TEMPORARY LOCAL PLANNING INSTRUMENT No. 1 of 2019 (BARGARA BUILDING HEIGHT AND SEA TURTLE SENSITIVE AREA)

Bundaberg Regional Council Planning Scheme 2015

PART 1 – SHORT TITLE

1. This Temporary Local Planning Instrument (TLPI) may be cited as TLPI 01/2019 (Bargara Building Height and Sea Turtle Sensitive Area).

PART 2 – OVERVIEW

2.1 This TLPI provides an interim policy response to protect sea turtles from the adverse impacts of development on sea turtle nesting and sea turtle activity and to provide greater certainty to building heights at Bargara, within the Bundaberg Regional Council local government area.

2.2 This TLPI seeks to:
- (a) give effect to the State interests of efficiency and transparency by providing greater certainty to building heights at Bargara; and
- (b) protect the biodiversity, coastal environment and tourism State interests at significant risk of being adversely impacted by coastal development.

PART 3 – PURPOSE OF THE TLPI

3.1 The purpose of this TLPI is to regulate:
- (a) building heights in the High density residential zone at Bargara; and
- (b) artificial light for new urban development on the coast.

3.2 To achieve this purpose, the TLPI—
- (a) includes a Bargara Height Control Overlay map at Schedule 1;
- (b) includes assessment benchmarks specifying acceptable height limits in the Bargara Height Control Area at Schedule 2; and
- (c) includes a code—the Sea Turtle Sensitive Area code at Schedule 3, which applies to land within the existing Sea Turtle Sensitive Area on the Coastal Protection Overlay maps of the *Bundaberg Regional Council Planning Scheme 2015* (the Planning Scheme).

PART 4 – DURATION OF THE TLPI

4.1 In accordance with section 9(3)(a) of the *Planning Act 2016* (the Planning Act) the effective day for the TLPI is the day on which public notice of the TLPI is published in the gazette.

4.2 This TLPI will have effect in accordance with the Planning Act for a period not exceeding two years from the effective day or a longer period as may be permitted by law or unless otherwise repealed sooner.

PART 5 – INTERPRETATION

5.1 Where a term used in the TLPI is not defined, the term shall have the meaning assigned to it by—
- (a) the Planning Scheme; or
- (b) the Planning Act where the term is not defined in the Planning Scheme.

5.2 To the extent of any inconsistency between the Planning Scheme and the TLPI or a Planning Scheme policy and the TLPI, the TLPI prevails.

PART 6 – APPLICATION OF THE TLPI

6.1 The TLPI applies to land identified within the Bargara Height Control Area in Schedule 1 – Bargara Height Control Overlay map.

6.2 The TLPI applies to land identified within the Sea Turtle Sensitive Area on the Coastal Protection Overlay maps contained in the Planning Scheme.

PART 7 – EFFECT OF THE TLPI

7.1 This TLPI is a local categorising instrument under the Planning Act which sets out assessment benchmarks against which assessable development must be considered.

7.2 For land identified within the Bargara Height Control Area in Schedule 1 – Bargara Height Control Overlay map, the TLPI—

(i) Suspends 6.2.3 High density residential zone code, Table 6.2.3.3.1 Benchmarks for assessable development, Performance Outcome PO5 of the Planning Scheme;
(ii) Provides assessment criteria at Schedule 2 – Bargara Height Control Area Assessment Benchmarks.

7.3 For land identified within the Sea Turtle Sensitive Area on the Coastal Protection Overlay maps contained in the Planning Scheme, the TLPI—

(i) Suspends 9.3.3 Nuisance code, Table 9.3.3.3.1 Benchmarks for assessable development, Performance Outcome PO8 of the Planning Scheme;
(ii) Provides assessment criteria at Schedule 3 – Sea Turtle Sensitive Area Code.

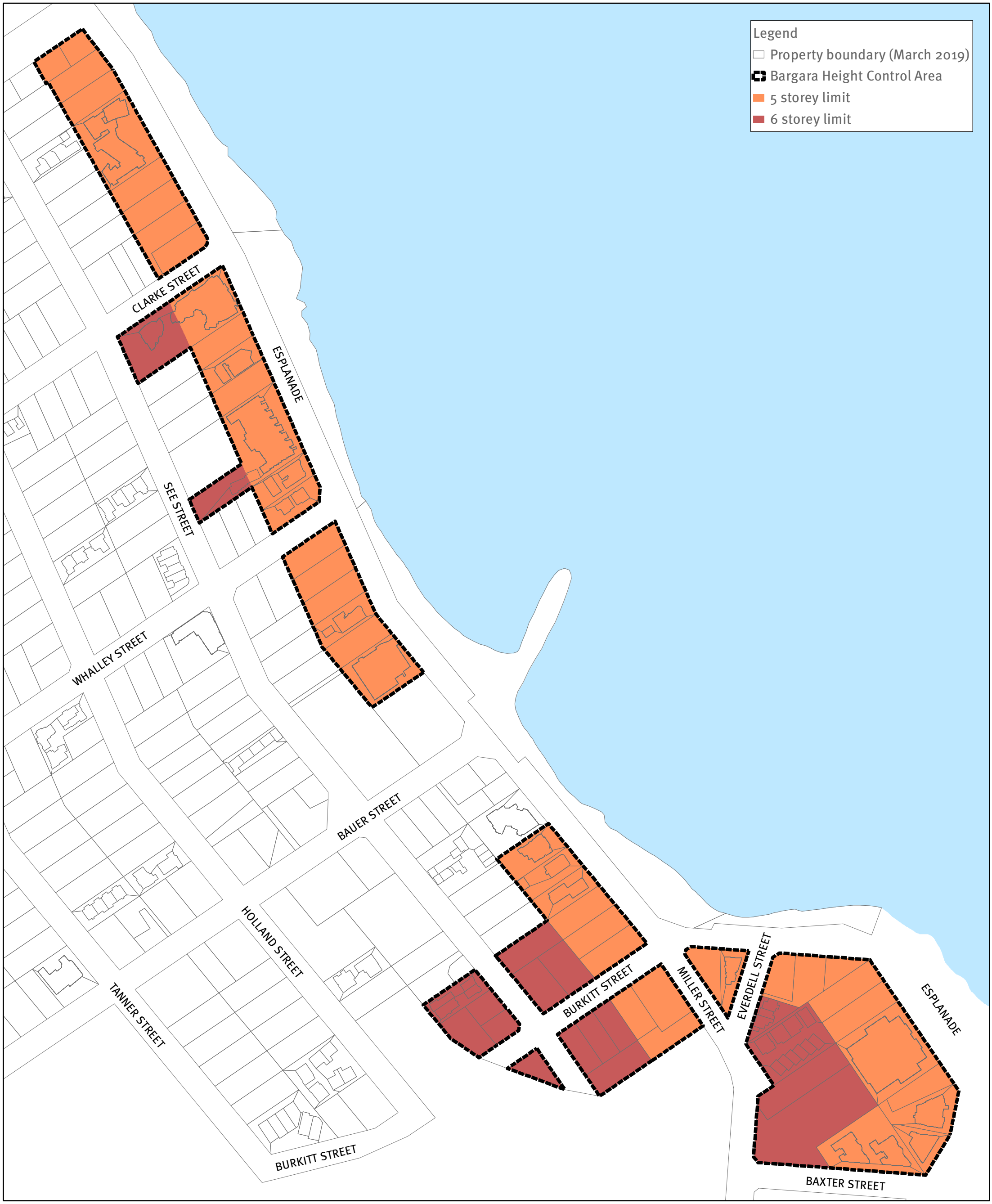
Note: 9.3.3 Nuisance code, Table 9.3.3.3.1 Benchmarks for assessable development, Performance Outcome PO8 of the Planning Scheme still applies to applications which are for reconfiguring a lot.

7.4 The TLPI does not apply to development within the Limited development constrained land zone – Precinct LDZ2 (Mon Repos Turtle Conservation Area) as regulated by TLPI 1/2018 Protection of the Mon Repos Turtle Conservation Area.

PART 8 – DEFINITIONS OF THE TLPI

8.1 ***Sky glow*** means brightness of the night sky in a built-up area as a result of light pollution.

Schedule 1 - Bargara Height Control Overlay Map (TLPI 01/2019)



Schedule 2 – Bargara Height Control Area Assessment Benchmarks

1.1 Application

This benchmark applies to assessable development occurring within the Bargara Height Control Area in **Schedule 1 – Bargara Height Control Overlay Map**.

1.2 Purpose and overall outcomes

An additional overall outcome for the High density residential zone code is provided for below:

(i) Residential development has a medium-rise built form that is compatible with the existing scale and character of the surrounding area.

1.3 Assessment Criteria

Table 1.3.1 Criteria for assessable development

Performance outcomes	Acceptable outcomes
Building height and built form	
PO5 (a) Residential development has a maximum building height in accordance with **Schedule 1 – Bargara Height Control Overlay Map**. (b) Non-residential development has a maximum building height of 2 storeys.	**AO5.1** No acceptable outcome provided.

Schedule 3 – Sea Turtle Sensitive Area Code

1.1 Application

This code applies to all assessable development (other than for reconfiguring a lot) occurring within the Sea Turtle Sensitive Area on the Coastal Protection Overlay maps contained in the Planning Scheme.

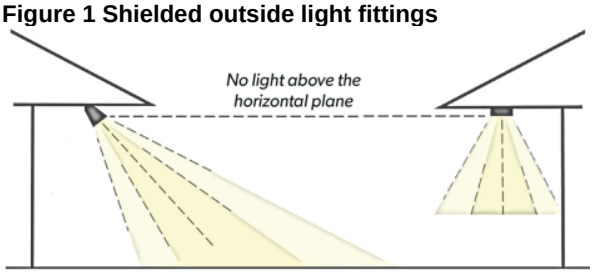
1.2 Purpose and overall outcomes

(1) The purpose of the code is to ensure that development does not create harm to sea turtle nesting and sea turtle activity by avoiding adverse impacts generated from artificial lighting.

(2) The purpose of the code will be achieved through the following overall outcome/s:
   (a) Development avoids artificial lighting that is directly visible from the beach or the ocean;
   (b) Development avoids ambient lighting that contributes to sky glow within the Sea Turtle Sensitive Area.

1.3 Assessment criteria

Table 1.3.1 Criteria for assessable development

Performance outcomes	Acceptable outcomes
PO1 All outside lighting provided as part of the development avoids direct illumination of the beach, ocean and sky at night.	**AO1.1** Use outside lighting that is: (a) shielded by 25cm shields; (b) mounted down low to avoid direct horizontal light or downwards glare onto the beach or ocean; and (c) directed downwards and away from the coast. Note—**Figure 1 (Shielded outside light fittings)** demonstrates how outside lighting is to be shielded and directed to avoid light spill. **Figure 1 Shielded outside light fittings** 
	AO1.2 All outside lights are fitted with light motion detection sensors and/or timers to ensure lighting is turned off when not required.
PO2 Development minimises the use and intensity (brightness/luminance) of outside lighting required to achieve the light's purpose to avoid reflection from the ground, buildings and other surfaces.	**AO2** No acceptable outcome is provided.
PO3 Development minimises reflective glare that contributes to sky glow.	**AO3.1** External building materials, colours and finishes have low reflectivity.
	AO3.2 Impervious areas use coloured (non-reflective) concrete or other pavement material.
	AO3.3 Building design, architectural elements or landscaping treatments block or reduce excessive reflective glare.

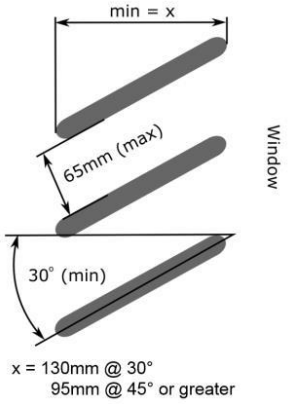
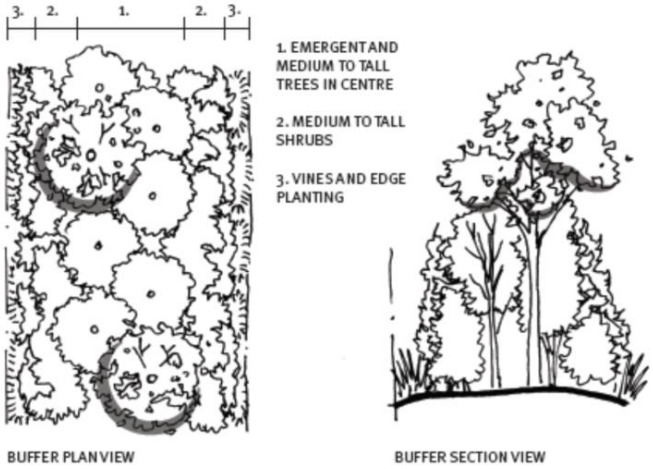
PO4 All interior lighting provided as part of the development avoids direct illumination of the beach, ocean and sky at night.	**AO4.1** All windows and glass doors visible from the coast are: (a) tinted with non-reflective tinting, or utilise smart glass technology, to block a minimum of 50% of light to reduce light transmission or spill from indoor lighting (i.e. allows a maximum of 50% of light to pass through); or (b) shielded by external screens to reduce light spill from indoor lighting.
	AO4.2 All windows are shielded with external fixed louvres, and are to be: (a) solid (i.e. no holes); (b) directed downward from the window at a minimum angle of 30º; or (c) in accordance with the dimensions identified within **Figure 2 (Fixed louvres detail)**. **Figure 2 Fixed louvres detail** 
Where development is located on land visible to the beach or ocean	
PO5 Development provides for landscape buffers that:- (a) protect the edges of existing native vegetation or any other areas of environmental significance; and (b) screen the development (including associated artificial light) to a level where it is not visible from the beach or ocean.	**AO5** Landscape buffers are required to be designed, constructed and maintained in accordance with the following:- (a) plant species selected are appropriate for the location, drainage and soil type, and require minimal ongoing maintenance; (b) plant selection includes a range of species to provide variation in form, colour and texture to contribute the natural appearance of the buffer; (c) planting density results in the creation of upper, mid and understory strata with:- (i) large trees planted at 6m centres; (ii) small trees planted at 2m centres; (iii) shrubs planted at 1m centres; (d) tufting plants, vines and groundcovers are planted at 0.5m to 1m centres; and (e) where adjoining the edge of native vegetation or watercourse understorey, shrubs and vines are used to bind the buffer edges against degradation and weed infestation. Note—planting density is such that it maximises the blocking of light spillage between development and the beach or ocean. Note—Figure 3 (Design of landscape buffers) demonstrates the preferred form and structure of landscape buffers.

	Figure 3: Design of landscape buffers 
PO6 Development involving sport and recreation activities avoids new floodlighting.	**AO6** No acceptable outcome provided.
PO7 Where development involves advertising devices, illuminated signage is avoided.	**AO7** No acceptable outcome provided.
PO8 No new beach access points are established unless the beach access is designed to reduce interference on turtle nesting areas, and: (a) is required to enhance public access to the beach; or (b) there is no increase in the number of beach access points, with any replaced beach accesses fenced off and revegetated.	**AO8** No acceptable outcome provided.
Additional criteria for building and operational work	
PO9 Effective measures are implemented during the construction and operation of development to avoid impacts from lighting, noise and vibration on sea turtle activity and sea turtle nesting beaches.	**AO9** No acceptable outcome provided.