

Explanation of Amendments

Draft Port Stephens Development Control Plan 2013

NO. EXPLANATION OF AMENDMENTS

1 Whole document

1. Amend references to environmental land use zones
2. Amend references to State Environmental Planning Policies

Explanation: The Department of Planning and Environment (the Department) have amended the names of environmental land use zones from E1, E2, E3 and E4 to C1, C2, C3 and C4 respectively. Additionally, several State Environmental Planning Policies (SEPPs) have been repealed.

2 B1 Tree Management – whole chapter

1. Amend the approval pathways for the clearing and/or pruning of trees
2. Amend assessment requirements for the removal and/or pruning of trees

Explanation:

The Tree Management chapter has been updated to improve its overall clarity and accuracy. Figure BA, which identifies the approval requirement thresholds for the removal of trees, has been updated to provide greater detail on approval requirements and further clarification on whether Council, or another government agency can issue approval. The additional detail also responds to questions that are frequently asked by the community.

Section B1.B of the DCP details the matters council has regards for in the assessment of tree removal. The controls under this section have been separated into three new controls that provide a clearer summary of the difference in the assessment of tree notifications and tree applications and clarifies the matters that cannot be used to justify tree removal.

3 B2 Natural Resources

1. Amend Section B2.C Noxious weeds

Explanation:

Section B2.C Noxious weeds has been renamed B2.C Biosecurity risks (weeds). The section has been also been updated to align terminology with the Biosecurity Act 2015, which replaced the Noxious Weeds Act 1993.

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4 B3 Environmental Management

1. Delete Section B3.A Acid sulfate soils

Explanation:

Section B3.A Acid sulfate soils and control B3.1 of the DCP summarises requirements from clause 7.1 of the Port Stephens Local Environmental Plan 2013 (LEP). The DCP controls have been removed as they are redundant and do not provide any further guidance than the LEP.

5 B4 Drainage and water Quality

1. Add the following note to B4.2:
 - Note: Pre-development is prior to any development occurring on the land.
2. Delete note from control B4.3
3. Amend control B4.7 to require modelling
4. Delete control B4.8 and references to B4.8
5. Amend Figure BE Water quality table to improve clarity

Explanation:

Control B4.2 provides guidance on when on-site detention / on-site infiltration is required and refers to pre-development. An explanation of pre-development was required to prevent confusion and confirm it means prior to any development occurring on the land.

The note under B4.3 requiring a neutral or beneficial effect on water quality to be designed for all storm events was removed as it was incorrect. Control B4.3 relates to water quantity rather than water quality. Removing the note does not change the application of B4.3, but improves clarity and accuracy.

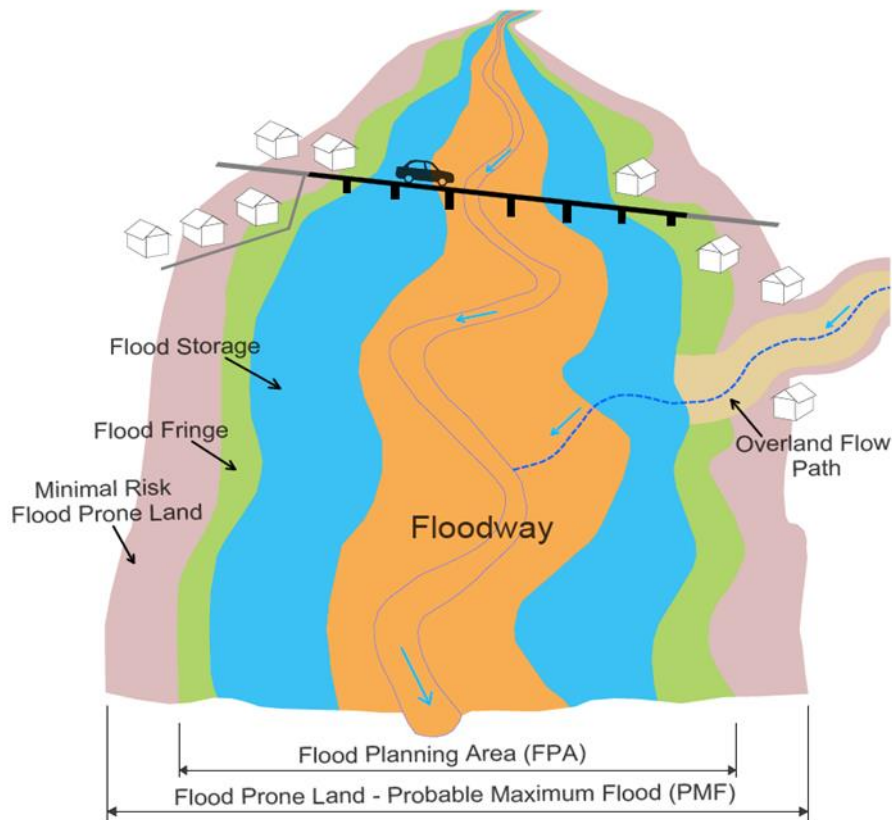
Control B4.7 has been amended to specifically require 'modelling' to be submitted to demonstrate how water quality targets have been achieved instead of 'evidence'. This provides more clarity for the type of evidence required.

Control B4.8 incorrectly implied on-site detention / on-site infiltration may not be required under certain circumstances. The control created unnecessary confusion and its removal will improve clarity and water quality outcomes. Any notes referring to control B4.8 have also been removed.

Figure BE provided guidance on water quality targets for different types of development or site area. Due to the inclusion of development types and lot sizes the table was confusing to interpret. It has been amended to remove the first three rows which related to development types as they duplicated control B4.5. The figure and column heading was also amended to clarify the table relates to subdivision.

6 B5 Flooding

1. Remove references to flood prone land subject to further investigation
2. Provide clarity around the PMF, FPA and their relationship with hazard categories



Explanation:

Flood prone land subject to further investigation is a flood hazard category that was previously used for land that Council did not have adequate technical data for to define. This category no longer exists as Council has now defined the flood hazard category of all land in Port Stephens.

Chapter B5 Flooding includes several technical terms to describe flood affected land. There are flood hazard and hydraulic categories that indicate the potential severity of a flood event and the type of flooding impacts such low hazard flood fringe or high hazard floodway. There are also definitions for flood affected land being flood prone land (PMF) which includes all flood affected land and the Flood Planning Area (FPA) which includes land below the 1% AEP flood event in the year 2100 plus freeboard. Figure BH below, has been updated to clarify the relationship between flood hazard categories and flooding planning areas.

NO. EXPLANATION OF AMENDMENTS

7 B6 Williamstown RAAF Base - Aircraft Noise and Safety

1. Delete control B6.3 noise reduction limits

Explanation:

Chapter B6 identifies indoor maximum sound levels for land affected by aircraft noise. Control B6.3 set noise attenuation limits on development for dwellings. Dwellings requiring a reduction of more than 30 dB(A) in sleeping areas or 35 dB(A) in habitable spaces was identified as unreasonable by the control. Control B6.3 goes beyond the Australian Standard for aircraft noise intrusion (AS 2021). The Land and Environment Court deemed the control B6.3 as inappropriate as it was demonstrated reductions greater than these limits good be achieved.

8 B7 Heritage

1. Amend Control B7.5 as follows:

Development controls

B7.5 Where **development** involves ground disturbing works significant cut, being greater than 2m, under B3.4 of the **SEE** addresses the following matters:

Explanation:

Control B7.5 has been amended to be in accordance with the Due Diligence code of practice for the protection of Aboriginal Objects in NSW. The proposed control refers to development that involves 'ground disturbing works' instead of 'significant cut' as a trigger for additional information to be provided.

9 B8 Road Network and Parking

1. Amend Figure BU as follows:
 - Figure BU On-site parking requirements

Development type	Parking requirements	Accessible parking
Commercial premises		
bulky goods specialised retail premises	<ul style="list-style-type: none"> • 1 car space per 55m² floor area • 1 bike space per 20 employees 	<ul style="list-style-type: none"> • 1 car space per 30 parking spaces
food and drink premises, including restaurants, cafes and take-away drink premises	<ul style="list-style-type: none"> • 1 car space per 2025m² floor area within commercial premises (where no seating is provided) • 1245 car spaces per 100m² floor area or 1 car space per 43 seats (whichever is greater) outside of commercial premises • Minimum queuing area of 5 cars for drive-thru • 1 bike space per 200m² 	<ul style="list-style-type: none"> • 1 car space per 30 parking spaces

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Development type	Parking requirements	Accessible parking
Commercial premises		
pub and registered clubs	<ul style="list-style-type: none"> 1 car space per 7m² of floor area within commercial centres 1 car space per 10m² courtyard / beer garden within commercial centres 1 car space per 3.5m² of floor area outside of commercial centres 1 bike space per 25m² bar area 1 bike space per 100m² courtyard / beer garden 1 car space per 10m² of public or licenced floor area 1 car space per accommodation unit 1 bike space per 20 accommodation units rooms 	<ul style="list-style-type: none"> 1 car space per 20 parking spaces
veterinary premises and health consulting rooms	<ul style="list-style-type: none"> 3 car spaces per practitioner 1 car space per 2 employees not a practitioner 2 bike spaces per 10 practitioners and other employees not practitioners 	<ul style="list-style-type: none"> 1 car space per 10 car spaces
Industry		
rural industry	<ul style="list-style-type: none"> Merit-based approach 1.3 per 100sqm 	No requirement
light industry	<ul style="list-style-type: none"> 1 car space per 100m² or 1 car space for each per employee (whichever is greater) 1 bike space per 20 employees 	No requirement
Infrastructure		
community facilities	<ul style="list-style-type: none"> Merit-based approach 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
place of public worship	<ul style="list-style-type: none"> Merit-based approach 1 car space per 5m² of public area or 1 per 5 seats (whichever is greater) 1 bike space per 10 employees and visitors 	<ul style="list-style-type: none"> 1 car space per 20 car spaces
Tourist and Visitor Accommodation		
hotel or motel accommodation, serviced apartments and eco-tourist facilities	<ul style="list-style-type: none"> 1 car space for each per accommodation unit 1 car space per 2 employees 1 bicycle space per 20 accommodation units 	<ul style="list-style-type: none"> 1 space per 20 parking spaces
serviced apartments	Refer to LEP 7.13 Serviced apartments SEPP 65 Design Quality of Residential Apartment Development (2002)	

Note: Accessible parking can be provided within the total parking requirements.

- Add a note to Control B8.4 as follows:
 - Note: Where a development proposes ancillary uses, additional parking is to be provided in accordance with that development type as required in Figure BU
- Amend Control B8.12 to include 'or' between each trigger

Explanation:

Chapter B8 Road network and parking provides guidance to ensure development provides adequate on-site parking. Figure BU provides parking requirements to guide development in planning for on-site parking.

NO. EXPLANATION OF AMENDMENTS

Figure BU has been amended to reduce the potential for misinterpretation. Parking requirements for food and drink premises, pubs and clubs were unnecessarily complicated and have been simplified to improve clarity and reduce potential conflict. Development types triggering a merit based approach have either been removed as they provide no guidance for applicants or have been updated to provide specific requirements.

The note added beneath the table is to clarify that accessible parking is not in addition to parking requirements, but instead can be incorporated within them.

The note added to Control B8.4 is to clarify that developments proposing multiple uses, such as a light industry with an ancillary restaurant, would need to meet the parking requirements for both light industry and restaurants.

Control B8.12 provides guidance on parking access. The control has been amended to include 'or' between the potential triggers for increasing driveway widths to provide clarity and improve accuracy.

10 C1 Subdivision

1. Amend Figure CB as follows:

- Figure CB Battle-axe lot requirements

	Entry width	Max length	Misc.	Torrens
Dwelling house Dual occupancy	3.6m	30m	Max 2 dwellings	Max 3
Multi dwelling housing Residential flat building	6m	50m	-	-
Business Industrial	10m	-	-	Max 3
Rural - less than 2 lots or less	6.5m	200m	-	Max 3
Rural - greater than 3 lots	10m	200m	-	Max 3

Explanation:

Figure CB Battle-axe lot requirements contained inaccurate and conflicting details. The figure has been amended to correct these inconsistencies.

NO. EXPLANATION OF AMENDMENTS

11 C3 Industrial

1. Amend Control C3.1 as follows:

Development controls	
Building height	
C3.1	Maximum height limit of 15m or a merit-based approach is taken where no height limit is specified under the Local Environmental Plan clause 4.3 Development must not exceed a height of 15m Note: The Local Environmental Plan clause 4.3 Height of buildings overrides this requirement, if a height is specified

Explanation:

The language in Control C3.1 has been amended to be consistent with the equivalent controls for building height in the commercial and residential chapters of the DCP. The maximum height limit has not been amended.

12 C5 Multi dwelling housing or seniors housing

1. Amend note in the chapter application to reference the Apartment Design Guide
2. Amend Control C5.6 and insert new Control C5.10 as follows:

Development controls	
Front setback	
C5.6	Minimum 4.5m front setback from the front property line or the existing average building line (whichever is less) for 75% of the building facade. The remaining 25% of the facade may allow a 2m encroachment provided the encroachment contains habitable rooms , terraces, balconies or bay windows.
Front setback encroachment	
C5.10	Maximum 1.5m encroachment of front setback for architectural features, such as an entry porch or deck

Explanation:

The note in the chapter application has been amended to reference the Apartment Design Guide. The Apartment Design Guide was prepared by the Department of Planning and Environment in conjunction with SEPP No 65 to provide consistent planning and design standards for apartments across NSW.

The setback controls for multi dwelling and seniors housing have been amended to be consistent with the equivalent controls in Chapter C4 Dwelling house, secondary dwelling, or dual occupancy. The amendment provides clearer and more consistent guidance for development.

13 C8 Ancillary Structures

1. Insert new controls for carports as follows:

Carports	
C8.6	Except as provided for in C8.12, carports should be located a minimum of 1m behind the building line
C8.7	Minimum side and rear setback of 0.9m Note: Carports may be located within 0.9m of the boundary where they do not unreasonably impact the amenity of an adjoining property, such as by reason of bulk and scale or overshadowing
C8.8	Maximum height of 3.6m, or if attached to a single storey dwelling , be no higher than the roof gutter line
C8.9	If the carport fronts the street, the opening must not exceed more than 6m or 50% of the building frontage, whichever is less
C8.10	The design of carport must be integrated with the existing dwelling
C8.12	Carports may be located in the front setback where the following can be demonstrated: The carport cannot be reasonably located behind the building line The carport is set back 2m from the front boundary The design of carport is consistent with the existing dwelling The carport is connected to a driveway The carport does not impact sight lines for pedestrians or other vehicles, does not obscure any view from a habitable room to the street, and has at least 3 open sides

Explanation:

Chapter C8 Ancillary Structures has been amended to include development controls for carports. The current DCP does not include controls for carports which creates uncertainty in what may or may not be approved for customers. The new controls encourage carports behind the building line of dwellings to reduce visual impact from the street but also provide some flexibility in their location where this cannot be achieved.

NO. EXPLANATION OF AMENDMENTS

14 D12 Richardson Road - Raymond Terrace

1. Amend Chapter D12 Richardson Road - Raymond Terrace

Explanation:

Chapter D12 Richardson Road - Raymond Terrace has been amended to include additional land to the east. This land is zoned R2 Low Density Residential but has not previously been subdivided due to aircraft noise impacts. The land falls within the 20-25 and 25-30 Australian Noise Exposure Forecast (ANEF) contours. Land affected by ANEF contours greater than 25 are considered unacceptable in the Australian Standard for Aircraft Noise (AS 2021).

A recent development application for a twenty-two lot subdivision in this area was refused by Council due to aircraft noise impacts but was overturned and approved by the Land and Environment Court. The remaining affected land may have similar opportunity for development.

The DCP chapter for Richardson Road has been amended to include this additional land to provide guidance for future subdivisions. If development of this land is to occur in the future, it needs to be coordinated to ensure future housing development does not negatively affect the existing road network. In particular, future access to Richardson Road needs to be limited to one additional intersection.



The proposed road layout and indicative intersection identified above have been developed in coordination with Transport for NSW.

The proposed amendments to the objectives and controls for the chapter provide stronger guidance for future development to ensure the subdivision of multiple lots can achieve a cohesive and compatible overall subdivision and road layout.

NO. EXPLANATION OF AMENDMENTS

15 E1 Glossary

1. Delete definitions for noxious weeds and undesirable species
2. Insert a definition for biosecurity risk as follows:
 - **biosecurity risk** means the risk of a biosecurity impact occurring
3. Insert a definition for weeds as follows:
 - **Weeds** means a plant that is a pest
4. Amend the definition of habitable room as follows:
 - habitable room as defined by the current Building Code of Australia means a room used for normal domestic activities, and -
 - a) includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room, home theatre and sunroom; but
 - b) excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes-drying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods.

Note: the NSW Floodplain Development Manual 2005 provides the following definition for industrial and commercial situations: an area used for offices or to store valuable possessions susceptible to flood damages in the event of a flood.

Explanation:

The definitions for noxious weeds and undesirable species have been deleted as these terms are no longer used in the DCP. The terms biosecurity risk and weeds have been added to the glossary to replace noxious weeds and undesirable species.

The definition of habitable room has been amended to be consistent with the current Building Code of Australia.

16 E3 References

1. Amend E3 References

Explanation:

The reference list has been amended to delete items that are no longer referenced within the DCP as well as to include new items.
