatibility with existing streetscape, and

(c) How the objectives of this Chapter may be satisfied by allowing the variation.

(4) Applications seeking variations greater than 10% of the standard to be varied will be subject to concurrence of the Manager of Assessment Environment & Regulation or their successor.

I-3.7 Development Standards—Building Height Plane

Objective

(1) to establish a building height plane to minimise the impact of development upon neighbouring sites from taller construction.

(2) to ensure buildings are setback progressively from the side and rear boundary as building height increases so that buildings do not unduly affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy, or unreasonably obstructing views.

(3) to ensure that occupants of residential accommodation have the opportunity to enjoy the optimum use of winter sunlight.

(4) to enhance opportunities for solar access to both the development site and adjoining properties.

(5) to achieve varied and interesting streetscapes, compatible with bulk, scale and character of the area.

Controls

(1) A Building Height Plane shall apply to side & rear boundary setbacks, where nominated in Table I-3.2.

(2) The building height plane is an imaginary ceiling projected above a development site under which all construction must be located.

(3) The plane is defined by projecting a surface upward over the subject land, at an angle of 45 degrees commencing at a point 2 metres above the natural ground level at the side & rear boundaries. Refer to Figure I-3.3.

(4) For the purposes of defining the Building Height Plan, secondary frontages will be considered as a side or rear boundary.

(5) Development >3 Storeys

The Building Height Plane shall only apply to development up to and including 3 storeys. That part of development above 3 storeys shall be setback a minimum of 6 metres from the side and rear boundaries. This standard may be varied by application.

(6) Exceptions to compliance with the Building Height Plane

The Building Height Plane may be varied in the following circumstances:

(a) Eaves and gutters—up to a maximum of 700 mm from the external wall of the development.

(b) Open form or translucent balustrading.

(c) Climate control measures—of a minor scale and which do not affect the objectives of this section.

(d) Buildings on slopes >8°—encroachments may be permit along the north and east elevation of the wall length where the elevation that encroaches is not more than 6.5 metres in height, measured from the

existing ground level to the wall/eave junction (springing point), and the encroachment is at least 1200 mm from the side or rear boundary.

(e) On land affected by a Flood Planning Level—the Building Height Plane will be measured from the 1 in 100 year flood level instead of the natural ground level.

Note. Shadow cast onto adjoining land must be considered where this exemption applies.

(f) Single storey outbuildings (maximum 2.9 metre wall height) with a gable end roof or similar roof design—may encroach on the Building Height Plane where; the wall length of the encroaching elevation is no longer than 10 metres and the roof slope of the encroachment is 25° or less.

(g) Exempt development as defined in the Codes SEPP 2008.

I-3.8 Building Height Plane Variations

Objective

(1) to provide a mechanism for assessing variations to the Building Height Plane.

(2) to ensure that consideration is given to the potential impacts of development on adjoining neighbours and public open space.

Controls

(1) Building Height Plane variations, beyond those identified in Chapter I-3.7, may be sought by application submitted with a Development Application.

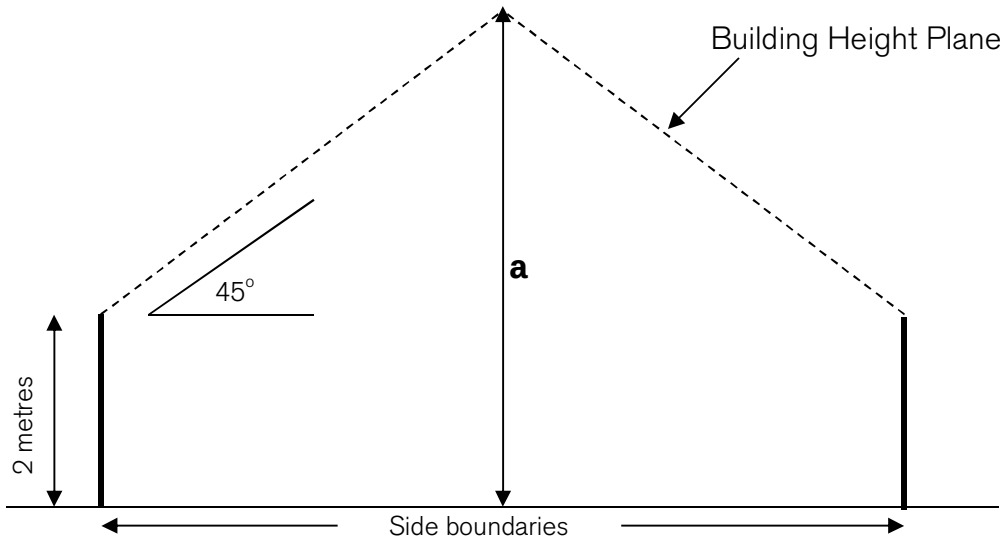
(2) Consideration will be given to the following when assessing an application for a variation:

(a) Likely effect on adjoining owners (including public open space), including impact on views to and from the land, overshadowing, solar access, privacy, noise, drainage, and the like,

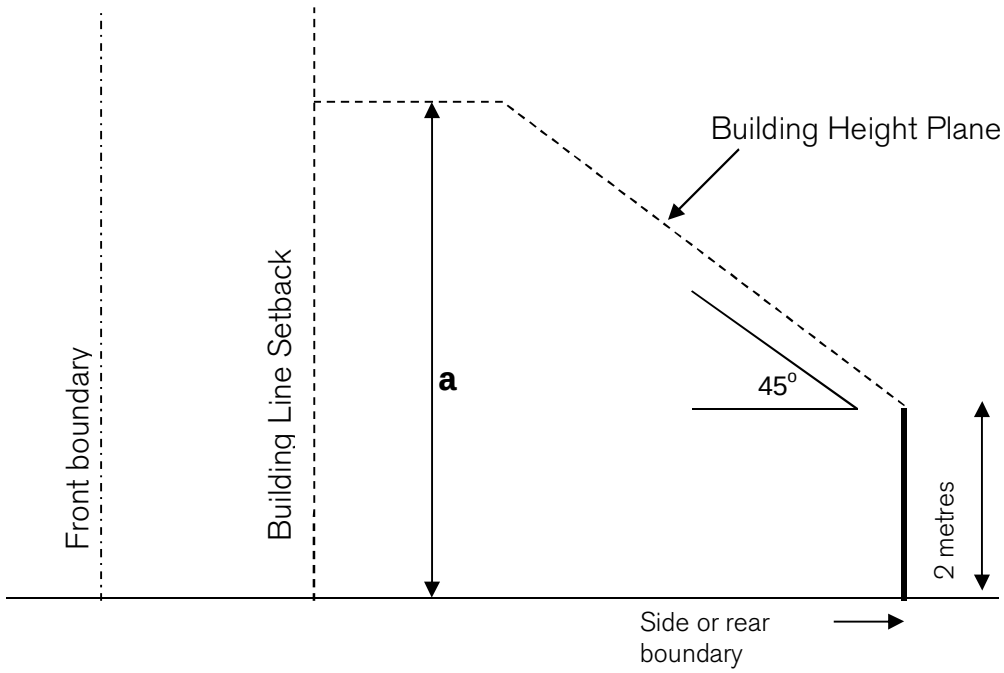
(b) Compatibility with existing streetscape, and

(c) How the objectives of this Chapter may be satisfied by allowing the variation.

(4) Applications will be subject to concurrence of the Manager of Assessment Environment & Regulation or their successor.



Front or Rear Elevation



Side Elevation

Note. "**a**" represents the maximum height determined by either the LEP Height of Buildings Map, or the point of convergence of building height plans, whichever is the lesser.)

Figure I-3.3 Building Height Plane

Part I-4. Car Parking Provisions

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Access to public transport in regional areas is often minimal with the car being the most practical alternative. It is therefore important to consider the car in the planning of development and public spaces to ensure access is reasonably available to customers and employees, and the streetscape remains attractive to users.

This DCP balances the provision of sufficient parking to meet demand, close to desired destinations and in an orderly manner, while not being too excessive so as to stifle development opportunities or be unattractive.

Parking will be required by development based upon estimated demand for different land use types, however, the DCP incorporates opportunities to be flexible where alternative parking strategies, parking rates and solutions can be demonstrated. This flexibility includes consideration of a locality's unique circumstances—For example, Evans Head is a coastal community with a large seasonal population of tourists that are generally active. While there is ample car parking in the CBD during the off-season, the season population swell creates a parking shortfall. One strategy to address this shortfall could be to encourage more pedestrian and cycling to the CBD by diverting resources away from new car parking and towards an improved pathway network.

I-4.1 General Objectives

The general objectives of this Chapter are to:

(1) facilitate an appropriate level of car parking to cater for a mix of development types.

(2) establish a flat rate of car parking for developments within business zones.

(3) provide for the adequate design of car parks, manoeuvring areas and road access.

(4) minimise the visual impact of car parking.

(5) allow for the unique aspects of a locality to be considered when a variation to parking, or a Voluntary VPA is proposed.

I-4.2 On-site Parking

Objective

(1) to provide for an appropriate level of on-site car parking to cater for the demand of development types.

Controls

(1) On-site car parking is required to be provided at the rates established in the *Section I-4.4 General Car Parking Rates* for:

(a) new development,

(b) additional gross floor area—within an existing development, and

(c) a change of use—where the new use has a higher demand for car parking.

I-4.3 General Car Parking Rates

Objective

(1) to establish the minimum car parking rates to cater for a variety of development types.

Controls

(1) Table I-4.1 contains the minimum on-site car parking requirements for a variety of development types.

(3) When a proposal contains different development types, the car parking required for each type shall be calculated and added together.

(2) The total number of car parking spaces calculated for a development should be rounded up to the nearest whole number.

Table I-4.1 Minimum On-site Car Parking Requirements for Development

Land Use	Parking Rate*
Residential Accommodation	
Dwelling House	2 per dwelling (at least 1 to be located behind the building line. The second space may be stack parked between the dwelling and front boundary)
Dual Occupancy	1 per dwelling, plus 1 visitor space; or 2 per dwelling (where the development will be Torrens Title subdivided)(1 space per dwelling may be stack parked)
Secondary Dwelling	As per dwelling house for Primary Dwelling – no additional parking required for Secondary Dwelling
Residential Flats and Multi-dwelling Housing	1 per dwelling (<150 m^2 GFA), plus 1.5 per dwelling (>= 150 m^2 GFA), plus 1 visitor space per 4 dwellings
Shop Top Housing (excluding any commercial GFA)	1 per dwelling, plus 1 visitor space per 10 dwellings Note. conversion of existing GFA, in a Business zone, to shop top housing will not require additional parking
Group Homes	1 per 10 beds, plus 1 per 2 supervisors or carers
Seniors Housing	1 per 3 units, plus 1 per 5 beds (excluding units), plus 1 per employee
Residential Care Facility	1 per 10 beds, plus 1 per 2 employees, plus 1 ambulance bay
Tourist and Visitor Accommodation	
Backpackers Accommodation	1 per 3 beds, plus 1 visitor space per 5 beds; or 1 per room, plus 1 visitor space per 5 rooms (Whichever is the greater)
Bed and Breakfast Accommodation	1 per guest bedroom, plus 1 for permanent residents of dwelling
Hotel or Motel Accommodation	1 per unit, plus 1 for management, plus 1 visitor space per 20 units, plus parking for a function room/restaurant/bar (if provided)

Land Use	Parking Rate*
Serviced Apartments	1 per unit (<150 m^2 GFA), and 1.5 per unit (>= 150 m^2 GFA), and 1 visitor space per 10 units
Caravan Parks Camping Grounds	1 per site (to be accommodated within the site), plus 1 visitor space per 10 long term sites, plus 1 visitor space per 20 short term sites
Commercial Development	
Zone B1, B2 or B3 – Change of Use of existing GFA to another use (including to shop top housing)	No additional parking will be required. No loss of existing parking will be permitted.
Commercial premises - Office Premises - Retail Premises - Business Premises	1 per 30 m^2 of GFA (<=1000m^2), or 1 per 40 m^2 of GFA (>1000m^2)
Pub/Hotel Premises Restaurants or Cafes Function Centres	1 per 30 m^2 of GFA (<=1000m^2), or 1 per 40m^2 of GFA (>1000m^2)
Take Away Food and Drink Premises	1 per 30 m^2 of GFA (including external dining areas), plus where a drive thru is provided—2 waiting bays, plus queuing area for 10 cars
Kiosks	1 per 40 m^2 of GFA
Restricted Premises	1 per 30 m^2 of GFA (<=1000m^2), or 1 per 40 m^2 of GFA (>1000m^2)
Sex Service Premises	1.5 per working room
Garden Centres Landscaping Material Supplies Plant Nurseries Rural Supplies Timber Yards Wrecking Yards	1 per 200 m^2 of display area (internal and external)
Vehicle Sales or Hire Premises	1 per 100 m^2 of showroom area
Amusement Centres	1 per 25 m^2 of GFA
Service Stations including convenience store	1 per fuel pump, plus 1 per 100 m^2 of GFA (Additional parking to be provided if a vehicle repair station is included)
Highway Service Centres	2 per fuel pump, plus 1 per 50 m^2 of GFA

Land Use	Parking Rate*
Roadside Stalls	3 spaces with sufficient area for vehicles to manoeuvre and exit the land in a forward direction.
Industrial Development	
Vehicle repair stations	4 per hoist & workbay
Body Repair Stations	2 per hoist & workbay
General (Light) Industry	1 per 50 m^2 of GFA
Bulky goods premises Warehouse or distribution centre	1 per 300 m^2 of GFA
Waste or Resource Management Facility	1 per employee
Storage Sheds	Adequate manoeuvring areas (trailer and vehicles) with isles wide enough for 2 vehicles to pass safely
Depot Truck Depot Transport Deport	Sufficient off-street employee and visitor parking to satisfy peak demand, plus 1 truck space for each vehicle present at the time of peak vehicle accumulation.
Rural Industries	1 per 50 m^2 of GFA
Other Development Types	
Health Consulting Rooms Medical Centre	2 per consult room & surgery, or 2 per Practitioner, (Whichever is the greater)
Hospital	1 per 3 beds, plus 1 per Practitioner, plus 1 per 2 employees, plus 1 ambulance bay (<=50 beds), or 2 ambulance bays (>50 beds))
Educational Establishment	Primary (including infants, preschool and kinder)- 1 per teacher, plus 1 per 12 students Secondary – 1 per teacher, plus 1 per 10 students Tertiary – 2 per teacher, plus 1 per 10 students

Land Use	Parking Rate*
Veterinary Hospitals	1 per 40 m^2 of GFA
Places of Public Worship	1 per 10 m^2 of assembly area
Entertainment Facilities	1 per 40 m^2 of GFA, or 1 per 10 seats, (Whichever is the greater)
Recreation Facilities	
Squash courts Tennis courts	3 per court
Bowling Alleys	3 per lane
Bowling greens	30 for first green, plus 15 for each additional green
Gymnasium	1 per 30 m^2 of GFA
Recreation Facilities (Major)	DOM
Recreation Facilities (Outdoor)	DOM

Notes.

- Car Parking requirements for other uses shall be determined based upon considering it as a comparable use to those listed, or to be determined on merit.
- In all instances a merit consideration may override the rate listed based upon exceptional circumstance and thorough justification.
- GFA = Gross Floor Area
- DOM = Determine on Merit
- Reference to the number of employees is reference to the peak number of employees on duty at any one time.
- Practitioner means a health care professional, but excludes nursing staff unless they are providing medical advice in the absence of a doctor at the facility.

I-4.4 Exceptions to General Car Parking Requirements

Objective

(1) to provide flexibility in how car parking is provided by development.

(2) to provide guidance on what should be considered when considering a car parking variation.

(3) to authorise variations to car parking development standards by delegation.

Controls

(1) Council may agree to alternative car parking arrangements for development as provided in this section.

(2) Support for a car parking reduction shall only be given where:

(a) it is supported by a parking study demonstrating the minimum car parking rates of this DCP are unreasonable for the proposed development having regard to the circumstances of the case; and

(b) the short fall in car parking will not significantly impact on the community.

(3) Notwithstanding subclause (2), Council may support a car parking reduction if it considers a development will have a significant community interest.

(4) Car parking may be provided off-site where Council is satisfied with an alternative arrange to provide the parking elsewhere in the vicinity of the development.

(5) Council's Chief Executive Officer (CEO), or his sub-delegate(s), is authorised to accept car parking variations.

I-4.5 Consideration of Streetscape

Objective

(1) to ensure that car parking does not impact on the amenity of a locality or the streetscape.

Controls

(1) Large commercial car parks should be located behind buildings so that shops and offices can open onto the street.

(2) Industrial sites may locate car park forward of the building line where there is at least a 1 metre wide strip of landscaping provided along the property frontage to soften the visual impact of the hard stand surface.

(3) Car parking areas should be screened from public places or contain elements that will soften its impact on the streetscape.

I-4.6 Car parking construction and design

Objective

(1) to ensure that car parks, manoeuvring areas, loading bays, and road access is functional and safe.

Controls

(1) A vehicle parking, manoeuvring, and access plan is to be submitted to Council for approval. The Plan should:

(a) show delineated car parking spaces, including those designated as disabled spaces, and loading bays.

(b) clearly show where access to the property is proposed and detailing manoeuvring area(s) and the direction of traffic flow.

(c) be designed to meet the relevant Australian Standards (ie. *AS2890 – Parking facilities*).

(d) demonstrate compliance with any Council design standards for driveways, parking, and/or manoeuvring (unless an Australian Standard applies).

(e) contain specifications for the construction of entrance/exits to public roads, including line-of-sight distances for exiting vehicles.

(f) show how underground car parking will be ventilated.

(2) All works required to be undertaken, including those on public land, must be funded by the Applicant/Owner of the development, unless other arrangements have been made such as through a VPA.

(3) Council reserves the right to determine whether the placement of an access onto a public road is suitable and safe.

(4) Car parking spaces should be constructed of a hard stand surface, and be clearly delineated.

I-4.7 Additional Developer Contribution in Lieu of Providing Car Parking

Objective

(1) to provide a mechanism for Council to accept developer contributions in lieu of providing car parking.

Controls

(1) Council may consider accepting additional developer contributions in lieu of providing car parking by a development.

(2) The additional developer contributions must be authorised through a Voluntary VPA (VPA) process, under Section 93F of the *Environmental Planning and Assessment Act 1979*, and will be in addition to any Section 94A Contributions that may also apply to the development.

(2) It will be at Council's discretion if it will accept these additional developer contributions (and the VPA), and only in the following circumstances:

(a) where Council is satisfied that there will not be a significant impact associated with the parking not being provided by the development.

(b) that any infrastructure or facilities to be provided by the additional developer contributions will be available for use by the public and that there will be expectations that they be reserved for the sole use of the development and its staff/clients/customers.

(c) that there be no expectations placed on Council to use the additional developer contributions expeditiously to coincide with construction of the development.

(3) Notwithstanding Section 93F of the Act, a VPA must establish:

(a) the amount of any payment, description of land to be dedicated, and/or the nature of any public benefit, that is to be provided by the developer to Council;

(b) when the payment, dedication, or public benefit is/are required to be made to Council (usually prior to issue of Construction Certificate);

(c) how and when the money, land, and/or public benefit should be used by Council.

(4) The value of additional developer contributions shall be based upon:

(a) the equivalent cost of constructing the shortfall in car parking, excluding the land component; or

(b) a valuation per car parking space as provided within Council's Revenue Policy.

(5) The VPA should include an indexation of the additional developer contributions to CPI.

(6) A VPA should be based upon the template contained in this Chapter at Appendix I-4.1 & I-4.2.

Appendix I-4.1 Template Voluntary Planning Agreement—Explanatory Note

Richmond Valley Council

Voluntary Planning Agreement (VPA) for the Provision of Contributions in Lieu of Car Parking

Explanatory Note

<<Insert Address of development—Legal Description>>

INTRODUCTION

This Explanatory Note has been prepared in accordance with clause 25E of the *Environmental Planning & Assessment Regulation 2000*.

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft Voluntary Planning Agreement (**VPA**) between the parties under s93F of the *Environmental Planning & Assessment Act 1979* (**EP&A Act**).

1 PARTIES TO THE VPA

The parties to the VPA are:

(1) Richmond Valley Council (**Council**); and

(2) *<<Insert Name of Developer>>* (**Developer**).

2 DESCRIPTION OF THE SUBJECT LAND

The land to which the VPA relates is set out in the table below.

Legal Description	Location
<<Insert legal description>>	*<<Insert address and locality>>*

3 DESCRIPTION OF THE PROPOSED DEVELOPMENT

The VPA relates to a proposed **development** of the land that includes *<<Insert description of the development>>* .

4 SUMMARY OF OBJECTS, NATURE AND EFFECT OF THE VPA

The objective of the VPA is to ensure the development adequately contributes to provision of public car parking in the vicinity of the development, and/or provides a public benefit to the community as an off-set to providing for car parking within the development*<<Delete irrelevant passage>>*.

The contributions to be provided by the Developer under the VPA are described in the table below.

Description of Contributions
The total car parking spaces required by this development is *<<Insert number of spaces>>*. The development proposes to provide for *<<insert number of spaces to be provided by the development>>* car parking spaces with a shortfall of *<<Insert number of shortfall spaces>>* spaces to be addressed by a VPA. *Monetary Contribution<<Include where a Monetary Contribution if proposed>>* Contribution per parking spaces as determined by Council is $*<<Insert agreed value per space>>*. The total Contribution to be made is *<<Insert number of shortfall spaces>>*x $*<<Insert agreed value per space>>* = $*<<Insert total monetary contribution>>*. The Monetary Contribution will be used by Council *<<Insert description of how Council plans to spend the money and when>>* . *Dedication of Land<<Include where Land is to be Dedicated>>* The Developer will dedicate land, described as *<<Insert Legal Description, address, locality and any other details to identify the land>>*, to Council at no charge to the Council in lieu of the *<<Insert the number of shortfall>>* space shortfall. The land will be used by Council for the purpose of *<<Insert a description of the purpose the land will be used for>>*. Once dedicated the land will be Classified under the *Local Government Act 1993* (LG Act) as *<<Insert whether the land will be Classified as Operational Land or Community Land>>* . *Public Benefit<<Include where a Public Benefit is proposed>>* The Developer will undertake to <<Insert description of the Public Benefit that will be undertaken by the Developer in lieu of providing the shortfall in car parking>> as a public benefit to off-set the car parking shortfall.
Note. A VPA may include a combination of Monetary Contributions, Dedication of Land, and Public Benefit to address the shortfall in car parking.

5 ASSESSMENT OF THE MERITS OF THE VPA

5.1 The planning purposes served by the VPA

In accordance with section 93F(2) of the EP&A Act, the VPA promotes the following public purpose:

(1) the provision of public amenities and public services; and

(2) the monitoring of the planning impacts of development of the Land.

5.2 How the VPA promotes the public interest

In accordance with the objects of the EP&A Act, the VPA promotes the public interest in the following manner:

(1) The proper management, development and conservation of land.

(2) The promotion and co-ordination of the orderly and economic use and development of land by ensuring that the layout and design of car parks function effectively and safely.

(3) The VPA will not preclude the public being provided with the opportunity for involvement and participation in development assessment. The public have been provided the opportunity to be involved with the development assessment and are invited to make comment on the VPA, particularly with regard to the public interest.

(4) The provision monetary contributions, and/or the dedication of land, and/or the undertaking of a public benefit, will off-set the provision of car parking by the development and assist Council to provide appropriate infrastructure and services to the community which will be funded/part funded by the developer. All services provided can be used by the public generally, and will not be reserved for use by the development.

5.3 How the VPA promotes the objectives of the *Local Government Act 1993* (LG Act)

The VPA is consistent with the following purposes of the LG Act:

(1) to give councils the ability to provide goods, services and facilities, and to carry out activities, appropriate to the current and future needs of local communities and the wider public; and

(2) To give councils a role in the management, improvement and devlopment of the resources of their areas.

5.4 How the VPA promotes the elements of Council's charter

The VPA promotes a number of elements of Council's Charter under section 8 of the LG Act, as follows:

(1) the exhibition of the VPA facilitates the involvement of members of the public, while council staff were involved in the development of the VPA;

(2) this explanatory note is prepared for the purposes of keeping the local community and the State government (and through it, the wider community) informed about its activities;

(3) the VPA makes it clear that Council has a statutory role as consent authority for development and that the VPA is not intended to unlawfully influence the exercise of its regulatory functions, ensuring that Council will act consistently and without bias, particularly where an activity of the Council is affected;

(4) to provide adequate car parking, or an alternative public benefit to off-set a shortfall in car parking, for the public within the Richmond Valley Local Government Area and ensuring that appropriate services for the community are managed efficiently and effectively;

(5) to have regard to the long term and cumulative effects of its planning decisions by achieving a balance between parking requirements, visual aesthetics, pedestrian safety including people with a disability; and

(6) to have regard to the effects of its planning decisions by ensuring that the layout and design of car parks function efficiently and safely.

Appendix I-4.2 Template Voluntary Planning Agreement

Richmond Valley Council

DRAFT VOLUNTARY PLANNING AGREEMENT

Under section 93F of the *Environmental Planning and Assessment Act 1979*

<<ADDRESS FOR LAND>>

THE COUNCIL OF RICHMOND VALLEY

AND

<<DEVELOPER>>

Richmond Valley Council

Locked Bag 10

CASINO NSW 2470

CONTENTS

Clause			Page No
1		PLANNING AGREEMENT UNDER THE ACT	-
2		SCOPE AND APPLICATION OF THIS AGREEMENT	-
3		OPERATION OF THIS AGREEMENT	-
4		DEFINITIONS AND INTERPRETATION	-
	4.1	Definitions	-
	4.2	Interpretation	-
5		PAYMENT OF MONETARY CONTRIBUTION	-
	5.1	Payment of Monetary Contribution	-
	5.2	Indexation	-
	5.3	Application	-
	5.4	No Trust	-
	5.5	Expenditure by the Council	-
	5.6	Use of Dedicated Land	
6		REGISTRATION OF AGREEMENT	-
7		DISPUTE RESOLUTION	-
	7.1	Reference to Dispute	-
	7.2	Notice of Dispute	-
	7.3	Principals of Parties to Meet	-
	7.4	Neither Party May Constrain	-
8		NOTICES	-
	8.1	Service of Notice	-
	8.2	Change of Address	-
	8.3	Time of Service of Notice	-
	8.4	Service After Hours, on Weekends and Holidays	-
9		APPROVALS AND CONSENT	-
10		ASSIGNMENT AND DEALINGS	-
	10.1	Dealings with Land	-
11		COSTS	-
	11.1	Legal and Administrative Costs	-
	11.2	Stamp Duty	-
12		ENTIRE AGREEMENT	-
13		FURTHER ACTS	-
14		GOVERNING LAW AND JURISDICTION	-
15		NO FETTER	-
16		REPRESENTATIONS AND WARRANTIES	-
17		SEVERABILITY	-
18		MODIFICATION	-
19		WAIVER	-
20		GST	-
21		EXPLANATORY NOTE	-
SCHEDULE 1			-
SCHEDULE 2			-
SCHEDULE 3			-
EXECUTION			-

VOLUNTARY PLANNING AGREEMENT

DATED *<<Insert day>>* day of *<<Insert Month>>* 20*<<Insert Year>>*

PARTIES

1. RICHMOND VALLEY COUNCIL (ABN 54 145 907 009) of corner of Walker Street and Graham Place, CASINO, New South Wales (Council); and
2. ***<<Insert Developer Identify (include ABN)>>*** of *<<Insert address>>* (Developer).

BACKGROUND

A. The Developer is the owner of the Land.

B. On *<<Insert date>>* the Developer lodged (or authorised to be lodged, as the case may be) the Development Application (*<<Insert DA number>>*) with the Council to carry out the Development on the Land.

C. On *<<Insert date>>*, the Council granted the Development Consent.

OPERATIVE PROVISIONS

1 VOLUNTARY PLANNING AGREEMENT UNDER THE ACT

The parties agree that this agreement is a Voluntary Planning Agreement (VPA) governed by Part 4 of the Act.

2 SCOPE AND APPLICATION OF THIS AGREEMENT

(a) This Agreement binds the parties and applies to the Land on which the Development is to be carried out. This Agreement does not include and does not in any way reduce or satisfy the Developer's obligations to pay monies under:

(i) section 94 or 94A of the Act; or

(ii) any other statute or instrument that may apply to the land or to the development application.

(b) For the purposes of section 93F(3)(d) of the Act, the parties expressly agree that this VPA does not exclude the operation of section 94 or 94A of the Act, and conditions may be imposed in respect of the contributions identified in (a) to (b) inclusive.

(c) For the purposes of section 93F(3)(e) of the Act, the parties expressly agree that the Developer's Contributions to be provided under this VPA are not to be taken into consideration when determining the Developer's obligations to pay monies under section 94 or 94A of the Act.

3 OPERATION OF THIS AGREEMENT

This Agreement takes effect on the date of this Agreement after execution by both parties.

4 DEFINITIONS AND INTERPRETATION

4.1 Definitions

In this Agreement, the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW) (as amended) and includes any regulations made under that Act.

Construction Certificate has the same meaning as set out in the Act.

Council's Representative means the person specified in Item 2 of Schedule 1 who is duly authorised to give approval under this Agreement or such other person as may be nominated by the person occupying the role of Council's Chief Executive Officer (CEO) from time to time.

Council Works means the works of the general nature described in Schedule 2 to be completed by the Council and includes any application fees, advertising fees, design development costs, tendering costs, tender assessment costs, public consultation costs, and any other consultancy costs (such as architectural, heritage, planning, traffic, engineering, drafting or any other advice), land acquisition costs, survey costs, construction costs, relating to the design and implementation of the Council Works.

Dealing means selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

Dedicated land means the land identified for Land Dedication.

Development means the proposal of the general nature set out in Item 4 of Schedule 1 to be completed by the Developer in accordance with the Development Consent.

Development Application means the development application identified in Item 4 of Schedule 1 and includes all plans, reports models, photomontages, material boards (as amended/supplemented) submitted to the consent authority prior to the determination of that Development Application.

Development Consent means the consent granted by the Council to the Development Application for the Development identified in Item 4 of Schedule 1 and includes all modifications made under section 96 of the Act.

Developer's Contribution means a Monetary Contribution, Land Dedication or Public Purpose.

Developer's Works means the work identified in Schedule 3, as refined and developed in accordance with this Agreement.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Land means the land identified in Item 3 of Schedule 1, comprising the land the subject of the Development Application.

Land Dedication means the dedicated land set out in Item 5 of Schedule 1 to be transferred by the Developer to the Council in accordance with this Agreement.

Monetary Contribution means the amount set out in Item 5 of Schedule 1 (indexed in accordance with clause 5.2) to be paid by the Developer to the Council in

accordance with this Agreement.

Occupation Certificate has the same meaning as in the Act.

Public Purpose means the Developer's Works set out in Item 5 of Schedule 1 to be undertaken by the Developer on behalf of the Council in accordance with this Agreement.

Party means a party to this agreement, and includes their successors and assigns.

4.2 Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

(a) headings are inserted for convenience only and do not affect the interpretation of this Agreement.

(b) a reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally.

(c) a reference in this Agreement to dollars or $ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.

(d) a reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

(e) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.

(f) a word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular.

(g) references to the word 'include' or 'including' are to be construed without limitation.

(h) a reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.

(i) any schedules and attachments form part of this Agreement.

(j) a word defined in the Act has the same meaning in this Agreement.

5 PAYMENT OF MONETARY CONTRIBUTION

5.1 Payment of the Monetary Contribution

The Developer agrees:

(a) to:

(i) pay the Monetary Contribution, indexed in accordance with clause 5.2;

(ii) transfer the dedicated land; and

(iii) provide or undertake the Public Purpose,

as set out in Item 5 of Schedule 1, before the release of any Construction Certificate for any part of the Development;

(b) to provide a Bank Guarantee for the amount of the Developer's Contribution on or before execution of this Agreement which will be exchanged for the Developer's Contribution before issue of the Construction Certificate.

A Monetary Contribution shall be paid in cash or by unendorsed Bank Cheque.

5.2 Indexation

On the date of payment, a Monetary Contribution will be adjusted to a revised amount derived by applying the following formula:

Monetary Contribution at Time of Payment $= C \times \frac{CPI1}{CPI2}$

where:

C is the original amount Monetary Contribution (as identified in Item 5 of Schedule 1 of this Voluntary Planning Agreement);

CPI2 is the index number for the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics at the time of payment; and

CPI1 is the index number for the Consumer Price Index: All Groups Index for Sydney available from the Australian Bureau of Statistics and applicable for the quarter at the date of granting Development Consent.

5.3 Application

The parties agree that the:

(a) payment of a Monetary Contribution for the purposes of the Council Works;

(b) the transfer of the dedicated land;

(c) the completion of the Developer's Works,

is/are intended to comprise the public benefit under this Agreement. The Council will, in its sole discretion,

(d) expend an amount equivalent to the Monetary Contribution on the Council Works,

(e) use the dedicated land for the intended purpose (unless it has first undertaken community consultation to change the intended purpose), and/or

(f) certify completion of the Developer's Works.

5.4 No Trust

The parties expressly acknowledge and agree that nothing in this Agreement will be read or construed as creating any form of trust arrangement, or fiduciary duty as and between the Developer and the Council. Without limiting any other part of this Agreement, the Council is not obliged or required to separately account for, or in any manner trace, the Developer's Contribution at the request of or for the benefit of the Developer.

5.5 Expenditure by the Council

The parties expressly agree that the expenditure of an amount equal to or greater than the Monetary Contribution upon the Council Works will be full and conclusive proof of the proper application of the Monetary Contribution. Without limiting clause 5.4, the Developer may not make or bring any claim or action of any nature relating to:

(a) the design, sequencing, or final form of the Council Works, including any areas

or elements (as the case may be) deleted from the scope of the Council Works; or

(b) the reasonableness of any cost incurred in the performance of the Council Works.

5.6 Use of Dedicated Land

The parties expressly agree that the transfer to Council of the Dedicated Land will be full and conclusive proof of the proper application of the Land Dedication. Without limiting clause 5.4, the Developer may not make or bring any claim or action of any nature relating to the design, sequencing, or use of the dedicated land, including any changes to the use of the land.

6 REGISTRATION OF AGREEMENT

6.1 Registration of Agreement

(a) The Developer warrants that it is the registered owner of the Land.

(b) The Developer warrants that it has obtained all consents to the registration of this Agreement on the title to the land as are necessary and in particular the consent of any mortgagee or Lessee registered on the Certificate of Title to the land.

(c) The Developer must on execution of this Agreement produce to the Council together with this Agreement for execution by the Council:

(i) the written consent of all persons who have an interest in the Land, including any mortgagee and Lessee, confirming their consent to the registration of this Agreement on the title of the Land;

(ii) A copy of the Production Ticket as evidence that the mortgagee / Developer (as the case may be) has produced the Certificate of Title to Land & Property Information (LPI) for the purpose of Council registering the Agreement on the title of the Land; and

(iii) A bank cheque for the relevant registration fees made payable to LPI.

(d) The Developer must promptly comply with any requisitions that may be raised with regard to registration of the Agreement from LPI.

(e) Subject to clause 6.1(b), the Council will lodge this Agreement for its registration on the title of the Land.

(f) The Council will notify the Developer following registration of the Agreement on the title of the Land and forward a copy of the Agreement to the Developer.

6.2 Caveat

The Developer acknowledges and agrees that:

(a) When this Agreement is executed by the owner of the Land the Council is deemed to have acquired and the owner has deemed to have granted an equitable estate in interest in the Land for the purpose of section 74F(1) of the *Real Property Act 1900* and consequently the Council has a sufficient interest in the Land in respect of which to lodge a caveat over the Land to register that interest; and

(b) It will not object to the Council lodging a caveat on the relevant folio of the register for the Land nor will it seek to remove any caveat registered by the Council.

6.3 Consent of Mortgagee

The Developer warrants to the Council that it has obtained and is in possession of a written consent from the mortgagee in which the mortgagee consents to:

(a) the Developer entering into and performing its obligations under this Agreement and the lodgement of a caveat by the Council notifying its interest in the relevant folio of the register for the Land under the *Real Property Act 1900* and agrees that;

(b) it will only exercise its rights under any mortgage, charge, lien, trust, power or retention of deposit arrangement in relation to the Land subject to the rights of Council and promptly upon request lodge at Land & Property information the relevant Certificate(s) of Title to enable registration of this Agreement under the *Real Property Act* in the relevant folios of the register of the Land.

6.4 Removal of Registration of the Agreement and Caveat

After the whole of the Developer's Contribution has been completed or supplied (as the case may be) the Council will execute any form and supply such other information reasonably required to remove the Agreement and the caveat from the title to the land.

7 DISPUTE RESOLUTION

7.1 Reference to Dispute

If a dispute arises between the parties in relation to this Agreement, then either party may seek to resolve in accordance with this clause 7.

7.2 Notice of Dispute

The party wishing to commence dispute resolution processes must notify the other in writing of:

(a) the nature, or subject matter, of the dispute, including a summary of any efforts made to resolve matter other than by way of this clause 7;

(b) the intent to involve this clause 7;

(c) (if practicable) the outcomes which the notifying party wishes to achieve;

(d) any material impact which the dispute has upon the completion of the Developer's Works.

The contents of a notice issued under the clause 7.2 are deemed to be confidential. The party issuing the notice may (but is not obliged) to assert legal professional privilege in respect of the contents.

7.3 Principals of Parties to Meet

The principals of the parties (and in the case of the Council, the principal may include the person acting the role of Chief Executive Officer, or such other person as is nominated by the person holding that role in writing) must promptly (and in any event within 14 days of written notice) meet in good faith to attempt to resolve the notified dispute. The parties may, without limitation:

(a) resolve the dispute during the course of that meeting;

(b) agree that further material, expert opinion, or consideration is needed to effectively resolve the dispute (in which event the parties will in good faith agree to a timetable for resolution);

(c) agree that the parties are unlikely to resolve the dispute and in good faith agree to a form of alternative dispute resolution (including expert determination, arbitration, or mediation) which is appropriate for the resolution of the relevant dispute.

7.4 Neither Party May Constrain

If:

(a) at least one meeting has been held in accordance with clause 7.3; and

(b) the parties have been unable to reach an outcome identified in 7.3(a) to (c); and

(c) either of the parties (acting in good faith) forms the view that the dispute is reasonably unlikely to be resolved in accordance with a process agreed under clause 7.3;

then that party may, by 14 days notice in writing to the other, terminate the dispute resolution process in respect of that dispute. The termination of the process set out in this clause 7 does not of itself amount to a breach of the Agreement.

8 NOTICES

8.1 Service of Notice

Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

(a) delivered or posted to that Party at its address set out in Item 6 of Schedule 1 or (if such delivery is not accepted) then to the registered office or principal place of business of the Party.

(b) faxed to that Party at its fax number set out in Item 6 of Schedule 1.

8.2 Change of Address

If a Party gives the other Party 10 business days notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

8.3 Time of Service of Notice

Any notice, consent, information, application or request is to be treated as given or made at the following time:

(a) if it is delivered, when it is left at the relevant address.

(b) if it is sent by post, 3 business days after it is posted.

(c) if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.

8.4 Service after hours, on Weekends and Holidays

If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

9 APPROVALS AND CONSENT

Except as otherwise set out in this Agreement, a party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

10 ASSIGNMENT AND DEALINGS

10.1 Dealings with Land

(a) Subject to clause 10.1(b), the Developer must not have any Dealings with the Land unless the Developer first informs the proposed assignee, purchaser or other party (the **Incoming Party**) of this Agreement and provides the Incoming Party with a copy of this Agreement and transfers the obligations of this Agreement to that party.

(b) If the Incoming Party is acquiring:

  (i) an interest in the Land as a purchaser of one or more lots in a strata scheme, (whether or not the plan has, at the date of exchange, been registered at Land and Property Information NSW), or

  (ii) is acquiring a lease on or more parts of the building upon the Land that does not form part of the Development;

then the Developer may create that interest without providing that party with a copy of this Agreement or requiring that party to enter into an Agreement with the Council and the interest so created will not be in breach of this Agreement.

11 COSTS

11.1 Legal and Administrative Costs

The Developer must pay all reasonable legal and administrative costs and expenses in relation to:

(a) the negotiation, preparation and execution of this Agreement; and

(b) any enforcement of the rights under this Agreement;

and the Council may claim monies in payment of the legal and administrative costs from the Developer as a debt due and owing.

11.2 Stamp Duty

The Developer is liable for and must pay all stamp duty (including any fine or penalty) on or relating to this Agreement.

12 ENTIRE AGREEMENT

This Agreement sets out the whole agreement of the Parties in respect of the subject matter. There are no other agreements, warranties or undertakings.

13 FURTHER ACTS

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

14 GOVERNING LAW AND JURISDICTION

This Agreement is governed by the law of New South Wales. The Parties submit to the jurisdiction of the courts of that State.

15 NO FETTER

Nothing in this Agreement will be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, or fettering in any way the exercise of any statutory discretion or duty.

16 REPRESENTATIONS AND WARRANTIES

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

17 SEVERABILITY

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

18 MODIFICATION

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the parties to this Agreement.

19 WAIVER

The fact that a Party does not do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.

A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or

as an implied waiver of that obligation or breach in relation to any other occasion.

20 GST

20.1 In this clause terms used have the meaning given to them by the GST Law as defined in Section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (the **GST Act**).

20.2 If a party to this Agreement (the **Supplier**) makes a supply under or in connection with this Agreement and is liable by law to pay GST on that supply, then the consideration otherwise payable by the recipient of the supply will be increased by an amount equal to the GST paid or payable by the Supplier.

20.3 If this Agreement requires a party to pay for, or reimburse any expense, loss or outgoing (**reimbursable expense**) suffered or incurred by another party, the amount required to be paid, or reimbursed by the first party is the amount of the reimbursable expense net of any input tax credit or reduced input tax credit to which the other party is entitled in respect of the reimbursable expense.

20.4 Each party agrees to do all things, including providing tax invoices and other documentation that may be necessary or desirable to enable or assist the other party to claim any input tax credit, set-off, rebate or refund in relation to any amount of GST paid or payable in respect of any supply under this Agreement.

20.5 Subject to the operation of this clause, and unless otherwise expressly stated amounts in this Agreement are GST exclusive.

21 EXPLANATORY NOTE

The Explanatory Note must not be used to assist in construing this deed.

SCHEDULE 1 - REFERENCE SCHEDULE

Item	Name	Description
1	Developer's Name Developer's ACN Developer's Address	*<<identify name>>* *<<identify ACN (if applicable)>>* *<<identify address>>*
2	Council's Representative	*<<identify name>>*
3	Land	*<<identify Land>>*
4	Development (Development Application No.)	*<<insert brief description>>* *<<insert Development Application number>>*
5	Monetary Contribution Land Dedication Public Purpose (Developer's Works)	$ *<<insert amount, where relevant>>* *<<identify Dedicated Land, where relevant>>* *<<identify the Developer's Work, where relevant, and further describe in Schedule 3>>*
6	Notices **Council** Attention Address Fax Number **Developer** Attention Address Fax Number	 Chief Executive Officer Cnr Walker Street and Graham Place Locked Bag 10 CASINO NSW 2470 02 66601300 *<<identify name>>* *<<identify address>>* *<<identify number>>*

SCHEDULE 2 - COUNCIL'S WORKS

Area of Council's Works

Council is to perform public domain works of the nature set out in this Schedule.

Nature of Works

<<Insert description of proposed works>>

SCHEDULE 3 - DEVELOPER'S WORKS

<<Use either of the following as is relevant>>

The parties acknowledge and agree the Developer is **not** required to perform works to the public domain in satisfaction of this Agreement.

Nothing in this Agreement will be read or construed as in any way reducing, or derogating from, the obligations to perform works in accordance with the Development Consent.

or

The parties acknowledge and agree the Developer is required to perform work to the public domain in satisfaction of this Agreement.

Nature of Developer's Works

<<Insert description of proposed Developer's Works>>

EXECUTED as an Agreement by:

RICHMOND VALLEY COUNCIL (ABN 54 145 907 009)	)))

Chief Executive Officer (signature):	Witness
Mayor (signature):	Witness

<<Identify Developer name and (ABN)>> in accordance with section 127 of the Corporations Law:	))))))

Signature:	Signature:
Full Name (printed):	Full Name (Printed):
Position:	Position:

Part I-5. Landscaping Guidelines

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

These guidelines are included within the DCP to assist proponents in providing landscaping where required as part of the development proposed. It is recommended that larger developments engage the services of a professional landscape designer/architect as part of the overall design consideration of the development as a whole.

Landscaping allows for the built environment to blend more successfully with the natural environment and contributes to streetscape amenity for all to enjoy. Streets devoid of vegetation provide no shade and fail to soften harsh and contrasting solid construction elements found within streetscapes. The landscaping requirement for new residential development helps to ensure important elements and liveability are incorporated to preserve existing streetscapes. Landscaping promotes more vibrant and liveable streetscapes as well as improving water quality and providing cooling shade.

I-5.1 General Objectives

Landscaping serves to provide a number of important development objectives within Richmond Valley. Good landscaping provided in conjunction with new development;

(1) Facilitates the integration of proposed development into the surrounding streetscape or rural environ;

(2) Presents a new development favourably and introduces the proposal into a neighbourhood in a manner which will promote acceptance;

(3) Contributes to native flora and supporting fauna (both urban and rural) in the environ in which the development is proposed and furthers Environmentally Sustainable Development principles;

(4) Integrates an important component of inter-allotment design by providing essential infiltration areas, as necessary for achieving Water Sensitive Urban Design (WSUD) principles;

(5) Embellishes a new development aesthetically and softens the impact visually of individual components, and the overall design as a whole; and

(6) Provides essential leisure and recreational opportunities as part of the development, promoting health and wellbeing of residents and employees.

I-5.2 Landscaping Principles

Open Space

(1) The provision of Open Space provides a feeling of functionality and liveability. Development put before Council must be able to demonstrate that adequate open space and landscaping for each of the dwellings provides good functionality and a liveable environment for all intended inhabitants.

Open Space includes Landscape Open Space and Private Open Space.

It is a requirement that all Residential Development include a component of Open Space. In particular at least 25m^2 of Private Space – should be provided for each dwelling within a development, to enable equitable division of area per unit.

Landscaping/Landscape Open Space

(2) The Landscape Open Space is the area of pervious surfaces. It includes gardens and lawns as well as gravel or similar surfaced areas that allow infiltration. Landscape open space is required to be:

(a) At least 10% of the area of the lot, inclusive of

(b) a lawn and/or garden area being at least 50% of the area forward of the building line (between the dwelling(s) and the road boundary).

It is a requirement that landscaping provision provides adequate softening of the development, particularly from the front (and secondary) street aspect(s). Particular consideration shall be made to designing the landscaped areas for minimal ongoing maintenance requirements whilst providing good screening and privacy.

Table I-5.1 Minimum Landscaping Requirements

Zone	Landscaping Requirement
Residential Development	(i) R1 and RU5 – General Residential A minimum of 3 (three) native shrubs or trees (preferably endemic to the area) with minimum mature height of 3 metres shall be included in the front setback of the development. Each additional 15 m^2 shall provide 1 (one) additional native tree, shrub or sedge. A garden bed area of minimum 8 metre square shall be constructed and bordered using stone, timber, or coloured textured cement providing a garden bed to accommodation vegetation and shall be mulched to a minimum 35mm depth. Suitable grass shall be established within the front setback and within any rear private open space area. (ii) R5 – Large Lot Residential, E3 and RU1 – Rural Where the frontage to any road is less than 50 metres, a minimum of 3 (three) native shrubs or trees per 120 m^2. Each additional 30 m^2 shall provide 1 (one) additional native tree, shrub or sedge. A 15 metre square area for garden bed purposes (as described above), shall be provided within the curtilage of each dwelling house and a minimum grassed area of 4x6 m^2 provided for open space purposes. The bordering of the grassed area shall be stone, timber or coloured textured cement.

(3) Avoiding unsafe or burdensome Vegetation in Landscaping

The following developments should avoid inappropriate vegetation types to circumvent hazard to infrastructure, property and life:

- **Dry vegetation types** should be avoided particularly within Bushfire Prone areas where wet sclerophyll species should be utilised (species more likely to be found in rainforest and other moister areas) with low ignition and even fire suppressing properties. The inclusion of wet species may pose some added burden concerning ongoing maintenance, however the added protection and shade will be appreciated by residents in the long term. Incorporation of such species should include water retaining measures to ensure the landscaped area does not excessively dry out. Stormwater overflow must be directed to stormwater infrastructure (in most urban areas) however initial flows should be directed onto areas of landscaping.
- **Excessively large and difficult to manage vegetation** poses risk to life as well as ongoing maintenance issues. Excessively fast growing and large species require regular maintenance to avoid creating dangers from concealment of dangers or storm/falling limb damage.

(4) Provision of vegetation with flora and/or fauna value to further Environmentally Sustainable Development

The most significant environmental impact resulting from nearly all development in both urban and rural areas is the resultant reduction of flora

and habitat important for sustaining fauna. In the process of accommodating landscaping for visual amenity purposes, it is also desirable to advance environmental and in particular ecological outcome as part of the process.
In particular, wherever possible, existing vegetation should be retained on the site to be developed and he landscaping plan incorporated to augment the natural landscaping already provided.

I-5.3 Landscaping Design Considerations

Incorporate Native Flora which is regionally or even locally endemic

(1) Completely avoid any species which is considered a noxious or environmental weed.
Incorporate as many locally endemic species as possible.
Utilise species which have been included within the suggested species list at the end of this chapter.

Hazards and Safety

(2) Appropriate planning of landscaping can avoid creating future hazards or safety issues. Consider the following:

- In **fire prone areas** utilise only species which are considered fire retardant and generate little dry debris.
- Do not use excessively **large species** within close proximity to the development where there is a risk of storm or falling limb damage.
- Do not plant species **close to buildings or infrastructure** which are known to cause damage. Although the following tree species listed in Table I-5.2 are predominantly exotic and unlikely to be preferred species for landscaping and garden purposes, care should be taken to avoid propagating these species within the vicinity of sewer/water pipes, or other susceptible materials such as paving, On-site Sewage Management Systems, subterranean wiring, etc.

(3) Crime Prevention Through Environmental Design (CPTED) principles
Chapter I-10 contains detail concerning CPTED provisions.

- Avoid landscaping which obscures natural surveillance.
- As with 'blind corners' or general concealed areas, the large size of certain vegetation obstructs visibility and makes people feel uneasy and unsafe. Perceiving that something may be 'behind those bushes' can discourage genuine use of a space.
- Avoid medium height vegetation with concentrated top to bottom foliage. Plants such as low hedges and shrubs (1 to 1.2m high), creepers, ground covers or high canopied vegetation are good for natural surveillance.
- Trees with dense low growth foliage should be spaced or have the crown raised to avoid a continuous barrier.
- Use low ground cover or high canopied trees, clean trunked to a height of 2m around children's play areas, car parks and along pedestrian pathways
- Avoid vegetation that conceals the building entrance from the street.

Table I-5.2 Species list of plants with a high danger of root intrusion

Botanical Name	Common Name	Risk of Root Intrusion
Cinnamomum camphora	Camphor Laurel	Extreme
Ficus species	Fig Trees & Rubber Plants	Extreme
Populus species	Poplars	Extreme
Salix species	Willows	Extreme
Erythrina species	Coral Trees	Very High
Eucalyptus species	Large Gum Trees	Very High
Jacaranda mimosifolia	Jacarandas	Very High
Liquidambar styraciflua	Liquidambas	Very High
Araucaria species	Norfolk Is. & Bunya Pines	Very High
Brachychiton acerifolium	Illawarra Flame Tree	Very High
Casuarina species	Casuarinas	Very High
Melia azedarach	Australian White Cedar	Very High
Pinus species	Pine Trees	Very High
Platanus acerifolia	Plane Tree	Very High
Schinus molle	Pepper Tree	Very High
Ulmus species	Elms	Very High
Bouganvillea species	Bouganvilleas	High
Cortaderia selloana	Pampas Grass	High
Grevillea robusta	Silky Oak	High
Ilex species	Hollies	High
Lagunaria patersonii	Norfolk Island Hibiscus	High
Ligustrum species	Privets	High
Magnolia species	Magnolias	High
Nerium oleander	Oleanders	High
Phoenix canariensis	Canary Island Date Palm	High
Phyllostachus species	Bamboos	High
Toxicodendron species	Rhus Trees	High
Lophostemon confetus	Brush Box, Tristania	High
Wisteria species	Wisteria	High

(4) Additional CPTED Principles relating to Residential Development design

- Landscaping can be an effective way of controlling/directing movement in an area. Depending on the intention, it can either restrict or encourage people to access a particular area.
- Vegetation can be used as barriers to deter unauthorised access Avoid large trees/shrubs and buildings works that could enable an intruder to gain access to the dwelling or to neighbouring dwellings. Prickly plants can be used as effective barriers. Species include bougainvilleas, roses, succulents, and berberis species.
- Large trees, carports, skillion extensions, fences, and downpipes in situations can provide a means of access into yards or up to second storey windows or balconies.

Infiltration and Evaporation Considerations

(5) Areas of Landscaping should be provided in such a way as to direct internal overland stormwaters to landscaping areas for infiltration.

- **Urban Areas** - Initial stormwater should be directed toward and onto landscaping areas, however once saturation is reached the on-flow must be directed toward stormwater infrastructure in urban areas where this infrastructure is provided. High regard should be incorporated within the design for Water Sensitive Urban Design (WSUD) and Chapter I9 should be consulted for detail concerning WSUD principles.
- **Rural Areas** – Landscaping should carefully be selected within proximity to On-site Sewage Management Systems as shadowing and root infiltration may dramatically affect the efficiency with which these systems safely treat effluent. Plantings of only extremely shallow rooting plants and grasses may only be considered on evaporative trenches and near other essential components of OSSMS. The landscape designer must be aware of where all components of the OSSMS system are located and design the landscaping appropriately.
  - In some cases, (secondary or tertiary) treated effluent may be applied to correctly designed and located landscaping,
  - Stormwater overflow from roof catchment systems should be directed onto landscaped areas designed for infiltration and reduction of erosive scouring (with the inclusion of a retention component where appropriate).

Table I-5.3 Groundcovers (Scramblers, climbers – rockeries)

Botanical Name	Common Name
ActinotusS helianthi	Sydney Flannel Flower
Alocasia brisbanensis	Cunjevoi
Alpinia coerulea	Native Ginger
Austromyrtus dulcis	Midgenberry
Brachyscome multifida	Native Daisy
Carpobrotus glaucescens	Pigface
Correa alba	White Correa
Dendrobium sp.	Orchids
Dianella caerulea	Blue Flax Lily
Dianella revoluta	Black Anther Flax Lily
Eriostemon myoporoides	Wax Flower
Helichrysum rupicola	Paper daisy
Hibbertia scandens	Twining Guinea Flower
Lobelia trigonocaulis	Forest Lobelia
Lomandra hystrix	Small Mat Rush
Lomandra longifolia	Longleaf Mat Rush
Viola hederacea	Native Violet
Acacia prostrate species	Wattles
Anigozanthos species	Kangaroo Paw
Banksia species	Banksia

Botanical Name	Common Name
Blandfordia sp	Christmas Bells
Boronia floribunda	Pale Pink Boronia
Boronia serrulata	Native Rose
Callistemon prostrate species	Bottle-brush
Carex species	Native sedge
Crinum peduculatum	Swamp Lily
Curcuma australasica	Cape York Lily
Dampiera diversifolia	Dampiera
Eremophila prostrate species	Emu Bush
Goodenia varia	Goodenia
Grevillea species	Grevillea
Melaleuca pulchella	Claw Honey Myrtle Flower
Myoporum parvifolium	Creeping Boobialla
Oplismenus aemulus	Basket Grass
Orthosiphon aristatus	Cats Whiskers
Patersonia sericea	Native Iris
Persoonia species	Geebung
Pimelea glauca	Rice Flower
Pollia crispata	Pollia
Pratia pedunculata	Pratia
Pseuderanthemum variabile	Pastel Flower
Rulingia hermanniifolia	Rulingia
Scaevola humilis	Fan Flower
Tripladenia cunninghamii	Kreysigia
Xerochrysum bracteata	Paper Daisy, Everlasting

Table I-5.4 Native Shrubs – Plants growing to a maximum height of 2-3 metres

Botanical Name	Common Name
Acacia longifolia	Sydney Golden Wattle
Baeckea linifolia	Swamp Baeckea
Banksia ericifolia	Heath Leafed Banksia
Banksia robur	Swamp Banksia
Bauera rubioides	River Dog Rose
Boronia species	Boronia
Callicarpa pedunculata	Velvet Leaf
Callistemon 'Little John'	Callistemon
Coprosma hirtella	Looking Glass Plant
Darwinia citriodora	Lemon-scented Darwinia
Dillwynia retorta	Egg and Bacon
Dodonaea triquetra	Hopbush
Doryanthes palmeri	Spear Lily
Eremophila species	Emu Bush
Eriostemon australasius	Pink Wax Flower

Botanical Name	Common Name
Eupomatia laurina	Native Bolwarra or Guava
Gompholobium virgatum	Yellow Wedge Pea
Graptophyllum excelsum	Scarlet Fuchsia
Grevillea species	Grevillea
Hakea species	Hakea
Hibiscus heterophyllus	Native Rosella
Hibiscus splendens	Native Hibiscus
Isopogon anemonifolius	Drumstick
Kunzea capitata	Pink Kunzea
Leptospermum petersonii	Lemon-scented Tea Tree
Leptospermum species	Tea Trees
Melastoma affine	Blue Tongue
Oxylobium robustum	Golden Shaggy Pea
Ozothamnus diosmifolius	Rice, Sago or Pill Flower
Pittosporum revolutum	Hairy Pittosporum
Ricinocarpos pinifolius	Wedding Bush
Thryptomene paynei	Thryptomene
Westringea fruticosa	Coastal Rosemary
Baeckea species	Baeckea
Boronia species	Boronia
Callisternon species	Bottlebrushes
Grevillea species	Grevillea
Hakea species	Hakea
Hovea species	Hovea
Isopogon anemonifolius	Drumstick
Kunzea ambiqua	Tick Bush
Leptospermum 'Pink Cascade'	Tea-tree
Leptospermum 'Pacific Beauty'	Tea-tree
Leptospermum species	Tea trees
Leucopogon species	Bearded Heath
Melaleuca species	Paper Bark
Prostanthera species	Mint Bushes
Pultanea species	Bacon and Eggs
Rhododendron lochiae	Australian Rhododendron
Syzyqium australe cultivars	Dwarf Lilly Pilly
Syzygium species	Lill Pillies
Xanthorrhoea species	Grass Trees
Zieria species	

Table I-5.5 Small trees – trees suitable for the average size urban block

Botanical Name	Common Name
Acacia elata	Cedar Wattle
Acmena smithii	Lilly Pilly
Acronychia imperforata	Coastal Apple
Alectryon conaceus	Beach Alectryon
Allocasuarina littoralis	Black She Oak
Archirhodomyrtus beckleri	Rose Myrtle
Austromyrtus bidwillii	Python Tree
Backhousia citriodora	Lemon Scented Ironwood
Banksia serrata	Old Man Banksia
Brachychiton acerifolius	(Illawarra) Flame Tree
Brachychiton discolor	Lace Bark Tree
Callicoma serratifolia	Callicoma
Callistemon salignus	Weeping Bottle brush
Cassine australis	Red Olive Plum
Cryptocarya laevigata	Glossy Laurel
Cupaniopsis anacardioides	Coastal Tuckeroo
Elaeocarpus reticulatus	Blueberry Ash
Euodia elleryana	Pink Euodia
Euodia micrococca	White Euodia
Ficus frasen	Sandpaper Fig
Glochidion sumatranum	Umbrella Cheese Tree
Hakea salicifolia	Willow Hakea
Harpullia pendula	Tulipwood
Hymenosporurn flavum	Native Frangipani
Lophostemon confertus	Brush Box
Macaranga tanarius	Macaranga
Melaleuca leucadendra	
Melaleuca quinquenervia	Broad-leaved Paperbark
Pandanus tectorius	Pandanus, Screw Pine
Persoonia species	Geebung
Phebalium squameum	Satinwood, Silver Leaf
Pittosporum rhombifolium	Hollywood/Coastal Daphne
Polyscias elegans	Celerywood
Randia benthamiana	Native Gardenia
Rhadamnia rubescens	Scrub Turpentine
Sarcopteryx stipata	Steelwood
Stenocarpus sinuatus	Fire-wheel tree
Sterculia quadrifida	Peanut Tree
Synoum glandulosum	Scentless Rosewood
Syzygium australe	Brush Cherry
Syzygium olesum	Blue Lilly Pilly
Syzygium paniculatum	Magenta Lilly Pilly
Tristaniopsis laurina	Water Gum
Trochocarpa laurina	Tree Heath
Waterhousea floribunda	Weeping Lilly Pilly

Botanical Name	Common Name
Agonis flexuosa	Willow Peppermint
Alloxylon flammeum	Queensland Tree Waratah
Banksia species	Banksias
Buckinghamia celsissima	Ivory Curl Flower Tree
Ceratopetalum qummiferum	NSW Christmas Bush
Dodonea species	Hop bushes
Eyodiella muelleri	Little Evodia
Eucalyptus species	Dwarf grafted Eucalyptus
Leptospermum species	Tea Trees
Melastoma affine	Native Lasiandra
Waterhousea unipunctata	Roly Poly Satin Ash
Xenthostemon sp	Golden Penda (Hybrids)

Table I-5.6 Palms, Ferns, Cycads and Palm Lillies

Botanical Name	Common Name
Archontophoenix cunning	Bangalow Palm
Adiantum aethiopicium	Common Maidenhair Fern
Adiantum formosum	Giant Maidenhair Fern
Asplenium australasicum	Birds Nest Fern
Blechnum indicum	Swamp Water Fern
Cordyline rubra	Palm Lily - Cordyline
Cordyline stricta	Palm Lily - Cordyline
Cyathea cooperi	Straw Tree Fern
Cyathea australis	Rough Tree Fern
Doodia aspera	Rasp Fern
Lepidozamia peroffskyana	Shining Burrawang (Cycad)
Linospadix monostachya	Walking Stick Palm
Platycerium sp.	Elkhorn/Staghorn
Todea barbara	King Fern
Wodyetia bifurcata	Foxtail Palm

Part I-6. Animal Boarding and Training Establishments

This DCP applies to all land within the Richmond Valley Local Government Area.

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22 December 2015

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Amendments:
Nil

Animal Boarding or Training Establishments are permissible in areas designated by the following zones:

- RU1 Primary Production
- IN1 General Industry
- RE1 Public Recreation
- RE2 Private Recreation
- E3 Environmental Management

Such development is prohibited in all other zones.

By definition, *Animal Boarding or Training Establishments* are places used for the breeding, boarding, training, keeping or caring of animals (other than for the agistment of horses), for commercial purposes.

The keeping of animals for agricultural purposes is separately defined as *'Intensive livestock agriculture'* by the Standard LEP and covered by Chapter H-3 in the DCP.

This Chapter will designate the maximum number of animals that may be kept, breed, trained, boarded or cared for before being considered commercial in nature, and therefore, requiring development consent to operate.

For the purposes of this chapter, 'keep' or 'kept' also includes the breeding, boarding, training or caring for animals.

I-6.1 General Objectives

The general objectives of this Chapter are to:

(1) define what is considered to be an Animal Boarding and Training Establishments for the purposes of the *Richmond Valley LEP 2012*.

(2) determining the maximum number of animals that may be kept before an establishment is considered to be commercial in nature and therefore an Animal Boarding and Training Establishment.

(3) guide what information will be required to support an application for an Animal Boarding and Training Establishment.

(4) provide controls to protect urban and rural amenity.

(5) provide adequate design considerations to avoid unacceptable adverse impacts to a locality.

I-6.2 What are Animal Boarding and Training Establishments?

Objective

(1) define *Animal Boarding and Training Establishments* in the context of the *Richmond Valley LEP 2012.*

Controls

(1) The Richmond Valley LEP 2012 is a Standard Instrument LEP. The dictionary to the Standard Instrument LEP defines:

Animal boarding and training establishments *means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary hospital.*

(2) Animal Boarding and training establishments are prohibited in all zones except:

- RU1 Primary Production
- IN1 General Industry
- RE1 Public Recreation
- RE2 Private Recreation
- E3 Environmental Management

(3) Development consent is required to operate an Animal Boarding and training establishment, unless it is identified as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* and another Environmental Planning Instrument.

I-6.3 Non-Commercial Keeping of Animals

Objective

(1) to establish when the keeping of animals is considered to be an Animal Boarding and Training Establishment,

(2) to have regard to the likely impacts on a location of keeping animals when considering if it will be commercial in nature, and therefore, an Animal Boarding and Training Establishment,

(3) to recognise that keeping of any number of animals for commercial purposes will be an Animal Boarding and Training Establishment.

Controls

(1) Table I-6.1 sets the maximum number of animals that may be kept at a property before it is considered to be commercial in nature and therefore an Animal Boarding and Training Establishment.

(2) Notwithstanding, premises operating on a commercial basis will be considered to be Animal Boarding and Training Establishments irrespective of the number of animals kept and the standards contained within the Table.

(3) If Council considers the keeping of animals at or below the levels contained in the Table will still impact upon the amenity of a locality, it may determine that the premises is an Animal Boarding and Training Establishment.

Table I-6.1 Maximum number of animals that may be kept before being considered Commercial and therefore an Animal Boarding and Training Establishment

Zone	Number of Animals Kept
R1 – General Residential RU5 – Village	The maximum number of animals (excluding offspring to 3 months of age) that may be kept on a property and any specific requirements are: (a) for dogs—5; (b) for cats—5; (c) for fowl and poultry—10, and must not include a rooster; (d) for bees—1 hive, and the Beekeeper must be registered; (e) for sheep, goats, pigs or horses—1; and (f) for all other animals—a maximum number appropriate to the location, breed and temperament of the animals so as not to interfere with the amenity of the area; No more than 2 types of animals being kept at the maximum number set per property.
R5 – Large Lot Residential	The maximum number of animals (excluding offspring to 3 months of age) that may be kept on a property and any specific requirements are: (a) for dogs—5; (b) for cats—5; (c) for fowl and poultry—20; (d) for bees—2 hives, and the Beekeeper must be registered; and (e) for all other animals—a maximum number appropriate to the location, breed and temperament of the animals so as not to interfere with the amenity of the area; No more than 2 types of animals being kept at the maximum number set per property.

Zone	Number of Animals Kept
RU1 – Primary Production E3 – Environmental Management	The maximum number of animals (excluding offspring to 3 months of age, and working dogs as per *Companion Animals Act 1998*), that may be kept on a property, and any specific requirements are: (a) for dogs—5; (b) for cats—5; and (c) for all other animals—a maximum number appropriate to the location, breed and temperament of the animals so as not to interfere with the amenity of the area; No more than 2 types of animals being kept at the maximum number set per property.
Other Zones	Maximum number to be determined on merits having consideration to the Zone, characteristics of the location, the breed and temperament of the animals, so as not to interfere with the amenity of the area.
Note. The keeping of other types of animals or the erection of their shelters may be provided for under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Examples 'Animal shelters', 'Aviaries', and 'Fowl and poultry houses'.	

I-6.4 Development Application requirements

Objective

(1) to assist with the appropriate siting of Animal Boarding and Training Establishments.

(2) to assist with the preparation and presentation of information to accompany a development application.

Controls

(1) All Animal Boarding and Training Establishments require Development Consent to operate.

All development applications must be accompanied by a Statement of Environmental Effects which, at a very minimum, must address the requirements identified in subsection (3).

Areas where Intensive Animal Establishments are unlikely to be supported

(2) Council is unlikely to support the establishment of Animal Boarding and Training Establishments in the following locations:

- Proximity to established residential, rural residential developments and to future residential or rural residential developments as delineated within Urban or Rural Land Use Strategies prepared for Richmond Valley
- Proximity to either approved, established and operating forms of intensive animal establishments.
- In addition, Council cannot support the establishment of Intensive Animal Establishments where cumulative developments may present an increased amenity risk. The establishment of boarding and training establishments on adjoining or close sites will be considered and ultimately determined on a merit basis with the onus strongly on the

applicant to demonstrate through detailed analysis why additional establishments will not be a risk.

Development Application Requirements

(3) A Development Application for an Animal Boarding and Training Establishment must include but not necessarily be limited to the following detail within a Statement of Environmental Effects:

(a) **Odour -** Odour Modelling Report prepared by a suitably qualified person which outlines the extent of impacts of any odours both from the proposed land use and any cumulative impacts due to any existing land uses which may already emit offensive odours. Such report is to be prepared with regard for likely climatic and prevailing conditions. The Odour Report is also to submit operational procedures to further mitigation any impacts and to identify the extent of reduction based upon these practices.

(b) **Noise** - A Noise Impact Report prepared by a suitably qualified person which outlines the extent of impacts of noise from the proposed use including the full extent and activities to be operating on site and also the activities associated with the proposal including the type and numbers of traffic which will be generated by the land use. The Report is also to make recommendations for the mitigation of any noise impacts and is to identify the extent of noise reduction as a result of these measures being implemented. *Section I-7 – Noise Impact Assessment* (NIA) provides additional detail as to what is required for the preparation of a detailed application involving NIA.

(c) **Traffic and Road Haulage** - A Traffic Report is required to be submitted and must be prepared by a suitably qualified person, detailing, but not necessarily limited to:

- the types and numbers of traffic to be generated by the proposal;
- details of the existing condition, widths, depths of pavement and its suitability or otherwise for the carriage of transport to be associated with the land use;
- proposed upgrading to be undertaken by the applicant including location(s) of width or depth of pavement, sealing of pavement and extension of stormwater pipes or culverts along the route(s).
- Detailed plans showing where access to the property is proposed and adequate manoeuvring area(s) are provided to ensure visiting vehicles enter and exit the property in a forward motion. Car parking is to be provided wholly within the property for a minimum of three vehicles, however more may be required based upon detail supplied as to staffing numbers and operational procedures.

(d) **Access** - Entrance/exit-way(s) to the local road network must be constructed to Council specification and provide suitable line-of-sight distance for exiting vehicles. As a guide, around 150 metres is required to safely de-accelerate and pull off the road in a 100km an hour speed zone. In all instances, Council reserves the right to determine whether the placement and access is suitable and safe. All works required to be undertaken must be financed by the owner of the property or proponent

of the development, including any works proposed on the road reserve verge.

(e) **Statement of Environmental Effects** - The Statement of Environmental Effects (SEE) accompanying the application is required to describe in detail all aspects of the operation of the establishment which may then be transcribed into a Management Plan for the land use.

(f) **Environmental Management Plan** - An Environmental Management Plan shall be prepared for the operation of the animal establishment detailing, but not necessarily limited to the following matters:

- Treatment and disposal of litter and effluent;
- Odour Management;
- Noise Management;
- Biosecurity measures for the control and quarantine of exotic, endemic or emergency diseases;
- Disposal of dead animals;
- Food Storage and Vermin control;
- Erosion control measures;
- Water and Drainage management;
- Chemicals and Fuel storage;
- Complaints register;
- Guidelines for the Operation, e.g. Greyhound Racing Control Board;
- Water storage and harvesting methods; and
- Dust and air-borne particulate matter management.

(g) **On-Site Sewage Management** - The preparation and review of On-Site Sewage Effluent Disposal for these forms of land use is to be undertaken in accordance with Council's On-Site Sewage and Wastewater Strategy and associated guidelines. Further effluent treatment methods and devices may be required for solids disposal and it is recommended pre-lodgement discussions be held with Council to confirm the treatment level and technique.

(h) **Land Use Conflict Risk Assessment (LUCRA)** - A LUCRA component to provide a site specific conflict risk assessment relevant to the location and sensitivity of adjacent, adjoining and nearby landuses to ultimately determine the feasibility of the establishment in the location proposed and any required management response to potential conflicts. Section I-11 addresses the requirements of a LUCRA in detail and should be referenced comprehensively for this component of the application.

Public Exhibition and Consultation

(4) The Public Exhibition and any required consultation shall be conducted in accordance with DCP *Part J – Notification and Advertising of Development* and generally requires a minimum 14 day exhibition period.

Site Suitability

(5) The suitability of the site for the purpose of accommodating an Animal Establishment will be assessed during the application process. Particular attention should be made, but not limited to, the following site suitability specifications so as to minimise poor site choices and wasted resources.

(a) **Large and isolated rural allotment** so as to provide ample distance between sensitive receivers in respect to noise, odour and biohazard 'buffer' requirements.

(b) **Adequate access** so as to provide ample entry turnout and line-of-sight distance relevant to the intended vehicular type and numbers proposed for the use of the property. The local road network from the larger arterial roads must be of a suitable width, grade and condition to be able to adequately support the intended establishment. The proponent may be required to upgrade the road (and any associated works) to a condition suitable and/or pay contributions for use of the local road network based upon the assessment of Council.

(c) **Relatively Flood and Bushfire Free**.

(d) **Relatively free of other Environmental Constraints** – in particular those indicated within a Natural Resource Sensitivity map and associated provisions (see *Chapter H-4 – Natural Resource Sensitivity* for further detail and requirements).

Part I-7. Noise Impact Assessment

This DCP applies to all land within the Richmond Valley Local Government Area.

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Nil

Environmental noise emitted from a premise or land-use can impact negatively upon neighbours, or even entire neighbourhoods. It can affect the health and wellbeing of individuals and community as a whole. In NSW, laws have been enacted to enforce noise reduction and protect people from resultant annoying and harmful effects.

Although Council has authority to regulate noise impacts if verified offensive noise complaints are received, it is more practical to ensure offensive noise impacts are prevented through initial intelligent design. Operational procedures should also be instigated to minimise noise at the time when the land-use is established or when significant changes are proposed.

This section of the DCP provides guidance and examples where noise impact assessment is required as part of a comprehensive development application. Noise impact assessment is generally required to be an integral component of a development application (DA) where the proposed development and/or associated activity may potentially impact neighbouring properties and public land. The provisions within this section of the DCP particularly seek to protect noise-sensitive land uses from any negative impacts resulting from any proposed development.

I-7.1 Objectives

The objectives of this Chapter are to:

(1) Provide examples of development types that require Noise Impact Assessment (NIA) as an integral part of an application for the development.

(2) Describe the level of detail required to satisfy qualitative and quantitative assessment of noise impacts within an application or proposal. Effective NIA requires accurate deduction of all potential and likely noise impacts upon adjoining land uses and the community as a whole.

(3) Establish conditions and procedures to be applied to any relevant approval for development/proposals in order to offset possible negative resulting noise impacts. Conditions may apply to any aspect of the proposed development, including building design & materials, operational procedures (particularly hours of operation), and/or any combination of operation and construction controls as a result of the findings of the NIA. Precautionary measures are required to be anticipated by the proponent which may then be conditioned on any consent Council may grant. Conditions may be imposed by Council with some negotiation possible with the offsetting of major impacts, however it will be required the proponent suggest mediating measures within the NIA.

(4) Provide mechanisms for avoiding the creation of 'offensive noise' through development control initiated through the approval process.

(5) Provide for any additional advertising and notification procedures for the development application process in relation to noise matters.

I-7.2 Definition of Noise

Noise-sensitive land uses include all that are residential, institutional, public and recreation in nature. Examples include (but are not limited to) campgrounds, hospitals, places of worship, schools, day care facilities, long-term care facilities, libraries, auditoriums, community centres, offices, conference rooms, reading rooms, hotels, motels and some parts of retail stores.

Noise may be generated as a direct consequence of the operation of a development and involves sound impacts from:

- machinery of any kind
- vehicles within the site (forklifts, trucks reversing, loading, etc)
- any ancillary operation noise

Indirect noise generation may also be required to be assessed and may include:

- pedestrian and/or vehicle movements to and from the site of the development, with particular attention to the times of day or night these movements may occur. Pedestrian movement may involve intoxicated patrons which will have a greater influence on the amount of noise potentially generated from the development.
- security or fire alarms, night access facilities, security personnel movements, etc

I-7.3 Legislative Provisions

(1) Although there is no specific provisions concerning Noise Impact Assessment within the *Richmond Valley Local Environmental Plan 2012* (the LEP), noise impact considerations are included within the overall aims and objectives of the Plan.

Section 79C of the *Environmental Planning and Assessment Act 1979* also requires that when determining a development application, a consent authority must take into consideration the likely social impacts of that development in the locality.

Richmond Valley Council (RVC) has a statutory obligation to consider noise impacts when determining development proposals. Applicants may be required to provide noise assessment within application details, when deemed necessary in the opinion of Council and/or the assessing officer.

Noise assessment is an important tool to accurately assess the potential impact of a proposal or application for development on surrounding land uses and the locality. Although this section of the DCP is most relevant for development applications from private firms or individuals, it may also be a useful resource for authorities (including Council) as to where to what degree of Noise Impact Assessment (NIA) should be incorporated into proposals and application.

Extract from *Protection of the Environment Operations Act 1997*

Definition of Offensive Noise

Offensive noise means noise:

(a) that, by reason of its level, nature, character or quality, or the time at which it is made or any other circumstances:

(i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or

(ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or

(b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in any other circumstances prescribed by the regulations.

I-7.4 Determining What Noise Impact Assessment is required

Is a Noise Impact Statement required?

(1) The question as to whether the proposal will require a degree of Noise Impact Assessment can be answered by responding in the affirmative to any one or more of the following;

- Does the proposal involve a land-use which is likely to generate noise contrary to the majority of existing surrounding land-uses?
- Is the use one which might be considered to ordinarily generate some form of noise as a consequence of a consent being granted?

- Will the proposal likely give rise to an increase in noise within the locality, either directly or indirectly through traffic movements, pedestrian access, operational equipment noise, etc?
- Is the proposal likely to impact upon neighbourhood amenity and/or community meeting places (including pedestrian commuting conduits, parklands, etc) through the direct or indirect emission of noise?

The majority of development proposals will only require suitable comment regarding potential noise impacts within or as part of the Statement of Environmental Effects (SEE) accompanying a formal application. Full Noise Impact Assessment (NIA) is required for more comprehensive proposals which are likely to have larger potential noise impact upon neighbourhoods and localities.

The main distinction in the levels of NIA invoked below is the depth and range of reporting required within the proposal application. Section 3.4 outlines the detail required for various levels of Noise Impact Assessment which may be attributed to the development types listed below.

There is a high likelihood that most larger scale developments and proposals will require comprehensive noise reporting or assessment, in many cases these developments may also be 'designated' and require multiple additional approvals or concurrence from State and/or Commonwealth agencies.

The responsibility of the proponent

(2) It is the proponent's responsibility to ensure appropriate measures have been incorporated into the development design and that all applicable sound level criteria are met (subject to approval and review) for the extent and life of the development. The proponent's responsibilities also involve the following:

- Determining feasibility of the project including constraints applicable before any project action or construction commitment is made;
- Ensuring all noise generating criteria likely to be associated with the development are included within the assessment provided and an acceptance that additional costs are likely to be borne by the proponent if the noise report is inadequate;
- Assessing all outdoor and indoor acoustical environments; measurements and readings must be supplied and extrapolated using commonly accepted and contemporaneous units and criteria;
- Ensuring that the required control measures are incorporated in the development.

Determine What Level of Noise Impact Assessment is Required

(3) There are 3 levels of Noise Impact Assessment. The appropriate level of assessment is dependent upon the nature of the development. Use the following guidelines to determine what level of assessment is required:

(a) High degree NIA

Development types which will require an extensive and comprehensive degree of Noise Impact Assessment accompanying the application:

- Developments likely to generate noise and/or vibration impacts which could potentially significantly impact receivers within the vicinity and locality, such as:

- animal boarding and/or training establishments (particularly dog & cat) – see Chapter I-6 for further detail of other requirements
- Any proposed use involving the operation of more than four (4) mechanical vehicles such as automobiles, motorbikes, go-carts, jet skis or similar at one time.
- extractive industries of any kind (quarrying) which involve heavy machinery use which are within 500 metres of any residential development, particularly involving noise generation of any kind (directly or indirectly) outside of usual operating hours (see below). Quarries which involve blasting and/or crushing require comprehensive noise assessment and are generally considered to significantly affect residences within 1000 metres.
- industries, whether urban or rural utilising machinery use (within 100 and 750 metres of residential development respectively) involving noise generation of any kind (directly or indirectly) particularly when outside of usual operating hours (see below for details of usual operating hours)

- Any other proposed noise emitting development situated within 50 metres (in an urban area) or 350 metres (within a rural area) of noise sensitive land-uses. If after-hours operation is proposed the trigger is within 100 metres (urban) or 750 metres (rural) of noise sensitive land-uses (standard hours given below).
- Pubs, clubs and discothèques, etc (registered clubs) or any other music generating development (such as rehearsal rooms/halls, venues)
- Late or very early hour premises such as Service Stations and fast or other food premises within 100 metres of residents; Depots, Entertainment Facilities, Function Centres, and any other similar premise.
- Any other development Council's Planning or Environmental Health Officers interpret to likely present comparable noise impacts to those listed above.

(b) Moderate degree NIA required

Development types which will require a reasonable and comprehensive degree of Noise Impact Assessment accompanying the application:

- Developments, such as:
  - Larger retail complexes, Neighbourhood Shops (late or early hours),
  - industries, whether rural or urban which involve machinery use (within 1000 and 200 metres of sensitive land-use respectively) involving noise generation of any kind (directly or indirectly) outside of usual operating hours (see below for details of usual operating hours),
  - Childcare (caring for in excess of 15 children) within 50 metres of residential or other noise sensitive land-use (nslu).

- § Places of Public Worship and public assembly,
- § Recreation facilities (indoor and outdoor, inc. water),
- § Schools (exceeding 15 pupils under 18 years),
- § passenger transport facilities within 100m of a sensitive land-use,
- § developments involving wind, water, or other means of harnessing energy from the environment turbines which make noise in the process.

- Ø Group Homes (transitional and permanent), Boarding Houses, Hostels and the like.
- Ø Forms of Tourist Development which involve transitory guest accommodation catering for in excess of 10 guests, such as backpacker accommodation, which are within 200 metres of noise-sensitive land-uses.
- Ø Expansion or change of a non-conforming 'existing' or 'continuing' use (lesser NIA may be sufficient if noise impacts are negligible, subject to Council's consensus).
- Ø Home occupations, business or industry which intends to involve any form of noise generating machinery and is situated adjacent or adjoining other residential development or any other noise-sensitive land-use.
- Ø Larger Urban Industries and Rural Industries with over 15 employees.
- Ø Amusement Centres and Entertainment Facilities.
- Ø Places of Public Worship (between 20 - 30 worshipers - high degree NIA required above if within 100 metres of a sensitive land-use).
- Ø Seniors Housing and Residential Care Facilities (to be assessed as a sensitive receiver based upon existing land-uses within the vicinity).
- Ø Any other development that Council's Planning Officers interpret to likely present comparable social impacts to those listed above. This may include any development listed as requiring a high degree of NIA in I-7.3(3)(a) above with less perceived potential impacts.

(c) Low degree NIA required

Circumstances where a Noise Impact statement is sufficient - Development types which require low degree of Noise Impact Assessment accompanying the application:

- Ø Developments such as:
  - § Small retail complexes
  - § Medical Centres,
  - § Urban Industries and small rural industries within suitable setting
  - § Educational Establishments

§ Child Care Centres

- Expansion or change of a non-conforming 'existing' or 'continuing' use.
- Places of Public Worship (less than 20 worshipers).
- Any other development Council's Planning Officers interpret to likely present comparable low degree of noise impact to those listed above. This may include any development listed as requiring a moderate degree of NIA in I-7.4(3)(b) above with reduced potential impacts, with Council's concurrence.

I-7.5 Design Standards and Noise Impact Assessment

Main Considerations - Checklist for all levels of NIA

(1) The applicant will be required to address noise impacts of the proposal within the Statement of Environmental Effects (SEE) or any Environmental Impact Assessment accompanying the application, with care to address the following main considerations:

- An indication of the type and duration of all potential noise events likely to be generated from the land, and not just a direct result of the land use proposed. Examples of direct and indirect noise generation are given above (in the preamble). All anticipated noise sources shall be included within an exhaustive itinerary.
- A comprehensive list of all adjoining land uses and comment as to the compatibility of the proposal with those land uses existing, with particular attention to noise issues.
- Any suggestions by the proponent as to operational and/or design implementation which might lessen the impact of noise sourced from the development.
- Any required or suggested advertising and/or consultation with neighbours and key stakeholders.

Standard hours of operation for any noise generating development

(2) The standard hours of operation for noise generating development are equivalent to the normal hours of unrestricted business operation. It cannot be assumed operation within these hours is acceptable if the noise generated is considered to be in excess of that which would ordinarily be expected to be experienced.

(a) Operating Hours:

Monday to Friday: 7 a.m. until 6 p.m.

Saturday: 8 a.m. until 1 p.m.

Sundays and Public Holidays: No Operations.

(b) Unloading, pick-ups and deliveries:

Monday to Friday: 8 a.m. until 5 p.m.

Saturday: 9 a.m. until 12 noon

Sundays and Public Holidays: No Operations.

Any development proposed to operate outside of the Standard Hours of Operation should be treated as a higher impact development requiring a higher level of noise assessment. 24 hour operation will almost certainly require the highest level of noise assessment.

Minimum Requirements for a Noise Impact Assessment

(3) Chapter I-7.4(3) provides a guide to determining what level of Noise Impact Assessment is required for development types. The following guide provides the minimum requirements for preparing the Noise Impact Assessment based on the level required:

(a) High level SIA

Minimum Requirements for Noise Impact Assessment as per development stipulated within Section I-7.4(3)(a):

- A comprehensive report shall be provided detailing any inconsistencies with nearby existing land uses and the use proposed. Each adjoining land-use should be addressed individually with a comprehensive summary supplied to outline all noise impacts and considerations. The NIA must provide a detailed response as to whether any of the main considerations within I-7.4(1) relate to the proposal or the location. If an affirmative response to any I-7.4(1) consideration is recorded, the applicant must provide detail as to how negative impact will be mitigated and measures incorporated into the design and/or operating procedure of the development to alleviate all noise impacts.
- The NIA shall outline all potential impacts upon adjoining land-uses and key stakeholders. A report shall be comprehensive and prepared by a suitably qualified acoustic engineer with particular reference to best practice principles and other contemporary studies (see subsection (4) below).
- The NIA is required to outline all potential impacts upon adjoining land-uses and key stakeholders identified as a result of a comprehensive scoping component of the assessment. The acoustic engineer is required to address all impacted receivers and as well as suggesting ongoing monitoring measures to improve upon existing land-use operation and reporting procedures. Representative contact details should be made readily available to any member of the effected public to record and respond to offensive noise events. The operating procedures of the development shall incorporate monitoring and response procedures which will ensure ongoing noise level compliance.
- The NIA shall incorporate a record of consultation with immediate neighbouring land-uses and key stakeholders. Comments and issues raised should be documented preferably written and signed 'letterhead' with responses from the applicant as to how the issues raised support the development, or suggest mitigating

measures which may be incorporated to lessen the impact of the issue raised.

- The applicant is required to provide a comprehensive analysis of all potential impacts identified as a result of in-depth analysis of the location and active/passive use of the proposal site and surrounds. All impacts should be reported alongside all impacts resulting from community & stakeholder consultation. The proponent is also required to present suggested impact minimisation of all perceived impacts.
- The NIA should entail a component of community consultation, record in detail all resulting discussion and comments received, and outline how any potential negative impacts raised may be incorporated into the development design and operation. Community consultation should concentrate on immediate neighbouring land-uses and main stake-holders.

(b) Moderate level NIA

Minimum Requirements for Noise Impact Assessment as per development stipulated within Section I-7.4(3)(b):

- A comprehensive summary as to whether there are any inconsistencies with nearby existing land uses and the use proposed. Each adjoining land-use should be addressed individually (possibly in tabulated form) and a paragraph summary supplied to outline all noise impacts and considerations. The NIA must provide a detailed response as to whether any of the main considerations within I-7.4(1) relate to the proposal or the location. If an affirmative response to any I-7.4(1) consideration is recorded, the applicant should demonstrate how negative impact may be mitigated and potentially incorporated into the design or operating procedure of the development.
- The NIA shall outline all potential impacts upon adjoining land-uses and key stakeholders. A report shall be comprehensive and prepared by person or persons suitably qualified in acoustic reporting with reference to best practice principles concerning contemporary acoustic reporting. Acoustic levels recorded (both background and peak shall be provided and incorporated into reasoning within the report.
- The NIA should entail a component of community consultation, record in detail all resulting discussion and comments received, and outline how any potential negative impacts raised may be incorporated into the development design and operation. Community consultation should concentrate on immediate neighbouring land-uses and main stake-holders.

(c) Low level Noise Impact Assessment

Minimum Requirements for where Noise Impact comment is required i.e. development stipulated within Section I-7.4(3)(c):

- A statement summary as to whether there are any inconsistencies with the existing land uses and the use proposed. Each land use

should be addressed individually (possibly in tabulated form) and a statement summary supplied.

- Comment should detail whether any of the main considerations above relate to the proposal or the location of the proposal. A short response to each of the questions within I-7.4(1) will suffice, in particular:
  - Is the proposal likely to impact upon adjoining land-uses (particularly if they are noise-sensitive), neighbourhood amenity and/or community land/meeting places (including pedestrian commuting conduits, parklands, etc)?
- Comment should outline the likely impacts upon adjoining land-uses and key stakeholders. Comment need not be prepared by a suitably qualified person however must address all potential impacts and suggest possible mitigating measures.
- Comment does not need to entail predictive acoustic readings however should endeavour to quantitatively and qualitatively itemise all noise generating sources likely to be audible beyond the subject property boundary. In instances where the noise source is likely to generate sound which could be reasonably expected to be a nuisance, detail shall be provided as to how impact may be mitigated.

Guidelines and Best Practice to be adopted for Reporting

(4) The following publications and guidelines provide the most contemporaneous Noise Impact Assessment methods at the time of writing. It is expected the noise assessment guidelines and techniques listed below (or successive guidelines) be extensively referenced and adopted for development applications requiring NIA of the type examined within this DCP chapter. This list is not comprehensive and is subject to superseding guidelines, improvements and review.

- *New South Wales Industrial Noise Policy – Environmental Noise Management* – Environment Protection Authority (EPA, 2000).
- Department of Environment and Conservation (NSW) – *Noise Guide for Local Government – Environmental Noise Management* (2004).
- NSW Department of Planning – *Development near Rail Corridors and Busy Roads* (Interim Guidelines 2008 or later).

I-7.6 Advertising and Notification

(1) Part J of this DCP concerns advertising and notification. It generally sets the requirement for advertising periods dependent upon development type.

It is considered prudent, however that the applicant begin Noise Impact Assessment very early in the preparation of the development application process. Early preparation and notification provides a means to accurately present all noise impacts to adjoining owners and the general public during the exhibition process. Monitoring directly from nearby noise-sensitive environs (including indoors) can often be the most revealing means of

collecting relevant data, and the facilitating process can be a means to make positive contact with affected individuals and stakeholders.

Early engagement can be beneficial to demonstrate the intent of the proponent to conduct an equitable assessment of the proposal's impacts. Timely and thoughtful assessment techniques can provide opportunity to demonstrate how the development might proceed with minimal noise impacts. Transparency in this process can introduce and discuss mitigating measures to reduce impacts of noise on sensitive receivers.

(2) It is highly recommended consultation concerning noise impact be initiated and include noise impacts as a major component of discussion and education with adjoining and affected parties. It is recommended the consultation process be initiated one month before the advertising period in order to adequately inform nearby residents and tenants as to the proposal and any possible consequence.

I-7.7 Additional Information regarding Noise Impact Measurement, Compliance and Management

(1) Proposals which involve situating Noise Sensitive Development within the influence of existing or proposed noise generating operations:

- Taking all reasoning and provisions outlined within the previous sections of this DCP into account, Council will require suitable NIA included within formal application for the potentially affected proposed development. The opinion of Council is absolute in determining these matters, and includes consideration, but is not limited to, the following:
  - Road and Rail Transport Corridors (whether existing or proposed – including instances where the infrastructure and/or planning is in place, has been initiated, or continuance is undecided,
  - Industrial, Commercial, Extractive or Agricultural practices adopted, or likely to be adopted within the surrounding area,
  - Any likely or prevailing environmental factors, such as wind, topography, water bodies which may project sound further, etc,
  - Areas recognised as potential development areas, as prescribed through the zoning, DCP designation, or any State or local strategy.
- Any knowledge of the proposed increase in production in nearby noise generating developments, including likelihood of escalation of 'existing' or 'continuing' use.

(2) Noise Impact Assessment Compliance – Legal Considerations

- Council may impose Noise Control Orders in relation to 'Offensive Noise' matters which attract fines for non-compliance.
- Police have the authority to issue a Noise Abatement Direction for unacceptable noise which is an offence to ignore.
- Generally, persistent noise, such as that from an engine, is not acceptable before 7.00 a.m. or after 8.00 p.m.

Part I-8. Social Impact Assessment

This DCP applies to all land within the Richmond Valley Local Government Area.

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22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

This section of the DCP provides guidance and examples where social impact assessment is required as part of a comprehensive development application, management plan or other form of proposal assessment. The most notable instance of where social impact assessment is required is where proposed activity and/or development is likely to potentially impact a particular social group, community section or community in entirety.

I-8.1 General Objectives

The general objectives of this Chapter are to:

(1) Provide a concise checklist to determine whether social impact Provide assessment is required as part of a development proposal or application.

(2) Provide for qualitative assessment of social impacts within an application or proposal accurately interpreting the possible and likely impacts upon a social sector or community as a whole. The social consideration is required to balance environmental and economic considerations and provide a balanced and integrated assessment of all impacts.

(3) Allow for easy identification of the social constituents within a community likely to be impacted by a proposal or development. If the proposal is permitted to proceed, monitoring of possible impacts upon the identified stakeholders may take place over the lifespan of the development.

(4) Social Impact Assessment should determine conditions and procedures which need to be followed to offset possible negative social impacts resulting from of the proposal. Precautionary measures are required to be anticipated by the proponent that can then be conditioned on any consent Council may grant. Conditions may be interpreted and negotiated between Council and the proponent, however it required the proponent suggest mediating measures within the SIA. This section of the DCP should be read in conjunction with and regard for Clause 1.2 of the *Richmond Valley Local Environmental Plan 2012* (the LEP).

I-8.2 Statutory Requirements

(1) Although there is no specific provision concerning Social Impact Assessment within the *Richmond Valley Local Environmental Plan 2012* (the LEP), Social considerations are requirements of many considerations regarding impacts, and are included within the overall aims and objectives of the Plan.

(2) Section 79C of the *Environmental Planning and Assessment Act 1979* requires that when determining a development application, a consent authority must consideration the likely social impacts of that development in the locality.

(3) Richmond Valley Council (RVC) has a statutory obligation to consider social impacts of development proposals in determining development proposals and may therefore require applicants to provide social impact assessment as part of the application.

I-8.3 When is a Social Impact Assessment required?

(1) The question as to whether the proposal will require a Social Impact Assessment can be answered by responding in the affirmative to any one or more of the following:

(a) Will the proposal disadvantage or benefit any particular social group, or the locality or the community within Richmond Valley (RVC) as a whole?

(b) Will the proposal be likely to give rise to an increase or reduction in employment opportunities in the locality?

(c) Will the proposal be likely to give rise to an increased demand for community facilities or services within the locality, or RVC area as a whole?

(d) Will the proposal be likely to affect the supply of, or demand for, housing within the locality or LGA?

(e) Is the proposal likely to impact upon neighbourhood amenity and/or community meeting places (including pedestrian commuting conduits, parklands, etc)?

(f) Is the proposal likely to create any element of security or risk for any occupants, nearby residents or passing pedestrians?

Social Impact Statements or Social Impact Assessment (SIA)?

(2) The majority of development proposals will only require suitable comment within or as part of the Statement of Environmental Effects (SEE) accompanying an application.

A full SIA is required for more comprehensive proposals which are likely to have larger potential impact upon social identity and cohesiveness.

The main distinction in the levels of SIA, see Section I-8.3(3), is the depth and range of social implications of the proposal.

There is a high likelihood that most larger scale developments and proposals will require comprehensive SIA, particularly those which are 'designated development' or requiring multiple additional approvals or concurrences from State and/or Commonwealth Agencies.

Determine What Level of Social Impact Assessment is Required

(3) There are 3 levels of Social Impact Assessment. The appropriate level of assessment is dependent upon the nature of the development. Use the following guidelines to determine what level of assessment is required:

(a) High degree SIA

Development types which will require an extensive and comprehensive degree of Social Impact Assessment accompanying the application:

- Major Developments, such as:
  - Major new retail complexes, incorporating 4 or more shops.
  - Hospitals, Institutions, Rehabilitation Centres, and the like.
  - Childcare (caring for in excess of 15 children).
- Tourist developments, Backpacker Accommodation and other transitory guest accommodation catering for in excess of 10 guests.
- Sex Service Premises and Restricted Premises.
- Residential Development in excess of twelve (12) proposed dwellings on a single allotment, regardless of any strata potential.
- Urban and Rural Industries employing over 20 people.
- Service Stations, Depots, Entertainment Facilities, Function Centres, Registered Clubs and any other similar premise which

may propose hours after 11.00 pm from the onset of operation, or potential at any time in the future.

- Ø Any other development Council's Planning or Environmental Health Officers interpret to likely present comparable social impacts to those listed above.

(b) Moderate degree SIA

Development types which will require an extensive degree of Social Impact Assessment accompanying the application:

- Ø Developments, such as:
  - § Small retail complexes, Neighbourhood Shops.
  - § Medical Centres.
  - § Childcare (caring for in 7 - 15 children).
  - § Recreation facilities (indoor and outdoor, including water).
  - § Schools.
- Ø Group Homes (transitional and permanent), Boarding Houses, Hostels and the like.
- Ø Expansion or change of a non-conforming 'existing' or 'continuing' use.
- Ø Home occupation (sex services), swingers clubs, sex/lingerie party premises, and the like.
- Ø Demolition of a building with heritage significance or change of use of a building or place acknowledged to have social or heritage significance (as determined by Council).
- Ø Larger Urban Industries and Rural Industries with over 10 employees.
- Ø Amusement Centres and Entertainment Facilities.
- Ø Car Parks over 20 spaces.
- Ø Places of Public Worship.
- Ø Seniors Housing and Residential Care Facilities.
- Ø Any other development Council's Planning Officers interpret to likely present comparable social impacts to those listed above. This may include any development listed as requiring a high degree of SIA in Section I-8.3(3)(a) with reduced potential impacts.

(c) Low degree SIA

Circumstances where a Social Impact statement is sufficient - Development types which require low degree of Social Impact Assessment accompanying the application:

- Ø Developments, such as:
  - § Small retail complexes.
  - § Medical Centres.
  - § Urban Industries and small rural industries.
  - § Educational Establishments.

- Expansion or change of a non-conforming 'existing' or 'continuing' use.
- Educational Establishments.
- Demolition of a building with heritage significance or change of use of a building or place acknowledged as having social or heritage significance.
- Any other development Council's Planning Officers interpret to likely present comparable social impacts to those listed above. This may include any development listed as requiring a moderate degree of SIA in Section I-8.3(3)(b) with reduced potential impacts.

I-8.4 Design Standards and Social Impact Assessment

Main Considerations - Checklist for all levels of NIA

(1) A Social Impact Statement should at least address these main considerations:

- Access and mobility (consideration of existing and proposed).
- Employment impacts.
- Accommodation and housing impacts.
- Crime and public safety impacts (refer to the CPTED Section I-10).
- Adjoining land uses and compatibility of the proposal.
- Advertising and/or consultation with neighbours and key stakeholders.

(a) High level SIA

Minimum Requirements for Social Impact Assessment as per development stipulated within Section I-8.3(3)(a).

- The SIA should detail whether any of the main considerations above relate to the proposal or the land location. A comprehensive response to each of the questions within I-8.3(1) will be required, and in instances where an affirmative is recorded, the applicant shall provide a mitigating solution to be incorporated into the design and/or operating procedure of the development. Particular attention to detail should be provided in response to the following criteria:
  - Is the proposal likely to impact upon neighbourhood amenity and community meeting places (including pedestrian commuting conduits, parklands, etc)?
  - Is the proposal likely to create any element of security or risk for any occupants, nearby residents or passing pedestrians?
- The SIA is required to outline all potential impacts upon adjoining land-uses and key stakeholders after completing a comprehensive scoping component to identify all impacted stakeholders. The SIA must be prepared by a suitably qualified or specialist person and reference best practice principles and other contemporary studies.

- The SIA shall incorporate a record of consultation with immediate neighbouring land-uses and key stakeholders. Comments and issues raised should be documented preferably written and signed 'letterhead' with responses from the applicant as to how the issues raised support the development, or suggest mitigating measures which may be incorporated to lessen the impact of the issue raised.
- The applicant is required to provide a comprehensive analysis of all potential impacts identified as a result of in-depth analysis of the location and active/passive use of the proposal site and surrounds. All impacts should be reported alongside all impacts resulting from community & stakeholder consultation. The proponent is also required to present suggested impact minimisation of all perceived impacts.
- In addition to other SIA requirements listed here, consideration should also be made regarding the following:
  - impact upon particular social groups, such as indigenous, children, aged, ethnic, youth, persons with a disability, etc.
  - social equity (in particular any potential for any disadvantaged groups to be displaced or further disadvantaged).
  - whether some form of ongoing monitoring should be proposed for the early duration of the proposal, and if so, how a review of impacts can influence management practices. A conditional consent might require monitoring and review of potentially high social impact developments after a nominated period of time.
  - a Community Focus Meeting may be appropriate to scope potential impact issues and all affected stakeholders. In exceptional circumstances it could be advantageous to hold further focus meetings as a monitoring and facilitating tool. The outcomes of successfully run Community Focus Meetings would provide Terms of Reference (TOR) for accurate predictive modelling within SIA presented alongside a development application.
  - some degree of quantitative (statistical) analysis may be useful to demonstrate the likelihood of impacts recognised within the TOR within the SIA.

(b) Moderate level SIA

Minimum Requirements for Social Impact Assessment as per development stipulated within Section I-8.3(3)(b).

- The SIA should detail whether any of the main considerations above relate to the proposal or the land location. A response to each of the questions within I-8.3(1) will be required, and in instances where an affirmative is recorded, the applicant should provide a response as to how any negative impact may be

mitigated and potentially incorporated into the design or operating procedure of the development.

- The SIA shall outline the likely impacts upon adjoining land-uses and key stakeholders. Comment should be comprehensive and prepared by a suitably qualified or specialist person with particular reference to best practice principles and other contemporary studies.
- The SIA should entail a component of community consultation, record in detail all resulting discussion and comments received, and outline how any potential negative impacts raised may be incorporated into the development design and operation. Community consultation should concentrate on immediate neighbouring land-uses and main stake-holders.
- Comment should give particularly attention to any increased demand for community facilities/services within the locality or increase/ decrease in the demand or provision of accommodation (housing).

(c) Low level SIA

Minimum Requirements for where Social Impact comment is required i.e. development stipulated within Section I-8.3(3)(c).

- Comment should detail whether any of the main considerations above relate to the proposal or the location of the proposal. A short response to each of the questions within I-8.3(1) will suffice, in particular:
  - Is the proposal likely to impact upon neighbourhood amenity and community meeting places (including pedestrian commuting conduits, parklands, etc)?
  - Is the proposal likely to create any element of security or risk for any occupants, nearby residents or passing pedestrians?
- Comment should outline the likely impacts upon adjoining land-uses and key stakeholders. Comment may only require one or two paragraphs and is able to be prepared by a non-specialist.
- Comment does not need to entail community consultation however should outline perceived impacts and any potential negative impact the development may have on the locality. In response to any potential negative impact, a response to each and a possible solution should be nominated as to how the impact may be mitigated and incorporated into the development design and operation.
- Comment must outline if the proposal could likely give rise to an increased demand for community facilities or services within the locality or increase or decrease provision of accommodation (housing).

Part I-9. Water Sensitive Urban Design—WSUD

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Water Sensitive Urban Design, also known as WSUD (pronounced *wiz-ud*), is a multidisciplinary approach for integrating land use and water management (water supply, stormwater and wastewater) planning with the aim of minimising the impacts of urban development on the natural water cycle.

Many elements of WSUD are now incorporated into BASIX, Building Sustainability Index, which make it mandatory to achieve water and energy efficiency in new development.

Elements of WSUD that still prevail are:

- erosion and sediment control during construction,
- minimum rain water tank capacity for residential development,
- stormwater management, and
- aiming to maintain baseline water quality targets.

I-9.1. General Objectives

The general objectives of this Chapter are to:

(1) ensure that adequate water quality management principles are incorporated into development design and this is carried through into the construction phase.

I-9.2. General Principles of Waste Water Management

(1) The application of a number of general principles will assist development in meeting the objectives of this plan. The general principles include:

- The waste management hierarchy;
- The "Treatment Train"; and
- Water Sensitive Urban Design.

Waste Management Hierarchy

(1) The waste management hierarchy is a universally accepted principle. Although developed for waste management the principles can be applied to urban development to reduce some of the impacts from cradle (source, individual dwelling level) to grave (end of pipe, disposal). The waste management hierarchy consists of:

- Avoid (most cost and resource efficient)
- Reduce
- Re-Use
- Recycle
- Disposal (most expensive and resource inefficient).

The waste management hierarchy can be applied to water, wastewater, stormwater quality and stormwater volumes.

Treatment Train

(2) The "Treatment Train" is a concept for stormwater quality treatment described in the NSW EPA Managing Urban Stormwater Series.

To gain optimum stormwater quality outcomes it is desirable to combine 2 or more Stormwater Quality Devices or management approaches. This combination of treatment devices forms a stormwater treatment "train." The Treatment Train consists of:

- Primary Level Treatment – screening of gross pollutants, sedimentation of coarse particles.
- Secondary Level Treatment – Sedimentation of finer particles, filtration.
- Tertiary Level Treatment – enhanced sedimentation and drainage, biological uptake, adsorption onto sediments.

I-9.3 WSUD Principles

(1) Figures I-9.1 & I-9.2 provide diagrammatic examples of common WSUD features utilising a source control approach. Figures I-9.3 & I-9.4 provide diagrammatic examples for WSUD approaches for larger subdivision and neighbourhood scale developments.

(a) WSUD Road Design and Lot Layout Principles

Principles of WSUD road design and layout are:

- The design should promote the retention of the existing land form. Cut and fill is to be avoided and minimised where possible.
- The design and layout should retain water courses.
- The design should minimise stormwater runoff and peaks by avoiding the channelling and concentration of flow and making use of existing site topography, natural drainage lines, soils and vegetation to treat, detain, retain and infiltrate stormwater.
- Street layout should be designed to fit the topography so as to avoid the requirements for cut and fill.
- Streets are not to be constructed within natural drainage lines.
- Street design and layout should take into account native vegetation.
- The street layout should avoid extended street lengths running perpendicular to the slope so as to reduce runoff velocities.
- Carriageway widths should be designed to minimise the amount of impermeable area but recognising that there will be a demand for which must be addressed either within the properties or on street.
- Street design is to take into account the cleansing of stormwater through the use of landscaping, grass swales, filter strips, infiltration pits and oil/grit separators.
- The design of the road cross section is to take into account the major stormwater runoff events whilst allowing for vehicle safety.
- The piped drainage scheme should take into account possible decreased flows, where the decreases to the design events can be demonstrated through modelling or other to Council's satisfaction, as a result of the adoption of "sustainable water" measures within individual lots onsite.

(b) WSUD Drainage Principles

- The trunk drainage design should be based on a system of natural watercourses and floodplains where applicable designed to mimic natural conditions and in particular natural flows as far as possible and to minimise maintenance.
- These waterway corridors form the spine for the open space and habitat corridor system.
- The drainage system should incorporate multiple objective open space uses where possible.
- The width of the habitat corridors should be based on:

- § the width required for flood event management.
- § the width required for habitat connectivity.
- § the width required for buffer areas.
- § the width required under policy.

- Ø The natural alignment and profile of the watercourse/s is to be retained where possible.
- Ø Water and stormwater quality improvement devices such as detention ponds, constructed wetlands, gross pollutant traps, litter traps, sediment ponds should be placed off line to maintain the physical integrity and aesthetics of the creek system.
- Ø Open space planning around the trunk drainage system is to incorporate public safety with flood criteria.
- Ø Indigenous vegetation should be retained and rehabilitated.
- Ø The primary transport system should be an existing natural or designed natural style channel. Concrete channels and pipelines are to be avoided where possible.
- Ø Trunk drainage may account for reductions in certain storm events and pollutant transfer as a result of initiatives to reduce and treat stormwater at the lot level and through street design and layout but must allow for possible failure of the local upstream attenuation systems.
- Ø Stormwater outlets and discharge into bushland areas are to be fitted with energy dissipation devices and protection so as to prevent scour and erosion.
- Ø Where existing natural watercourses are being used to convey stormwater from a development, particular attention must be given to the low flow situation to maintain the existing moisture levels that the flora and fauna are accustomed to and dependent upon.

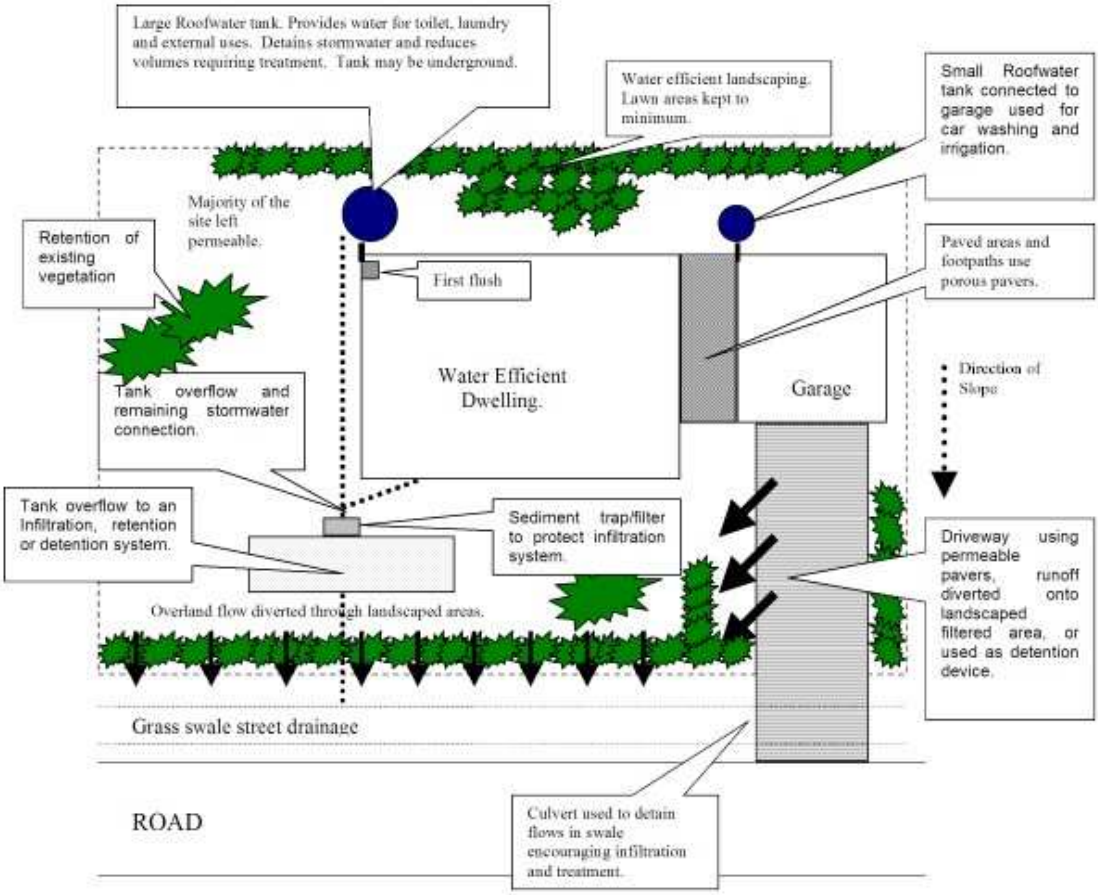


Figure I-9.1 Example of potential WSUD features applied to lot level. Diagrammatic only. Not to scale.

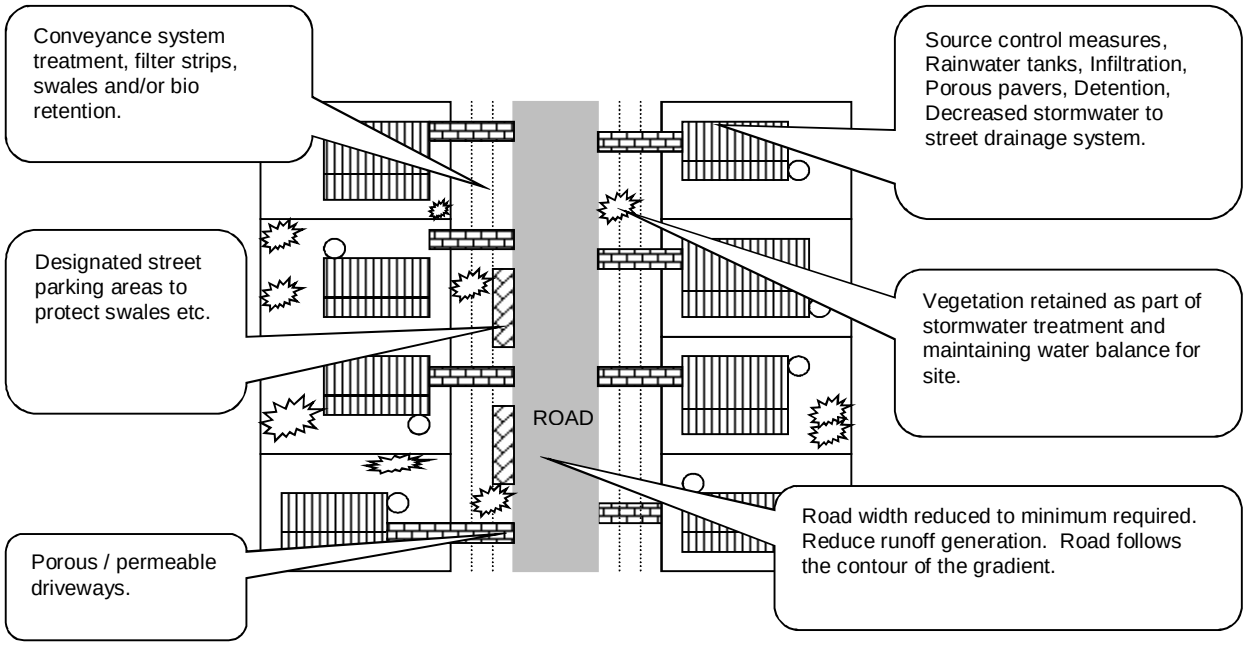


Figure I-9.2 Example of potential WSUD features in residential subdivision. Diagrammatic only. Not to scale.

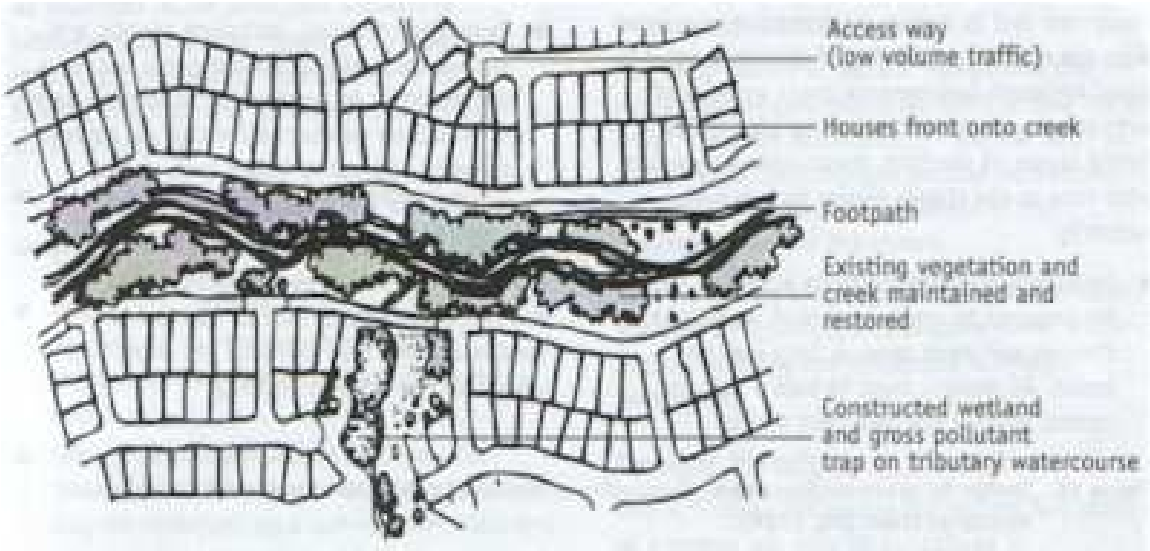


Figure I-9.3 Design for Residential area incorporating Habitat and Ecosystem Values (EPA, 1996).

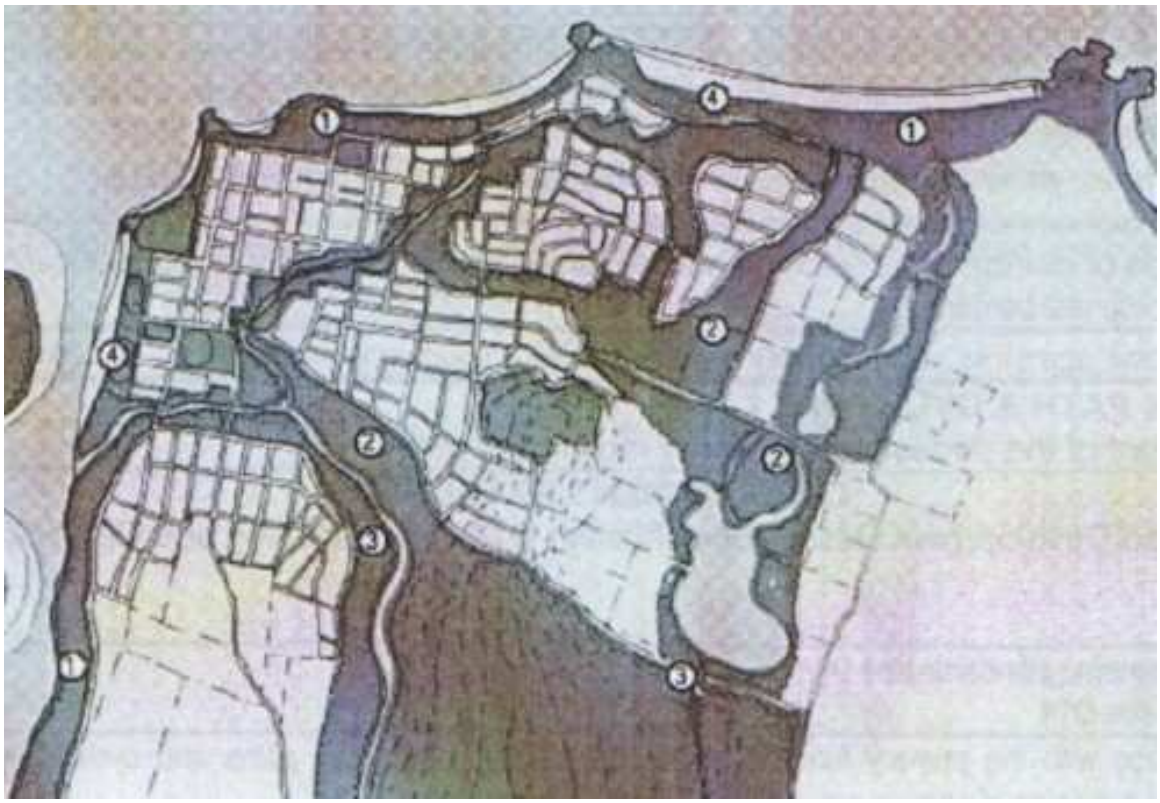


Figure I-9.4 Desirable Drainage Corridor / Open Space Planning (Taken from NSW Coastal Council Design Guidelines Discussion Paper).

Note. The open space provides for the protection of environmentally sensitive areas. The networks include (1) continuous foreshore access (2) wildlife corridors and habitat corridors along the creek system linking the hinterland and coastal areas (3) Riparian zones along rivers and lakes (4) Foreshore reserves along the coast.

I-9.4. Water Quality Controls

The increase in urbanisation leads to an increase in contaminant loading into waterways. This increase results from wastewater discharge, urban stormwater, erosion, loss of natural vegetative treatment systems, and waste as a result of inefficient resource use.

Unlike wastewater, urban stormwater has not historically been treated. Urban stormwater contamination results from a number of processes including:

- Increased stormwater volumes and subsequent increased Nitrogen and Phosphorous. This results from increased impermeability, and the loss of vegetative and infiltration treatment mechanisms;
- Oils, greases and heavy metals from roads and driveways;
- Gross pollutants from leaf litter;
- Sediment from construction practices;
- Faecal contamination from sewer overflows and animals;
- Chemical contamination from spills, household fertiliser and chemical application, and inappropriate application rates;
- Litter from irresponsible disposal practice.

Objectives

The objectives of water quality controls are to:

(1) Protect the values and quality of receiving waters for human (commercial, recreational, aesthetic, public health) and ecological purposes.

(2) Promote and implement stormwater quality source control.

(3) Implement appropriate and safe stormwater quality devices for the target pollutant and site conditions.

Controls

Performance Targets

(1) Targets for stormwater quality are provided in Table I-9.1.

Table I-9.1 Stormwater Quality Targets

Contaminant	Target
Coarse Sediment (0.1 to 0.5 mm)	80% mean annual reduction from baseline
Fine particles (<0.1 mm)	50% mean annual reduction from baseline.
Total Phosphorus	45 % mean annual reduction from baseline
Total Nitrogen	45% mean annual reduction from baseline
Litter	70 % mean annual reduction from baseline
Hydrocarbons, motor fuels, oils and greases	90% mean annual reduction from baseline

Variations to Targets

(2) Council may vary the above targets where:

- Environmental or infrastructure factors require alternate performance targets; or
- A Masterplan, Integrated Urban Water Management Plan, Stormwater Management Plan, Estuary Management Plan, Threatened Species Recovery Plan or other Council, State or Federal policy document has identified alternate performance targets.

Policy Requirements

(3) The following measures are required to be implemented to meet the Performance Targets and Objectives of this policy.

(a) All Applicable development

The Targets as specified in Table I-9.1 must be met for all applicable development covered by this policy.

All measures are required to be implemented and certified prior to the issuing of a final occupancy certificate or subdivision certificate (as applicable).

(i) Restrictions of treatment measures in certain instances

Council may specify alternate requirements, alternate performance targets, exclude or specify treatment measures and sizes where:

- Physical site conditions in a development area such as soil permeability, slope, soil types and groundwater limit the options available.
- Environmental or infrastructure factors in a development area require an alternate standard of performance to that listed in this policy.
- A Masterplan, Integrated Urban Water Management Plan, Stormwater Management Plan, Water Efficiency Plan, Estuary Management Plan, Threatened Species Recovery Plan, Council policy document or other approved policy exists for an area which has specified alternate treatment measures or performance standards for the development area.
- Design guidelines, as recognised by Council, indicate that the device is not suitable for the site constraints.
- The device does not meet local, State or Federal government public health criteria.

(ii) Pumps and Noise

Where pumps are used to supply water from a collection and re-use device (eg roofwater tank, stormwater, reclaimed water) then noise mitigation measures are to be put in place to ensure that the device does not breach legislative requirements and standards.

The noise mitigation measures are to be submitted to Council prior to approval.

All connections to be undertaken by qualified plumber and electrician.

(iii) Stormwater Quality Improvement Devices (SQID)

The following measures apply to Stormwater Quality Improvement Devices implemented for any development:

- The selection, installation and location of water quality treatment devices must take into account the ability to access, maintain and inspect the device in its operational condition by the householder, site owner, Council, private owner and/or regulatory authorities as applicable.
- Natural treatment processes using filtration, infiltration and vegetation are to be adopted in preference to 'hard" (eg concrete pre-fabricated) treatment measures where site, operational and maintenance conditions allow.
- All treatment measures are to be designed, installed and maintained in accordance with Council, or relevant authority, requirements.
- All SQIDs must have an overflow to the drainage system.
- SQIDs must be designed by a suitably qualified person or body approved or recognised by Council.
- Subdivision scale SQIDs are to be designed and sized in recognition of any lot level stormwater treatment and runoff volume reductions in place for the development area.
- Subdivision scale SQIDs are to have access points for staff and vehicles to allow maintenance and inspection. If maintenance requires heavy vehicles then access must be provided so that machinery does not become bogged.
- The type of SQID selected must be compatible with the vehicle, plant and/or machinery available in the area for maintenance.
- Subdivision/streetscape scale SQID's must be provided with a site plan showing access points for operation and maintenance of a type suitable for the vehicles required.
- Where relevant SQID's must be retained free of landscaping and overhead lines near the SQID to operate and manoeuvre maintenance machinery.
- Where relevant SQID's must have land retained near the SQID to dewater and stockpile material from de-sludging / de-silting, and vegetation harvesting maintenance if relevant for the types of SQID.
- SQID's, apart from conveyance controls, are to be off line from the man-made main drainage system unless there is no other option.
- SQID's are not to be located on any natural watercourse.
- SQID's must be designed with the aim to blend into the surrounds and be aesthetically pleasing.

- Systems are to be preferably "dry" systems (i.e. free draining system so pollutants can dry out, and therefore not stored in liquid) wherever possible. Wet sump systems are not preferred due to increased disposal and waste management costs.
- An Operations and Maintenance manual is to be produced for each SQID where it will become a Council asset.
- The justification for SQID selection will be required to be submitted by Council if a Stormwater Management Plan is required for the proposed development.
- SQIDs which are to be handed over to Council and which cannot meet WHS criteria, such as minimising the risk of needle stick injury, enclosed space or manhandling, to Council's satisfaction will not be approved.
- The developer will be required to operate, monitor and pay for all expenses in relation to the SQID for a period of 6 months. At the end of the period the asset will be handed over to Council in its as "designed" state along with:
- Invoices for all expenses incurred in that period from operations and maintenance.
- Details of all monitoring results obtained during the six month period.
- Details of all incidents including, but not limited to OHS & R incidents, public safety incidents, defects, repairs, failure of the system and complaints received whether related to the systems performance or other.
- Three (3) copies of the Operations and Maintenance manual for the device/s.

(iv) Private SQID Requirements

Where a SQID is not a Council asset the following additional requirements apply:

- Access to the device is to be available at all reasonable times for Council or relevant authority to inspect the device.
- The operator of the SQID will be required to submit to Council annual returns and a fee for the licensing of the SQID.
- The annual returns will consist of:
  - The name and address of the operator of the device.
  - The manufacturers name, type and location of the device.
  - The date/s maintenance was undertaken.
  - The name of the person/company who undertook the disposal of the material.
  - The location of the waste disposal site.
  - An estimation on the volumes of material removed.

- § A description of the material disposed (eg wet liquid, dry material, predominately leaf litter and sand, predominately fast food waste etc).
- § Details of any amendments to the device (if applicable) and the reason for amendments.
- § Updated Operations and Maintenance manuals (if applicable).

(b) Additions & Change of use

The following requirements may also apply for additions and change of use:

(i) For Development Other Then Residential Development

If it cannot be demonstrated that a change of use or addition will not result in a significant increase to stormwater and/or pollution generation then Council may require:

- measures to be incorporated to off-set any increase in stormwater and/or pollution generation.
- a Stormwater Management Plan.

(ii) For Residential Development

Council may require measures to meet the requirements of a Threatened Species Recovery Plan, Integrated Urban Water Management Plan, Stormwater Management Plan, Master Plan or other Council, State or Federal policy where the addition or redevelopment may impinge upon the objectives and/or targets of that policy.

(c) Residential Dwellings/Dual Occupancies

The following additional requirements apply:

- Residential lots and dual occupancies must meet targets through the implementation of measures as indicated in Table I-9.2.

(d) Subdivision, Commercial, Industrial, Tourism and Other Development to which this Policy Applies

The following additional requirements apply:

- Development must demonstrate adherence to the objectives and targets of this policy by:
  - § Undertaking a Stormwater Management Plan where requested.
  - § Achieving water quality targets by utilising water quality treatment devices in a method consistent with the waste management hierarchy, stormwater treatment train and principles of Water Sensitive Urban Design as described in Section I-9.2 of this Chapter.
- At least 80% of the total impermeable area of a site must be treated to the targets specified.

Table I-9.2 Compliance Requirements for Residential Lots/Dual Occupancies: Water Quality

Impermeable area	Requirements
Roof area	One or more of the following must be installed: Ø Roof water or stormwater tank at least 5,000 L per dwelling harvestable volume capturing at least 50 % of roof area; and/or Ø Infiltration Device/s with upstream sediment filter capturing at least 80% of total dwelling roof area; and/or Ø Bio retention device with upstream sediment filter capturing at least 80% of total dwelling roof area; or Ø Other treatment measure where it can be demonstrated by the proponent to the satisfaction of Council that the Objectives and Performance targets of this section are met. **Note.** Council may specify treatment measures or restrict the treatment measures available in certain areas.
Driveways where the impermeable paved surface inside the property boundary exceeds 30 m^2. This applies to lots under 800 m^2 only. There are no requirements for lots > 800 m^2	One or more of the following must be installed: Ø At least 80% of total impermeable area diverted to either w infiltration device/s with upstream sediment filter; and/or w bio retention device/s with upstream sediment filter; and/or w grassed / vegetated filter strip; and/or w stormwater tanks with upstream sediment filter. Ø Other treatment measure where it can be demonstrated by the proponent to the satisfaction of Council that the Objectives and Performance targets of this section are met. **Note.** Council may specify treatment measures or restrict the treatment measures available in certain areas.

I-9.5 Stormwater Generation

Urban development results in significant increase to the level of impermeability and subsequently massive increases in the volumes of stormwater being generated and stormwater peaks. The creation of hard surfaces also increases stormwater velocities. These increases result in:

- Increases in erosion as a result of peaks, velocities and increases in the number of bank full events.
- Increases in nuisance flooding, flash flooding, property damage and risk to public safety.
- Increase contaminant loading due to increased runoff volumes and replacement of vegetated filters with concrete systems.

- Aquatic biodiversity decline as communities become disrupted as a result of frequent and elevated stormwater pulse events.
- Increased demand for drainage infrastructure and treatment devices.

Objectives

The objectives of element are to:

(1) To maintain the sites mean stormwater volumes, peak flow rates, and runoff event frequency as near as reasonable to sites original characteristics.

(2) To reduce flooding, property damage, and risk to public safety to downstream areas as a result of increased impermeability, increase runoff volume and changes to drainage line upstream.

(3) To protect receiving environments from the impacts of changes to stormwater characteristics.

Controls

Performance Targets

(1) Performance requirements for stormwater volumes and drainage are provided in Table I-9.3

Table I-9.3 Stormwater Targets

Element	Target
Peak flowrates (m3/s)	The following targets apply: Ø Flowrates at any point are not to increase during storms for the 2 and 5 year ARI event; or Ø As specified within specific drainage sub catchment policy recognised by Council; or Ø As specified within Council standards.
Mean annual stormwater post development volumes (ML/yr).	The following targets apply Ø Mean annual stormwater volumes reduced by at least 10 % from baseline; or Ø As specified within specific drainage sub catchment policy recognised by Council; or Ø As specified within Council standards.

Variations to Targets

(2) Council may vary those targets from above where:

- Environmental or infrastructure factors require alternate performance targets; or
- A Masterplan, Integrated Urban Water Management Plan, Stormwater Management Plan, Estuary Management Plan, Threatened Species

Recovery Plan or other council, State or Federal policy document has identified alternate performance targets.

Policy Requirements

(3) The following measures are required to be implemented to meet the Performance Targets and Objectives of this policy.

(a) All Applicable Development

The Targets, as specified in I-9.3, must be met for all applicable development covered by this policy.

All measures are required to be implemented and certified prior to the issuing of a final occupancy certificate or Subdivision certificate (as applicable).

The selection, installation and location treatment devices must take into account the ability to access, maintain and inspect the device in its operational condition by the householder, site owner and/or regulatory authorities as applicable.

All treatment measures are to be designed, installed and maintained in accordance with Council, or relevant authority, requirements.

(i) Restrictions of treatment measures in certain instances

Council may specify alternate requirements, alternate performance targets, exclude or specify treatment measures where:

- Physical site conditions in a development area such as soil permeability, slope, soil types and groundwater limit the options available.
- Environmental or infrastructure factors in a development area require an alternate standard of performance to that listed in this policy.
- A Masterplan, Integrated Urban Water Management Plan, Stormwater Management Plan, Water Efficiency Plan, Estuary Management Plan, Threatened Species Recovery Plan, Council policy document or other approved policy exists for an area which has specified alternate treatment measures or performance standards for the development area.
- Design guidelines, as recognised by Council, indicate that the device is not suitable for the site constraints.
- The device does not meet local, State or Federal government public health criteria.

(ii) Pumps and Noise

Where pumps are used to supply water from a collection and re-use device (eg roofwater tank, stormwater, reclaimed water) then noise mitigation measures are to be put in place to ensure that the device does not breach legislative requirements and standards.

The noise mitigation measures are to be submitted to Council prior to approval.

All connections to be undertaken by qualified plumber and electrician.

(b) Additions & Change of use

The following additional requirements may apply for additions and change of use:

(i) For Development Other Then Residential Development

If it cannot be demonstrated that a change of use or addition will not result in a significant increase to stormwater and/or pollution generation then Council may require:

- measures to be incorporated to off-set any increase in stormwater and/or pollution generation.
- a Stormwater Management Plan.

(ii) For Residential Development

Council may require measures to meet the requirements of a Threatened Species Recovery Plan, Integrated Urban Water Management Plan, Stormwater Management Plan or other Council, State or Federal policy where the addition or redevelopment may impinge upon the objectives and/or targets of that policy.

(c) Residential Development (Individual dwellings, duplexes and units)

The following additional requirements apply:

- Residential lots and duplexes must meet targets through the implementation of measures as indicated in Table I-9.4.
- Larger residential development may be required to undertake a Stormwater Management Plan and demonstrate compliance with the targets of this element.

(d) Subdivision, Commercial, Industrial, Tourism and Other Development to which this Policy Applies

The following additional requirements apply:

- A Stormwater Management Plan may be required to be submitted.
- Development must demonstrate adherence to the objectives and targets of this policy by reducing stormwater volumes, peaks and velocities in a method consistent with the waste management hierarchy and principles of Water Sensitive Urban Design as described in section I-9.3.
- The harvesting of stormwater and roof water for non-potable uses should be used where possible as a method of reducing stormwater volumes, reducing stormwater peaks, reducing stormwater contaminants, and conserving potable water supplies.
- Infiltration and detention should be encouraged within the design. Measures may include, but are not limited to:
  - Hard areas such as roads and streetscape parking areas can be designed so as to detain stormwater to decrease flow peaks.

Table I-9.4 Stormwater Compliance Requirements for Residential Lot/Duplex

Impermeable area	Requirements
Roof area	One or more of the following must be installed: Ø Roof water or stormwater tank at least 5,000 litres harvestable volume capturing at least 50% of roof area; and/or Ø Infiltration Device/s with upstream sediment filter capturing at least 80% of total dwelling roof area; and/or Ø Bio retention device with upstream sediment filter capturing at least 80% of total dwelling roof area; or Ø Other treatment measure where it can be demonstrated by the proponent to the satisfaction of Council that the Objectives and Performance targets of this section are met. Note. Council may specify treatment measures or restrict the treatment measures available in certain areas.
Driveways where the impermeable paved surface inside the property boundary exceeds 30m^2. This applies to lots under 800m^2 only. There are no requirements for lots > 800m^2	One or more of the following must be installed: Ø At least 80% of total impermeable area diverted to either w infiltration device/s with upstream sediment filter; and/or w bio retention device/s with upstream sediment filter; and/or w grassed / vegetated filter strip; and/or w stormwater tanks with upstream sediment filter. Ø Other treatment measure where it can be demonstrated by the proponent to the satisfaction of Council that the Objectives and Performance targets of this section are met. Note. Council may specify treatment measures or restrict the treatment measures available in certain areas.

§ Open space areas, such as parks and landscaped areas, should be provided with a dual function to infiltrate and detain stormwater whilst incorporating public safety considerations.

§ The sites natural infiltration and detention features should be utilised where practical. This includes retaining key vegetation features to slow down water movement.

§ Infiltration and detention should be used in the conveyance system where possible.

§ Using driveways and culverts as check dams may slow down stormwater in the conveyance system and encourage infiltration.

Ø Infiltration, retention and detention system should be designed with dual purpose where possible. When implementing dual purpose adequate controls and signage must be provided to protect public safety. Examples of dual purpose include, but are not limited to:

§ Sports fields and detention areas.

- § Landscaping and infiltration areas, detention, retention ponds.
- § Car park areas and detention.
- § Open space, parkland and infiltration, detention areas and ponds.

- Ø The creation of impermeable area and increases to stormwater generation should be reduced as much as practical. Measures may include, but are not limited to:
  - § Road widths should be kept to the minimum required by Council specifications.
  - § Porous/ permeable pavers should be used where site conditions allow for pedestrian, light vehicles traffic areas, street car parking and footpaths.
  - § Using natural drainage designs and existing site features instead of piped and concreted drainage features where site conditions allow.
  - § Develop a train of stormwater treatment from the lot level to street system to discharge from the development.
- Ø Increases to stormwater velocities via concentration and channelling of flow should be avoided as much as practical. Measures may include, but are not limited to:
  - § Allowing stormwater to sheet flow over vegetated filter strips to encourage infiltration, decrease velocities and treatment before entry into the conveyance system.
  - § Use natural drainage designs and existing site features instead of piped and concreted drainage features, where site conditions allow, reducing stormwater velocities and encouraging infiltration.
  - § Streets should be designed so that they run parallel to the gradient of slopes where practical. Having long sections of street running directly down a slope should be avoided where practical.
- Ø Significant topographical features, vegetation features and natural drainage features should be retained where possible.
- Ø Energy dissipaters should be provided at the outlets from all formed drainage systems where an outlet exits to a water body, dunal system, bushland, area of erosive soils, bio retention device, grass swale, infiltration area, wetland, vegetated filter strip or other easily disturbed environment.

I-9.6 Riparian areas, Habitat corridors, Vegetation and Landform

(1) One of the key features of Water Sensitive Urban Design is to retain existing vegetation and landform features. This assists in reducing the impacts of flooding in urban areas by providing storage. Vegetation corridors assist in infiltrating, detaining and treating stormwater, maintaining water balance and providing aesthetics. Riparian vegetation in particular plays a crucial role in treating overland flow. The retention of vegetation along waterways and maintenance of habitat corridors is critical to maintaining biodiversity. Providing links allows flora and fauna to move through area's preventing localised extinctions.

The maintenance of an area's landform is also important. Cut and fill at the lot level increases soil disturbance and increases the likelihood of erosion and sedimentation. Alteration of the sites topography also results in changes to overland flow paths, increases the risk of nuisance flooding to downstream and neighbouring properties, and in a worse case may contribute to destabilising an area.

(2) Objectives

The objectives of element are to:

- To maintain habitat connectivity for critical areas and species.
- To reduce declines in biodiversity.
- To maintain vegetation this may assist in treating stormwater and providing habitat.
- To undertake revegetation in a manner so as to maintain habitat connectivity.
- To reduce erosion and sedimentation as a result of site destabilisation from cut and fill.
- To reduce flooding, property damage, and risk to public safety to downstream areas as a result of changes to drainage pathways or land slippage.

Performance Targets

(3) Performance requirements for vegetation and landform are provided in Table I-9.5.

Variations to Targets

(4) Council may vary those targets from above where:

- Environmental or infrastructure factors require alternate performance targets; or
- A Masterplan, Estuary Management Plan, Stormwater Management Plan, Integrated Urban Water Management Plan, Threatened Species Recovery Plan or other Council, State or Federal policy document has identified alternate performance targets.

Table I-9.5 Riparian Vegetation, Habitat Corridor and Landform Target

Aspect	Target	
Riparian vegetation buffer zones	The following targets apply:	
	Upstream catchment area (ha) of drainage line, creek, stream or river	Buffer distance (m) either side of high bank
	< 100ha	nil
	> 100ha and < 500ha	10m
	> 500ha and <1,000ha	20m
	>1,000ha and <5,000ha	30m
	>5,000ha and <10,000ha	40m
	> 10,000ha	50m
	Environmentally Sensitive	50m or as defined within an approved plan or recognised study for an area
Wetland buffer zones	50m buffer from the high water mark of any wetland	
Littoral Rainforest buffer zones	50m buffer from any littoral rainforest	
Habitat corridor buffer zones	Vegetation corridors maintained in accordance with an approved plan or policy for the area	
Landform	Cut and fill limited to 2m in total for individual lots	

Policy Requirements

(5) The following measures are required to be implemented to meet the Performance Targets and Objectives of this policy.

- Cut and fill is restricted to the targets of this policy.
- Buffer zones are to be left undisturbed in accordance with the targets of this policy.
- Where possible street and lot layout should be undertaken so that habitat is retained and connected to remnant habitat in adjoining areas outside of the immediate boundaries of the proposed development.
- Vegetation and topography should be retained along the sites natural drainage lines to a width of at least 5m either side of the mean water mark.
- Council may require reinstatement of riparian vegetation where identified by an existing policy, approved masterplan, estuary management plan, threatened species recovery plan, or in or neighbouring an environmentally sensitive area.

- Species selection for landscaping and vegetation reinstatement should be locally endemic species and ideally utilising seed stock from the area.
- The retention or reinstatement of vegetation and provision habitat connectivity should be undertaken with dual purpose such as park space, detention / infiltration basins, water treatment (filter strip) as appropriate.
- Landscaping and vegetation reinstatement should be undertaken to provide habitat connectivity with remnant vegetation in adjoining areas, outside the boundaries of the development area, where possible.

I-9.7 Construction, Erosion and Sediment Control

(1) The construction/building phase can deliver significant impacts on the environment predominantly through the physical removal of vegetation and disturbance of soil. Of-site environmental impacts may also result due to the inappropriate storage of machinery, materials and waste products. Compaction of infiltration areas may result due to vehicles traversing an area. Streambank and/or habitat disturbance may result with the inappropriate removal of vegetation and failure to prevent access to easily disturbed areas. The staging and planning of construction and building works is imperative for successful sediment and erosion control and site rehabilitation.

(2) Objectives

- To protect water quality from impacts during the construction phase.
- To protect key vegetation during the construction phase.
- To protect the site's natural properties, such as soil permeability, from compaction.
- To ensure construction waste is managed appropriately.
- To stage ground disturbance and progressively revegetate the site to reduce the area contributing sediment.

Performance targets

(3) Performance requirements fare provided in Table I-9.6.

Variations to Targets

(4) Council may vary those targets from above where:

- Environmental or infrastructure factors require alternate performance targets; or
- A Masterplan, Integrated Urban Water Management Plan, or other Council, State or Federal policy document has identified alternate performance targets.

Table I-9.6 Construction, Erosion and Sediment Control Targets

Element	Target
Suspended Soils and Turbidity	Soil Types Type D (dispersible) and Type F (fine) Ø Suspended Solids concentration not to exceed 50 mg/L for all 5 day rainfall totals up to the 75th percentile event. Soil Type C (Coarse) Ø Suspended Solids not to exceed 50 mg/L for all flow events up to 50% of the 1 year ARI flow. Ø Minimise soil erosion and discharge of sediment by the appropriate design, construction and maintenance of erosion and sediment control measures. Ø Employ all practical measures to minimise soil erosion and the discharge of sediment in storm events exceeding the design storms specified.
Motor fuels, oils and other chemicals	Ø All motor fuels, oils and other chemicals are stored and used on site in a manner which ensures no contamination of stormwater. Ø No incidents of visible pollution leaving the construction site.
Litter	Ø No litter placed in a position where it may be blown of washed off site. Ø No incidents of visible pollution leaving the construction site.
Vegetation Management	Ø No incidents of damage to retained vegetation during construction. Ø No incursion into vegetation buffer areas during construction. Ø A staged program exists to revegetate the site.
Treatment Areas	Ø Protection of existing or planned treatment/infiltration areas such as grass swales during construction.

Policy Requirements

(5) The following measures are required to be implemented to meet the Performance Targets and Objectives of this policy, including at the construction phase.

(a) Erosion and Sediment Control and Soil and Water Management Plans

- Ø An erosion and sediment control plan is required:
  - § Where the area of disturbance is between 250m^2 to 2500m^2.
  - § Where the area of disturbance is <250m^2 but the slope of the site exceeds 18°.
- Ø A Soil and Water Management Plan is required where the area of soil disturbance >2,500m^2.

(b) Erosion and Sediment Control

- Ø All erosion and sediment control measures are to be installed prior to the commencement of any work, including cutting and filling.
- Ø All sediment control measures are to be constructed to prevent sediment from leaving the site or entering downstream properties, drainage lines or watercourses.

- Disturbance of the site must only occur on areas indicated in the approved plans.
- A sediment control fence must be installed at the downslope perimeter of the disturbed area to prevent sediment and other debris from leaving the site.
- Direct up slope runoff around the site, by use of a diversion bank or channels. These devices may require measures to control erosion depending on the volume of flow anticipated.
- When roof structures and piped or artificial stormwater systems are in place, discharge water is to be managed in a manner that reduces the likelihood of erosion. On completion of the roof area of a building, guttering and downpipes are to be connected to the stormwater system.
- The stormwater system must prevent sediment from being eroded from the site and deposited downstream.
- All erosion and sediment control measures are to be regularly maintained in good working order at all times and inspected for adequacy following any rainfall event.
- All disturbed areas are to be made erosion resistant by revegetation, turfing or stabilised by paving on completion of the works.

(c) Stockpiles, storage and waste management

- Stockpiles of erodible materials (sand, soil, spoil and vegetation) must be protected by a sediment fence or bund and temporary cover such as a tarp of vegetated if the stockpile will be stored on site for an extended period of time.
- No construction materials, building materials, fill material, chemicals, waste, bins, skips or other, are to be stored either in the gutter, footpath, drainage line or outside of the site boundary.
- Petroleum and other chemical products must be prevented from entering the stormwater system or contaminating the soil.
- Impervious bunds must be constructed around all fuel, oil or chemical storage areas with an enclosed volume large enough to contain 110% of the volume held in the largest tank.
- Waste on site is to be stored in a manner which:
  - Prevents rainwater entry.
  - Has stormwater diverted around it to prevent contamination of surface waters.
  - Prevents windblown litter from escaping.
- Adequate trade waste and litter bins must be provided onsite and serviced regularly.
- Concrete wastes or washings from concrete mixers must not be deposited in any location where those wastes or washings can flow, or can be washed into any areas of retained vegetation or receiving waters.

(d) Vehicle access

- For individual dwellings vehicular access is to be restricted to one stabilised access point. Location will be identified on the Erosion and Sediment Control Plan submitted to Council.
- For larger Subdivision works vehicular access must be confined to a maximum of two locations or as agreed with Council. Such locations will be shown on the Soil and Water Management Plan or Erosion and Sediment Control Plan.
- Access to construction sites of 1 hectare or more, shall be fitted with a shakedown device.
- The shakedown device shall be located along the haul route, immediately before the intersection with the public road.
- Regular maintenance of shake down devices is required to ensure no material is deposited on public roads.
- Should material be deposited on any public street, it shall be swept up and removed before the end of that working day.
- If after using shakedown device, material is still adhering to truck wheels and being deposited on public roads, a wheel washing device must be installed and used at site exit locations to ensure no further material is carted off site and deposited on public roads.
- Runoff from access surfaces must be drained into an adjacent sediment trapping device before leaving the site. Where appropriate, devices to remove soil particles from vehicles must be placed at site exit locations.
- On subdivision work, priority must be given to road and shoulder stabilisation based on erosion hazards.
- On subdivision work newly sealed hard stand areas must be swept thoroughly after sealing/surfacing to prevent excess aggregate or gravel entering street drains.

(e) Protection of Stormwater Treatment Areas and Existing Infrastructure

- Existing or planned stormwater treatment areas such as Infiltration, grass swale or bio filtration areas are to be clearly marked and identified as no go areas. No materials are to be stockpiled in these areas. Vehicles are not to traverse the area or be parked in the area. The site should be kept free from heavy pedestrian use to maintain infiltration properties.
- The footpath or nature strip adjoining construction and building sites must not be disturbed by construction activities other than shown on the plan for:
  - access to the site;
  - installation of services;
  - other works specifically approved by Council.

(f) Vegetation Removal and Protection

- No vegetation is to be removed prior to approval of Council to start work on any stage, and not before the approved sediment control measures are in place.
- Vegetation removal is to be staged to avoid the complete removal of vegetation on site, and allow the regeneration of vegetation cover.
- For Subdivision works a plan must be undertaken which shows the staging of vegetation removal, vegetation retention, "no go" areas and regeneration works.
- The removal or disturbance of native trees, shrubs and ground covers shall be minimised.
- Vegetation which is to remain on site is to be clearly marked and fenced off. The immediate area around vegetation to be retained is to be kept free of vehicle storage, vehicle thoroughfare and material storage.
- Retained vegetation and buffers must be protected by a suitable fence barrier. Fenced areas shall be clearly signposted "No Access Area".
- Where practical vegetative debris must be salvaged either as logs or woodchip for later reuse to control erosion or to rehabilitate the site. Non salvageable material, such as stumps and roots, may be removed.
- Water body buffer zones are to be clearly marked and identified as no go areas. No materials are to be stockpiled in buffer zones. Vehicles are not to traverse or be parked in the buffer zone. The site should be kept free from pedestrian use.

Part I-10. Crime Prevention through Environmental Design—CPTED

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Crime Prevention through Environmental Design (CPTED) utilises crime prevention strategies that focus on planning, design and structure of individual development which ultimately promote safer towns and neighbourhoods. CPTED serves to implement design and place management principles to reduce the likelihood essential crime ingredients from intersecting in the built environment; *offenders, potential victims/ targets and opportunities*. The following section of the DCP is adapted from Safer by Design guidelines provided by the NSW Police Force.

This section provides more detail than those provided elsewhere within the DCP however comprehensive guidelines should be sought from the NSW Police Force. The general principles contained here and in the publications listed below should be used to provide guidance when preparing and assessing more comprehensive developments within Richmond Valley. It is unlikely minor developments such as single dwellings and dual-occupancies will require more than those provided within the relevant DCP sections for those purposes, however larger developments will require more detailed guideline adherence and may require referral to the Police for comment.

The NSW Police assessment tools *Safer By Design Evaluation* and a *Companion to the Safer By Design Evaluation* are based upon Australian Risk Management Standard 4360:1999. The *Safer By Design Evaluation* process that identifies and quantifies crime hazards and location risk. The evaluation measures include crime likelihood (statistical probability), consequence (crime outcome), distributions of reported crime (hotspot analysis), socio-economic conditions (relative disadvantage), situational hazards and crime opportunity.

I-10.1 General Objectives

CPTED generally tries to minimise crime opportunities by:

(1) Maximising risks to offenders (increasing the likelihood of detection, challenge and apprehension);

(2) Maximising the efforts required to commit crime (increasing the time, energy and resources required to commit crime);

(3) Minimising the actual and perceived benefits of crime (removing, minimising or concealing crime attractors and rewards); and

(4) Minimising excuse making opportunities (removing conditions that encourage/facilitate rationalisation of inappropriate behaviour).

I-10.2 CPTED Principles

Territorial Reinforcement

(1) Community ownership of public space sends positive signals to the community. Places that feel owned and cared for are likely to be used, enjoyed and revisited. People who have guardianship or ownership of areas are more likely to provide effective supervision and to intervene in crime than passing strangers and criminals rarely commit crime in areas where the risk of detection and challenge are high. Effective guardians are often ordinary people who are spatially 'connected' to a place and feel an association with, or responsibility for it.

Territorial Re-enforcement uses actual and symbolic boundary markers, spatial legibility and environmental cues to 'connect' people with space, to encourage communal responsibility for public areas and facilities, and to communicate to people where they should/should not be and what activities are appropriate.

Surveillance

(2) People feel safe in public areas when they can see and interact with others, particularly people connected with that space, such as shopkeepers or adjoining residents. Criminals are often deterred from committing crime in places that are well supervised.

- Natural surveillance is achieved when normal space users can see and be seen by others. This highlights the importance of building layout, orientation and location; the strategic use of design; landscaping and lighting – it is a by-product of well-planned, well-designed and well-used space.
- Technical/mechanical surveillance is achieved through mechanical/electronic measures such as CCTV, help points and mirrored building panels. It is commonly used as a 'patch' to supervise isolated, high risk locations.
- Formal (or Organised) surveillance is achieved through the tactical positioning of guardians. An example would be the use of on-site supervisors, e.g. security guards at higher risk locations.

Access Control

(3) *Access control* treatments restrict, channel and encourage people and vehicles into, out of and around the development. Way-finding, desire-lines and formal/informal routes are important crime prevention considerations. Effective access control can be achieved by using physical and symbolic barriers that channel and group pedestrians into areas, therefore increasing the time and effort required for criminals to commit crime.

- *Natural access control* includes the tactical use of landforms and waterways features, design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens.
- *Technical/Mechanical access control* includes the employment of security hardware. Crime, Design and Urban Planning: From theory to Practice Formal (or Organised) access control includes on-site guardians such as employed security officers.
- *Formal (or Organised) access control* includes on-site guardians such as employed security officers.

Space/Activity Management

(4) *Space/Activity Management* strategies are an important way to develop and maintain natural community control. Space management involves the formal supervision, control and care of the development. All space, even well planned and well-designed areas need to be effectively used and maintained to maximise community safety. Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.

I-10.3 Design standards/controls

Developments which require CPTED Principles to be applied

(1) This plan applies to all land in the Richmond Valley Local Government Area. Applicants are advised to contact our Development Assessment staff to clarify whether this plan will apply in their specific situation. If it does, the Statement of Environmental Effects and site analysis that accompany the development application should address this plan. A security management plan may be required to be submitted with the development application. The security management plan should set out all relevant methods to be used to prevent crime and improve safety of the development.

The following types of development proposals are required to be referred to the NSW Police Force for comment. The following list is not comprehensive, and the decision as to whether a proposed development is required to be submitted for police comment lies with the consent authority.

- Multiple units, townhouse/villa developments (20 or more)
- Mixed use developments (with 20 or more dwellings)
- New or upgraded commercial/retail developments (major work)
- New industrial complex (ie multiple industrial units)
- New or upgraded schools, child care centres and hospitals

- Railway stations
- Large sports/community facilities
- Clubs/hotels, (ie extended hours, gaming rooms)
- Service stations/convenience stores
- Unusual developments (ie arcades, brothels, amusement centres, upgrade of Department of Housing properties/estates).

The NSW Police will generally respond within 14 days of referral and the recommendations supplied will be taken into account when determining the application.

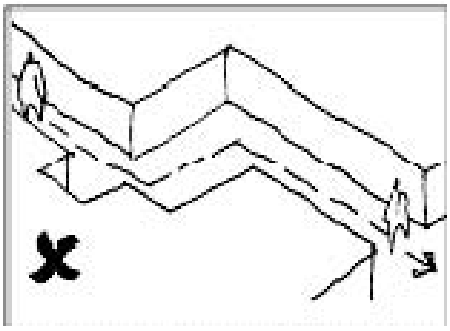
Application of CPTED Principles

(2) Suggested application of CPTED Principles:

(a) Natural Surveillance

Avoid Blind Corners—'Blind corners' or concealed areas make people feel uneasy and unsafe. Not knowing 'what is around the next corner' can discourage genuine users of a space to use and maximise it.

- Avoid blind corners in pathways, stairwells, hallways and car parks.
- Pathways should be direct. All barriers along pathways should be permeable (see through) including landscaping, fencing etc.
- Consider the installation of mirrors to allow users to see ahead of them and around corners.
- Install glass panels in stairwells where appropriate.



(b) Communal/Public Areas

Provide natural surveillance for communal and public areas. This serves two main purposes:

- Makes legitimate users of a space feel safe as they 'are not alone' in a secluded area. There is always the potential for someone to 'help' if there are any problems.
- Deters illegitimate users as their presence in and misuse of the space will be rapidly noticed. A 'positive feedback' effect is created as people feel safer using the area encouraging additional use.

To achieve this:

- Position active uses or habitable rooms within dwellings etc with windows adjacent to main communal/public areas (eg playgrounds, swimming pools, gardens, car parks).
- Communal areas and utilities (eg laundries and garbage bays) should be located in areas where they may be naturally surveyed..
- Where elevators or stairwells are provided, open style or transparent materials are encouraged on doors and/or walls of elevators/ stairwells.
- Waiting areas and entries to elevators / stairwells should be close to areas of active uses, and should be visible from the building entry.
- Seating should be located in areas of active uses.

(c) Entry Points

Provide entries which are clearly visible. Prominent entrances allow:

- Natural surveillance from street,
- Users to feel safe and to easily access the area,
- Emergency services to access the property rapidly.

Entrances should be at prominent positions within development design, easily accessible from well-lit street areas and within areas providing natural surveillance opportunities.

Design entrances in such a way as to allow users to see in before entering.

(d) Fencing

Although high fences may provide privacy, they restrict natural street surveillance from potential intruders. Fencing below one meter, or open design fencing allows for adequate privacy and adequate levels of natural surveillance.

- Front fences should be predominantly open in design (eg pickets and wrought iron) or low in height. A sense of privacy can be increased by light coloured fencing.
- High solid front fences should have open elements above 1 metre.

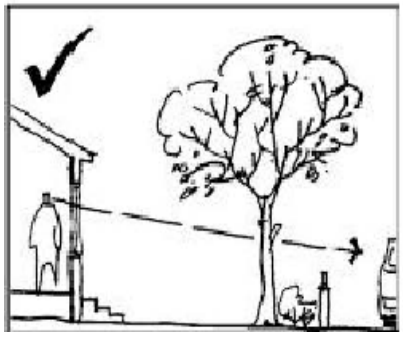
(e) Landscaping

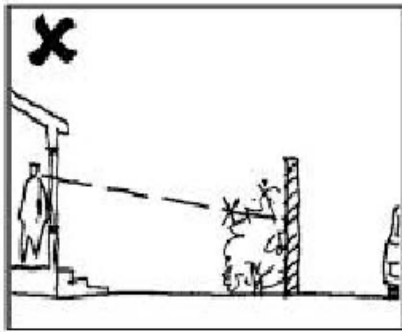
Avoid landscaping which obscures natural surveillance.

As with 'blind corners' or general concealed areas, the large size of certain vegetation obstructs visibility and makes people feel uneasy and unsafe. Perceiving that something may be 'behind those bushes' can discourage genuine use of a space.

- Avoid medium height vegetation with concentrated top to bottom foliage. Plants such as low hedges and shrubs (1 to 1.2m high), creepers, ground covers or high canopied vegetation are good for natural surveillance.
- Trees with dense low growth foliage should be spaced or have the crown raised to avoid a continuous barrier.

- Use low ground cover or high canopied trees, clean trunked to a height of 2 metres around children's play areas, car parks and along pedestrian pathways
- Avoid vegetation that conceals the building entrance from the street.





(f) Lighting

Adequate lighting is essential in making people feel safe and in deterring illegitimate users. Good lighting design should;

- Allow people to be able to see ahead progressively into areas along paths and accessways,
- (ii) Encourages legitimate users to use a facility after daylight hours with the result their presence will deter potential illegitimate users,
- Facilitates formal surveillance (by Police or security patrols).

Care should be taken to ensure lighting does not produce glare or dark shadows. Entrances, exits, service areas, pathways, car parks etc. should be well lit after dark when they are likely to be used.

- Use diffused flood lights and/or movement sensitive lights.
- Direct these lights towards access / egress routes to illuminate potential offenders, rather than towards buildings or resident observation points.
- Lighting should have a wide beam of illumination, which reaches to the beam of the next light, or the perimeter of the site or area being traversed. Avoid lighting spillage onto neighbouring properties as this can cause nuisance and reduce opportunities for natural surveillance.
- As a guide, the areas should be lit to enable users to identify a face 15m away.
- Use energy efficient lamps /fittings /switches to save energy.

(g) Mixed Land Uses

Mixed land uses allow for natural surveillance of areas across a range of hours and times (ie weekday or weekend, AM or PM). To the extent that all other provisions within this DCP allow, mixed land uses offer a

way of ensuring surveillance of an area will promote increased use and security.

- Locate shops and businesses on lower floors and residences on upper floors. In this way, residents can observe the businesses after hours while the residences can be observed by the businesses during business hours.
- Incorporate car wash services, taxi ranks, bus shelters, kiosks and other food vendors within car parks.
- Include kiosks, food vendors and restaurants within parks.
- Refer to the relevant planning instruments, public land registers and Plans of Management for permissible uses within areas to promote increased surveillance and use.

(h) Security

Traditional security related equipment will help make a space more difficult for intruders to break into, however its overuse may impinge on adequate levels of natural surveillance.

- Security grilles and security doors should be permeable (see through).
- Avoid solid shutters on front windows and doors.

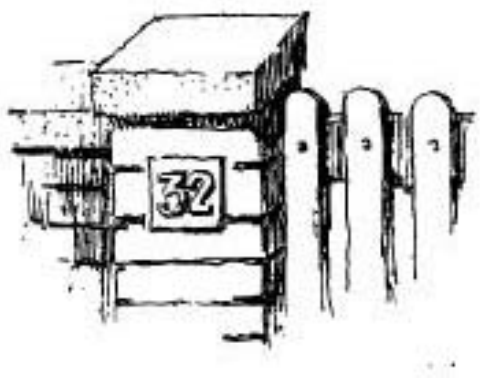
Security grilles, shutters and doors should allow natural observation of the street and be sympathetic to the architectural style of the building.

(i) Building Identification

Clear building identification prevents unintended access and assists persons trying to find the building - particularly emergency vehicles in an urgent situation.

- Street numbers should be at least 7cm high, and positioned between 0.6m and 1.5m above ground level on the street frontage.
- Street numbers should be made of durable materials, preferably reflective or luminous, and unobstructed (eg by foliage).
- Location maps and directional signage should be provided for larger development.

Security grilles, shutters and doors should allow natural observation of the street and be sympathetic to the architectural style of the building.



(j) Materials

Use materials which reduce the opportunity for vandalism.

- Strong, wear resistant laminate, impervious glazed ceramics, treated masonry products, stainless steel materials, anti-graffiti paints and clear over sprays will reduce the opportunity for vandalism. Flat or porous finishes should be avoided in areas where graffiti is likely to be a problem.
- Where large walls are unavoidable, consider the use of vegetation or anti-graffiti paint. Alternatively, modulate the wall, or use dark colours to discourage graffiti on vulnerable walls.
- External lighting should be vandal resistant. High mounted and/or protected lights are less susceptible to vandalism.
- Communal/ street furniture should be made of hard-wearing vandal resistant materials and secured by sturdy anchor points or removed after hours.

(k) Spaces

Spaces should be clearly defined to express a sense of ownership and reduce illegitimate use/entry.

The definition of clear boundaries allows:

- People to know when they are trespassing on private property.
- Passers-by to clearly identify when someone is trespassing and illegally using the premises.
- Create boundaries between public and private space.

(l) Pride and Involvement

A sense of community pride in a particular area will help maintain an area and will easily identify illegitimate behaviour.

CPTED Principles relating to Residential Development design

(3) Additional CPTED Principles that can be applied to residential development are:

(a) Landscaping – Residential Development

Landscaping can be an effective way of controlling/directing movement in an area. Depending on the intention, it can either restrict or encourage people to access a particular area.

- Vegetation can be used as barriers to deter unauthorised access Avoid large trees/shrubs and buildings works that could enable an intruder to gain access to the dwelling or to neighbouring dwellings. Prickly plants can be used as effective barriers. Species include bougainvilleas, roses, succulents, and berberis species.
- Large trees, carports, skillion extensions, fences, and downpipes in situations can provide a means of access into yards or up to second storey windows or balconies.

(b) Security – Residential Development

Traditional security systems can be very effective in reducing illegitimate access. It is important however to be reasonable and not

over secure a location as this may make genuine users feel unsafe and even restrict legitimate access.

- Install quality locks on external windows and doors.
- Install viewers on entry doors.
- If security grilles are used on windows they should be open able from inside in case of emergencies.
- Ensure skylights and/or roof tiles cannot be readily removed or opened from outside.
- Consider monitored alarm systems.
- Provide lockable gates on side and rear access ways.
- Building supervisors or security guards may be a security consideration in larger unit developments, holiday units, caravan parks, etc.
- Ideally no more than two entry points to a dwelling.
- Main entry doors should be fitted with a door viewer and door chain.

(c) Ownership– Residential Development

Research indicates that well maintained and 'cared for' properties are less likely to experience crime.

- Ensure the speedy repair or cleaning of damaged or vandalised property.
- Provide for the swift removal of graffiti.

Application of CPTED Principles relative to Public Services

(4) ATMs, Help Points, Bicycle Storage, Public Phones, and other Public services should be located in areas of high activity.

- Public services should be located in highly visible areas that are well lit.
- Locate public services away from possible places to hide, eg fire exits.
- Avoid locating public services in recesses.
- Design areas around ATM's to incorporate reflective materials so that users can observe people behind.
- Consider conflicting uses when designing public space (e.g. do not put a public phone or seat near an ATM as this provides a potential thief with an opportunity to loiter).

Part I-11. Land Use Conflict Risk Assessment—LUCRA

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

A wide range of issues can constitute land use conflicts and interface issues. Conflicts may arise within Richmond Valley between agricultural (and other rural) practices [sources] and neighbouring occupants [receptors]. Managing potential instances where land use conflict might occur is most desirable before real conflict becomes realised and untenable. Rural land conflict occurs most generally between rural agricultural practices and rural residential style landowners, however these conflicts can also occur on the fringe of urban and rural areas.

Rural land use conflict issues most common on the North Coast of NSW include; absentee landholders, access, clearing, lack of co-operation, dogs, dust, poorly located dwellings, electric fences, general fence maintenance, firearms, heritage management, lighting, litter, noise, odours, pesticides, poisoning, pollution, smoke, bushfire maintenance, soil erosion, straying livestock, theft/vandalism, vegetation removal, trespass, visual amenity, water, and weed maintenance issues.

I-11.1 General Objectives

The general objectives of this Chapter are:

(1) To reduce the incidence and likelihood of land use conflict within Richmond Valley.

(2) To introduce methods and guidelines to reduce the likelihood and manage existing land use conflict within the Local Government Area (LGA).

(3) To reproduce current guidelines and 'buffer distances' (at the time of DCP formulation) between conflicting land uses in accordance with best practice principles (Living and Working in Rural Areas – A handbook for managing land use conflict issues on the NSW North Coast (LWRA Handbook)). 'Buffer distances' provided within this section of the DCP serve as a benchmark for proposed development within Richmond valley, with some opportunity for modification or review based upon demonstrated exceptional circumstance.

(4) To introduce the concept of Land Use Conflict Risk Assessment (LUCRA) as part of the development assessment process. Where it is deemed necessary by the consent authority or consultant representing the applicant, a LUCRA shall be provided alongside all other reports provided to support proposed development. Land use buffers provided here and within the LWRA Handbook can be used to determine whether land use conflict risk assessment need to be addressed in detail within a formal development application.

Living and Working in Rural Areas – A handbook for managing land use conflict issues on the NSW North Coast (LUCRA Handbook) – is the publication from which most of the following DCP guidelines have been reproduced.

I-11.2 LUCRA Design principles

(1) A LUCRA is not an alternative to locating proposed development away from existing land-uses. The first choice for locating new development should always be outside of the buffer distance area for the proposed and neighbouring existing land-uses. A LUCRA should support the proposed siting of the new development based upon technical reasoning and measurements demonstrating land use conflict is unlikely to occur.

(2) Circumstances where proposed development requires a LUCRA

- A LUCRA is required where a proposed development for a particular land-use has a buffer distance which infringes upon nearby existing land-uses and/or development. Buffer distances of existing land uses, key environmental assets and/or development also trigger the need for LUCRA if the development proposed infringes existing land-use/development/key environmental asset buffers. Buffer distances for development types are given within Tables I-11.1, I-11.2 & I-11.3 below.
- A LUCRA is also required if development is proposed with the vicinity of an existing landuse which, due to extraordinary circumstances deemed by the consent authority, applicant or representing consultant for the applicant, requires an increased buffer distance. In exceptional

circumstances a buffer distance may be reduced based upon accepted technical reasoning. Reduction of buffer distance could be based upon one or more of the relevant elements given below, however more commonly these elements may increase buffer distances.

(3) Buffer distances applied to proposed and existing land uses

- Buffer distances may vary from those stated within the DCP as the distances are based upon generic situations between proposals based on local topographic, climate, environmental and social considerations. The minimum buffer distances do not apply to existing developments that have already been approved. The conditions of consent placed on these developments form the minimum standards that these developments should achieve.
- Proponents, land owners and consultants undertaking conflict risk assessment will be required to reach consensus concerning the effort and detail should be applied to a LUCRA. The consent authority and any other involved regulatory authorities should be consulted prior to the lodgement of a formal application for a development requiring LUCRA to determine the level and direction of detail required.

I-11.3 Buffers

(1) Types of Buffers

Separation buffers are the most common and involve establishing a physical separation between land uses where conflict could arise. The aim of doing this is to reduce the impacts of the uses solely by distance separation, rather than by any physical means such as earthworks or vegetation planting. These can be fixed separation distances or variable.

- Fixed separation distances generally apply in the absence of evidence that an alternate lesser buffer will be effective in the circumstances.
- Variable separation distances are calculated based on the site specific circumstances given factors such as the scale of the development, risk of conflict and risk to the adjoining environment have regard to accepted procedures for assessing these risks. The odour assessment process in NSW involving stationary sources is a form of a variable buffer as it varies according to specifics of the development and the site. Biological and vegetated buffers are buffers created by vegetation planting and physical landscaping works. They are most commonly designed to reduce visual impact and reduce the potential for airborne-created conflict such as chemical spray drift and dust and can help provide environmental protection through vegetated filter strips and riparian plantings. Landscape and ecological buffers refer to the use of existing vegetation to help reduce the impacts from development. They are mostly used to protect a sensitive environment by maintaining or enhancing existing habitat and wildlife corridors.
- Property management buffers refer to the use of alternative or specialised management practices or actions at the interface between uses where the potential for conflict is high. The aim of these buffers is

to reduce the potential of conflict arising in the first place. Examples include siting cattle yards well away from a nearby residence to reduce potential nuisance issues, and adopting a specialised chemical application regime for crops close to a residence or waterways with the aim of minimising off-site impacts on neighbours and the environment.

Table I-11.1 Recommended Minimum Buffers (metres) for Primary Production (From *Living and Working in Rural Areas – A handbook for managing land use conflict NSW North Coast*)

		Residential areas & Urban development	Rural dwellings	Education facilities & pre-schools	Rural tourist accommodation	Watercourses & wetlands	Bores & wells	Potable water supply/catchment	Property boundary	Roads
Piggeries[1]	Housing & waste storage	1000	500	1000	500	100	SSD	800	100	100
	Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Feedlots[2]	Yards & waste storage	1000	500	1000	1000	100	SSD	800	100	100
	Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Poultry[3]	Sheds & waste storage	1000	500	1000	500	100	SSD	800	100	100
	Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Dairies[4]	Sheds & waste storage	500	250	250	250	100	SSD	800	100	100
	Waste utilisation area	500	250	250	250	100	SSD	800	20	20
Rabbits[5]	Wet shed, ponds & irrig.	300	150	150	150	100	SSD	800	50	50
	Waste utilisation area	120	60	120	60	100	SSD	800	20	20
Other intensive livestock ops[6]		500	300	500	300	100	SSD	800	100	100
Grazing of stock		50	50	50	50	BMP	SSD	BMP	NAI	BMP
Sugar cane, cropping & hortic.		300	200	200	200	BMP	SSD	BMP	NAI	BMP
Greenhouse & controlled environment horticulture[7]		200	200	200	200	50	SSD	SSD	50	50
Macadamia de-husking		300	300	300	300	50	SSD	SSD	50	50
Forestry & plantations		SSD	SSD	SSD	SSD	STRC	SSD	SSD	BMP	STRC
Bananas		150	150	150	150	50	SSD	SSD	BMP	BMP
Turf farms[8]		300	200	200	200	50	SSD	SSD	BMP	SSD
Rural industries (incl. feed mills and sawmills)		1000	500	500	500	100	SSD	SSD	SSD	50
Abattoirs		1000	1000	1000	1000	100	SSD	800	100	100
Potentially hazardous or offensive industry		1000	1000	1000	1000	100	SSD	800	100	100
Mining, petroleum, production & extractive industries		500 1000*	500 1000*	500 1000*	500 1000*	SSD	SSD	SSD	SSD	SSD
		* Recommended min. for operations involving blasting								

NAI = Not an issue;

SSD = Site specific determination (no standard buffer distance applies);

BMP = Best management practice to apply given site circumstances. Buffer and/or management practice should represent duty of care to the environment and the public and include measures necessary to protect bank stability, maintain riparian vegetation and protect water quality. The incorporation of best management practice measures in property and farm plans is encouraged;

STRC = Subject to relevant codes.

Buffer distances represent the recommendations of the North Coast Land Use Conflict Working Group following a synthesis of existing guidelines and policy. In some cases, specific and relevant guidelines may require larger buffers or lesser buffers than those prescribed may be appropriate in the circumstances.

Note[1] Subject to environmental assessment in accordance with National *Environmental Guidelines for Piggeries* (APL 2004) and *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)

Note[2] Subject to environmental assessment in accordance with *NSW Feedlot Manual*(NSW Agriculture 1997) or *A Producers Guide to Starting a Small Beef Feedlot in NSW* (NSW Agriculture, 2001) and *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)

Note[3] Subject to environmental assessment in accordance with *NSW Poultry Farming Guidelines* (NSW Agriculture 1996), *NSW Meat Chicken Guidelines* (NSW Agriculture 2004), *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)

Note[4] Subject to environmental assessment in accordance with *NSW Guidelines for Dairy Effluent Resource Management – Draft* (NSW Agriculture 2004), and *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)

Note5 Subject to environmental assessment in accordance with *Rabbit Farming: Planning and development control guidelines* (NSW Inter-Departmental Committee on Intensive Agriculture, 1999) and environmental assessment in accordance with *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006)

Note[6] Subject to environmental assessment in accordance with *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2006) and any other relevant guideline or policy

Note[7] Subject to environmental assessment in accordance with *Guidelines for the Development of Controlled Environment Horticulture* (NSW DPI 2005)

Note[8] Subject to environmental assessment in accordance with *Turf Farming – Guidelines for Consent Authorities in NSW* (NSW Agriculture 1996)

Table I-11.2 Recommended minimum buffers (metres) for key environmental assets (From *Living and Working in Rural Areas – A handbook for managing land use conflict NSW North Coast*)

	Residential areas & Urban development	Rural settlement & on-site waste systems	Education facilities & pre-schools	Rural tourist accommodation
Native vegetation/habitat	50	50	50	50
Ecosystem & wildlife corridors	50	50	50	50
Estuaries & major waterways	100	100	100	100
Minor waterways	50*	50*	50*	50*
Wetlands	100	50*	50*	50*
State & regionally significant farmland	300	300	300	SSD

* Site assessment is necessary as 50m buffer may be inadequate given groundwater, soil type, topography ad site factors.

SSD = Site specific determination (no standard or simple buffer distances apply).

Buffer distances represent the recommendations of the North Coast Land Use Conflict Working Group following a synthesis of existing guidelines and policy. In some cases, specific and relevant guidelines may require larger buffers or lesser buffers than those prescribed may be appropriate in the circumstances.

(2) Other Statutory and Recommended Buffers

There are other statutory and recommended buffers that can apply to specific sites and situations. These include:

- bushfire protection buffers
- mosquito buffers
- airport buffers
- power line buffers
- rifle range buffers
- railway line buffers
- cultural heritage buffers.

(3) Other Recommended LUCRA Minimum Buffers (m) for other land uses

The following table provides some minimum (metres) buffer distances for various land uses such as Waste Facilities, Sewage Works, Dip Sites, Boarding Kennels, Stock Homes/stables and Effluent Re-use Areas.

Table I-11.3 Recommended minimum buffers (metres) for other Land Uses (From *Living and Working in Rural Areas – A handbook for managing land use conflict NSW North Coast*)

	Residential areas & Urban development	Rural settlement	Education facilities & pre-schools	Rural tourist accommodation
Waste facilities	300	300	300	300
Sewerage works	400	400	400	400
Dip sites[1]	200	200	200	200
Boarding kennels	500	500	500	500
Stock yards including cattle yards	200	200	200	200
Stock homes/stables[2]	SSD	SSD	SSD	SSD
Effluent re-use areas[3]	SSD	SSD	SSD	SSD
SSD = Site specific determination (no standard buffer distances apply)				

Note[1] The Cattle Tick Dip Site Management Committee (DIPMAC) recommends a nominal 200 metre radius assessment zone around cattle dip sites. Residential development proposed within this zone should be subject to a contaminated lands assessment to determine the extent of contamination and risks posed by contamination. The assessment and any proposed remediation works must also meet the requirements of *State Environmental Planning Policy No 55 – Remediation of Land*. Urban encroachment onto working cattle dip sites is to be avoided where possible.

Note[2] Subject to assessment in accordance with NSW Department of Environment and Conservation publication *Environmental Management on the Urban Fringe – Horse Properties on the Rural Urban Fringe, Best Practice Environmental Guide for Horses* (2004).

Note[3] Subject to assessment in accordance with NSW Department of Environment and Conservation publication *Use of Effluent by Irrigation* (2003) or local policy as adopted by individual councils.

(4) Site Specific Factors LUCRA should consider (LWRA Handbook)

- The nature of the land use change and development proposed. A modest land use change is likely to create a different risk of land use conflict compared to a substantial and extensive land use change.
- The nature of the precinct where the land use change and development is proposed. This provides an understanding of the context of the proposed change and development and may provide some insights into the values and expectations of adjoining land owners and stakeholders.
- The topography, climate and natural features of the site and broader locality which could contribute either to minimising or to exacerbating land use conflict.
- The typical industries and land uses in the area where the development is proposed. This provides for a broad test of compatibility with the dominant existing land uses in the locality.
- The land uses and potential land uses in the vicinity of the proposed development or new land use. Identifying and describing what's happening within a minimum 1000 metre radius of the subject land and development site help to establish the specific land uses in the locality that are most likely to have some effect on and be affected by the proposed land use or development. This description of surrounding land uses should include discrete land uses such as dwellings, schools, and public places as well as rural industry activities such as intensive animal industries, cropping, agricultural processing industries, aquaculture, mining, petroleum production and extractive industries, plantations and farm forestry.
- Describe and record the main activities of the proposed land use and development as well as how regular these activities are likely to be. Note infrequent activities that are likely to create conflict with neighbouring land uses and be the source of neighbour disputes given our knowledge of issues that can be a trigger for complaints and conflict.
- Describe and record the main activities of the adjoining and surrounding land uses as well as how regular these activities are, including periodic and seasonal activities that have the potential to be a source of complaint or conflict.
- Compare and contrast the proposed and adjoining/surrounding land uses for incompatibility and conflict issues.

Part I-12. Context and Site Analysis

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

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4 January 2016

Amendments:
Nil

Development that is designed in context enhances the sense of place, reinforces the role and character of localities and improves the quality of the environment for the community.

When designing a development for a site it is essential to respond to the local and broader urban context by identifying the area's defining elements. The design should be informed by this.

In order to understand this context, a site analysis should be undertaken as a first step in preparing for a development. This should identify the opportunities and constraints of the site and create a platform from which to develop a design. A site analysis demonstrates that the proposed development is the best possible solution and makes the best contribution to its surroundings.

I-12.1 General Objectives

The general objectives of this Chapter are to:

(1) improve the quality of development through better planning, design and consideration for the local community and environments.

I-12.2 Site Analysis

(1) The broader elements of a site analysis should include things such as:

- Underlying urban structure e.g. the broad land use patterns, the spatial structure
- Subdivision and street patterns
- Topography and landscape
- Public domain
- Transport and access
- Building typologies eg. detached dwellings, residential flat buildings etc
- Open space and water networks
- Cultural, archaeological and physical heritage
- Views and vistas.

These elements should be considered in relation to the site and its area, but also relative to the existing planning framework and controls.

(2) It is important to recognise that places and communities evolve over time and anticipation of spatial change needs to be balanced with existing themes, forms and patterns which have helped establish the character of the locality.

(3) All development applications should submit a site analysis, except development applications for the purposes of:

- Change of use
- Minor alterations and additions, and
- Swimming pools.

The degree of detail required will vary according to the nature, type and scale of the development and its surroundings. The level of detail required should be clarified with Council.

(4) A site analysis assessment should document the key opportunities and constraints of a site and its surroundings and show how these, in conjunction with the provisions of this DCP have determined the final proposal for the site.

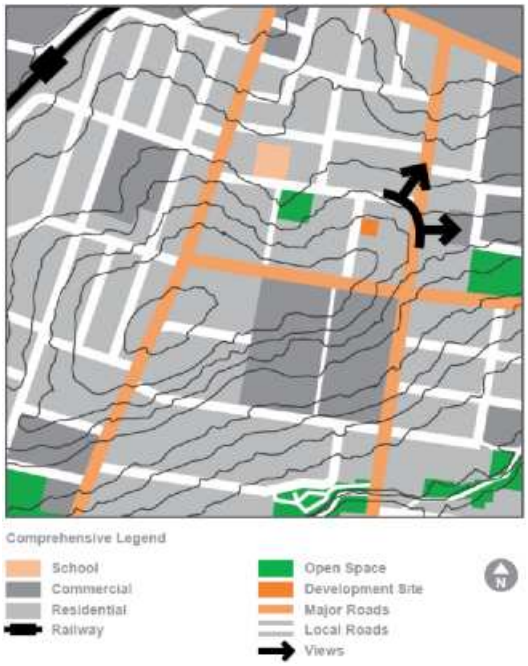
(5) The site analysis may include plans, sketches, photographs and supporting written information and should include the following information:

(a) Identifying Information

- orientation
- scale and north point
- date
- Property Details
- site dimensions, property boundaries and site area

- easements for drainage, services and rights of carriageway
- Landform and Vegetation
- spot levels and contours
- differences in ground levels on site as well as between the site and adjoining properties
- existing vegetation on/or affecting the site, location, height, canopy cover and species types
- important views - from the site and from adjoining land
- identification of any contaminated soils on the site and extent of any known landfill
- landscape features - cliffs, rock outcrops, embankments, retaining walls, foreshores
- soil type and depth
- flood liable land, existing means of stormwater drainage, existing stormwater detention systems, flow paths, drainage easements, watercourses, channels etc;
- sun and shade characteristics
- prevailing winds
- Access
- vehicle and pedestrian access to and from the site
- public roads, laneways, pathways
- on corner sites, the provision of a splay corner if required by Council
- driveways, parking areas, loading bays on the site and within the vicinity of the site
- public transport services (particularly for affordable housing, and housing for seniors or persons with disabilities)
- Existing Development
- existing buildings - on the site and on adjoining land. Show location, distance from the boundary, height, current use. Include elevations showing adjacent buildings
- existing neighbourhood character, including the pattern of development, built form, building materials and colours, fencing and garden styles
- overshadowing of and by adjoining buildings
- fence and wall locations, heights, materials
- swimming pools
- privacy - adjoining private open spaces, doors and windows
- street frontage features - poles, trees, kerbs, footpaths, crossings, street furniture
- noise, odour and light spillage sources (e.g. main roads, railway lines, sports fields, air conditioning units, pool pumps, industrial areas)

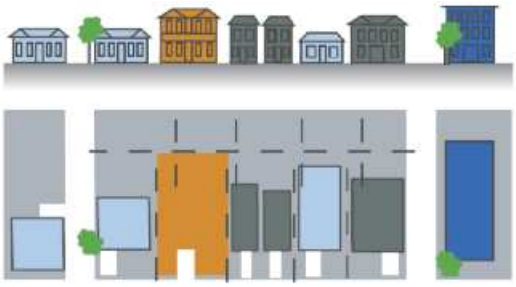
- heritage and/or archaeological features (indigenous and non-indigenous) on site and in the vicinity of the site include landscapes, buildings, conservation areas, special character areas
- existing advertising signs.



Suburban context

Landform, topography, patterns of surrounding development, streetscape and built form

Patterns of height



Relative building massing

Contextual building design

Figure I-12.1 Site analysis

(b) Assessment of Proposed Development

It is imperative that a site analysis include likely impacts of the proposed development and the measures proposed to mitigate these impacts. It should also show where the site has been unable to incorporate the opportunities and constraints of the site and the requirements of the DCP. Written and graphical explanations should be provided, for any site analysis, ultimately showing the suitability of the site for the proposed use.

Part I-13. Use of shipping containers

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

The use of shipping containers for any purpose requires development consent unless the shipping containers are fully located within a building as part of an approved use, or are part of the operation of a freight transport facility or related approved activity.

I-13.1 General Objectives

The general objectives of this chapter are:

(1) to protect the amenity and/or streetscape of a locality where shipping containers are granted development consent, and

(2) to apply development controls through guidelines for the installation of shipping containers.

I-13.2 Design principles

(1) Permanent use of containers

- Containers visible from public places should not be visually intrusive when viewed from that public place or from an adjacent property;
- Containers are to be maintained in good condition and installed in a structurally stable manner;
- Containers are not to be located over services or utilities; and
- The use of the container must relate directly to and be ancillary to the predominant lawful use of the property.

(2) Temporary use of containers

- Containers are located so as to minimise visual impact; and
- Containers are used for temporary purposes for a time not exceeding six months.

I-13.3 Acceptable solutions

(1) Permanent use of containers

- Containers are limited to two containers per property;
- Containers are to be fully screened from a public place and any adjoining property;
- Containers are not to be stacked unless fully contained within a building;
- Containers are to be maintained free of major rust, and painted in a colour consistent with other development on the site;
- Containers are to be installed and tied down to a concrete slab or foundation capable of supporting the combined weight of the container and contents;
- Containers are not located within the front or side setback distances (as provided for within the relevant zone—see Chapter I3);
- Containers are not located over water, sewer or stormwater lines, or over an easement;
- A means must be provided whereby persons within the container can exist the container, should is be closed from outside, OR an internal alarm is to be installed and maintained and regularly tested.

(2) Temporary use of containers

- No more than one container is used for temporary purposes;
- The temporary purpose is not to exceed six months;
- Containers are not to be located within front or side building line setback distances (as provided for within the relevant zone—see Chapter I-3);
- Containers are to be in good condition, free of major rust and painted in a colour scheme consistent with other development on the site or surrounding lands;
- Containers are to be located so as to minimise visual intrusion to the public realm and adjoining properties;
- Containers are only to be used in conjunction with an approved use or development on the land;
- Containers are to be placed on hard-stand surfaces such as compacted gravel or the like.

I-13.4 Alternative approaches and design suggestions

(1) Alternative approaches and design solutions will be considered on merit but must be consistent with the performance outcomes of this Chapter.

Part I-14. Sex Services Premises, Restricted Premises and Home Occupation (Sex Services)

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

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4 January 2016

Amendments:
Nil

This section provides planning controls for the determination of development applications and regulation of sex services premises, restricted premises and home occupation (sex services) within the Richmond Valley Council area (RVC).

Since the decriminalisation of sex services premises in 1995, local councils have become the regulatory authority for legitimate businesses involving sex services and shops. Sex services premises and shops cannot be excluded from any council area as it would be contrary to the intent of the 1995 reforms and does not uphold guiding EP&A Act principles discriminating against legitimate land uses.

Council's responsibility in relation to 'sex services premises' centres primarily on land use planning under the *Environmental Planning and Assessment Act 1979*. Responsibility for safe health practices in the workplace rests with the NSW Department of Health, while the WorkCover Authority is the primary authority regarding occupational health and safety issues in any workplace. Sex workers and brothel owners/proprietors must comply with Section 13 of the *Public Health Act 1991*. (Information given here was current at the time of DCP creation – refer to these agencies and legislation for succeeding provisions).

It is likely that despite the controls provided here, sex services could be provided within Richmond Valley by escort or outcall services operated illegally and through means over which Council has no authority. Guidelines are provided here to manage genuine applications for legal premises, provide some guidance for the application process, and outline steps Council may take to control premises and activities operating illegally within premises.

(1) LEP Definitions

Extract from the *Richmond Valley Local Environmental Plan 2012*

Dictionary

sex Service Premises means a building where sex services are provided (a brothel), but does not include a 'home occupation' (sex services).

Restricted Premises means business premises or retail premises that, due to their nature, restrict access to patrons over 18 years of age, and includes sex shops and similar premises but does not include hotel or motel accommodation, a pub, nightclub, home occupation (sex services) or sex service premise.

home Occupation (sex services) means the provision of sex services in a dwelling or any building ancillary to a dwelling, by no more than 2 permanent residents of the dwelling and that 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, traffic generation or otherwise, or

(c) the exhibition of any signage, or

(d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

sex services means sexual acts or sexual services in exchange for payment.

Other definitions used in this Chapter:

Shop and ***Retail*** have the same purpose as that prescribed within the LEP definitions.

Spruikers are persons located on the public way associated or employed by Sex Service Premises, Restricted Premises or Home Occupation (sex services) who seek to entice customers to enter the premises.

Restricted Items include any publication and include any film, computer game or advertisement for such which are restricted for sale to persons over the age of 18 by Commonwealth or State legislation. In addition, restricted items here include any item offered for sale or hire which are deemed to be unsuitable for persons aged less than 18 years of age due to being:

- overtly violent,
- pornographic or
- overtly sexual, sexually suggestive, abusive and/or lewd in nature.

In addition items include those which may be deemed overtly sexual, suggestive and/or lewd in nature based upon legitimate complaints received from the general public.

Publication includes any written or pictorial matter as the meaning in the Commonwealth Act.

Premises is a general term to mean any premises described within this section requiring consent (Sex Service Premises, Restricted Premises and Home Occupation (sex services)).

I-14.1 General Objectives

The general objectives of this section are to:

(1) Regulate the location, operation and external appearance of sex services premises, restricted premises (sex shops) and home occupation (sex services) to minimise any potential amenity and other impacts on the community.

(2) Provide information to proponents and the general public as to the requirements and the responsibilities of regulatory authorities involved with the establishment and operation of sex service premises, restricted premises (sex shops) and home occupation (sex service premise) within Richmond Valley.

(3) To advise the type and quality of information required to be lodged with a development application for a sex service premise, home occupation (sex service) or restricted premises (sex shop).

(4) Outline circumstances and procedures to be followed, under which Council may direct adherence to the guidelines set for sex related premises and provide for procedures to enable the closure of sex services premises, restricted premises and home occupation (sex services) if required.

(5) To ensure Sex Service Premises and Sex Shops are discretely located as to not be prominent within the streetscape and community in general.

(6) Any signage associated with development provided for within this section must be discrete and not cause offence to the general public or draw unnecessary attention to services offered by the premises or business.

(7) To promote the occupational health, welfare and safety of workers in the sex industry by providing opportunity for legal business to be conducted subject to regulated practise.

(8) Provide for additional advertising and notification procedures.

I-14.2 Sex Service Premises

Location

(1) Where are Sex Service Premises permitted?

(a) Richmond Valley Local Environmental Plan 2012

Clause 6.15 of the *Richmond Valley Local Environmental Plan 2012* (the LEP) provides for consideration of where sex service premises should be located.

Extract from the *Richmond Valley Local Environmental Plan 2012*

Clause 6.15 Location of sex services premises

(1) The objective of this clause is to minimise land use conflicts and adverse amenity impacts by providing a reasonable level of separation between sex services premises, specified land uses and places regularly frequented by children.

(2) In deciding whether to grant development consent for development for the purposes of sex services premises, the consent authority must consider the following:

(a) whether the premises will be located on land that adjoins, is directly opposite or is separated only by a local road from land:

(i) in Zone RU5 Village, Zone R1 General Residential or Zone RE1 Public Recreation, or
(ii) used for the purposes of a child care centre, a community facility, a school or a place of public worship,

(b) the impact of the proposed development and its hours of operation on any place likely to be regularly frequented by children:
(i) that adjoins the proposed development,
(ii) that can be viewed from the proposed development, or
(iii) from which a person can view the proposed development.

(b) Additional locational guidelines for Sex Service Premises

In addition to the definitive LEP restrictions, this DCP provides guidance as to the location, appearance and operation of Sex Service Premises within Richmond Valley.

- Sex Service Premises may <u>only</u> be located within the following zones (in accordance with the LEP land use permissibility tables):
  - Zone B3 Commercial Core
  - Zone IN1 General Industry

In addition to the above zone restrictions, the following location limitations apply:

- Consent shall not be granted to development for the purpose of a Sex Service Premises unless Council is satisfied that the development will not be adjacent to, adjoin, or be within 100 metres of:
  - an educational establishment frequented by minors,
  - a child care centre or residential care facility,
  - a recreational area,
  - any other place regularly frequented by children for recreational or cultural activities,
  - a place of public worship, funeral chapel or funeral home,
  - a hospital,
  - any land zoned for residential use (exception non-residential RU5 – Village)
  - any other Sex Services Premises or where consent has been granted for such.

Exceptional design standards may provide for relaxation of the above requirements, subject to demonstrated alternate means of shielding and/or separation of the premises from nearby receivers of not less than 50 metres. Multiple Sex Service Premises will only be considered in an area if can be demonstrated that conflict will not arise and that there will not be an excessive congregation of premises leading to the creation of an undesirable precinct precluding other legitimate land-uses.

External Appearance

(2) Premises must be compatible with the surrounding built form in order to discretely blend into the streetscape and area. Colour selection for finishes must not be garish and detail for decorative finishes shall be subdued in nature.

(3) Entranceways for pedestrian and vehicle access shall be well lit, however must not form a prominent feature within the streetscape. All access shall provide equitable treatment of users including disability access. A single main entrance for clientele shall be provided which is out of sight of the streetscape and the general public.

(4) Sex workers or any sex related products shall not be displayed from any window or doorway of the premises. No signage or graphics shall be displayed on any exterior surface of the premises, apart from that prescribed within the signage section below.

Operation Safety & Security (also see CPTED)

(5) Sex workers or any sex related products shall not be displayed from any window or doorway of the premises. All activities, including the greeting of clientele, shall be confined to the interior of the building and shall not be visible in any way or form from the outside of the premises.

(6) Internal Car parking areas shall be well lit, and signage visible within the premise grounds shall be subtly lit and directional in nature only.

(7) No spruikers of any kind shall operate within the road reserve, nor any internal car parking area, or on the land outside the building.

Car Parking

(8) On site car parking shall be provided at the rate of 1.5 spaces per working room. (See Chapter I-4 detailing car parking provisions).

Car parking provided shall be easy for clientele to locate.

Signage

(9) Signage must be strictly limited to the identification of the premises by name and/or street number (the name in itself may not be reasonably construed to be rude or offensive to the average person). One sign (or two signs on a corner allotment – one per frontage) a maximum of 0.35m^2 may be displayed and may be dully illuminated producing an overall luminescence per sign (measured at a distance of 400mm each not in excess of 20 candela (the intensity of one twenty (20) watt light globe measured at a 400mm distance). Additional signage not of an excessive or lewd nature may be provided within the car parking area if it cannot be viewed from adjoining streets or properties or provide excessive spillage of light.

(10) Additionally, the following provisions must apply to signage:

- Must not contain any characters, depictions, pictures or drawings
- Must not be representative by shape and/or form other than the number of the premises.
- Must not be illuminated, flash or move in any way.

Additional Controls

(11) All applications shall comply with the necessary services and facilities required for Class 5/6 Buildings in accordance with the Building Code of Australia (BCA – as current, or superseded from the time of the DCP creation). It should be noted that all requirements for equitable provision of services and amenities, particularly those relating to disability access shall be provided throughout the development.

(12) All public health requirements shall be complied with, in particular, but not limited to, the *Public* Health *Act* 1991. All proposed bars and food preparation areas shall comply with the NSW Food Standards Code and AS4674-2004 (current at the time of DCP – refer to any succeeding legislative requirements).

(13) The use of the premises shall not give rise to:

- transmission of vibration to any place of different occupancy
- a sound level at any point on the boundary of a site greater than the background levels specified in Australian Standard AS 1055 – Acoustics Description and measurement of environmental noise, or
- an "offensive noise" as defined in the *Noise Control Act 1975*.

I-14.3 Restricted Premises

(1) Restricted premises can potentially take many forms. Restricted premises may involve hire and/or selling of any item deemed to be unsuitable for persons aged less than 18 years of age due to being;

- overtly violent,
- pornographic, or
- overtly sexual, sexually suggestive, abusive and/or lewd in nature.

In addition, items for display, sale and hire may be deemed overtly sexual, suggestive and/or lewd in nature if legitimate complaints are received from the public. Council reserves the right to determine whether premises should be deemed 'restricted' if legitimate complaints are received if steps are not taken by the business to allay public concern. Commonwealth legislation and determinations (given below in section (f) below) should generally be referenced when making a determination as to whether a premise should be deemed 'restricted'.

Often restricted premises are incorporated into existing or affiliated businesses. Examples include bookstores which might include an 'over 18's' section displaying pornographic publications, or video hire premises which might have an additional shielded section for adult movie hire. Some precautions should be taken to prevent these businesses from impacting upon sensitive members of the public.

Location

(2) Restricted premises shall be located away from sensitive receivers and pedestrian movements of children. Guidelines are given below to minimise the potential for exposure of items to minors and more sensitive members of the public. At the discretion of Council, where the restricted goods area

comprises only a section of a larger business (15% or less), some relaxation of the following requirements shall be permitted dependent upon the absence of advertising and signage on any exterior of the business premise. These requirements should also be considered a guide for businesses wishing to incorporate a component into existing trade.

(a) Richmond Valley Local Environmental Plan 2012

- Restricted Premises may <u>only</u> be located within the following zones (in accordance with the LEP land use permissibility tables)
  - B3 – Commercial Core
  - RU5 – Village

(b) Additional locational guidelines for Restricted Premises

In addition to the above zone restrictions, the following location limitations apply:

- Consent shall not be granted to development for the purpose of a Restricted Premise unless Council is satisfied that the development will not be adjacent to, adjoin or be within 50 metres of;
  - an educational establishment frequented by minors,
  - a child care centre or residential care facility,
  - a recreational area,
  - any other place regularly frequented by children for recreational or cultural activities,
  - a place of public worship, funeral chapel or funeral home,
  - a hospital,
  - any land zoned for residential use (exception non-residential RU5 – Village),
  - any other Sex Services Premises or where consent has been granted for such.

Exceptional design standards may provide for relaxation of the above requirements, subject to demonstrated highly effective screening of the restricted premises component and/or separation of the premises from nearby receivers of not less than 25 metres. Multiple Restricted Premises will only be considered in an area if can be demonstrated that conflict will not arise and that there will not be an excessive congregation of premises leading to the creation of an undesirable precinct precluding other legitimate land-uses.

External Appearance

(3) Premises must be compatible with the surrounding built form in order to discretely blend into the streetscape and area. Colour selection for finishes must not be garish and detail for decorative finishes shall be subdued in nature.

(4) Entranceways for pedestrian access shall be well lit, however must not form a prominent feature within the streetscape. All access shall provide equitable treatment of users including disability access.

(5) No restricted products or products of an otherwise overtly violent, sexual or lewd nature shall be displayed from any window or doorway of the premises or in any other way that may be viewed from the street. Signage or graphics

displayed on any exterior surface of the premises may announce the nature of products for sale or hire (i.e. "adult movies") however may not be descriptive in nature (See signage section e below).

Operation Safety & Security (see CPTED)

(6) Employees and the owner of the premises shall be vigilant in allowing only access to areas where restricted items are on display for sale and/or hire. All advertising and display of restricted items shall be only permitted within restricted areas.

(7) Any car parking associated with the restricted premises shall be well lit and signage visible within the premise grounds shall be subtly lit and directional in nature only.

(8) No spruikers of any kind shall operate within the road reserve, nor any internal car parking area, or on the land outside the building.

Car Parking

(9) On site car parking shall be provided at the rate of one space per $30m^2$ of Gross Floor Area (GFA) ($<=1000m^2$), or per $40m^2$ of GFA ($>1000m^2$).

Car parking provided shall be easy for clientele to locate.

Signages

(10) Signage must be limited to the identification of the premises as providing restricted items of sale and/or hire. Signage shall not be descriptive in nature and must only serve to notify items of a restrictive nature are available for sale or hire within the premises. Signage constituting the name of the business can be in accordance with normal provisions relating to 'business identification signs', however the name of the business and description of the premises to the extent it is advertised as signage may not be overtly violent, sexual or otherwise lewd in nature. In circumstances where the sale and/or hire of restricted items constitute the majority of the business, signage shall be limited to an area not exceeding $6m^2$ of the total exterior of the premises.

(11) Additionally, the following provisions must apply to signage:

- Signage relating to the sale or hire of restricted items (including items of an overtly violent, sexual or otherwise lewd nature) must be restricted to six metres squared ($6m^2$) of the total exterior of the premises.
- Must not contain any characters, depictions, pictures or drawings
  - Must not be representative by shape and/or form other than the number of the premises.
  - Must not be illuminated, flash or move in any way

Additional Controls and Information

(12) Australian Commonwealth Law generally prescribes what publications may be sold and the nature of how they may be displayed and to whom.

- The *Classification (Markings for Publications) Determination 2007* (Commonwealth) prescribes the classification markings and how they are to be displayed on the covers and packaging of publications.
- Areas where restricted publications are exhibited must conform with NSW Legislation requirements (*Classification (Publications, Films and Computer Games) Enforcement Act 1995* (or any succeeding relevant

legislation)), in particular Division 2 – Restricted publication areas. Some reproductions of the requirements of this Act are referenced below.

- All publications must be classified by the Classification Board before they can be sold (whether retail or wholesale) in Australia. Unclassified publications, whether locally made or imported, may not be sold in Australia (pursuant to relevant legislation). Foreign classifications are not applicable in Australia so imported restricted items need to be classified by the Australian Classification Board before being offered for sale.
- In order for any premises (or part of any premises) to be a restricted publications area, the following requirements must be complied with:
  - the premises must be so constructed that no part of the interior of the premises is visible to any person outside the premises,
  - each entrance to the premises must be fitted with a gate or door capable of excluding persons from the interior of the premises, and the premises must be kept closed by means of any such gate or door at all times while the premises are closed to the public,
  - the proprietor of the premises, or some other adult person appointed by the proprietor for that purpose, must remain on or near the premises, and must be in charge of the premises, at all times while the premises are open to the public,
  - at each entrance to the premises there must be prominently displayed, so as to be able to be read from outside the premises, a notice, printed in clearly legible letters at least 15 mm in height, containing the following words:
    "RESTRICTED PUBLICATIONS AREA — PERSONS UNDER 18 MAY NOT ENTER. MEMBERS OF THE PUBLIC ARE WARNED THAT SOME MATERIAL DISPLAYED IN THIS AREA MAY CAUSE OFFENCE."
- All public health requirements shall be complied with, in particular, but not limited to, the *Public Health Act* 1991. All proposed bars and food preparation areas shall comply with the NSW Food Standards Code and AS4674-2004 (current at the time of DCP – refer to any succeeding legislative requirements).
- The use of the premises shall not give rise to:
  - transmission of vibration to any place of different occupancy
- a sound level at any point on the boundary of a site greater than the background levels specified in Australian Standard AS 1055 – Acoustics Description and measurement of environmental noise, or
- an "offensive noise" as defined in the *Noise Control Act 1975*.

I-14.4 Home Occupation (Sex Services)

Location

(1) Where are Sex Service Premises permitted?

(a) Richmond Valley Local Environmental Plan 2012

Sex Service Premises may <u>only</u> be located within the following zones (in accordance with the LEP land use permissibility tables)

- RU1 – Primary Production
- B3 – Commercial Core
- IN1 – General Industrial – (only for pre-existing dwellings within the industrial zone)

(b) Additional locational guidelines for Restricted Premises

In addition to the above zone restrictions, the following location limitations apply:

- Consent shall not be granted to development for the purpose of a Home Occupation (Sex Services) unless Council is satisfied that the development will not be adjacent to, adjoin or be within 50 metres of;
  - an educational establishment frequented by minors,
  - a child care centre or residential care facility,
  - a recreational area,
  - any other place regularly frequented by children for recreational or cultural activities,
  - a place of public worship, funeral chapel or funeral home,
  - a hospital,
  - any land zoned for residential use (exception non-residential RU5 – Village)
  - any other Sex Services Premises or where consent has been granted for such.

Exceptional design standards may provide for relaxation of the above requirements, subject to demonstrated alternate means of shielding and/or separation of the premises from nearby receivers of not less than 50 metres. Multiple Sex Service Premises will only be considered in an area if can be demonstrated that conflict will not arise and that there will not be an excessive congregation of premises leading to the creation of an undesirable precinct precluding other legitimate land-uses.

External Appearance

(2) Premises must be compatible with the surrounding built form in order to discretely blend into the streetscape and area. Colour selection for finishes must not be garish and detail for decorative finishes shall be subdued in nature.

(3) Entranceways for pedestrian and vehicle access shall be well lit, however must not form a prominent feature within the streetscape. All access shall provide equitable treatment of users including disability access. A single main entrance for clientele shall be provided which is out of sight of the streetscape and the general public.

(4) Sex workers or any sex related products shall not be displayed from any window or doorway of the premises. No signage or graphics shall be displayed on any exterior surface of the premises, apart from that prescribed within the signage section below.

Operation Safety & Security (also see CPTED)

(5) Sex workers or any sex related products shall not be displayed from any window or doorway of the premises. All activities, including the greeting of clientele, shall be confined to the interior of the building and shall not be visible in any way or form from the outside of the premises.

(6) Internal Car parking areas shall be well lit and signage visible within the premise grounds shall be subtly lit and directional in nature only.

(7) No spruikers of any kind shall operate within the road reserve, nor any internal car parking area, or on the land outside the building.

Car Parking

(8) On site car parking shall be provided at the rate of 1 space per working employee of the premises. Note. This is in addition to car parking required for the residence.

Car parking provided shall be easy for clientele to locate.

Signage

(9) Signage must be strictly limited to the identification of the premises by name and/or street number (the name in itself may not be reasonably construed to be rude or offensive to the average person). One sign of a maximum of $0.35m^2$ may be displayed and may be dully illuminated producing an overall luminescence per sign (measured at a distance of 400mm each not in excess of 20 candela (the intensity of one twenty (20) watt light globe measured at a 400mm distance).

(10) Additionally, the following provisions must apply to signage:

- Must not contain any characters, depictions, pictures or drawings
- Must not be representative by shape and/or form other than the number of the premises.
- Must not be illuminated, flash or move in any way.

Additional Controls – Sex Service Premises

(11) All applications shall comply with the necessary services and facilities required for Class 5/6 Buildings in accordance with the Building Code of Australia (BCA – as current, or superseded from the time of the DCP creation). It should be noted that all requirements for equitable provision of services and amenities, particularly those relating to disability access shall be provided throughout the development.

(12) All public health requirements shall be complied with, in particular, but not limited to, the *Public* Health *Act* 1991. All proposed bars and food preparation areas shall comply with the NSW Food Standards Code and AS4674-2004 (current at the time of DCP – refer to any succeeding legislative requirements).

(13) The use of the premises shall not give rise to:

- transmission of vibration to any place of different occupancy

- a sound level at any point on the boundary of a site greater than the background levels specified in Australian Standard AS 1055 – Acoustics Description and measurement of environmental noise, or
- an "offensive noise" as defined in the *Noise Control Act 1975*.

I-14.5 Application (DA) Requirements

(1) The Requirements for Development Applications for the sensitive land-uses described within this section (Sex Service Premise, Restricted Premises and Home Occupation (Sex Services)) have some general similarities. The level of detail and effort required will vary dependent on the nature and scale of the business proposed. It shall be at Council's discretion as to the nature of detail required, however all potential sensitive receivers discussed elsewhere within this DCP section shall be clearly identified (including likely transitory pedestrian movements) and the likely impact thoroughly documented. Applicants should ensure open dialogue between the proponent and Council is maintained throughout the process.

(2) Social Impact Statement (SIS) – see also Section I-8 regarding SIS

All land-uses described within this section of the DCP will require Social Impact Statement of sufficient detail to address all potential future impacts from the proposed development. Any proposed Sex Service Premises will require particularly detailed study. All potential sensitive receivers discussed elsewhere within this DCP section shall be clearly identified (including likely transitory pedestrian movements). The SIS shall be of an acceptable standard (verified by the NSW Police) prior to advertising and notification described below.

(3) Statement of Environmental Effects (SEE)

The provision of a SIS shall in no way reduce the need for a Statement of Environmental Effect (SEE). The requirements of a SEE are prescribed in detail within Section I-12 of the DCP and outlined within a factsheet accompanying the Development Application documentation.

(4) Additional Advertising and Notification Procedures

All land-uses described within this section of the DCP will require additional advertising and notification procedures to inform all potential impacted citizens of the development proposed. A stringent notification procedure will call upon relevant agencies, authorities and community/interest groups to provide comment regarding all potential future impacts from the proposed development. These agencies/authorities/community groups shall include, but not be limited to the following;

NSW Police (assessment considering CPTED principles)

- Identified Impacted Citizens (as per the SIS)
- Department of Human Services (f/n/a Community Services)

The applicant shall provide enough current copies of the SIS to enable distribution to all agencies and authorities to be notified.

(5) Additional Considerations

- Disclosure of interests of all persons involved in the ownership of the proposed occupation or business described within this DCP section. Subsequent to any development consent being issued, a condition may be imposed that any initial and future ownership of the premises by an individual who has been tried and convicted of an indictable offence shall be disclosed to NSW Police and the Consent Authority.

  Note. Whilst any record against an owner in itself cannot be considered grounds to move to shut down premises it should be considered carefully in conjunction with other matters discussed within Chapter I-14.6.

- All legislative references contained throughout refer to those current at the time of the formulation of this section of the DCP. It is the responsibility of the applicant to ensure current legislative requirements are met within the application in relation to Sex Service Premises, Restricted Premises and Home Occupations (sex service), whether it is relative to alternatively named premises or legislation which could be reasonably construed to be the contemporary equivalent.

I-14.6 Closure of Premises

(1) An application may be made by Council to the NSW Land and Environment Court under Section 17 of the Disorderly Houses Amendment Act 1995 (DHAA) for premises not to be used as a brothel. The Act operates in addition to Council powers under the Environmental Planning and Assessment Act 1979 (EP&A) and provides for the serving of notice on a brothel operating without development consent or outside the terms of consent. Relevant sections of the abovementioned legislation have been included for reference within this section. The legislation provided was current at the time of formulation of the DCP and any possible superseding legal procedures and requirements should be investigated.

Any actions undertaken relevant to this section shall consider the fairness of the assessment process if at any time in the future complaints are received from a nearby use which was not in existence at the time of the granting of consent for the business or occupation carried out.

(2) Legislative Requirements

Extract from the *Environmental Planning and Assessment Act 1979*

Section 121ZR Special provisions relating to brothel closure orders

(1) Definitions

In this section and section 121ZS:

brothel closure order means an order No 1 or No 15 under the Table to section 121B (1) to cease using premises as a brothel or in respect of the use of premises as a brothel, whether or not the order also prohibits the premises from being used for, or relates to the use of the premises for, any related sex uses.

related sex uses means the following:

(a) the use of premises for the provision of sexual acts or sexual services in exchange for payment,

(b) the use of premises for the provision of massage services (other than genuine remedial or therapeutic massage services) in exchange for payment,

(c) the use of premises for the provision of adult entertainment involving nudity, indecent acts or sexual activity if the entertainment is provided in exchange for payment or if the entertainment is ancillary to the provision of other goods or services.

(2) Natural justice requirements not applicable
A person who gives a brothel closure order is not required to comply with sections 121G–121K.

Note. Sections 121G–121K provide, among other things, for notice of proposed orders. Sections 121L and 121N apply to brothel closure orders and provide for reasons for an order to be given to the person to whom an order is given as well as information about appeal rights.

(3) Additional prohibitions may be included
A brothel closure order may also prohibit the use of the premises for specified related sex uses, if the use of the premises for the specified uses is a prohibited development or a development for which development consent is required but has not been obtained.

(4) Additional persons to whom order may be given
In addition to any other person to whom a brothel closure order may be given, a brothel closure order may be given to any person apparently in control of or managing, or assisting in the control or management of, the brothel.

(5) Period for compliance
A brothel closure order must specify a period of not less than 5 working days within which the order must be complied with.

Note. An appeal against a brothel closure order may be made under section 121ZK.

(6) Additional persons or bodies that may make brothel closure orders
In addition to the persons specified by section 121B, a brothel closure order may be made by a person or body exercising planning or regulatory functions in respect of the area in which the premises are situated and authorised by the Minister to make brothel closure orders.

(7) Defences
It is a sufficient defence to a prosecution for an offence that arises from a failure to comply with a brothel closure order if the defendant satisfies the court that:
(a) if the defendant is the owner of the premises, the defendant has taken all reasonable steps to evict the persons operating the brothel or using the premises for the specified related sex uses, or
(b) in all cases, the defendant has taken all reasonable steps to prevent the use of the premises as a brothel or for the specified related sex uses.

(8) Appeals
Regulations may be made for or with respect to the following matters:
(a) the conferral of jurisdiction on the Local Court with respect to appeals against brothel closure orders,
(b) removing the right to appeal under section 121ZK if an appeal is made to the Local Court against a brothel closure order under the regulations,
(c) the conferral of jurisdiction on the Land and Environment Court with respect to appeals from decisions of the Local Court on appeals against brothel closure orders,
(d) the modification of provisions of the *Crimes (Appeal and Review) Act 2001* for the purposes of appeals referred to in paragraph (c).

(9) Section prevails over Division
This section has effect despite any other provision of this Division.

Note. Failure to comply with a brothel closure order is an offence (see section 125).

Section 121ZS Enforcement of brothel closure orders by cessation of utilities

(1) If a person fails to comply with a brothel closure order, the Local Court or the Land and Environment Court may, on the application of the person who gave the order, make an order (a utilities order) directing that a provider of water, electricity or gas to the premises concerned cease to provide those services.
(2) An order may apply to the whole or part of premises.
(3) A utilities order ceases to have effect on the date specified in the order, or 3 months after the order is made, whichever occurs first.
(4) An application for a utilities order must not be made unless not less than 7 days notice of the proposed application is given to the following persons:
(a) any person to whom the brothel closure order was given,
(b) any provider of water, electricity or gas to the premises who is affected by the application,
(c) any owner or occupier of the premises.
(5) An owner or occupier of premises, or a provider of water, electricity or gas to premises, who is affected by an application for a utilities order is entitled to be heard and represented in proceedings for the order.
(6) In determining whether to make a utilities order, the court is to take into consideration the following matters:
(a) the effects of the failure to comply with the brothel closure order,
(b) the uses of the premises,

(c) the impact of the order on the owner, occupier or other users of the premises,
(d) whether the health or safety of any person, or of the public, will be detrimentally affected by the order,
(e) any other matter the court thinks appropriate.

(7) A utilities order must not be made for premises, or any part of premises, used for residential purposes.

(8) A provider of water, electricity or gas must comply with a utilities order, despite any other law or agreement or arrangement applying to the provision of water, electricity or gas to the premises, or part of premises, concerned.

(9) No compensation is payable to any person for any damage or other loss suffered by that person because of the making or operation of a utilities order or this section.

(10) A provider of water, electricity or gas must not, during a period that a utilities order is in force in relation to premises, or part of premises, require payment for the provision of water, electricity or gas services to the premises or part of premises (other than services related to the implementation of the order).

(11) The Land and Environment Court or the Local Court may make a utilities order when it determines an appeal against a brothel closure order, if subsections (4) and (5) have been complied with.

Section 124AB Proceedings relating to use of premises as brothel

(1) **Application**
This section applies to proceedings before the Court to remedy or restrain a breach of this Act in relation to the use of premises as a brothel. Subsections (5) and (6) extend to any such proceedings in relation to all brothels within the meaning of the Restricted Premises Act 1943.

(2) **Adjournments to obtain consent only in exceptional circumstances**
The Court may not adjourn the proceedings under section 124 (3) unless it is of the opinion that the adjournment is justified because of the exceptional circumstances of the case. The fact that it is intended to lodge a development application, or that a development application has been made, is not by itself an exceptional circumstance.

(3) **Time for making development application limited to 10 days**
If the Court adjourns the proceedings under section 124 (3), the proceedings must be brought back before the Court if a development application is not made within 10 working days of the adjournment.

(4) **Only one adjournment**
The Court may make only one adjournment under section 124 (3) of particular proceedings.

(5) **Finding may be made on circumstantial evidence**
In any proceedings:
(a) the Court may rely on circumstantial evidence to find that particular premises are used as a brothel, and
(b) the Court may make such a finding without any direct evidence that the particular premises are used as a brothel.

(6) However, the presence in any premises of articles or equipment that facilitate or encourage safe sex practices does not of itself constitute evidence of any kind that the premises are used as a brothel.

Note. Examples of circumstantial evidence include (but are not limited to) the following:
(a) evidence relating to persons entering and leaving the premises (including number, gender and frequency) that is consistent with the use of the premises for prostitution,
(b) evidence of appointments with persons at the premises for the purposes of prostitution that are made through the use of telephone numbers or other contact details that are publicly advertised,
(c) evidence of information in books and accounts that is consistent with the use of the premises for prostitution,
(d) evidence of the arrangement of, or other matters relating to, the premises, or the furniture, equipment or articles in the premises, that is consistent with the use of the premises for prostitution.

Extract from *Restricted Premises Act 1943*

Part 3 Brothels

Section 16 Disorderly house declaration not to be made solely on grounds that premises are a brothel

A declaration under section 3 may not be made in respect of premises solely because of either or both of the following:
(a) the premises are a brothel,
(b) a person having control of or managing, or taking part or assisting in the control or management of, the premises has been concerned in the control or management of other

premises which have been declared to be a disorderly house under this Act solely because those other premises were a brothel.

Section 17 Application to Land and Environment Court for premises not to be used as brothel

(1) The Land and Environment Court may, on application by a local council, make an order that an owner or occupier of premises that are a brothel and that are situated within the area of the council is not to use or allow the use of the premises for the purpose of a brothel.

(1A) An order under subsection (1) may also provide that the owner or occupier of the premises is not to use or allow the use of the premises for specified related sex uses.

(1B) The Land and Environment Court may, if it makes an order under subsection (1), also make an order suspending or varying the operation, for a period not exceeding 6 months, of any development consent relating to the use of the premises for the purpose of a brothel or the use of the premises for specified related sex uses.

(1C) An order under subsection (1B) has effect despite any provision of the *Environmental Planning and Assessment Act 1979* or any instrument made under that Act.

(2) The local council must not make an application in relation to a brothel unless it is satisfied that it has received sufficient complaints about the brothel to warrant the making of the application.

(2A) For the purposes of subsection (2), one complaint may be sufficient to warrant the making of an application in the case of a brothel used or likely to be used for the purposes of prostitution by 2 or more prostitutes.

(3) The complaint or complaints must have been made by:

- (a) residents of the area in which the brothel is situated who live in the vicinity of the brothel, or
- (b) residents of the area in which the brothel is situated who use, or whose children use, facilities in the vicinity of the brothel, or
- (c) occupiers of premises that are situated in the area in which the brothel is situated and in the vicinity of the brothel, or
- (d) persons who work in the vicinity of the brothel or persons who regularly use, or whose children regularly use, facilities in the vicinity of the brothel.

(4) The application must state the reasons why the local council is of the opinion that the operation of the brothel should cease based on one or more of the considerations referred to in subsection (5) (a), (b), (c), (d), (e) or (f).

(5) In making an order under subsection (1) the Land and Environment Court is to take into consideration only the following:

- (a) whether the brothel is operating near or within view from a church, hospital, school or any place regularly frequented by children for recreational or cultural activities,
- (b) whether the operation of the brothel causes a disturbance in the neighbourhood when taking into account other brothels operating in the neighbourhood or other land use within the neighbourhood involving similar hours of operation and creating similar amounts of noise and vehicular and pedestrian traffic,
- (c) whether sufficient off-street parking has been provided if appropriate in the circumstances,
- (d) whether suitable access has been provided to the brothel,
- (e) whether the operation of the brothel causes a disturbance in the neighbourhood because of its size and the number of people working in it,
- (f) whether the operation of the brothel interferes with the amenity of the neighbourhood,
- (g) any other matter that the Land and Environment Court considers is relevant.

(5A) In making an order under subsection (1B), the Land and Environment Court is to take into consideration only the following:

- (a) the likelihood that the premises will continue to be used for a brothel or will be used for related sex uses (whether or not by a person who is subject to the order under subsection (1)),
- (b) having regard to the kinds of matters considered before granting the order under subsection (1), the effect on the amenity of the neighbourhood of any such use or uses,
- (c) the permitted uses for the land on which the premises are situated under any applicable environmental planning instruments or approval under the Environmental Planning and Assessment Act 1979,
- (d) any other matter that the Land and Environment Court considers is relevant.

(6) This section extends to premises within an area that is not a local government area, and in that case a reference to a local council is to be read:

- (a) in relation to Lord Howe Island—as a reference to the Lord Howe Island Board, and
- (b) in relation to such part of the land in the Western Division of the State as is not in a local government area—as a reference to the Western Lands Commissioner, and
- (c) in relation to any other area that is not a local government area—as a reference to the prescribed authority for the area.

(7) In this section:

church, hospital and school have the same meanings as in the *Summary Offences Act 1988*.
development consent has the same meaning as it has in Division 2A of Part 6 of the *Environmental Planning and Assessment Act 1979*.
local council includes a person or body that:
(a) exercises planning or regulatory functions in respect of the area in which premises are situated, and
(b) is authorised by the Minister administering the *Environmental Planning and Assessment Act 1979* to exercise the functions of a local council under this section.

Section 17A Evidence of use of premises as brothel

(1) This section applies to proceedings before the Land and Environment Court on an application under section 17 for premises not to be used as a brothel.
(2) In any proceedings to which this section applies:
(a) the Court may rely on circumstantial evidence to find that particular premises are used as a brothel, and
(b) the Court may make such a finding without any direct evidence that the particular premises are used as a brothel.
(3) However, the presence in any premises of articles or equipment that facilitate or encourage safe sex practices does not of itself constitute evidence of any kind that the premises are used as a brothel.

Note. Examples of circumstantial evidence include (but are not limited to) the following:
(a) evidence relating to persons entering and leaving the premises (including number, gender and frequency) that is consistent with the use of the premises for prostitution,
(b) (Repealed)
(c) evidence of appointments with persons at the premises for the purposes of prostitution that are made through the use of telephone numbers or other contact details that are publicly advertised,
(d) evidence of information in books and accounts that is consistent with the use of the premises for prostitution,
(e) evidence of the arrangement of, or other matters relating to, the premises or the furniture, equipment or articles in the premises, that is consistent with the use of the premises for prostitution.

Section 18 Rules of the Land and Environment Court

(1) Rules may be made under the *Land and Environment Court Act 1979* for or with respect to any matters that by or under the provisions of this Part are required or permitted to be prescribed for carrying out or giving effect to those provisions.
(2) Subsection (1) does not limit the rule-making powers conferred by the *Land and Environment Court Act 1979*.

(3) Circumstances where Council will Act to Close Premises

Before initiating any process to suspend or close business trading on premises described within this section of the DCP, Council must have regard for the following:

- Disruption and nuisance to the local area as a result of clientele visiting, loitering or conducting any unlawful activity in proximity to the premises.
- Breach of the consent condition requiring the NSW Police Force and the Council to be notified if any person in part or whole, past or present ownership of the premises if they have been found guilty of an indictable offence (within 28 days of conviction).
- Disruption and nuisance to the local area as a result of persons not visiting the premises, but shown to be loitering as a result of the existence and operation of the premises.

Council, in due consideration of any and all justified issues raised by the public, and documented incidents of antisocial and/or unlawful behaviour relating to persons visiting or loiter within the vicinity of the premises, will

make a determination based upon the probability the premises has affected or will negatively affect the social structure of the local area and/or the community.

Part I-15. Lane Widening and Access to Narrow Streets

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Many streets and lanes in the Council area are narrow with minimal road pavement construction. In their current form they present obstacles to developing land where they are required as a primary frontage for access.

To facilitate development along these streets and lanes, Council has a lane widening policy aimed at resuming land to increase the width of the road reserve so the road pavements can be widened to handle increase traffic volumes. In other instances, Council has elected not to widen lanes opting instead to change them to 'one-way' streets and to require some level of road construction to be funded by development fronting the narrow lane.

This Chapter addresses Council's requirements for lane widening and access to narrow lanes.

I-15.1 General Objectives

The general objectives of this Chapter are to:

(1) identify roads that may be subject to future lane widening.

(2) identify the minimum road standards for narrow lanes to be used as primary access to development.

I-15.2 Lane Widening

Objective

(1) To identify those properties that may be subject to future lane widening.

(2) To identify a process for resuming land for lane widening.

Controls

(1) Those lanes identified in Figure I-15.1 will be subject to future lane widening. Council may resume a strip of land, usually about 3 metres in width, from the full frontage of the lane to be dedicated as public road.

(2) Land may be resumed for lane widening in either of 2 ways.

(a) Dedication of land free of charge to Council—where land is being redeveloped and identifies the lane as a primary access frontage,

(b) Resumption of land and owner compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*—where land is required to be resumed for lane widening and there has never been a condition of development consent requiring the land's dedication to be free of charge to Council.

(3) Dedication of Lane Widening

The dedication of lane widening to Council free of cost will occur at either of 2 opportunities:

(a) if the land is to be subdivided—the land will be identified on the subdivision plan "to be dedicated to Council as public road".

(b) for other development types—the dedication will be completed via a resumption process initiated by Council.

Note. The legal and surveying costs associated with resuming land (see item (3)(b)) will be the responsibility of Council.

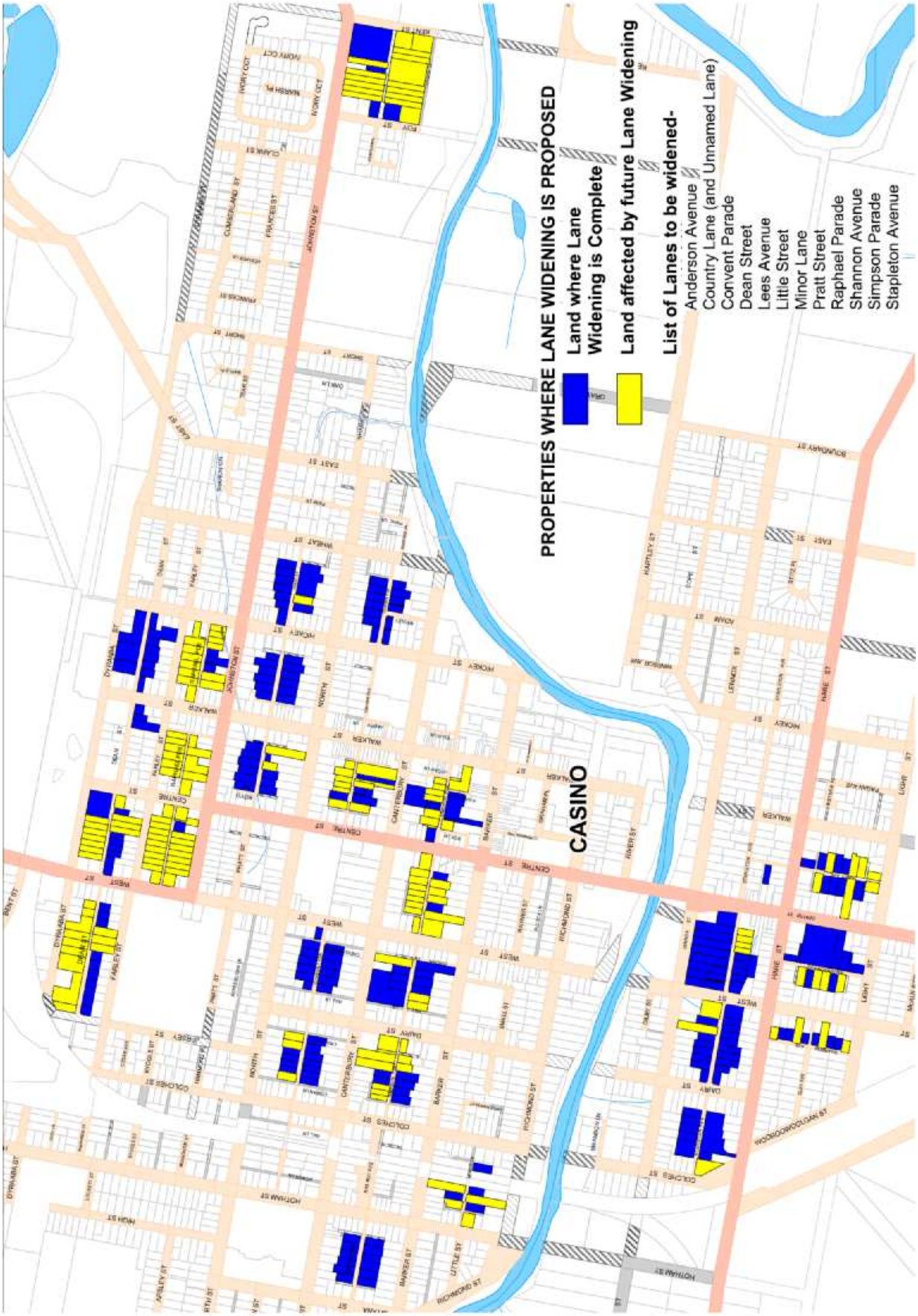


Figure I-15.1 Land (coloured yellow) and a list of lanes that may be subject to future lane widening in Casino

I-15.3 Development requirements when accessing narrow streets

Objective

(1) To ensure narrow streets are capable of handling additional road traffic from development.

(2) To require developments to contribute towards the upgrading of narrow streets where they will used for vehicular access to development.

Controls

(1) For the purposes of this section, a narrow street is generally one that has a road reserve width of less than 10 metres (measured from boundary to boundary).

(2) Council will only grant development consent to use a narrow street for vehicular access when it considers:

(a) the street to be safe—having regard to its design standard,

(b) the street to be is capable of handling additional vehicular traffic, including that of future development that might arise once a narrow street has been opened to development access,

(c) whether the narrow street is subject to-

(i) future lane widening—in which case a condition of consent will require dedication of the lane widening to Council free of charge, or

(d) a "one-way" traffic restriction,

Note. Development consent may be refused if a narrow street is not identified for future lane widening or "one-way".

(e) the condition of the narrow street and whether the development should contribute towards pavement sealing and stormwater drainage works.

(3) In regards to narrow street upgrading requirements, the extent of necessary infrastructure will be at the discretion of Council and subject to negotiation.

Part I-16. Historic New Italy Village Area

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

New Italy was settled by Italian migrant families in 1882. The settlement consisted of 53 selections, ranging from 40 to 120 acres, having a total area of about 3030.75 acres (1226.5ha).

In 2002 the New Italy Settlement Landscape was recognised as having State significance being:

- evidence of a settlement built through the tenacity, forbearance and technical skills (esp. horticultural and architectural) of a unique group of Australian settlers, and
- also significant to those displaced Italian migrants who were allowed assisted passage to Australia by Sir Henry Parkes after the ill-fated Marquis de Rays expedition of 1881.

The State significance of the area was recognised under the *Heritage Act 1977,* being represented through the State Heritage listing of 3 sites, they being:

- the New Italy Museum complex (listed in August 2002),
- the former School site (listed in August 2002), and
- Vineyard Haven (listed in December 2004).

Additional information on the New Italy Settlement and the State Heritage listed sites can be obtained from the NSW Heritage website – www.heritage.nsw.gov.au .

The *Richmond Valley Council Heritage Study* (2007) also recognised the significance of the New Italy Settlement area through local listing of a number of heritage items and archaeological sites. These items were included in Schedule 5 of the LEP.

A further action resulting from the Study was the recognition that other, yet undiscovered, sites may exist within the New Italy area. To safeguard these potential items the "Historic New Italy Village Area" has been recognised in the LEP through *clause 6.4 Protection of historic New Italy village area*.

This chapter provides a methodology for undertaking and reporting preliminary assessments associated with clause 6.4 of the LEP.

Figure I-16.1 Boundaries of the Historic New Italy Village Area (also referred to as the New Italy Settlement Area)

I-16.1 General Objectives

The general objectives of this Chapter are to:

(1) provide for awareness of potential archaeology within the Historic New Italy Village Area by informing the community.

(2) establish methodology to assist with undertaking a preliminary assessments to determine the likelihood of exposing, moving, damaging, or destroying archaeology, or relics.

I-16.2 Development Consent Required for Earthworks

Clause 6.3 of the *Richmond Valley Local Environmental Plan 2012* requires consent to undertake earthworks. There are exceptions within this clause that applies equally throughout the Council area.

Extract from *Richmond Valley Local Environmental Plan 2012*

Clause 6.3 Earthworks

(1) The objectives of this clause are as follows:
- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,
- (b) to allow earthworks of a minor nature without requiring separate development consent.

(2) Development consent is required for earthworks unless:
- (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or
- (b) the earthworks are ancillary to other development for which development consent has been given.

(3) Before granting development consent for earthworks, the consent authority must consider the following matters:
- (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
- (b) the effect of the proposed 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) the effect of the proposed development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area,
- (h) 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, seals with disturbing or excavating land and Aboriginal objects.

I-16.3 Consideration of potential heritage fabric with Earthworks

Clause 6.4 is an extension to clause 6.3. It provides that development consent for earthworks shall not be granted unless consideration has been given to whether there is likelihood that heritage items or historic features of the New Italy historic village area will be disturbed, exposed or destroyed by the work.

In undertaking this assessment consideration must be given to any archaeological assessment or preliminary assessment that has been undertaken.

Extract from *Richmond Valley Local Environmental Plan 2012*

Clause 6.4 Protection of historic New Italy area

(1) The objectives of this clause are as follows:
- (a) to protect the area known as "New Italy",
- (b) to ensure that earthworks for which development consent is required will not have a detrimental impact on cultural or heritage items or features of the historic New Italy village area.

(2) This clause applies to land as shown coloured blue and labelled "Historic New Italy Village Area" on the Key Sites Map.

(3) Before granting development consent for earthworks on land to which this clause applies, the consent authority must consider the following matters:

(a) the likelihood that the proposed development will expose, move, damage or destroy an item that may have local heritage significance,

(b) the outcome of any preliminary or archaeological assessment of the local heritage significance of the land (if an assessment has been carried out or has been provided by the owner).

Note. Clause 5.10 deals with the conservation of heritage items and relics.

I-16.4 Heritage Act approvals

Consent under Division 9 of the *Heritage Act 1977* will be required to expose, move, damage or destroy any historic or cultural features (other than identified local heritage items within Schedule 5 of the LEP) that may be discovered, whether or not it resulted from an assessment under clause 6.4. Relevant sections of the *Heritage Act* has been extracted below.

Extract from the *Heritage Act 1977*

Section 4 Definitions

harm means:

(a) in relation to a building or work—demolish, or

(b) in relation to a relic or moveable object—damage, despoil, move or alter, or

(c) in relation to a place or precinct—damage, despoil or develop the land that comprises the place or is within the precinct or damage or destroy any tree or other vegetation on, or remove any tree or other vegetation from, the place or precinct.

item means a place, building, work, relic, moveable object or precinct.

relic means any deposit, artefact, object or material evidence that:

(a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and

(b) is of State or local heritage significance.

Division 9 Protection of certain relics

Section 138 Definitions

In this Division:

excavation permit means an excavation permit referred to in section 139.

historic shipwreck has the same meaning as it has in Part 3C.

historic shipwrecks permit means a historic shipwrecks permit referred to in section 51.

permit means an excavation permit or historic shipwrecks permit.

relic includes a historic shipwreck.

Section 139 Excavation permit required in certain circumstances

(1) A person must not disturb or excavate any land 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 unless the disturbance or excavation is carried out in accordance with an excavation permit.

(2) A person must not disturb or excavate any land on which the person has discovered or exposed a relic except in accordance with an excavation permit.

(3) This section does not apply to a relic that is subject to an interim heritage order made by the Minister or a listing on the State Heritage Register.

(4) The Heritage Council may by order published in the Gazette create exceptions to this section, either unconditionally or subject to conditions, in respect of any of the following:

(a) any relic of a specified kind or description,

(b) any disturbance or excavation of a specified kind or description,

(c) any disturbance or excavation of land in a specified location or having specified features or attributes,

(d) any disturbance or excavation of land in respect of which an archaeological assessment approved by the Heritage Council indicates that there is little likelihood of there being any relics in the land.

(5) This section does not prevent a person from disturbing or excavating land in which a historic shipwreck is situated in accordance with a historic shipwrecks permit in force in respect of that shipwreck.

Section 140 Application for permit

(1) A person may make an application to the Heritage Council for the issue to the person of a permit.

(2) The application shall be in the approved form and shall be accompanied by such fee as may be prescribed.

Section 141 Determination of application

(1) The Heritage Council may determine an application for a permit:

(a) by issuing a permit, either unconditionally or subject to such conditions as it thinks proper to impose, or

(b) by refusing to issue a permit.

(2) Where the Heritage Council fails to determine an application for a permit within 21 days after the date of that application, it shall, for the purpose only of section 142, be deemed to have determined that application by refusing to issue a permit.

...

Section 146 Notification of discovery of relic

A person who is aware or believes that he or she has discovered or located a relic (in any circumstances, and whether or not the person has been issued with a permit) must:

(a) within a reasonable time after he or she first becomes aware or believes that he or she has discovered or located that relic, notify the Heritage Council of the location of the relic, unless he or she believes on reasonable grounds that the Heritage Council is aware of the location of the relic, and

(b) within the period required by the Heritage Council, furnish the Heritage Council with such information concerning the relic as the Heritage Council may reasonably require.

Section 146A Disposition of certain relics

(1) As soon as practicable after a relic is obtained from an excavation carried out by the holder of a permit, the holder shall notify the Minister of the existence of the relic.

(2) The holder shall furnish the Minister with such information concerning the relic as the Minister may reasonably require.

Section 146B Minister may direct that relic be given to museum or other conservation body

(1) The Minister may, by notice in writing, direct any person:

(a) who is or has been the holder of a permit, or

(b) who, in the Minister's opinion, has obtained a historic shipwreck as a consequence of having removed the relic without a historic shipwrecks permit, in contravention of section 51, or

(c) who, in the Minister's opinion, has obtained a relic as a consequence of having excavated land without an excavation permit, in contravention of section 139,

to deliver the relic to a specified person or body (such as a museum) who in the opinion of the Minister has the facilities and expertise to conserve the relic.

(2) Such a direction may be given on the ground that the person has obtained the relic as a consequence of:

(a) having removed the relic without a historic shipwrecks permit, in contravention of section 51, or

(b) having excavated land without an excavation permit, in contravention of section 139,

whether or not the person has been prosecuted or convicted of an offence in respect of the alleged contravention.

Section 146C Forfeiture of certain relics

(1) A relic the subject of a direction under section 146B shall be forfeited to the Crown.

(2) No compensation is payable to any person as a consequence of the forfeiture of a relic under this section.

I-16.5 Education

One of the objectives of this Chapter is to inform the community of the likely presence of archaeology in the New Italy area. This can be achieved by informing the community, especially new property owners or prospective purchases of land, that they should have regard to potential heritage in the area and take appropriate actions to avoid harming such heritage. This objective can be achieved by the:

- inclusion of clause 6.4 within the *Richmond Valley LEP 2012*
- inclusion of this Chapter within the *Richmond Valley DCP 2012*, and
- informing the community of the LEP and DCP requirements, the reasons for them, and where they apply in section 149 Planning Certificates, and the like.

I-16.6 Preliminary Assessment

Due diligence is a process where reasonable and practical steps are taken to determine whether a person's actions could, in this case, harm archaeology or relics within the New Italy Settlement Area. The Preliminary Assessment process, forms a key element of due diligence.

The preliminary assessment methodology documented in this Chapter has been designed to be simple and straight forward, while fulfilling due diligence requirements.

I-16.7 Items Likely to be Found

(1) Sites discovered by a preliminary assessment are more than likely to be archaeological in nature but may include any of the following:

- stone or timber lined wells
- remnants of buildings
- earth mounds from mud brick buildings
- old fence lines
- trees, orchards and/or vine plantings, or
- drainage lines.

(2) Notification of Discovery

There is a statutory requirement under section 146 of the *Heritage Act 1977* to notify the NSW Heritage Branch of all relic discoveries. This notification should also be directed to Council.

Contact details:	Office of Environment and Heritage—Heritage Branch 3 Marist Place PARRAMATTA 2150 Locked Bag 5020, PARRAMATTA NSW 2124 Phone 02 98738500 Fax 02 98738599
	Richmond Valley Council Cnr Graham Place and Walker Street Locked Bag 10, CASINO NSW 2470 Phone 02 66600300 Fax 02 66625198

Figure I-16.2 Examples of stone lined wells

Figure I-16.3 Examples of timber lined wells

Figure I-16.4 Examples of old fence lines and timber posts

Figure I-16.5 Examples of building remnants – stumps (left) and stone foundations (right), earth mound from weathered mud bricks (centre)

Figure I-16.6 Examples of a contour drainage line

(3) Mitigation

The best means of protecting heritage is to mitigate against its harm. This can be as simple as:

- relocating earthworks to a more suitable site, or
- maintaining a buffer between the works and the item.

If mitigation of harm is not possible approval will be required to relocate, damage or destroy the item under the *Heritage Act 1977*.

I-16.8 Preliminary Assessment Form

Richmond Valley Council

Richmond Valley Local Environmental Plan 2012

Historic New Italy Village Area (Clause 6.4)

PRELIMINARY ASSESSMENT

Clause 6.4 of the *Richmond Valley Local Environmental Plan 2012*

This form has been prepared to assist in the assessment of whether archaeology or relics could be harmed (exposed, moved, damaged, or destroyed) by earthworks in the Historic New Italy Village area, (the area is defined within the attached map.

This assessment can be completed by the property owner or their delegate/representative and provides a guide to the types of items likely to be discovered.

Clause 6.4 of the *Richmond Valley Local Environmental Plan 2012* requires that development consent shall not be granted for earthworks until consideration has given to whether archaeological or history fabric will be harmed (exposed, moved, damaged, or destroyed) within the Historic New Italy Village Area, see The Map. This consideration is to be based upon the outcomes of a preliminary or archaeological assessment.

If an item is discovered then consent for the earthworks would need to mitigate the impact or seek appropriate approvals under the *Heritage Act 1977* to harm archaeology or relics.

The Map

Clause 6.4 Preliminary Assessment Form – Historic New Italy Village Area

Richmond Valley Council

Richmond Valley Local Environmental Plan 2012

Historic New Italy Village Area

PRELIMINARY ASSESSMENT FORM

Clause 6.4 of the *Richmond Valley Local Environmental Plan 2012*

ASSESSORS DETAILS

NAME:			
ADDRESS:			
TOWN:		POSTCODE:	
DAYTIME PHONE NUMBER:			
ARE YOU THE OWNER OF THE LAND?	Yes ☐ No ☐		

OWNERS DETAILS (if not the Assessor)

NAME:			
ADDRESS:			
TOWN:		POSTCODE:	
DAYTIME PHONE NUMBER:			

ADDRESS & PROPERTY DESCRIPTION OF PROPERTY BEING ASSESSED

STREET & NUMBER:	
LOCALITY:	
LOT & DEPOSITED PLAN(s) (DP) (the property(ies) can also be identified on The Map)	

THE PROPOSAL

PROPOSED WORKS: (Describe the work being undertaken Examples of works that could disturb the ground include- Clearing; Levelling; Ploughing; Construction – buildings, roads, dams; Drainage; Quarrying)	

Clause 6.4 Preliminary Assessment Form – Historic New Italy Village Area 1

SKETCH OF THE LAND

WHERE ARE THE WORKS PROPOSED ON THE LAND?

(Sketch a map showing where the works will be undertaken on the land. Additional maps, site plans etc. can be attached. Distances to identifiable features, such as boundaries, creeks, buildings etc., should be included)

N

PRELIMINARY ASSESSMENT

Walk around the site of proposed works. Thoroughly investigate the entire area to be worked and determine whether there are any items of archaeology or relics. Photographs of items likely to be discovered are attached to this form.

Describe the site (tick)

☐	Pasture (Open grazing land)	☐	Closed Forest (Heavily timbered area)
☐	Open forest (Sparsely timbered area)	☐	Regrowth (Short (<5m) thick scrub)
☐	Mixed scrub (Scattered trees, weeds, scrub and clearings)	☐	Cropping (ploughed country)
☐	Managed Area (lawn, area surround buildings, Asset Protection Zones for bush fire protection)	☐	Heavily trafficked area (roads, tracks, stock paths)
☐	Horticulture (orchard, planted forest)	☐	Other

Known sites within the vicinity (tick)

Are there items recorded in the vicinity of the proposed works? This may highlight locations requiring a greater level of assessment.	Yes ☐ No ☐

Archaeology or relics discovered in the New Italy area (tick)

Are any of the following types of items within the proposed work area?	Items Discovered
Wells – Timber lined or stone lined wells are known	Yes ☐ No ☐
Remnants of Buildings – Stone foundations; hearths; rectangular mounds on the ground possibly representing remains of mud brick buildings; timber stumps	Yes ☐ No ☐
Tree/Vineyard/Orchard plantings	Yes ☐ No ☐
Contour drainage lines – Generally linear with a shallow channel and mounded embankment	Yes ☐ No ☐
Fence lines or timber posts (with cut out for rails) – Boundary fencing, fencing around buildings, fencing of stock yards, racks for the drying of silk	Yes ☐ No ☐
Other items -	Yes ☐ No ☐
If "yes" to any of the above, described the items, record them (photographs), mark their location on the Sketch, and notify Council and NSW Heritage Branch. Describe the types of items discovered:	

Clause 6.4 Preliminary Assessment Form – Historic New Italy Village Area 3

ADDITIONAL INFORMATION ATTACHED TO THIS ASSESSMENT (tick)

☐	Photographs	☐	Archaeological Assessments
☐	Maps	☐	Historical background Information
☐	Sketches	☐	Other

DECLARATION AND SIGNATURE OF ASSESSOR(s)

- I/we, the undersigned, undertook a Preliminary Assessment within the Historic New Italy Village Area.
- I/we are aware that proposed works are to be conducted on the land to which this assessment was conducted.
- I/we are aware that it is an offence to harm (expose, move, damage, or destroy) items of archaeology or relics.
- I/we having completed the preliminary assessment: (tick one of the following)

☐	am/are satisfied that there are no items within the area of proposed work site
☐	have discovered, or are aware of, items within the proposed works site and will manage these items by avoiding any harm
☐	have discovered, or are aware of, items within the proposed works site but harm can not be avoided. Appropriate approvals will be sought to harm the item(s).

Assessor's Signature(s)			Date	
Owner's Signature(s)			Date	

WHERE TO NOW?

- The completion of this Preliminary Assessment forms part of a property owners due diligence towards the protection of heritage.
- It is recommended that a copy of this assessment is retained for record purposes.
- Submit a copy of this Preliminary Assessment with your development application for earthworks.
- Approval under the *Heritage Act 1977* will be required where items will, or are likely, to be harmed.

FURTHER INFORMATION/CONTACT DETAILS

Further information can be obtained by contacting Richmond Valley Council's Town Planning Section.

Postal address:
Locked Bag 10
CASINO NSW 2470
Casino Administration Office:
Cnr Graham Place and Walker Street, CASINO
Evans Head Office:
25 Woodburn Street, EVANS HEAD

Phone:
(02) 66600300 (Casino)

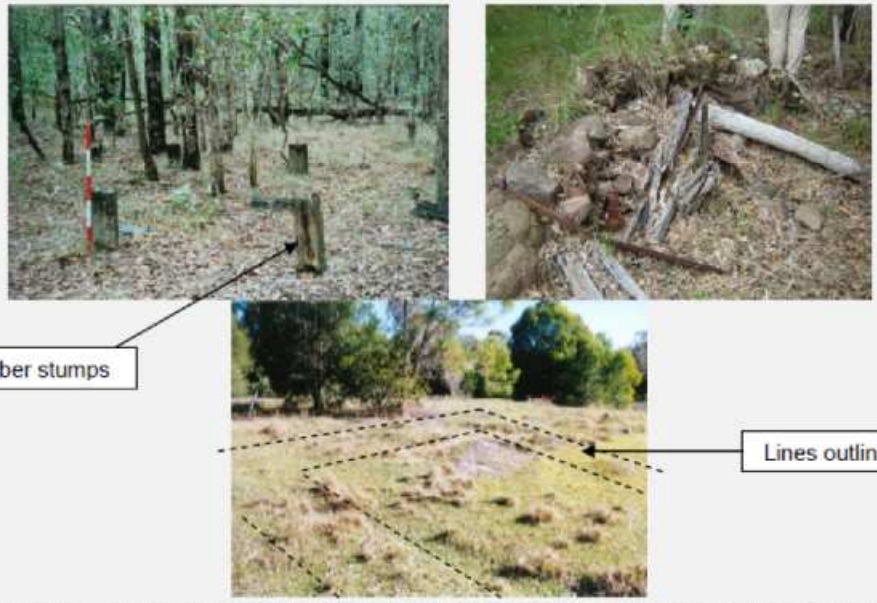
Fax:
(02) 66601300

Email:
council@richmondvalley.nsw.gov.au

Examples of items from New Italy

Stone lined wells

Timber lined wells



Building remnants – stumps (top left), stone foundations (top right), and earth mound remnants of mud brick construction (centre)

Fence line (left), timber post (centre), contour drainage (right)

Part J. Notification and Advertising of Development

This DCP applies to all land within the Richmond Valley Local Government Area.

Date adopted by Council:
22 December 2015

Effective Date:
4 January 2016

Amendments:
Nil

Public participation is an essential component of the development assessment process. This Chapter seeks to ensure that public participation is facilitated in an orderly and transparent manner when dealing with development applications and related matters likely to impact on adjoining properties or the wider community.

The *Environmental Planning and Assessment Act 1979* and the Regulations contain provisions specifying the minimum exhibition requirements for development identified as "advertised development". They further provide that a development control plan can:

- add to the types of development to be considered as "advertised development",
- specify development to be notified or advertised, and
- specify development that need not be notified or advertised.

Note. This DCP does not cover Designated Development or State Significant Development. Reference should be made to the relevant sections and clauses of the EP&A Act and Regulations for their specific advertising requirements.

This DCP specifies types of development requiring public notification and the minimum exhibition requirements. There are essentially three methods of public notification that will be utilised by this DCP, they involve:

- a formal written notice—a letter to persons identified as potentially being impacted upon by a development proposal giving an opportunity to make a written submission,
- an informal written notice—a courtesy letter to persons identified as potentially having an interest in a development proposal, and
- a published notice—public notice displayed within a local newspaper, or by any other statutorily prescribed means.

J.1 General Objectives

The general objectives of this Part are to:

(1) provide an opportunity for public participation in the development application process and invite comment on such matters.

(2) ensure consistency in the notification of similar applications.

(3) identify development applications that will be notified (formal/ informal) and/or advertised and those persons who will be contacted.

(4) ensure that the views of interested persons are considered before determining applications.

(5) outline procedures for the notification and advertisement of development applications, applications to modify development consents, and the review of development consents.

(6) specify circumstances when notification of development applications is not required.

J.2 Categories of Development

Objectives

(1) to identify development types and the minimum notification and/or advertising requirements for each.

(2) to require development to be advertised and/or notified where it is considered there may be community interest.

(3) ensure consistency in the notification of similar applications.

Controls

(1) For the purposes of this DCP development has been divided into 5 categories (Category "A", Category "B", Category "C", Category "D", and Category "E"). Each category of development specifies different exhibition requirements outlined within Table J.1.

Note. The advertising and notification procedures for Categories "A" and "B" are defined by clause 89 of the Regulation. This DCP cannot be inconsistent with those prescribed procedures.

(2) Table J.2 defines development types and prescribes a Category for exhibition purposes.

Note. Council's Assessing Officers, Management or the *Development Assessment Panel* (**DAP**) reserve the right to neighbour notify or advertise any development if it is considered the impact of the development warrants neighbour notification/ advertisement.

(3) Where:

(a) a development proposal is identified in Table J.2 under several different Categories, or

(b) an application is received containing multiple development types across different Categories,

the application will be advertised/notified as per the higher Category ("A" being highest, and "E" being lowest).

Table J.1 –Advertising and Notification Categories (this DCP Covers those sections within red outline)

Designated Development	**State significant development** (Division 6 of Part 6 of the EP&A Reg 2000)			**DCP Coverage**		
		Advertised Development (cl.5 of EP&A Reg 2000)			**Other Notifiable Development** (sect. 74C(c) of EP&A Act 1979)	Excluded Development
		Other advertised development				
		Ø **Nominated Integrated Development**- ⇒ *Heritage Act 1977* ⇒ *Water Management Act 2000* ⇒ *Protection of the Environment Operations Act 1997* Ø **Threatened Species Development** Ø **Class 2 Aquaculture Development (SEPP62)**	Ø **Class 1 Aquaculture Development (SEPP62)**	Ø **Advertised Development** identified in a DCP (sect. 74C(b) of EP&A Act 1979)	Ø **Specified Development** identified in a DCP (other than Advertised Development) Ø Request for a **Review of Determination** where making amendments to the original proposal Ø Application for **Modification of a development consent** for "specified development"	
Refer to section 79 Act and the Regulation for details	Refer to Act, Regulation and/or SEPPs for details	Categories for Notification and/or Advertising of Development				
		"A"	"B"	"C"	"D"	"E"
		Written Notice and Published Notices	Written Notice and Published Notice	Published Notice only	Written Notice only	No advertising or notification required
		Min. 30 Day exhibition period	Min. 14 Day exhibition period	Min. 14 Day exhibition period	Min.14 Day exhibition period	

Note. Exhibition periods expressed are in calendar days

Table J.2 – Advertised Development (and excluded development) Categories

- Advertised Development – requiring a published notice and written notice for 30 days (identified as Category "A" in the following table).
- Advertised Development – requiring a published notice and written notice for 14 days (identified as Category "B" in the following table); and,
- Other Notifiable Development – requiring a published notice for 14 days (identified as Category "C" in the following table);
- Other Notifiable Development – requiring a written notice for 14 days (identified as Category "D" in the following table); and
- Excluded Development – not Advertised Development (no notification required, or informal notification) (identified as Category "E" in the following table).

Development Type	Category				
	A	B	C	D	E
Nominated Integrated Development- being development requiring approval under: ⇒ Heritage Act. ⇒ Water Management Act. ⇒ Protection of the Environment Operations Act.	~				
Threatened Species Development	~				
Aquaculture Development- referred to in clause 13 of SEPP62					
⇒ Class 1 Aquaculture Development.		~			
⇒ Class 2 Aquaculture Development.	~				
Note. Class 3 Aquaculture Development constitutes designated development.					
All Other Types of Development					
Request for Review of Determination- (s82A)					
⇒ where making minor amendments to the original proposal					~
⇒ where making amendments (other than minor amendments) to the original proposal.	As per category for the amended dev. proposal				
Application for Modification of a development consent- (Section96 of the EP&A Act)					
where making minor amendments to the original proposal S96 (1) and S 96(1a)	As determined by Assessing Officer or the DAP				
where making amendments (other than minor amendments) to the original proposal S96(2) OR S96(AA)	As per category for the amended dev. proposal				

Development Type	Category				
	A	B	C	D	E
Change of use					
No new building works or minor internal/ external building works with no considered off site impacts					~
Change of Use (with off-site impacts expected)	As per Category for the new use				
Existing Use Rights (with off-site impacts expected)		~			
Existing Use Rights (No off-site impacts expected)					~
Internal works to any building					~
Protection of the Environment Operations Act 1997 Scheduled activities		~			
SEPP55 – Remediation of Land – Category 1 remediation work (refer to clause 9 of SEPP55 for details of what constitutes a class 1 remediation work)		~			
Extend hours of operation-					
so as to operate outside any of the following times- ⇒ between 7.00 am to 5.00 pm Monday to Friday. ⇒ between 8.00 am to 12 noon Weekends and Public Holidays.				~	
so as to operate at any time- ⇒ between 10.00 pm to 7.00 am Monday to Friday. ⇒ between 2.00 pm to 8.00 am Weekends and Public Holidays.		~			
All development- ⇒ 3 storeys or greater, or ⇒ where the height of building exceeds 10 metres above existing ground level, or ⇒ Development with a value of work exceeding $20M.		~			
Demolition of a building (excluding heritage items)				~	
Demolition of ancillary structures or farm buildings					~
Agriculture-					
⇒ Extensive agriculture ⇒ Intensive plant agriculture				~	
⇒ Intensive livestock agriculture		~			
Animal boarding or training establishments		~			
Farm buildings					~

Development Type	Category				
	A	B	C	D	E
Keeping of certain animals (non-commercial)					
In any Zone ⇒ >10 Dogs ⇒ >20 fowl and poultry ⇒ keeping of rooster(s)				~	
Residential Accommodation-					
⇒ Development not specified above or considered minor alterations and additions to residential accommodation, or ancillary structures, with minimal impact. This section includes single story dwellings with no DCP variations					~
⇒ Requested variation to the DCP: Building Line Setback, Building Height Plane or Floor Space Ratio/ Site Coverage. ⇒ Single Dwelling houses: that are two storeys or more and located on R1, RU5 zoned land. ⇒ Dual occupancy: that area located on R1, R5 & RU5 zoned land. ⇒ Secondary dwellings ⇒ Shop top housing: where no alterations to commercial floor space ⇒ ancillary structures: two storeys or more OR within 900mm of the property boundary for R1 & RU5 zoned land.(note: for structures in other zones see DCP setback) ⇒ including significant additions to any of the above				~	
⇒ Residential flat buildings (<20 dwellings) ⇒ Multi dwelling housing (<20 dwellings) ⇒ Rural landsharing communities (SEPP15)(<20 dwellings) ⇒ Attached dwellings ⇒ Boarding houses ⇒ Group homes ⇒ Hostels ⇒ Seniors housing (<20 dwellings) ⇒ including significant additions to any of the above (As determined by Assessing Officer, Management or the DAP)				~	
⇒ Residential flat buildings (20 or more dwellings) ⇒ Multi dwelling housing (20 or more dwellings) ⇒ Rural landsharing communities (SEPP15)(20 or more dwellings) ⇒ Seniors housing (20 or more dwellings) including significant additions to any of the above (As determined by Assessing Officer Management or the DAP)		~			

Development Type	Category				
	A	B	C	D	E
Heritage items or buildings within a Conservation Area-					
⇒ Minor works					~
⇒ Minor alterations or additions to a building in a heritage conservation area				~	
⇒ Demolition of a heritage item ⇒ Work that will materially affect the significance of a heritage item ⇒ Conservation incentive for development not otherwise supported by RVLEP (clause 5.10(10))		~			
Commercial premises-					
⇒ Roadside stalls					~
⇒ Office premises ⇒ Business premises ⇒ Retail premises – § including additions (As determined by Assessing Officer, Management or the DAP) § may incorporate Shop top housing				~	
⇒ Development not specified above or considered minor alterations and additions to a Commercial Premises, or ancillary structures, with minimal impact					~
Industrial retail outlets Wholesale supplies Service stations Veterinary hospitals				~	
Amusement centres Entertainment facilities Registered clubs Pubs Function centres Highway service centres		~			
Sex service premises Home occupation (sex services)		~			
Restricted premises-					
⇒ within existing commercial premises, and ⇒ occupying floor area <100m^2, and ⇒ displays not visible from street				~	
⇒ Other occurrences		~			

Development Type	Category				
	A	B	C	D	E
Tourist and visitor accommodation-					
⇒ Farm stay accommodation ⇒ Bed and breakfast accommodation ⇒ including additions that alter the occupant numbers or increase the size of buildings foot print.				~	
⇒ Backpackers' accommodation ⇒ Undefined types of tourist and visitor accommodation Hotel or motel accommodation ⇒ Serviced apartments ⇒ Including additions that alter the occupant numbers or increase the size of buildings foot print.		~			
Eco-tourist Facilities		~			
Caravan Parks Manufactured Home Estates Camping grounds		~			
Industrial development-					
⇒ light industry ⇒ general industry				~	
⇒ heavy industry		~			
Rural Industry-					
⇒ with gross floor area <500m^2				~	
⇒ with gross floor area more than 500m^2		~			
Boat building and repair facilities Vehicle body repair workshops Vehicle repair stations Storage premises Depots Warehouse or distribution centres				~	
Heavy industrial storage establishments Extractive industries		~			

Development Type	Category				
	A	B	C	D	E
Infrastructure – Water and Waste					
⇒ Water reticulation systems (where a large part of the infrastructure will be located below the ground)				~	
⇒ Water reticulation systems (where a large part of the infrastructure will be located above the ground) ⇒ Sewage systems ⇒ Waste or resource management facilities ⇒ Water storage facilities ⇒ Water treatment facilities		~			
Electricity generating works-					
⇒ capacity to generate <10,000Kw				~	
⇒ capacity to generate > 10,000Kw		~			
Infrastructure – Transport					
⇒ Jetties ⇒ Moorings				~	
⇒ Airstrips ⇒ Helipads ⇒ Boat launching ramps ⇒ Car parks ⇒ Passenger transport facilities ⇒ Transport depots ⇒ Truck depots ⇒ Wharf or boating facilities ⇒ Mooring pens ⇒ Charter and tourism boating facilities ⇒ Air transport facilities ⇒ Freight transport facilities ⇒ Port facilities ⇒ Marinas		~			

Development Type	Category				
	A	B	C	D	E
Community infrastructure-					
⇒ Information and education facilities				~	
⇒ Emergency services facilities ⇒ Child care centres ⇒ Community facilities ⇒ Places of public worship ⇒ Public administration buildings ⇒ Research stations ⇒ Respite day care centres ⇒ Cemeteries (other than for private burials) ⇒ Mortuaries ⇒ Crematoria ⇒ Correctional centres ⇒ Industrial training facilities ⇒ Education establishments		~			
Events (small short term) – (such as small festivals, markets, etc.)				~	
Events (larger events)		~			
Health services facilities-					
⇒ Health consulting rooms ⇒ Medical centres ⇒ Other health services facilities ⇒ Hospitals		~			
Recreation-					
⇒ Environmental facilities ⇒ Recreation areas ⇒ Water recreation structures				~	
⇒ Recreation facilities (indoor) ⇒ Recreation facilities (outdoor)				~	
⇒ Recreation facilities (major)		~			
Miscellaneous					
⇒ Environmental protection works					~
⇒ Cemeteries for private burials Exhibition homes ⇒ Exhibition villages (consisting of <6 dwellings)				~	
⇒ Exhibition villages (consisting of more than 6 dwellings) ⇒ Flood mitigation works		~			
⇒ Open cut mining		~			

Development Type	Category				
	A	B	C	D	E
Subdivision of land-					
⇒ No new lots to be created ⇒ Strata ⇒ Community Title					~
⇒ Containing <10 lots				~	
⇒ Containing 10 lots or more		~			
Signage-					
⇒ with a display area for each sign up to $10m^2$. Total signage area to building; maximum area of $20m^2$					~
⇒ with a display area $>10m^2$ ⇒ flashing or animated signs ⇒ signs with a height >8 metres above existing ground level				~	

J.3 Published Notification Procedures

Objectives

(1) to specify the minimum requirements for a published notice.

Controls

Form of published notice

(1) The minimum specifications for a published notice are provided in clause 89 of the *Environmental Planning and Assessment Regulation 2000*. It provides that such a notice must be published in a local newspaper and contain the following information-

- description of the land (including the address)
- name of the applicant
- name of the consent authority
- description of the development proposal
- a statement that the proposal may be inspected at the principal offices of the consent authority during ordinary office hours during the exhibition period
- a statement that any person may make written submissions, in relation to the development proposal, during the exhibition period
- the dates of the exhibition period (commencing the day after the day on which the published notice first appears in a newspaper)

(2) Where the application is for *integrated development* the following additional information is stated-

- a statement that the development is integrated development.
- the approvals that are required under integrated development.
- the relevant approval bodies for the required approvals.

(3) Where the application is *threatened species development*-

- a statement that the development is threatened species development.

Exhibition period

(4) The exhibition period shall commence on the following day that the published notice first appears in a newspaper.

(5) The minimum exhibition periods are described in calendar days.

(6) The exhibition period should be extended to accommodate public holidays, or days where the Consent Authority's principal office is closed, but excluding weekends.

(7) The exhibition period may be increased, or extended, at Council's discretion.

Cost of advertising

(8) The full cost of publishing notices and erecting display notices may be recouped by the Consent Authority pursuant to clause 252 of the Regulation 2000.

(9) A fee shall be levied for advertising and displaying applications. Such a fee should be levied at lodgement of the application.

(10) The applicant may request a refund of unspent advertising fees where the levied advertising fees exceed the cost to publish notices, and/or erect display notices. Such requests may be made following determination of the application and must be in writing.

(11) Additional advertising fees may be levied on an application for each additional published notice required.

J.4 Written Notification Procedures

Objectives

(1) to specify the minimum requirements for a formal written notices.

(2) to enable the Consent Authority to determine when formal written notification should be increased or dispensed with.

(2) to provide for informal notification where formal notification is not required or has been waived.

Controls

Who will be given written notification

(1) Where Table J.1 requires written notification (Category "A", "B" or "C"), a formal written notice shall be given to the adjoining land owners.

(2) Subject to subclause (6) below, notification can be increased or dispensed with depending on the proposal and its anticipated impact on adjoining properties. The Assessing Officer, Management or the DAP will determine the extent of notification.

(3) Clause 88(2)(c) of the Regulation 2000 provides that if land is owned or occupied by more than one person, a written notice to one owner or one occupier is taken to be a written notice to all the owners and occupiers of that land.

(4) Excluded Development (Category "E")

An Informal written notice may be made to adjoining land owner's, or the occupants, where:

(a) formal written notification is not required by this DCP, and

(b) the Consent Authority believes that the development may generate community interest.

(5) An informal written notice is for advisement purposes only, with submissions received to be considered at the discretion of the Consent Authority.

Note. The types of development that may be informally notified include - single story dwellings, out buildings, pools, additions to commercial /industrial development.

(6) Notification to affected persons

In many instances development proposals may have the potential to impact upon properties beyond those of adjoining lands, or the impacts may be contained within the development's property boundaries.

In determining whether additional affected persons should be notified, or that notification should be decreased or waived, Council needs to examine the submitted plans and consider on merits such issues as:

- the views to, and the view from, surrounding land.
- potential overshadowing of surrounding land.
- privacy of surrounding land.
- potential noise transmission to the surrounding land.
- the likely visual impact of the proposed building in relation to the streetscape.
- the scale or bulk of the proposal.
- proposed hours of use.
- potential light spillage or reflection.
- potential traffic generation.
- means of vehicle access to and provision of parking and loading on the application site.
- potential social impacts on the community.

(7) Notification may be extended to include the occupants of affected properties, including those of adjoining lands, where it is suspected they are not occupied by their owner.

(8) Written notification to public authorities

Written notification of development will be made to such public authorities (other than relevant concurrence authorities or approval bodies) as, in the opinion of the Consent Authority, may have an interest in the determination of the application.

Form of written notification

(9) Written notification of development will be made in the form of a letter.

(10) As a minimum standard, letters to property owners will be posted to the service address provided within Council's Corporate Information System at the date the notice is issued.

(11) Where the occupants of identified properties are to be notified, the notice need only be addressed "To the occupant".

(12) The minimum specifications for a written notice are provided in clause 89 of the *Environmental Planning and Assessment Regulation 2000*. It provides that a notice must contain the following information:

- description of the land (including the address)
- name of the applicant
- name of the consent authority
- description of the development proposal
- a statement that the proposal may be inspected at the principal offices of the consent authority during ordinary office hours during the exhibition period
- a statement that any person may make written submissions, in relation to the development proposal, during the exhibition period
- the dates of the exhibition period

(13) Where the application is for *integrated development* the following additional information is stated-

- a statement that the development is integrated development.
- the approvals that are required under integrated development.
- the relevant approval bodies for the required approvals.

(14) Where the application is *threatened species development*-

- a statement that the development is threatened species development.

Circumstance where a notice is to be displayed on site

(15) For development that is considered to have wider off site impacts and the DAP decides it is in the public interest, a copy of the written notice shall be displayed on the development site (a **display notice**).

(16) A display notice must be located in a position that is visible to the public. It must also be of such dimensions to reasonable display the notice so that it can be clearly read.

J.5 Dictionary

Objectives

(1) to define terms used in the Advertising and Notification Part of this DCP.

Controls

(1) The introduction to *Richmond Valley DCP 2015* contains common definitions, however, the following terms are relevant to this Chapter-

Adjoining land means lands immediately adjoining the proposed development site, or that are separated from such land only by a pathway, driveway, unformed road or similar thoroughfare.

Affected person means a person:

(a) who owns or occupies land in the vicinity of a development proposal, and whose enjoyment of that land may be detrimentally affected by the proposed development; or

(b) who owns or occupies adjoining land.

and may include properties in an adjoining Local Government Area.

Note. Affected persons are identified using the merit considerations identified within Chapter J.4(6).

Display notice means a copy of the Published Notice (or Written Notice where a Published Notice is not required) is displayed on the proposed development site and at the principal offices of the consent authority and Council (where not the consent authority) during the exhibition period.

Local newspaper for the purposes of this Chapter means a newspaper with a circulation at least once weekly in the locality of the development proposal.

Note. In the main such notices will appear in The Richmond River Express Examiner which has a weekly distribution throughout the Richmond Valley Council area.

Nominated integrated development has the same means as clause 5(1)(b) of the Regulation 2000.

Note. Clause 5(1)(b) of the Regulation 2000 defines ***nominated integrated development*** as being integrated development (not being State significant development, threatened species development or Class 1 aquaculture development) that requires an approval (within the meaning of section 90A of EP&A Act) under a provision (specified in section 91 of EP&A Act) of any of the following Acts:

(i) the *Heritage Act 1977*,

(ii) the *Water Management Act 2000*,

(iii) the *Protection of the Environment Act 1997*.

Other Advertised Development has the same meaning as provided in clause 5(2) to the Regulation 2000. It includes Advertised Development (other than State significant development) and additional specified development by this DCP.

Owner means:

(a) the person or persons who appear on Council's records to be the owner(s) of the land at the date of notification.

(b) in the case of land that is subject of a strata scheme under the *Strata Titles (Freehold) Act 1973*, or a leasehold strata scheme under the *Strata Titles (Leasehold) Act 1986*, the owners corporation.

Published notice (referred to in clause 87 of the Regulation 2000) means to cause a notice of the application to be published in a local newspaper.

Threatened Species Development is referred to in clause 5(1) of the Regulation 2000, and includes any development (other than State significant advertised development or designated development) requiring a Species Impact Statement to be lodged under section 78A(8)(b) of EP&A Act.

Note. Section 78A(8)(b) requires a Species Impact Statement to accompany a development application where the land, or part of the land, is critical habitat or is likely to significantly affect threatened species, populations or ecological communities, or their habitats (see "7 part test" under section 5A of EP&A Act).

Written notice (referred to in clause 87 of the Regulation 2000) means to give notice in writing of an application. Council can undertake Formal or Informal Written Notification.