

## Submissions 44- 52 Blue Seas Parade



Our Ref: DDC/64/81266-9  
Your Ref: BSCPP 14/006 Blue Seas Parade (Trim 1662-03)

General Manager  
Ballina Shire Council  
PO Box 450  
Ballina NSW 2478

Attention: Mr Klaus Kerzinger

Dear Mr Hickey

**Re: Planning Proposal BSCPP 15/005 44-52 Blue Seas Parade, Lennox Head**

Thank you for your letter dated 14 October 2016 to the Office of Environment and Heritage (OEH) about Aboriginal cultural heritage for the planning proposal at Blue Seas Parade, Lennox Head. I appreciate you alerting us to the anomaly within our Aboriginal Heritage Information Management System (AHIMS).

We have reviewed the information provided and can confirm that action was taken following receipt of the letter from the Ballina Shire Council and the Jali Local Aboriginal Land Council in 2006 to document the known errors with the two (2) registered AHIMS Aboriginal Heritage Site Recording Form grid references. A review of our records in AHIMS for both site 04-5-0017 and site 04-5-0054 confirms that neither site is located geographically within the area subject to this planning proposal.

However, the action taken to correct the error in AHIMS was to document the advice received in 2006 as additions and notations on the respective AHIMS registrations. This did not correct the errors with the registered grid references and is why the sites still appear in an AHIMS search of the area.

We have forwarded your letter to the AHIMS Registrar and have requested the necessary corrections to the grid references for these AHIMS sites.

If you have any further questions about this issue, Ms Rozalie Neve, Aboriginal Heritage Planning Officer, Regional Operations, OEH, can be contacted on 6659 8221 or at [rozalie.neve@environment.nsw.gov.au](mailto:rozalie.neve@environment.nsw.gov.au).

Yours sincerely

 23 November 2016

**DIMITRI YOUNG**  
Senior Team Leader Planning, North East Region  
Regional Operations

Locked Bag 914 Coffs Harbour NSW 2450  
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OUT16/44919

18 November 2016

General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Attention: Klaus Herzinger

[klausk@ballina.nsw.gov.au](mailto:klausk@ballina.nsw.gov.au)

Dear Sir/Madam

**Re: Planning Proposal – BSCPP 14/005, 44 - 52 Blue Seas Parade, Lennox Head**

Thank you for the opportunity to provide further comments on the above proposal as per your correspondence dated 22 September 2016. The NSW Department of Primary Industries (NSW DPI) Agriculture has reviewed the supporting documentation associated with the exhibition of this proposal. No additional comments to our previous correspondence dated 24 March 2016 are required.

We commend your consideration of land use conflict and potential impacts on agricultural land and your continued efforts to reduce this risk.

Should you wish to discuss this matter further please contact Resource Management Officer, Selina Stillman, on (02) 66261215.

Yours sincerely

A handwritten signature in blue ink that reads 'Liz Rogers'.

**Liz Rogers**  
Manager - Agricultural Landuse Planning

NSW Department of Primary Industries - Agriculture  
Locked Bag 21, Orange NSW 2800 | 161 Kite St, Orange NSW 2800  
Tel: 02 6391 3391 | Email: [landuse.ag@dpi.nsw.gov.au](mailto:landuse.ag@dpi.nsw.gov.au) | [www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au) | ABN: 72 159 919 072



Our Ref: DOC16/481265  
Your Ref: BSOPP15/005 (Trm1592-03)

General Manager  
Ballina Shire Council  
PO Box 450  
Ballina NSW 2478

Attention: Mr Klaus Kerzinger



Dear Mr Hickey

**Re: Planning Proposal for Part Lot 1 and Part Lot 2 DP 1165957, Blue Seas Parade, Lennox Head**

Thank you for your email dated 22 September 2016 about the planning proposal for the rezoning of land at Blue Seas Parade, Lennox Head under the Ballina Local Environmental Plan 2012 seeking comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input.

The OEH has statutory responsibilities relating to biodiversity (including threatened species, populations, ecological communities, or their habitats), Aboriginal and historic heritage, National Parks and Wildlife Service estate, flooding and estuary management.

We have reviewed the planning proposal and advise you that we have no concerns about flooding, acid sulphate soils or estuary management. However, we have identified a number of issues with the assessments for biodiversity and Aboriginal cultural heritage that require further consideration as set out below:

- There is insufficient information in the ecological assessment report (Blackwood Ecological Services March 2016) on the ecological values of the adjacent Crown Reserve (Lot 7029 DP 1064319) to the east of the planning area. As a result, the indirect impacts of future land uses to be enabled by the planning proposal on native vegetation and potential threatened species, endangered ecological communities, and their habitats, may have been under-estimated.
- There is insufficient information in the Aboriginal cultural heritage assessment report given that it was prepared more than 10 years ago.

The OEH recommends that prior to finalising the planning proposal:

1. The council should be satisfied that adequate consideration has been given to the potential impacts of future development to be enabled by the planning proposal on biodiversity in the adjoining Crown Reserve. The OEH would not support vegetation management in the reserve for bushfire protection. The council should consider, whether sufficient setbacks are in place

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under the planning proposal to buffer the reserve or the application of an appropriate environmental protection zone as per LEP Practice Note PN 09-002 is warranted.

2. The Aboriginal cultural heritage assessment report provided in support of the planning proposal should be updated to include:
- a. A current search of the Aboriginal Heritage Information Management System (AHIMS) database within an appropriate radius of the planning area. The radius should be large enough to enable capture of relevant AHIMS records to provide context for the planning area.
  - b. A current literature review of information about the tangible and intangible Aboriginal cultural heritage in the general locality of the planning area.
  - c. A description of any consultation with Aboriginal people who have a cultural association with the land on the Aboriginal cultural heritage values of the planning area and locality.
  - d. An archaeological survey of the planning area, which is comprehensive enough to ensure an adequate understanding of the archaeological signature of the planning area with respect to Aboriginal cultural heritage.
  - e. A description of any tangible and/or intangible Aboriginal cultural heritage values in or associated with the planning area, including Aboriginal objects and/or declared Aboriginal places.
  - f. A description of the archaeological significance of any Aboriginal cultural heritage values in the planning area and the significance of those values to Aboriginal people who have a cultural association with that land.
  - g. Analysis of the Aboriginal cultural heritage values of the planning area to justify the application of appropriate land-use zonings with a view to avoiding and minimising future harm to those values. The OEH would recommend that areas of high Aboriginal cultural heritage significance be zoned E2 Environmental Conservation to protect such values.

In addressing this requirement, the applicant is encouraged to refer to the OEH website at the following web address <http://www.environment.nsw.gov.au/licences/invstassessreport.htm>.

If you have any further questions about this issue, Ms Rachel Binskin, Regional Operations Officer, Regional Operations, OEH, can be contacted on 6659 8247 or at [rachel.binskin@environment.nsw.gov.au](mailto:rachel.binskin@environment.nsw.gov.au).

Yours sincerely

 4/10/2016

**ROSALIE NEVE**  
A/Senior Team Leader Planning, North East Region  
**Regional Operations**

Contact officer: RACHEL BINSKIN  
6659 8247



Mr P Hickey  
General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Our ref: PP\_2015\_BALLI\_002\_00 (16/09/16)  
Your ref: BSCPP 14/006 - Blue Seas Parade  
(1592-03)

Attention: Klaus Kerzinger

Dear Mr Hickey

**Planning Proposal PP\_2015\_BALLI\_002\_00**

I refer to Council's correspondence of 21 September 2016 requesting the Secretary's agreement that the inconsistencies of the above proposal with section 117 Directions 3.5 Development Near Licensed Aerodromes and 4.4 Planning for Bushfire Protection are justified.

I have considered these matters, and as a delegate of the Secretary, I have agreed that the proposal's inconsistencies are justified in accordance with the terms of the Directions. No further approval is required in relation to these Directions.

Council can now continue with its assessment of the proposal.

If you have any questions in relation to this matter, I have arranged for Ms Gina Davis to assist you. Ms Davis can be contacted on (02) 6701 9687.

Yours sincerely

A handwritten signature in black ink, appearing to be "C. Diss".

21 September 2016

**Craig Diss**  
Acting Director Regions, Northern  
Planning Services

The General Manager  
Ballina Shire Council  
PO Box 450  
Ballina NSW 2478

Dear Sir

I wish to object to the above proposal to rezone from RUI primary Production zone to R2 Low Density Residential zone.

- 1) This rezoning will add further pressure on traffic using Blues Seas Parade with the now operating Coastal Grove Estate has now increased traffic flow. I have on many occasions been unable to pass. I have needed to stop & wait with only one vehicle able to use this road due to the narrow roadway, as residents in Blues Seas Parade park their vehicles on both sides of the Road.
- 2) My concerns are also the same problems as Coastal Grove Estate with all the hard surfaces further water run off.
- 3) This steep land is rural primary production land & was never intended to cater for further residential homes.
- 4) This rezoning is capitalising on the existing Coastal Grove Estate which was declined by Council for many years as well as declined by the Land & Environment Court to only be approved under 3A legislation by the State Government. The land known as Coastal Grove should have never have been rezoned in the first place. With this approval we are just adding to further problems in the future.

These are just some of the problems & urge council to decline this rezoning.

Thanking you  
Terry Chandler

*Mr J B Flockton & Ms M L Wain*  
45 Blue Seas Parade, Lennox Head  
E: [marselwain@gmail.com](mailto:marselwain@gmail.com)  
M: 0400 948 367

The General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Attention: Mr Klaus Kerzinger

Dear Sir

**Public Submission - Planning Proposal BSCPP 14005 and Draft Development Control Plan - 44 to 52 Blue Seas Parade, Lennox Head**

We refer to your letter of 27 September 2016 and hereby make the following submission with respect to the Planning Proposal BSCPP 14005 and Draft Development Control Plan - 44 to 52 Blue Seas Parade, Lennox Head.

It is disappointing to see that Council is supporting this development. When we purchased our block at 45 Blue Seas Parade, we understood the land to the east of us was important rural land also scenically important land, therefore, residential development was very unlikely.

We understand that the small area of R2 land that is east of Blue Seas Parade was limited in size because of scenic impacts. Extending this area now would mean further intrusion of houses and buildings into the skyline when viewed from the Coast Road and Boulders Beach. This incremental 'creep' of urban development is not good planning. These important rural vistas deserve protection.

Additionally residential development this close to an operating farm is not really compatible; future land use conflict is inevitable! Our house is impacted by the noise of upset cows each time calves are removed, the proposed houses will be impacted far more than us. They will get no sleep when the cows are upset for 2-3 days each time their calves are removed.

The access to Lots 1 & 2 DP1165957 is currently acceptable for rural zoned land, however, it is inadequate for the additional traffic associated with land zoned R2 Low Density Residential. The intersection could not handle the increased traffic volume, fire truck access and waste truck access.

Some drawings show stairs down to Blue Seas Parade for waste bins to be taken down for collection. Home owners are not realistically going to take their bins down a set of stairs to allow bin collection on Blue Seas Parade. If the waste trucks cannot drive outside the proposed houses we will end up with bins permanently sat along Blue Seas Parade. This would considerably degrade the neighbourhood amenity and streetscape and we believe it is actually illegal to leave bins on the side of the road permanently. A DCP cannot effectively ensure bins will not be stored on the road side. The only way to ensure this does not occur is to ensure no stairs are built. Direct access is not possible from Blue Seas Parade and the therefore developer must build an appropriate access road to the lots. Alternatively the development could be community title and they have their own central bin store at their access point.

Some documents suggest using Blue Seas Parade as an access point for the lots, any engineer would point out that building a driveway to these blocks to Council standard would be impossible, the grades required would be way beyond the maximum allowable grades.

We understand we cannot stop this development, but request that Council ensure it is completed in a way that respects the existing amenity of the neighbouring properties by ensuring the developer is required to provide satisfactory access to the proposed properties for car, fire trucks and waste trucks.

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*Mr J B Flockton & Ms M L Waio  
45 Blue Seas Parade, Lennox Head  
E: [mareelwaio@gmail.com](mailto:mareelwaio@gmail.com)  
M: 0400 948 361*

We support the proposed minimum rear set back rule to help ensure we are not overshadowed, an additional minimum single storey rule for all buildings would also be beneficial to our privacy and also minimise the scenic impact from the coastal side of the hill.

The DCP amendments rely on the Blue Seas Parade geo-tech assessment, does this assessment even consider and map the area for the proposed development?

It is also understood that Council's stormwater system is at capacity and cannot handle more flows from additional residential development. Given the steep hills in this area and the volume of stormwater that the area receives it is highly important that any development can achieve satisfactory stormwater controls and not affect neighbouring properties once developed.

Water pressure was a concern of Council's for all development in the existing Blue Seas Parade subdivision. The proposed blocks are considerably higher, can they achieve satisfactory residential water pressure?

It is inappropriate for Council to approve re-zonings and DCP amendments for blocks of land that cannot achieve satisfactory access points, stormwater controls, or protect scenic lands, unless methods of control have been proven to be available, otherwise the residential developments will end up getting pushed through with inappropriate controls unfairly impacting the local area.

We appreciate the opportunity to provide comment on this proposal and may be contacted on 0400 948 361 for further comment.

Yours faithfully

James Flockton and Maree Waio



RECORDS SCANNED - 2 NOV 2016 Doc No. .... Batch No. ....
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Peter Small  
"Casual Eden"  
54 Blue Seas Pde.,  
Lennox Head 2478  
26<sup>th</sup> Oct. 2016  
Phone 66877321

Mr. K. Kensington  
Strategic Planner  
Ballina Shire Council

Dear Klaus  
Re Blue Seas Pde. Lennox Head  
rezoning from Farmland to residential.  
Further to our meeting with you on Tuesday 25<sup>th</sup> Oct.  
Thank you for your time to meet & talk to us re the above.  
I could send a email but prefer to write. I am  
writing on behalf of my daughter Jockie, & myself to thank  
you for your personal interest & time shown to us much  
appreciated.  
It's now obvious to me I got it wrong. As I mentioned  
I considered the rezoning was over & approved. We considered  
this was about the number of lots, as we are hoping for  
large lots.  
Thanking you  
Peter Small.



Mr Philip Halliday  
2/1 Yuraygir Place  
Lennox Head NSW 2478

3 November 2016

General Manager  
Ballina Shire Council  
PO Box 450  
Ballina NSW 2478

**BSCPP 14/005 Blue Seas Parade (1592)**  
**OBJECTION TO PLANNING PROPOSAL- SEPTEMBER 2016**

Dear Sir

I object to the Planning Proposal BSCPP 14/005 –September 2016, and Proposed Amendments to Ballina Development Control Plan 2012 relating to 44-52 Blue Seas Parade.

My objection is based on the grounds that a change to the zoning of the land under this proposal will have a detrimental effect to the Environmental quality of this site. Any further development will result in a negative impact on the visual character of the site.

Currently the site provides a green buffer between existing development to the west, and the coast road to the east.

Under the proposal, a number of new residences could be built on this land with a height of up to 8.5 meters.

No matter how well designed they may be, there will be a visual impact to both sides of the ridge line.

This will be especially noticeable from the areas of Survey Street & Amber Drive.

At this height, even with the required building height setbacks as noted in the proposed amendments to BDCP2012, there will be visual impact from points to the east of the subject site.

This proposal is at odds with the Planning Objective 4.6.2 (b) as listed in the Draft Amendment to Ballina Shire DCP 2012 :

"To protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and riparian vegetation values."

Yours faithfully,



Philip Halliday.

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Ballina Shire DCP 2012 Draft Amendment  
Chapter 4 Residential and Tourist Development



Ballina Shire Development Control Plan 2012

Draft Amendment

Chapter 4 - Residential and Tourist Development

Special Area Provisions: 44 – 52 Blue Seas Parade, Lennox Head

September 2016 (Trim 16/60797)


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The following table provides details of the amendments proposed to Ballina Development Control Plan 2012 (DCP). The proposed amendments are proposed as a consequence of the Council's consideration of a planning proposal relating to 44 - 52 Blue Seas Parade, Lennox Head, at its Ordinary Meeting on 28 July 2016.

No.	DCP Reference	Proposed Amendment						
1	<p><i>Chapter 4 – Residential and Tourist Development</i></p> <p><i>Part 4 Special Area Controls</i></p> <p><i>4.7 – Blue Seas Parade Estate</i></p>	<p><b>Insert the following section</b></p> <p><b>4.7 Blue Seas Parade Estate, Lennox Head</b></p> <p><b>4.6.1 Application</b></p> <table border="1" data-bbox="642 691 1703 841"> <thead> <tr> <th colspan="2" data-bbox="642 691 1703 727">Applies to:</th> </tr> </thead> <tbody> <tr> <td data-bbox="642 727 814 784">Location/s:</td> <td data-bbox="823 727 1703 784">Blue Seas Parade Estate (as shown on the Special Area Controls Map – Residential - Sheet SR_003_020).</td> </tr> <tr> <td data-bbox="642 784 814 841">Development Type/s:</td> <td data-bbox="823 784 1703 841">Residential Accommodation.</td> </tr> </tbody> </table> <p><b>4.6.2 Planning Objectives</b></p> <ul style="list-style-type: none"> <li>a. To provide high quality residential development to meet the demand for housing within the Lennox Head area;</li> <li>b. To protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and riparian vegetation values; and</li> <li>c. To provide services and facilities to meet the needs of the future residents of the site.</li> </ul> <p><b>4.6.3 Development Controls</b></p> <p><b>A. Element – Rear Building Setbacks for lots subject to 1200m<sup>2</sup> minimum lot size requirement (Ballina LEP 2012)</b></p> <p>The following rear (eastern) boundary building setbacks are applicable:</p>	Applies to:		Location/s:	Blue Seas Parade Estate (as shown on the Special Area Controls Map – Residential - Sheet SR_003_020).	Development Type/s:	Residential Accommodation.
Applies to:								
Location/s:	Blue Seas Parade Estate (as shown on the Special Area Controls Map – Residential - Sheet SR_003_020).							
Development Type/s:	Residential Accommodation.							

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No.	DCP Reference	Proposed Amendment	
		<b>Table 4.7a – Blue Seas Parade Estate Rear Building Setbacks</b>	
		<b>Development Type</b>	<b>Setback</b>
		Dwellings and attached carports, garages, balconies, decks, patios, pergolas, terraces and verandahs that are also attached to the dwelling house and which have a height up to 4.5 metres.	5 metre minimum rear building setback and clear of any Right of Carriageway (ROW).
		Dwellings and attached carports, garages, balconies, decks, patios, pergolas, terraces and verandahs that are also attached to the dwelling house and which have a height greater than 4.5metres.	12 metre minimum rear building setback and clear of any ROW.
		Outbuildings not attached to dwellings with a height up to 3.8 metres.	1.5 metre minimum rear setback and clear of any ROW.
		Outbuildings not attached to dwellings with a height greater than 3.8 metres.	1.5 metre minimum setback plus one quarter of the height of the building above 3.8 metres and clear of any ROW.
			
		<ul style="list-style-type: none"> <li>i. No part of any building may encroach on a ROW.</li> <li>ii. The width of any ROW may be included in the minimum setback distance.</li> <li>iii. The building height plane provisions contained in Part 3 of this chapter also apply to residential development in the Blue Seas Parade Estate.</li> </ul>	
		<b>B. Element - Slope Sensitive Design</b>	
		<i>Dwellings</i> and associated development on residential lots with a slope greater than 15% are required to conform to the following requirements:	
		<b>I. Driveways</b>	
		<ul style="list-style-type: none"> <li>▪ Driveways are not to exceed a maximum gradient of 1:6 unless it can be demonstrated to the satisfaction of the consent authority that no reasonable alternative to this solution is possible. In such cases driveways are not to exceed a maximum gradient of 1:4.</li> </ul>	
		<ul style="list-style-type: none"> <li>▪ Applications are to include a long section drawing of proposed driveway access that has been prepared by</li> </ul>	

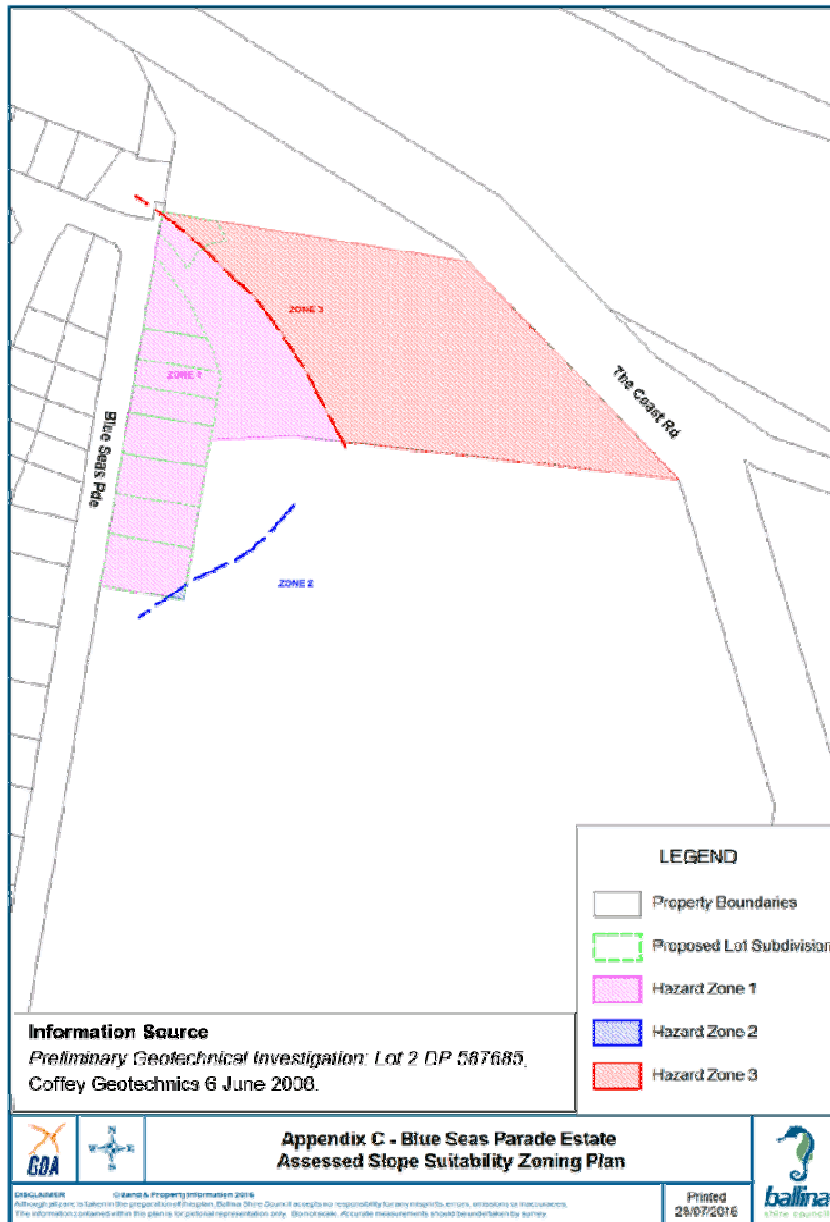
9.1 Planning Proposal - 44-52 Blue Seas Parade Lennox Head.DOC

No.	DCP Reference	Proposed Amendment												
		<p>an appropriately qualified person based on site survey information.</p> <ul style="list-style-type: none"> <li>The preferred access point to proposed lots is from a ROW located parallel to the rear eastern boundary.</li> </ul> <p>ii. <b>Earthworks</b></p> <ul style="list-style-type: none"> <li><b>Earthworks</b> are subject to the following requirements:</li> </ul> <table border="1" data-bbox="814 578 1478 816"> <caption>Table 4.7b – Blue Seas Parade Estate Earthworks Requirements</caption> <thead> <tr> <th>Slope Instability Hazard Zones<sup>1</sup></th> <th>Maximum cut or fill - property boundary</th> <th>Maximum cut or fill - elsewhere on site</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>1.2m</td> <td>No limitation if works contained fully within <b>building envelope</b></td> </tr> <tr> <td>2</td> <td>1.2m</td> <td>2.5m if works contained fully within <b>building envelope</b></td> </tr> <tr> <td>3</td> <td>1.2m</td> <td>1.5m</td> </tr> </tbody> </table> <p><sup>1</sup> Slope Instability Hazard Zones are shown in the <i>Blue Seas Parade Assessed Slope Suitability Zoning Plan</i> attached in Appendix C.</p> <div data-bbox="911 883 961 935" style="border: 1px solid black; padding: 5px; width: fit-content;">  </div> <p><b>Notes:</b> Cut and fill parameters mean that <b>excavation</b> and/or <b>filling</b> on sites with a slope exceeding 15% may, in some circumstances, exceed 1m (on the property boundary) and 1.5m (elsewhere on the site). This is subject to the conditions identified above and relevant engineering and geotechnical assessment demonstrating the suitability of the site for the proposed <b>excavation/filling</b> and associated works.</p> <p>The slope instability hazard zones are based on analysis undertaken by Coffey Geotechnics in the report: <i>Preliminary Geotechnical Investigation: Lot 2 DP 587685</i>, dated 6 June 2008.</p> <p><b>C. Element - Geotechnical and Engineering Assessment</b></p> <p>i. Applications for development on land within Slope Instability Hazard Zone 3 (see Appendix C – Blue Seas</p>	Slope Instability Hazard Zones <sup>1</sup>	Maximum cut or fill - property boundary	Maximum cut or fill - elsewhere on site	1	1.2m	No limitation if works contained fully within <b>building envelope</b>	2	1.2m	2.5m if works contained fully within <b>building envelope</b>	3	1.2m	1.5m
Slope Instability Hazard Zones <sup>1</sup>	Maximum cut or fill - property boundary	Maximum cut or fill - elsewhere on site												
1	1.2m	No limitation if works contained fully within <b>building envelope</b>												
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3	1.2m	1.5m												

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No.	DCP Reference	Proposed Amendment
		<p>Parade Estate Assessed Slope Suitability Zoning Plan) must be accompanied by a geotechnical assessment. The assessment is to be prepared by a qualified geotechnical engineer.</p> <p>ii. Where a geotechnical assessment is required applications for development must demonstrate that the findings of the assessment have been considered in relation to the structural design of the proposed development.</p> <p><b>D. Element – Aesthetic Considerations</b></p> <p>i. Residential Accommodation must be designed such that buildings address the Blue Seas Parade frontage even if vehicle access is from a Right of Carriageway (ROW) on the eastern edge of the land.</p> <p>ii. All underfloor areas between external walls and ground level shall be screened.</p>
2	<p><i>Special Area Control Map – Residential</i></p> <p><i>Sheet S</i></p> <p><i>R_003_020</i></p>	<p>Amend the Special Area Control Map to show that Special Residential controls apply to 44 -52 Blue Seas Parade, Lennox Head (Blue Seas Parade Estate) site.</p>

**Appendix C – Blue Seas Parade Estate Slope Hazard Plan**





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Ballina Shire DCP 2012 Draft Amendment  
Chapter 4 Residential and Tourist Development

Proposed Amendment 2 – Special Area Control Map – Residential Sheet SR\_003\_020

