

Explanation of Amendments

Draft Port Stephens Development Control Plan 2013 - Development Assessment Process Improvements Amendment

NO.	EXPLANATION OF AMENDMENTS
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1	Section A – Introduction
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1. Amend the table to chapter A3 to remove amendments that have not been made.

Explanation: The amendments table currently includes a number of proposed amendments that have not been completed. Removal of these from the table will clarify the history of amendments. Once these amendments are completed, they can then be added to the table in chronological order.

2	Section B – General Provisions
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1. Delete Chapter B6 – Essential Services
2. Delete Chapter B10 – Social Impact from the table of contents.

Explanation: These chapters are proposed to be deleted as outlined in items 4 and 7 below.

3	Chapter B4 – Drainage and water quality
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1. Amend B4.2 as follows:
 - **On-site detention / on-site infiltration** is required in **stormwater requirement areas** where:
 - the post-development flow rate or volume exceeds the pre-development flow rate or volume; or
 - impervious surfaces exceed the total percentage of site area listed under Figure BD; or
 - it is identified under Section D Specific Areas of the **PSDCP 2014**.

Note: A map of **stormwater requirement areas** is published on Council's website.

2. Relocate figures BD and BE to follow control B4.4.
3. Amend B4.5 to include additional development types exempt from the requirements of the control:
 - **Development** is to provide Stormwater Quality Improvement Devices (SQIDs) in accordance with Table BF: Water Quality Table, unless:
 - a WSUD Strategy that applies to the land has been approved by Council and is listed on Council's website for the purposes of this requirement.

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| | <ul style="list-style-type: none"> ○ is a dwelling house, semi-detached dwelling, secondary dwelling, and/or ancillary structure to residential development, or; ○ is for alterations and additions to a dwelling house, semi-detached dwelling, secondary dwelling, and/or ancillary structure to residential development, or; ○ is for other minor alterations and additions on a lot of less than 250m² |
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A document listing approved WSUD Strategies is available on Council's webpage.

4. Delete the flow chart to B4.5.
5. Amend B4.8 to remove reference to single dwellings.
6. Amend B4.10 to remove references to the process for Hunter Water to provide a submission to development applications, and remove the note linking to control B1.5.
7. Amend Figure BF: Water Quality Table to describe development types that no longer require SQIDs.
8. Relocate figure BF to follow B4.10

Explanation: Variations are routinely granted to Control B4.2 and in practice, the control is only applied to land with an acknowledged stormwater management issue. The rewording of this control will align the requirement with the intended function to provide a higher level of stormwater controls, for areas identified as having stormwater management issues.

Currently Stormwater Quality Improvement Devices (SQIDs) such as rain gardens are required under control B4.5, regardless of location or development type. The aim of these devices is to improve the quality of stormwater before it enters natural waterways.

Whilst stormwater quality improvements have been noted for large scale or catchment wide systems, investigations have shown that only 16% of individual SQIDs for minor residential developments on average remain operational for only 6 months after completion. The current requirements are not resulting in sufficient improvements in stormwater quality for small scale residential development such as single dwellings, secondary dwellings (granny flats), or ancillary development (sheds etc).

Further, these controls increase costs for proponents, complicate the assessment process, and extend assessment timeframes. These matters negatively impact housing affordability, without sufficiently improving stormwater quality.

Removing the requirements for SQIDs for single dwellings, secondary dwellings, and ancillary structures will streamline development assessments and reduce the cost for developers and home owners. It is widely acknowledged that stormwater quality improvement solutions should be implemented on a larger scale to be an effective policy response. These larger scale solutions already apply to new residential subdivisions or industrial subdivisions. The Local Strategic Planning Statement and Local Housing Strategy include actions to investigate and implement precinct wide solutions for small scale residential development.

Control B4.8 provides exceptions from requirements for onsite detention and infiltration if compliant SQIDs are provided for single dwellings and dual occupancies. Changes to B4.5 remove the requirement for SQIDs for single dwellings, and so this control will no longer apply to single dwellings.

Control B4.10 currently includes notes on processes for referred development applications to Hunter Water, and an unrelated link to the vegetation management chapter. These notes do not provide assistance in understanding the control and can be removed.

Relocation of figures and tables to sit adjacent to the controls to which they relate will improve readability.

4 Chapter B6 – Essential Services

1. Delete the chapter

Explanation: Clause 7.6 of the Port Stephens Local Environmental Plan (PSLEP) requires a development application to demonstrate that suitable provision has been made for essential services, including supply of water, supply of electricity, disposal and management of sewage, stormwater management, and vehicular access. The controls of the chapter outline relevant guidelines and options, however these are already considered in the application of clause 7.6 of the PSLEP.

5 Chapter B7 – Williamstown RAAF Base – Aircraft noise and safety

1. Relocate figures BJ and BK to follow control B7.1
2. Amend B7.6 to the following:
 - When **development types** listed in column 1 are proposed in the bird strike zone (identified in Figure BU), the development application must be prepared and assessed in accordance with the provisions of Column 2.

Figure BU – Development types to be avoided or where impacts can be mitigated in a bird strike zone

Development type	Column 2		
	Group A (3km Radius from airport runway)	Group B (8km Radius from airport runway)	Group C (13km Radius from airport runway)
Agriculture			
Intensive plant agriculture (Turf farm)	A	Mi	Mo
Horticulture (Fruit tree farm)	A	Mi	Mo
Livestock produce industry (Fish processing / packing plant)	A	Mi	Mo
Intensive livestock agriculture (Piggery)	A	Mi	Mo
Intensive livestock agriculture (Cattle, dairy or poultry farm)	Mi	Mi	Mo
Conservation			
Environmental Protection Works (Wildlife sanctuary -wetland)	A	Mi	Mo
Environmental Protection Works (Wildlife sanctuary - dryland)	Mi	Mi	Mo
Recreation			

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	Recreation facility - major (Showground)	A	Mi	Mo
	Recreation facility - major (Racecourse, sports stadium, theme park)	Mi	Mi	Mo
	Recreation facility – outdoor (Golf course, park, playground, sports)	Mi	Mi	Mo
	Camping Ground	Mi	Mi	Mo
	Commercial			
	Agricultural produce industry (Food processing plant)	A	Mi	Mo
	Utilities			
	Waste or resource management facility (Food / organic waste facility)	A	Mi	Mo
	Waste disposal facility (Putrescible waste facility – landfill / transfer station)	A	Mi	Mo
	Waste disposal facility (Non-putrescible waste – landfill / transfer station)	Mi	Mi	Mo
	Sewage treatment plant (Sewage / waste water treatment facility)	Mi	Mi	Mo
	Avoid (A) – Development not supported.			
	Mitigate (Mi) - Waste management report is required which demonstrates that the development will not increase the risk of bird strike to aircraft.			
	Monitor (Mo) – Demonstrate compliance with B7.7.			

Note: Development within the birdstrike zone should adhere to the National Airports Safeguarding Advisory Group (NASAG) – Guideline C: Managing the Risk of Wildlife Strikes in the Vicinity of Airports (Wildlife Strike Guidelines).

3. Add new control B7.7:
 - Any development located within the bird strike zone is to limit, cover and/or enclose any organic waste and/or the storage of bins on site.
4. Remove objective B7.7 and controls B7.8, B7.9 and B7.10 relating to the Commonwealth Department of Defence referral requirements for noise sensitive development, height limitation and extraneous lighting.

Explanation: The amendment will align the DCP with the National Airports Safeguarding Advisory Group (NASAG) – Guideline C: Managing the Risk of Wildlife Strikes in the Vicinity of Airports (Wildlife Strike Guidelines). Currently control B7.6 requires all development located within the bird strike zone to be referred to the Commonwealth Department of Defence (DoD), adding an average of 14 days to assessment timeframes. Commonly the responses received are generic comments requesting advisory conditions for management of organic waste and dust suppression. The DoD have advised that they rely on the Wildlife Strike Guidelines, which outlines specific land uses that are likely to impact the incidence of bird strike. The DoD have provided support for amendment of the control to align with the Wildlife Strike Guideline.

Objective B7.E and controls B7.8, B7.9 and B7.10 do not inform or guide development outcomes. Rather, these controls outline Council's procedures when undertaking

development assessment. These procedures are already defined in Councils internal processes, which are informed by the assessment requirements set out in relevant legislation, therefore they may be deleted from the DCP.

6 Chapter B9

1. Amend B9.4 and relocate the exceptions to parking requirements as stand-alone controls:
 - Except as required by B9.5, B9.6 or B9.7, all **development** that has the potential to create demand for on-site parking must provide parking in accordance with Figure BT.
2. Move Figure BT to follow B9.4.
3. Amend Figure BT to include the following note under development type 'marina':
Note: Additional car parking is to be provided for the uses carried out as part of, or ancillary to a marina which are identified in this Figure and car parking is to be provided for those uses in accordance with the relevant rates set out in this Figure.
4. Add new control B9.5:
 - Where the parking requirements for B9.4 cannot be provided for on site in accordance with Figure BT, Council may consider alternative off-site arrangements for parking demand, such as providing parking on another site in proximity to the development.
5. Add new control B9.6:
 - A reduction in the number of spaces required in accordance with Figure BT may be considered when supported by a TIA in the following circumstances:
 - Parking has a negative visual impact on heritage
 - The current land use has been approved with a parking shortfall and the proposed parking concession does not exceed the current shortfall for the approved use calculated in accordance with Figure BT
 - Peak demand between commercial and residential development types is shared
 - An upgraded public transit facility, such as a bus stop, is provided in proximity to the site
6. Add new dot point under B9.6:
 - Where it can be demonstrated that ancillary uses carried out as part of, or ancillary to a marina do not generate demand for **on-site parking** consistent with the relevant rate prescribed in Table BT.
7. Add new control B9.7
 - A reduction in the number of spaces required in accordance with Figure BT (p. B-56) may be considered for commercial premises on land zoned B2 Local Centre or B3 Commercial Core when dedicated car sharing service spaces equipped with electric vehicle charging provisions are provided. The maximum reduction is not to exceed:
 - For **development** requiring up to 5 spaces – no reduction
 - For **development** requiring more than 5 and up to 20 spaces – 1 space
 - For **development** requiring more than 20 spaces – 5%

Note: dedicated car sharing service spaces are included as a car parking space for the purposes of calculating the total number of spaces provided.

8. Renumber existing controls from B9.5 onwards to allow for new controls described above.

Explanation: Relocation of figures and tables to sit adjacent to the controls to which they relate will improve readability.

The amendments listed above ensure that consideration is given to the additional parking demand created by ancillary uses carried out at marinas, whilst allowing for a merit based approach supported by a suitable level of information.

Additionally, new control B9.7 will encourage the provision of dedicated car share service spaces with electric vehicle charging infrastructure in new development.

7 Chapter 10 – Social impact

1. Delete the chapter.

Explanation: Social impact is required to be assessed under the Environmental Planning & Assessment Act 1979 (EP&A Act), and applicants will be advised of the need to include a Social Impact Assessment for development which could result in unacceptable social impacts, in accordance with the guidance published for applicants on Council's website in Council's DA Lodgement Guideline.

The control in this chapter does not provide any additional detail or requirements, other than reference to a revoked Council policy. Removal of this chapter will not affect the proper assessment of social impacts required under the planning legislation.

8 Chapter C1 – Subdivision

1. Rearrange chapter to clearly identify the controls that apply to all categories of subdivision and the controls that apply to major subdivisions.
2. Move Figures CA and CB to follow objective C1.B.
3. Add objective C1.B:
 - **All Subdivision - Street trees:** To ensure street tree planting is of an appropriate species and undertaken in accordance with Council's guidelines.
4. Add control C1.6:
 - Where street trees are required to be removed to facilitate development, they must be replaced in a practical location, in accordance with Section 4.6 of the **tree technical specification**¹
5. Add the following in objective C1.D:
 - and the **infrastructure specification – design**¹¹ (where relevant)

Explanation: Rearrangement of the controls will help to improve readability, and will clarify which requirements apply only to major subdivisions. This includes the creation of a new section that outlines street tree requirements. Relocation of figures and tables to sit adjacent to the controls to which they relate will improve readability.

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A new control requiring replacement of street trees will result in consideration of existing street trees during the design of development, encouraging the retention of existing, established street trees.

Additional reference to the infrastructure design specification in the Public Scale Drainage objective will ensure inter-allotment drainage design considers relevant infrastructure specifications.

9	Chapter C2 – Commercial
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1. Move Figure CD to follow control C2.14, and rename to Figure CC.
2. Move Figure CC to follow control C2.22, and rename to Figure CD.
3. Add objective C2.L:
 - **Signage:** To ensure signage is complementary to its surroundings.
4. Add control C2.37:
 - The following types of signage are generally not supported:
 - Flashing signs. **Note:** Flashing signs may be permitted in the road reserve if the text is a road safety message
 - Roof signs
 - Vehicular signs where the primary use of the vehicle is for advertising.
 - Above awning signs
 - Anchored balloons or airborne signs
 - Inflatable signs
 - Hoarding signs
 - A-Frame signs

Explanation: Relocation of figures and tables to sit adjacent to the controls to which they relate will improve readability.

Signage controls are currently located in Chapter C8 – Signage. A review of Chapter C8 has demonstrated that only a single control in this chapter is not already outlined in other legislation. Consequently it is proposed to delete Chapter C8 and relocate the remaining control to each relevant other chapter, including Chapter C2. In addition, the control has been expanded to identify A-Frame signs as a type of signage that is generally not supported, as they present a pedestrian risk.

10	Chapter C3 – Industrial
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1. Move Figure CF to follow control C3.5.
2. Add objective C3.G:
 - **Signage:** To ensure signage is complementary to its surroundings.
3. Add control C2.37:
 - The following types of signage are generally not supported:
 - Flashing signs. **Note:** Flashing signs may be permitted in the road reserve if the text is a road safety message
 - Roof signs
 - Vehicular signs where the primary use of the vehicle is for advertising.
 - Above awning signs
 - Anchored balloons or airborne signs

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- Inflatable signs
- Hoarding signs
- A-Frame signs

Explanation: Relocation of figures and tables to sit adjacent to the controls to which they relate will improve readability.

See explanation in item 8 above in relation to the relocation and amendment of signage controls.

11	Chapter C4 – Dwelling House, Secondary Dwelling, Dual Occupancy or Ancillary Structures
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1. Rename the chapter to Chapter C4 – Dwelling House, Secondary Dwelling or Dual Occupancy, and update references to the types of development that the chapter applies to.
2. Delete controls C4.2 to C4.4, C4.7, C4.8, and C4.10 to C4.17 and summarise in a new control.
3. Add control C4.2:
 - Development is to be setback from the subject property boundary, in accordance with the provisions outlined in Table C4.1
4. Add Table C4.1:
 - Table C4.1 – Setbacks for dwellings, dual occupancies and secondary dwellings:

	Residential or RU5 (Village) zone	Rural, Environmental or R5 (Large lot residential) zone
Front setback	Greenfield - 4.5m	10m
	Infill - 4.5m or the average building line (whichever is less)	
Secondary setback (corner lots)	2m	10m
Side setback – ground level (finished)	0.9m	5m
Side setback – upper storey	2m	5m
Rear setback – ground level (finished)	2m	5m
Rear setback – upper storey	6m	5m

5. Renumber remaining existing controls C4.5, C4.6, C4.9 and C4.18 to C4.44
6. Amend renumbered control C4.6 (currently C4.18) to add the wording 'Garage setback'.
7. Relocate figure CH to follow renumbered control C4.11 (currently C4.23)
8. Amend renumbered control C4.23 (currently C4.35) to decrease the minimum driveway width requirement from 3.6m to 3m.

9. Replace the references to SEPP 14 and the Threatened Species Conservation Act in C4.26 and C4.27, with referenced to State Environmental Planning Policy (Coastal Management) 2018 and the Biodiversity Conservation Act 2016.
10. Delete objective C4.H and controls C4.45 to C4.62, and relocate to a new separate chapter.

Explanation: The information included in the deleted controls can more easily be read when summarised in a table, which has been included as Table C4.1.

Adding the wording 'Garage setback' to renumbered control C4.6 will clarify what aspect of development this control applies to.

Relocation of figures and tables to sit adjacent to the controls to which they relate will improve readability.

The existing minimum driveway width control is inconsistent with the relevant Australian Standard, which requires a minimum width of 3m. Decreasing the minimum width from 3.6m to 3m aligns the DCP with the Australian Standard, allows for further design flexibility for applicants and will reduce construction costs. In addition, the reduced width requirement will allow for reduced site coverage, improving stormwater quality and drainage outcomes.

SEPP 14 and the Threatened Species Conservation Act have been replaced with State Environmental Planning Policy (Coastal Management) 2018 and the Biodiversity Conservation Act 2016. The references in C4.26 and C4.27 will be updated to ensure current legislation is referenced.

Controls under deleted objective C4.H, being controls C4.45 to C4.62, relate specifically to ancillary development such as sheds, garages and swimming pools. These types of development are typically carried out by home owners or small contractors and separating these controls in a discrete chapter will simplify the document and the development assessment process. The relevant controls have been included in a new chapter titled Chapter C8 – Ancillary Development.

12 Chapter C5 – Multi Dwelling Housing or Seniors Housing

1. Relocate Figure CI to follow control C5.6 and delete the note to the figure.
2. Relocate Figure CK to follow control C5.47

Explanation: Relocation of figures and tables to sit adjacent to the controls to which they relate will improve readability.

13 Chapter C6 – Home Business or Home Industry

1. Add objective C6.C:
 - **Signage:** To ensure signage is complementary to its surroundings.
 2. Add control C6.6:
 - The following types of signage are generally not supported:
 - Flashing signs. **Note:** Flashing signs may be permitted in the road reserve if the text is a road safety message
 - Roof signs
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| | <ul style="list-style-type: none">○ Vehicular signs where the primary use of the vehicle is for advertising.○ Above awning signs○ Anchored balloons or airborne signs○ Inflatable signs○ Hoarding signs○ A-Frame signs |
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Explanation: See explanation in item 8 above in relation to the relocation and amendment of signage controls.

14 Chapter C8 – Signage

1. Delete the Chapter

Explanation: Control C8.1 does not outline any requirements for signage. Rather this control explains the function of the Port Stephens Local Environmental Plan. The removal of this control does not change the requirements for signage.

Control C8.2 duplicates a requirement of State Environmental Planning Policy 64 – Advertising and Signage (SEPP 64), which is identified as an applicable document in Council's DA Lodgement Guideline. The removal of this control does not change the requirements for signage.

Requirement C8.3 lists types of signage which are generally not supported. Signage generally relates to specific development types, and so it is appropriate that this control be relocated to the relevant chapters, being Chapter C2 (Commercial), Chapter C3 (Industrial) and Chapter C6 (Home business).

15 New chapter

1. Create new Chapter C8 – Ancillary Structures
2. Relocate and renumber objective C4.H and controls C4.45 to C4.62 from Chapter C4: Dwelling House, Secondary Dwelling, Dual Occupancy or Ancillary Structures, with the following amendments.
3. Amend C8.1 (previously C4.45) to make reference to new exceptions controls C8.2, and provide eave height controls for sheds in residential zones of 3.6m.
4. Add new exceptions control C8.2:
- Development for the purposes of a shed in a residential zone (except R5 Large Lot Residential) may exceed the limits in C8.1 where the following can be demonstrated:
 - The shed does not unreasonably impact the amenity of an adjoining property, such as by reason of bulk and scale, privacy or overshadowing
 - The shed is not located within 1.8m of a dwelling on an adjacent lot,
 - The shed does not exceed 5% site coverage of the lot,
 - The shed height considers the change in topography from neighbouring allotments,
 - The shed is located so that it does not detract from the dwelling being the primary use of the land,
 - The shed uses colours and materials consistent with the dwelling on the land,
 - The shed is of a similar bulk and scale to surrounding sheds,

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| | <ul style="list-style-type: none"> ○ The shed is consistent with the context and character of the area. ○ Must not be a shipping container |
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5. Amend C8.3 (previously C4.46) to make reference to new exceptions control C8.4, and provide numerical controls where 'merit-based approach' is referenced.

R5 Large Lot Residential	Site <4,000m ²	Site >4,000m ²
Maximum floor area	120m ²	200m ²
Maximum eave height	4.8m	
Minimum front setback	Behind the front building line of the dwelling	15m
Minimum side boundary and rear setback	5m	
Colour scheme	Consistent with the existing character of the area.	

6. Add new exceptions control C8.4:
- Development for the purposes of a shed on land zoned R5 Large Lot Residential may exceed the limits in C8.2 where the following can be demonstrated:
 - The shed does not unreasonably impact the amenity of an adjoining property, such as by reason of bulk and scale, privacy or overshadowing
 - The shed is not located within 10m of a dwelling on an adjacent lot,
 - The shed does not exceed 5% site coverage of the lot,
 - The shed does not result in the combined site coverage of all ancillary structures on the land exceeding 7.5% site coverage,
 - The shed is located so that it does not detract from the dwelling being the primary use of the land,
 - The shed uses colours and materials consistent with the dwelling on the land,
 - The shed is of a similar bulk and scale to surrounding sheds,
 - The shed is consistent with the context and character of the area.
 - Must not be a shipping container
7. Amend C8.13 (previously C4.55):
- Fencing materials should reflect context and character of the area
8. Amend C8.19 (previously C4.61):
- The total number of shipping containers ancillary to **residential development** must not exceed more than 2 per lot.

Explanation: The creation of a chapter specifically for ancillary development provides a simplified list of controls for small scale residential development such as sheds, retaining walls and swimming pools, improving readability for people carrying out minor developments.

Amendments to C8.1 and C8.3 provide numerical controls for sheds that set a clearer understanding of acceptable bulk and scale. These are supported by new controls C8.2 and C8.4 which set out the criteria that applies if the numerical controls are exceeded. These changes provide guidance for acceptable design outcomes and clarifies the matters that should be considered when proposing a merit based design for sheds. This

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will reduce the need for redesign during development assessment, reducing the cost to land owners and reducing the time for assessment of minor development applications.

Control C8.13 currently prohibits the use of sheet metal fencing materials such as colourbond. Most fences are installed without consent however under State Environmental Planning Policy (Exempt and Complying Codes) 2008, which allows the use of sheet metal fences. This control is inconsistent with the State policy and so has been amended to refer instead to the need for materials to be consistent with the local character.

Control C8.19 currently refers to the term 'residential accommodation development', which is not a defined term in the DCP or LEP. This control has been updated to instead make reference to the defined term 'residential development'.

16	Section D – Specific Areas
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1. Amend Figure DA to reference Chapter D16

Explanation: This figure was not updated when Chapter D16 was added.

17	Chapter D1 – Heatherbrae Industrial
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1. Amend Chapter name and references throughout from 'Heatherbrae Industrial' to 'Heatherbrae'.
2. Amend the note to D1.4 to remove reference to the extension of Camfield Drive.
3. Amend the note to D1.6 to update the reference to Chapter C controls.
4. Replace Figure DC to reflect recently subdivided land, include land the subject of a current planning proposal, and identify a new indicative road.

Explanation: The chapter name has been amended to acknowledge the use of land in this locality for non-industrial purposes. In addition, a planning proposal to rezone land at Heatherbrae to the B5 Business Development zone received a Gateway determination from the Department of Planning, Industry and Environment on 1 May 2020.

The Heatherbrae Locality Controls Map (Figure DC) has been updated to include the land the subject of the planning proposal and identify an indicative road to facilitate orderly subdivisions and development of the land following rezoning. Additionally the map has been updated to reflect the current roads and subdivision layout.

18	Chapter D16 – Medowie Planning Strategy (Precinct E)
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1. Replace Figure DAH

Explanation: The existing figure incorrectly refers to the R1 General Residential zone. The legend has been updated to refer to the correct zone – R2 Low Density Residential.

19	Chapter E1 – Glossary
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1. Add definition of 'stormwater requirement area':

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- **stormwater requirements area** means land identified on a map on Councils website where additional stormwater control devices may be required.

Explanation: Control B4.2 sets out controls that apply only to land where it has been identified that additional stormwater control devices are required in order to respond to local stormwater drainage conditions. Definition of this term will help applicants identify whether or not this control is applicable to a development.
