

## 7.2.5 Return to Country Local Plan

### 7.2.5.1 Application

- (1) This code applies to assessing development within the Return to Country local plan area as identified in the Return to Country local plan maps contained in Schedule 2.
- (2) When using this code reference should be made to Part 5.

### 7.2.5.2 Context and setting

Editor's note – This section is extrinsic material under section 15 of the Statutory Instruments Act 1992 and is intended to assist in the interpretation of the Return to Country local plan code.

The intent of the Return to Country local plan is to break new ground and position Douglas Shire as a leader in recognising Traditional Owners in a local government planning scheme. The Eastern Kuku Yalanji People's Native Title rights and Aboriginal Freehold land are part of a broad package contained in 15 ILUAs agreed in 2007 between the eastern Kuku Yalanji People and other parties including the State of Queensland, local governments, service providers and leaseholders. The ILUAs cover an area of 230,000ha, including the area over which Native Title rights have been determined and the Aboriginal Freehold land. Jabalbina was established through the ILUAs as the Eastern Kuku Yalanji People's Registered Native Title Body Corporate under the *Native Title Act 1993* and primary Land Trust holding Aboriginal Freehold land under the *Queensland Aboriginal Land Act 1991*.

The Return to Country local plan area is predominantly located north of the Daintree River and reflects areas of Aboriginal freehold land (under the Aboriginal Land Act 1991), known as the 'Pink Zone'. The extent of the Eastern Kuku Yalanji Aboriginal Freehold Pink Zone reflects the final negotiated position reached in the 2007 Eastern Kuku Yalanji ILUAs following 14 years of negotiation between the Eastern Kuku Yalanji People, Queensland Government, Wet Tropics Management Authority and Douglas and Cook Shire Councils. Of the 63,000ha handed back to the Eastern Kuku Yalanji as Aboriginal Freehold land, 48,000ha is dedicated as a nature refuge under the *Nature Conservation Act 1992* and has no effective development potential except for uses ancillary to conservation. The remaining 15,000ha of Aboriginal Freehold land is the Pink Zone, the area made available for residential and economic development for the benefit of the eastern Kuku Yalanji People. The Eastern Kuku Yalanji People negotiated this outcome based on the belief that they would be able to return to country to live and to derive economic benefit from this land.

As Trustees of the Eastern Kuku Yalanji People's traditional estate, Jabalbina's vision is to be caring custodians of bubu so Bama benefit culturally, economically, academically and socially, while enhancing Eastern Kuku Yalanji tribal lore and cultural values.

Note – Throughout this code, Eastern Kuku Yalanji people's terms have been used and are defined below:

Bubu – Eastern Kuku Yalanji land

Bama- Eastern Kuku Yalanji people

Bayan – Dwellings which are either conventional or unconventional in design and may include communal living, cooking, cleaning and ablution facilities. Where communal facilities are provided, the number of bayans is equivalent to the number of sleeping structures.

### 7.2.5.3 Purpose

- (1) The purpose of the Return to Country local plan is to facilitate social and economic opportunities for Indigenous people to return to their country so that Bama can live on their Bubu and manage their environment, land and culture.

Note – Where development is impact assessable, this code is to be read in conjunction with the remainder of the Planning Scheme. Where there is any conflict between the provisions of this code and other relevant codes of the Planning Scheme, the provisions of this code will prevail.

- (2) The overall outcomes sought for the Return to Country Local Plan are to:
  - (a) ensure further development opportunities for economic and social growth are facilitated within each of the Return to Country precincts;

- (b) each Return to Country precinct is developed in consultation with local clan groups to identify specific development opportunities within each precinct;
- (c) minimise on-site vegetation removal, and filling and excavation to the greatest extent possible;
- (d) provide an appropriate level of on-site infrastructure and services reflecting the special needs of Bama;
- (e) ensure adverse impacts on the amenity of adjoining or surrounding sites is avoided or appropriately mitigated;
- (f) ensure adverse impacts on conservation, biodiversity, ecological and scenic amenity values of the site and surroundings are avoided;
- (g) ensure development is responsive to on-site constraints and avoids areas of potential natural hazard;
- (h) ensure development is light-weight and low scale in design and construction and is visually unobtrusive and where necessary, landscaped buffers are provided for screening.

### Precinct 3 – Buru Precinct

Note - Work is continuing on the development of each individual precinct for the Return to Country Local Plan and will be the subject of future Planning Scheme Amendments as the work is progressed.

#### 7.2.5.4 Criteria for assessment

Table 7.2.5.4.a – Return to Country local plan – assessable development

All development in the Return to Country local plan area	
<p><b>PO1</b> Development does not result in a demand which exceeds the capacity of:</p> <ul style="list-style-type: none"> <li>(a) the Daintree River ferry crossing;</li> <li>(b) Alexandra Range Road;</li> <li>(c) the local road network.</li> </ul>	<p><b>AO1</b> No acceptable outcomes are prescribed.</p>
<p><b>PO2</b> Development provides a suitable standard of self-sufficient service for:</p> <ul style="list-style-type: none"> <li>(a) potable water;</li> <li>(b) water for fire fighting purposes;</li> <li>(c) electricity supply for permanent resident housing.</li> </ul>	<p><b>AO2.1</b> Water storage is provided in tank/s with a minimum capacity to service the proposed use, including fire fighting capacity, and access to the tank/s for fire trucks. Tank/s are to be:</p> <ul style="list-style-type: none"> <li>(a) fitted with a 50mm ball valve and camlock fitting;</li> <li>(b) installed and connected prior to occupation;</li> <li>(c) sited so as to be visually unobtrusive.</li> </ul> <p><b>AO2.2</b> Water storage tanks are to be fitted with screening at their inlets to prevent the intrusion of leaves and insects.</p> <p><b>AO2.3</b> An environmentally acceptable and energy efficient power supply for permanent resident housing is constructed, installed and connected prior to occupation and sited so as to be screened from the road.</p>
<p><b>PO3</b> On-site waste water does not adversely impact on the environmental quality of the water and soil resources or amenity of residents, through the</p>	<p><b>AO3</b> No acceptable outcomes are prescribed.</p>

All development in the Return to Country local plan area	
implementation of best environmental practice.	
<p><b>PO4</b> The sustainability of the natural water resources of the area is protected for ecological and domestic consumption purposes.</p>	<p><b>AO4.1</b> If groundwater is to be used, development is limited to one bore per site and the bore is: (a) not located within 100 metres of a septic disposal trench (on the site or adjoining sites); (b) not located within 100 metres of another bore.</p> <p><b>AO4.2</b> Surface water is to be used for domestic purposes only.</p>
<p><b>PO5</b> Development does not adversely impact on areas of sensitive natural vegetation, foreshore areas, watercourses and/or areas of tidal inundation.</p>	<p><b>AO5</b> No acceptable outcomes are prescribed.</p>
<p><b>PO6</b> Development is subservient to the surrounding natural environment in scale and intensity and is designed to be functional according to environmental circumstances.</p>	<p><b>AO6</b> No acceptable outcomes are prescribed.</p>
<p><b>PO7</b> Site access driveways and roads within the local plan area are retained as safe, slow speed, scenic drives.</p>	<p><b>AO7</b> No acceptable outcomes are prescribed.</p>
Additional requirements self assessable and assessable development, IF an Outstation, being Indigenous bush-living.	
<p><b>PO8</b> Development is located on site to avoid: (a) areas of natural hazard; (b) areas of ecological or biodiversity significance; (c) areas of native vegetation or fauna habitat.</p>	<p><b>AO8.1</b> Buildings, structures, infrastructure, driveways, services and ancillary clearing do not occur on slopes exceeding 1 in 4 (25%).</p> <p><b>AO8.2</b> Buildings, structures, infrastructure, driveways, services and ancillary clearing are located: (a) a minimum of 20 metres away from the high bank of a wetland, watercourse or tidal area; (b) away from overland flow paths; (c) above 5 metres AHD with all rooms associated with a bayan a minimum of 1.5 metres above the highest known flood level.</p> <p><b>AO8.3</b> Buildings, structures, infrastructure, driveways and services are located within an existing cleared area. or All clearing is kept to the minimum amount possible to facilitate buildings, structures, access ways, infrastructure and services.</p>
<p><b>PO9</b> Development is setback from the boundaries of the site to maintain the character and amenity of</p>	<p><b>AO9</b> Development is setback a minimum of: (a) 25 metres from a road;</p>

All development in the Return to Country local plan area	
the area.	(b) 20 metres from side and rear boundaries.
<p><b>PO10</b> Fencing is designed to not impeded the movement of fauna through the site.</p>	<p><b>AO10.1</b> Corridors of bush for wildlife to move through are maintained.</p> <p><b>AO10.2</b> Fencing for the containment of domestic animals is only located around bayans and associated cleared areas.</p>
<p><b>PO11</b> Development provides a suitable standard of self-sufficient service for wastewater disposal.</p>	<p><b>AO11</b> Development is provided with septic and compost toilets.</p>
Additional requirements for Precinct 1 – Bulban precinct	
<p><b>PO12</b> Provisions to be developed in consultation with clan groups.</p>	<p><b>AO12</b> To be further developed via sub-precincts.</p>
Additional requirements for Precinct 2 – Dawnvale precinct	
<p><b>PO13</b> Provisions to be developed in consultation with clan groups.</p>	<p><b>AO13</b> To be further developed via sub-precincts.</p>
Additional requirements for Precinct 3 – Buru precinct	
<p><b>PO14</b> Provisions to be developed in consultation with clan groups.</p>	<p><b>AO14</b> To be further developed via sub-precincts.</p>
Additional requirements for Precinct 4 – Zig Zag Yards Camp precinct	
<p><b>PO15</b> Provisions to be developed in consultation with clan groups.</p>	<p><b>AO15</b> To be further developed via sub-precincts.</p>
Additional requirements for Precinct 5 – Degarra precinct	
<p><b>PO16</b> Provisions to be developed in consultation with clan groups.</p>	<p><b>AO16</b> To be further developed via sub-precincts.</p>
Additional requirements for Precinct 6 – Kalkandamal precinct	
<p><b>PO17</b> Provisions to be developed in consultation with clan groups.</p>	<p><b>AO17</b> To be further developed via sub-precincts.</p>
Additional requirements for Precinct 7 – Kaba Kada precinct	
<p><b>PO18</b> Provisions to be developed in consultation with clan groups.</p>	<p><b>AO18</b> To be further developed via sub-precincts.</p>
Additional requirements for Precinct 8 – Daintree precinct	
<p><b>PO19</b> Provisions to be developed in consultation with clan groups.</p>	<p><b>AO19</b> To be further developed via sub-precincts.</p>

Table 7.2.5.4.b – Extent of development

Sites located within Precincts	Extent of development	
Precinct 1 : Bulban precinct	Sub-precincts to be developed in consultation with Clan groups.	To be further developed.
Precinct 2 : Dawnvale precinct	Sub-precincts to be developed in consultation with Clan groups.	To be further developed.
Precinct 3 ; Buru precinct	Sub-precincts to be developed in consultation with Clan groups.	To be further developed.
Precinct 4 : Zig Zag Yards Precinct	Sub-precincts to be developed in consultation with Clan groups.	To be further developed.
Precinct 5 : Degarra precinct	Sub-precincts to be developed in consultation with Clan groups.	To be further developed.
Precinct 6 : Kalkandamal precinct	Sub-precinct 6a : Topside sub-precinct Sub-precincts to be developed in consultation with Clan groups.	Community Shed and a Caretaker's cabin (maximum 8.5 metres and two storeys in height). To be further developed.
	Sub-precinct 6b : Bottomside sub-precinct Sub-precincts to be developed in consultation with Clan groups.	Maximum of four bayan's and a Caretaker's cabin (maximum 8.5 metres and two storeys in height). To be further developed.
Precinct 7 : Kaba Kada	Sub-precinct 7a : Cow Bay sub-precinct Sub-precincts to be developed in consultation with Clan groups.	Maximum of five bayan's (maximum 8.5 metres and two storeys in height). To be further developed.
Precinct 8 : Daintree precinct	Sub-precincts to be developed in consultation with Clan groups.	To be further developed.

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