

Development Control Plan

20 May 2022



PORT STEPHENS
COUNCIL

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Quick Start Guide

If the Port Stephens Development Control Plan 2014 (**DCP**) applies, the steps listed below set out the process to be followed:

Step 1 Refer to the Reference table at the start of Section B – General Provisions, Section C – Development Type and Section D – Specific Areas to determine which Parts within those sections apply to the proposed development type.

Title of Section →
Title of Part →
This Part applies to development that is to remove or prune trees or other vegetation within non-rural areas. If the proposed trees or other vegetation is located within a rural area or if the development does not involve the removal or pruning of trees or other vegetation then it need not reference this Part

B General Provision	
B1 Tree Management	12
This Part applies to development to remove or prune trees or other vegetation within non-rural areas	
B2 Natural Resources	13
This part applies to development that: <ul style="list-style-type: none">• is located on land or is within 500m of land that contains items of environmental significance; such as threatened species or communities, listed migratory species, wildlife corridors, wetlands or riparian corridors and has the potential to impact biodiversity; or• is seeking to use biodiversity offsets; or• is located on land containing noxious weeds; or• is located on or is in proximity to land that contains koala habitat.	
Figure BC : Flora & Fauna Survey Flow-Chart	17
B3 Environmental Management	18
This part applies to development that: <ul style="list-style-type: none">• is located on land that contains acid sulfate soils; or• has the potential to produce air pollution (such as dust or odour); or• has the potential to produce adverse offensive noise; or• involves earthworks	
B4 Drainage and Water Quality	21

Step 2 If a Part applies, then refer to the requirements listed under that Part. Where those requirements cannot be met, demonstrate compliance with the objectives.

Title of Part →
This Part applies to development located within or defined as

Development Objectives →

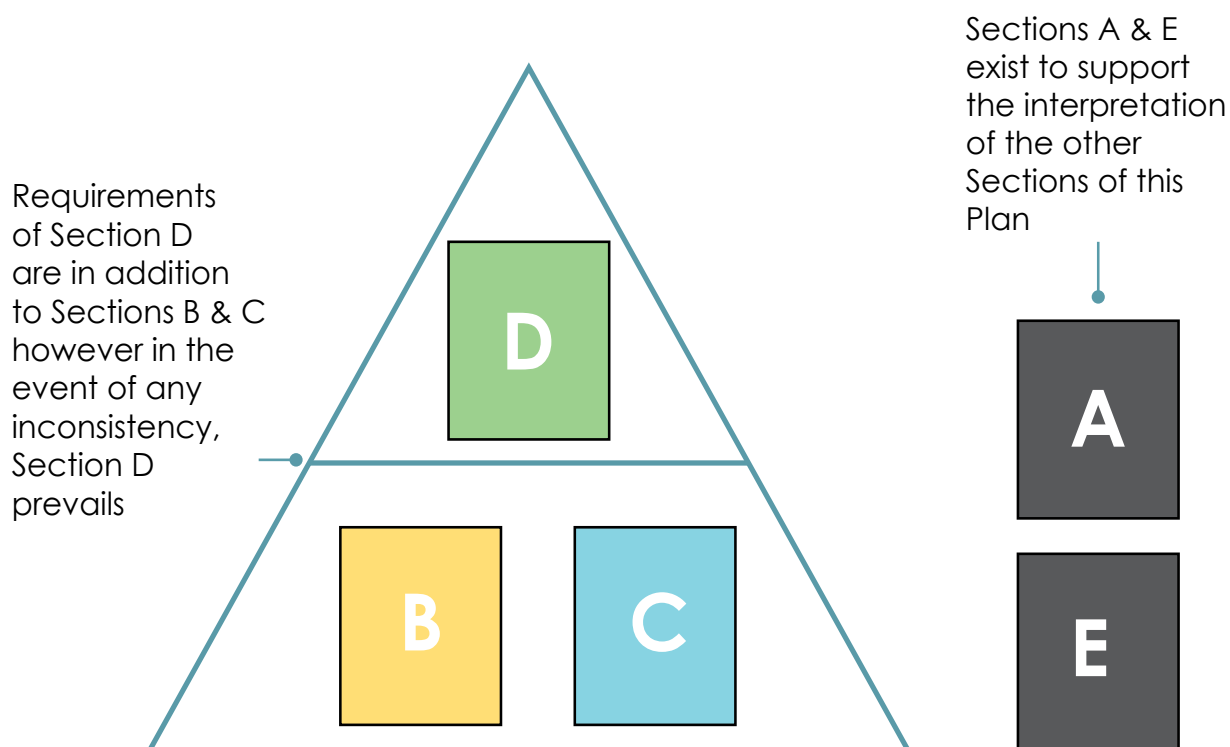
Development Requirements →

B3 Environmental Management	
Application	
This part applies to development that: <ul style="list-style-type: none">• is located on land that contains acid sulfate soils; or• has the potential to produce air pollution (such as dust or odour); or• has the potential to produce adverse offensive noise; or• involves earthworks	
B3.A Acid Sulfate Soils	
Objective	
To ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage	
Development controls	
B3.1	Development located on Acid Sulfate Soils (ASS) as identified on the Acid Sulfate Maps of the Local Environmental Plan adheres to the Local Environmental Plan requirements by taking one of the following three paths: <ol style="list-style-type: none">1. Accept that ASS is present and prepare a development application and an ASS management plan as set out in the NSW ASS Manual⁴⁰; or2. Provide a framework for the on-going management and monitoring of the

Step 3 Address the relevant objectives and requirements within the Statement of Environmental Effects (SEE) that is provided by the applicant with the lodgement of the development application.

This Quick Start Guide is not a formal part of this Plan. The legislative interpretation of this Plan is provided under Section A – Introduction.

The following diagram seeks to quickly illustrate the Structure of this Plan. Most notably, the requirements and objectives listed under Section D – Specific Areas overrides those requirements and objectives listed under Section B – General Provisions and Section C – Development Types. While, Section A – Introduction and Section E – Schedules simply exist to support the interpretation of the other Parts.



A Introduction

A1 Name of this Plan

The name of this Plan is the Port Stephens Development Control Plan 2014 (**DCP**).

A2 Aim of this Plan

The aim of this Plan is to facilitate development in accordance with the **Local Environmental Plan (LEP)** applying to the land to which this Plan applies.

A3 Commencement of this Plan

This Plan was adopted by Council on 14 July 2015 and commenced on 6 August 2015. The following amendments have occurred since this Plan commenced:

Date	Amendment
3 September 2015	Plan amended to give effect to Council's resolution of 25 August 2015. Changes limited to Part B1 – Tree Management.
10 December 2015	Plan amended to give effect to Council's resolution of 24 November 2015. Changes limited to D1 – Heatherbrae Industrial and D11 – Raymond Terrace Town Centre.
22 February 2018	Plan amended to give effect to Council's resolution of 13 February 2018. Minor amendments and corrections were made throughout the DCP .
26 April 2018	Plan amended to give effect to Council's resolution of 13 February 2018. Amendment to Part D9 North Medowie – Medowie (Bower Estate).
21 June 2018	Plan amended to give effect to Council's resolution of 12 June 2018. Amendment inserts Part D16 Medowie Strategy (Precinct E) for the purposes of satisfying clause 6.3 of the LEP .
23 August 2018	Plan amended to give effect to Council's resolution of 10 July 2018. Amendment makes administrative changes including references to the <i>Environmental Planning and Assessment Act 1979</i> and the repeal of savings and transitional provisions.
25 July 2019	Plan amended to give effect to Council's resolution of 9 July 2019. Amendment to the aircraft noise planning map to reflect 2025 ANEF .
5 September 2019	Plan amended to give effect to Council's resolution on 27 August 2019. Amendment to Part D13 Rees James Rd - Raymond Terrace.
12 December 2019	Plan amended to give effect to Council's resolution on 22 October 2019. Amendment to Part B4 Drainage and Water Quality.
14 May 2020	Plan amended to give effect to Council's resolution of 12 May 2020. Amendment removes Part A11 Development Notification.
15 September 2020	Plan amended to give effect to Council's resolution of 25 August 2020. Amendment to Part B1 Tree Management.
10 December 2020	Plan amended to give effect to Council's resolution of 24 November 2020. Amendments were made throughout the DCP to improve the efficiency of the development assessment process.
10 December 2020	Plan amended to give effect to Council's resolution of 8 December 2020. Amendment to Part B5 Flooding.
11 January 2021	Plan amended to give effect to Council's resolution of 24 November 2020. Amendment to Part D5 Nelson Bay Centre and Part D6 Nelson Bay West.

Date	Amendment
20 May 2022	Plan amended to give effect to Council's resolution of 27 July 2021. Amendment inserts Part D17 Stockton Rifle Range for the purposes of satisfying clause 6.3 of the LEP .

A4 Land to which this Plan applies

This Plan applies to the land within the Port Stephens local government area.

A5 Development to which this Plan applies

This Plan applies to all **development** requiring **development consent** in accordance with Part 4 Development Assessment of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

In determining a **development application**, Council is to provide consideration to this Plan under section 4.15 of the **EP&A Act**.

This Plan does not apply to **development** that is:

- identified as permissible without consent
- carried out under Part 5 Environmental assessment of the **EP&A Act**
- assessed under the provisions of another **Environmental Planning Instrument (EPI)** that excludes the provisions of the **Local Environmental Plan (LEP)**

A6 Interpretation

Terms requiring definition are bold; they are defined under E1 Glossary.

This **DCP** adopts the terms and definitions of the Standard Instrument—Principal Local Environmental Plan, unless otherwise defined in the Glossary.

Abbreviated terms are bold; they are listed under E2 Acronyms.

A reference to any Australian Standard, legislation or supporting documentation includes a reference to any amendment or replacement as made.

A7 Structure of this Plan

This Plan is divided into sections, parts, objectives and development controls. The Sections are as follows:

- Quick Start Guide, Table of Contents and Checklists
 - Provides tools to increase the useability of the Plan
- Section A - Introduction
 - Explains the purpose of this Plan and legislative requirements
- Section B - General Provisions
 - Provides **development** objectives and requirements that relate to the site in all locations in which **development** is proposed. This Section is to be referenced by all **development applications**.

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- Section C - Development Types
 - Provides **development** objectives and requirements that relate to specific **development types**. Development will generally fall within one or more of these specified development types. The Requirements under this Section are to be read in conjunction with the General Provisions, which relate to all **development applications**.
- Section D - Specific Areas
 - Provides **development** objectives and requirements that relate to a specific locality in which **development** is proposed. The provisions of this Section provide specific location requirements that apply in conjunction with other sections and prevail to the extent of any inconsistency.
- Section E - Schedules
 - Provides important terms and references to assist in the accurate interpretation of the Plan, such as technical specifications

This structure seeks to facilitate permissible **development** and support alternative **merit-based approaches** to **development** that is permissible under the **LEP**. This is consistent with the purpose and status of a development control plan under section 3.42 of the **EP&A Act** as follows:

1. The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development which this Part applies and to the consent authority for any such development:
 - a. Giving effect to the aims of any environmental planning instrument that applies to the development.
 - b. Facilitating development that is permissible under any instrument.
 - c. Achieving the objectives of land zones under any such instrumentThe provisions of a development control plan made for that purposes are not statutory requirements.
2. The other purpose of a development control plan is to make provisions of the kind referred to in section 3.43 (1) (b)–(e).
3. Subsection (1) does not affect any requirement under Division 4.5 in relation to complying development.

A8 Explanation of development objectives and requirements

The relevant parts of this Plan contain **development** objectives and requirements. A **development** objective clearly states the intent of a **development** requirement.

Where the **development** requirement cannot be achieved, the applicant is provided with the opportunity to demonstrate through alternative **merit-based** solutions how the proposed **development** complies with the **development** objective. This approach seeks to encourage a **merit-based approach** to the evaluation of **development applications**, while ensuring appropriate consideration is provided to the intent of the **development** requirements.

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A9 Relationship to legislation, plans and policies

This Plan must be read in conjunction with the **Local Environmental Plan**. This Plan:

- was prepared in accordance with section 3.43 of the **EP&A Act** and Part 3 of the *Environmental Planning and Assessment Regulation 2000*
- identifies further detail of Council's requirements for local **development** requiring **development consent**
- is consistent with the provisions of the **LEP** and other applicable **EPI**, however, in the event of any inconsistency, the requirements of the **EPI** will prevail in accordance with section 3.28 Inconsistency between instruments of the **EP&A Act**
- replaces the whole of the Port Stephens Development Control Plan 2013 (**DCP 2013**)
- is to be applied in conjunction with other Council **development** guidelines, policy, specifications and technical manuals, where cited

A10 Monitoring and review

Section 3.21 of the **EP&A Act** requires councils to keep their local environmental plans and development control plans under regular and periodic review for the purpose of ensuring that the objects of this Act are -- having regard to such changing circumstances as may be relevant -- achieved to the maximum extent possible.

Port Stephens Council (**PSC**) will aim to regularly review this Plan.