

Draft Ballina Development Control Plan 2012 – Submission Summary

Government Agencies, Industry and Individuals

Department of Transport, Roads and Maritime Services (RMS)

Submission	Recommendations
To address heavy vehicle impacts, RMS suggests that loading and access in industrial areas should meet the requirements of AS 2890.2 – Off Street Commercial Vehicle Facilities.	Add reference to Chapter 5 – Industrial Development, Element C – Car parking & Access to reflect comments by RMS. It should be noted, a reference to this standard is already contained in Chapter 6 – Commercial Development.
RMS notes that the RTA’s Guide to Traffic Generating Developments is currently under review. It was suggested that any reference to this document should include a statement to reflect any future changes to this document.	No changes required at this stage. Should the title of the document change, then any reference in the Draft DCP will be required to be updated. Chapter 1 identifies requirements to use current version of documents.
RMS suggests that the Draft DCP more strongly reflects the function of the classified road network. In particular, roadside stalls, some rural activities, schools and major urban development can have significant impacts on the safety and efficiency of the classified road network. The RMS recommends that roadside stalls and traffic generating activities in rural areas should not have direct access to the classified road, particular where other access arrangements are available. Where alternative access is not available, AUSTRROADS standards for sight distance and traffic generation will apply.	Roadside stalls are now a defined use in the Draft Ballina LEP 2011. Accordingly, they are a permitted use ‘with development consent’. A note is contained in Chapter 7 – Rural Living & Activity, Cl. 2.5 – Roadside Stalls which states that <i>“roadside stalls on State controlled roads would generally not be able to meet the requirements of safe vehicular access”</i> . State Environmental Planning Policy (Infrastructure) 2007, Cl. 101 – Development with frontage to classified roads requires a consent authority to consider that the safety, efficiency & ongoing operation of the classified road will not be adversely affected by the proposed development. As the suggestions of the RMS are suitably contained in the SEPP, DCP notes and the changes.

Heritage Council of NSW (Heritage Branch)

Submission	Recommendations
Chapter 1 identifies the aims and objectives of the Draft DCP. The management of cultural heritage should be seen as a key objective for the overall DCP.	Add the word “cultural” to Clause 2.1(a) to read; <i>a. Provide for a sustainable Ballina Shire that recognises and supports community, environmental, cultural and economic values through the establishment and maintenance of the following.....</i>
The Heritage Branch recommends the inclusion of definitions for <i>heritage management</i> in the	The term <i>heritage management</i> has not been used in the draft DCP document and therefore

<p>DCP dictionary.</p>	<p>does not require a separate definition. Other associated terms used in the DCP relating to heritage are defined in the Draft LEP and are therefore highlighted in blue.</p> <p>In order to minimise repetition and to ensure consistency between planning instruments is maintained, any term already defined in a planning instrument will not be defined in the Draft DCP dictionary.</p>
<p>Cl. 3.12 of Chapter 2 identifies the circumstances where a Heritage Impact Statement and Archaeological assessment is required.</p> <p>The Heritage Branch recommends the inclusion of more detailed and prescriptive controls in achieving sound heritage management and practise. Details such as consideration of building height, bulk & scale, materials & finishes, colour schemes, fencing styles and the erection of other facilities such as garages, carports & swimming pools should be included where dealing with items of heritage significance or within the vicinity of heritage items.</p>	<p>For works proposed to items of heritage significance it is intended that the scope of an Statement of Heritage Impact (SOHI) should sufficiently address elements such as building height, bulk & scale, materials & colours etc.</p> <p>Include a reference to assessment considering heritage values present on land adjoining a development site.</p>
<p>It is noted that Chapter 2a – Vegetation Management seeks to enhance and protect natural landscapes through the retention and management of vegetation removal. These controls will apply to heritage items, including significant cultural landscapes.</p>	<p>Noted</p>
<p>The Heritage Branch notes that no provisions or controls are provided within Chapters 3, 5 & 6 that guide the built form of a development proposal through such measures as bulk, scale, form, height, location of new works, material, finishes and impacts on significant views/vistas or cartilage of heritage items.</p> <p>It is recommended that inclusion of such controls will assist in guiding appropriate development and works to heritage items, within the vicinity of heritage items and within heritage conservation areas.</p>	<p>The provisions contained in Chapter 2 – General & Environmental Considerations applies to all forms of development. Controls relating to heritage are contained within this chapter. To reduce repetition throughout the Draft DCP document, additional controls within Chapter 3, 5 & 6 are not considered necessary.</p>

Department of Primary Industries, Catchments & Lands

Submission	Recommendations
<p>General support noted for the inclusion of controls in relation to South Ballina where rural properties adjoin coastal reserves. The controls</p>	<p>Noted</p>

Submission	Recommendations
<p>were considered to be consistent with the recommendation of the Pied Oyster Catcher Management Strategy and will facilitate more effective future management of the coast reserve system.</p> <p>Additional controls relating to the protection of the foreshore and public open space areas from adjoining development are also supported.</p>	
<p>It was suggested that any Crown road required for access to an approved development should be transferred to Council control pursuant to Section 151 of the Roads Act 1993. Clarification of this is recommended in the development and subdivision controls where lands are to be dedicated to Council.</p>	<p>A note be placed in Chapter 3 – Subdivision, Element E – Road Layout to reflect this.</p>
<p>Inclusion of a foreshore development component of the DCP that relates to domestic foreshore structures associated with new subdivisions and other rural development fronting major waterways in the shire is suggested.</p> <p>It is noted that under the current arrangements, the approval of domestic waterfront structures involves a number of government agencies with each application assessed on its merits. Inclusion of controls in the Draft DCP would assist in streamlining the process and ensuring better outcomes.</p>	<p>The zoning of the land will determine if a proposal for various forms of domestic foreshore structures requires development consent.</p> <p>The North Coast Regional Environmental Plan also contains development controls for foreshore structures on coastal land. Clauses 32B – Development Control – Coastal Lands & 81 – Development Control – Development adjacent to the ocean or a waterway requires Councils when assessing applications to consider public access to the foreshore, over shadowing & amenity of the waterway.</p> <p>Chapter 2, Clause 3.18 – Protection of foreshore and public open space areas also contains development controls relating to Council’s consideration of applications for foreshore structures.</p> <p>As the approval of domestic waterfront structures requires approval from a variety of government agencies and is governed by a variety of environmental legislation, it would be difficult to provide any further controls in relation to this, particularly as each application is dealt with on its merits.</p>

NSW Rural Fire Service (RFS)

Recommendations	Recommendations
<p>The RFS noted that there are no references for development activities on land mapped bushfire</p>	<p>The practice note provided by the NSW Rural Fire Service provides details in relation to the</p>

<p>prone within Chapter 2 – General & Environmental Considerations. It is recommended that Bushfire Protection Measures with respect to development on land mapped bushfire prone.</p> <p>Reference was also given to The NSW Rural Fire Service <i>Community Practice Note 2/12 – Planning Instruments and Policy</i>.</p>	<p>role of DCP’s in identifying bushfire protection measures. There are a number of suggested controls that should be applied in a DCP in relation to bushfire planning.</p> <p>In preparing the Draft DCP, careful consideration was given to ensure consistency between various legislation was maintained, whilst minimising repetition. In particular, where a development requirement is outlined in another piece of legislation, the DCP will not replicate those requirements. This also ensures that any changes to other legislation will not require the constant amendment of the Draft DCP.</p> <p>For this reason, there are no controls relating to development activities on land mapped as bushfire prone as these requirements are suitably covered in the NSW Rural Fire Service <i>Planning for Bushfire Protection Guidelines</i>.</p> <p>Notwithstanding the above, it is recommended that Chapter 2 be adjusted to incorporate a section on bushfire management referring to <i>Planning for Bushfire Protection</i>.</p>
<p>It is noted that the bushfire hazard reduction work (authorised under the Rural Fires Act 1997) may not be considered exempt development in accordance with Part 3.3, Chapter 2a Vegetation Management. It is recommended that the Draft DCP should permit authorised vegetation removal (hazard reduction work) under the Rural Fires Act as an exemption from requiring development consent.</p>	<p>A bushfire hazard reduction notice can be issued to an owner or occupier of land under the provisions of the Rural Fires Act 1997. As this legislation overrides any local planning controls and Council is unlikely to receive a development application for such works, no additional controls are required.</p> <p>Additionally, Clause 100C – Carrying out of bush fire hazard reduction work states that an environmental planning instrument (such as a DCP) can not prohibit, require development or otherwise restrict emergency or managed bushfire hazard reduction work.</p>

NSW Marine Parks Authority

Submission	Response
<p>Suggested that consultation requirements for developments proposed to be undertaken in the Marine Park by Ballina Council or any other proponent that does not require consent under Part 4 of the <i>Environmental Planning &</i></p>	<p>The intention of the Draft DCP is to only contain development controls relating to specific forms of development requiring consent under Part 4 of the EP&A Act. Therefore, if consent is not required, there should be no reference</p>

Assessment Act 1979 will require approval from the MPA in the form of a marine park permit.	contained in the DCP relating to that matter.
General support is given to the inclusion of stormwater management controls to mitigate the negative impact on the Cape Byron Marine Park receiving waters.	Noted
Recommended inclusion of controls to ensure lighting from proposed developments do not spill onto beaches. Concerns were raised in relation to turtle nesting habits and the impact that lights near the beach can have on this.	A clause to this effect can be added to Chapter 2, Clause 3.18 Protection of Foreshore and Public Open Space Areas.

Office of Environment and Heritage (OEH)

Submission	Recommendations
Chapter 2, objective be should be amended to incorporate the following: <i>“ensure that development is undertaken in a manner that is compatible with the environmental characteristics and biodiversity values of the land”.</i>	Noted – will be updated to reflect OEH recommendations.
Objectives c. and d. of Chapter 2, Part 3.2 Ridgelines & scenic areas be updated to read; <i>c. Protect and enhance native vegetation.....</i> <i>d. encourage development to maintain the rural character of the locality and minimise any adverse scenic or environmental impact.</i>	Noted – will be updated to reflect OEH recommendations.
Clause 3.2.3(ii) of Chapter 2, 3.2 – Ridgelines and scenic escarpments should be amended to require the use of native species endemic to the local area as part of landscape screening.	Noted – will be updated to reflect OEH recommendations.
It is noted that the OEH does not support one fixed ratio for compensatory planning for all habitat types. Offsets should be provided in accordance with the OEH offset principles.	Amend Cl. 3.3.3 Development Control of Cl. 3.3 Natural areas and habitat as follows; <i>iv. Where development is unable to be sited, designed and managed to avoid potential adverse impacts on natural areas and habitat, and such habitat (within the area identified on the Natural Areas and Habitat Map) is to be removed or impacted as part of the development, an offset for the loss of biodiversity may be considered by Council provided that a ‘maintain or improve’ outcome can be demonstrated.</i>
Recommendations to amend Chapter 2, Cl. 3.12 – Heritage, as follows; Control 3.12.3(iii) be amended to ensure applicants are aware of OEH’s Aboriginal cultural heritage assessment guidelines as part of environmental assessments.	Update Chapter 2, Cl. 3.12 – Heritage to reflect the suggestions made by OEH.

Submission	Recommendations
<p>An advisory note should be incorporated under the controls of this part to ensure that developers are aware of the requirements of the <i>National Parks & Wildlife Act 1974</i> and the <i>National Parks & Wildlife Regulations 2009</i> during the development assessment process.</p> <p>It is noted that the term ‘known item(s) of Aboriginal cultural significance’ is used in control 3.12.3(iii). This is inconsistent with the terms used in the Draft LEP 2011, which refers to items of Aboriginal cultural significance as ‘Aboriginal objects’ and ‘Aboriginal places of heritage significance’.</p>	
<p>The following comments were provided in relation to Chapter 2, Cl. 3.14 – Coastal Hazards;</p> <p>It was noted that the Cl. 3.14 in its current form is mostly extracted from the existing policy contained in the Ballina Combined DCP 2006 and that Council intends to review the DCP following the finalisation of the Coastal Zone Management Plan (CZMP) which is currently being prepared. OEH recommends that the CZMP be finalised prior to the adoption of the DCP so that the coastal hazard management approach can be incorporated into the policy.</p> <p>The OEH notes that a coastal hazard assessment for the Lennox Head area was commissioned by Council and recently completed by BMT WBM in 2011. The assessment identifies the immediate hazard line (and 2050 hazard line) further seaward than that identified in the Draft DCP (which was based on earlier hazard assessment work). This recent hazard assessment has rendered no private property inside the immediate hazard area in the Lennox Head precinct and supersedes the coastal hazard mapping in the current DCP to be outdated. If Council intends to adopt the DCP prior to finalisation of the CZMP, then OEH recommends at a minimum that the coastal hazards chapter incorporate the updated WBM 2011 coastal hazard assessment.</p>	<p>Noted. To be reviewed further in association with coastline management plan process.</p>
<p>Amend Cl. 3.14 – Coastal Hazards as follows; Cl 3.14.3(A)(iii) should prescribe how property</p>	<p>Amend Cl. 3.14.3(A)(iii) to read; <i>“Property owners must maintain and repair any</i></p>

Submission	Recommendations
<p>owners must retain and repair any damage to the revetment wall protecting their property. It was also suggested that the map showing typical sections for the rock revetments and dune levee that is currently contained in Combine DCP be updated and inserted in to the Draft DCP.</p>	<p><i>damage to the revetment wall protecting their property in accordance with the Lennox Beach Protection Works Design/Plan and under the supervision of a suitably qualified engineer”.</i></p>
<p>If the Cl. 3.14 is to be updated to reflect the more recent hazard work completed by BTM WBM 2011, the following suggestion was made in regards to Cl. 3.14.3(B)(i);</p> <p>The current hazard area should be defined as an area that may be eroded during an extreme storm or series of closely spaced storms. An extreme storm event may occur during any year, as may a series of closely spaced storms.</p> <p>In this regard, and given that no private or publicly owned development is located within the hazard area identified by BMT WBM 2011, there is an opportunity to prohibit new development inside the current hazard area.</p> <p>Given that most of the land inside the current hazard area is Crown reserve and road reserve, the implications of such a control on existing land uses are insignificant. In the absence of a long term coastal hazard management approach as embedded in the CZMP, this measure will ensure that inappropriate development is not permissible on these lands that may be subject to erosion. Importantly, this measure sets a precedent for Council’s preparing future planning controls (under sea level rise induced long-term recession) that are considered prudent. This accords with the general principles as contained in the <i>NSW Coastal Planning Guidelines: Adapting to Sea Level Rise (DoP 2010)</i>.</p> <p>It was noted that Cl. 3.14.3(c) relating to development located within the 2050 hazard area are based on a management approach of retention of development in-situ rather than retreat. This is considered to conflict with the intent under recognition that if coastal recession and erosion impacts on area with houses on piled foundations to 2m AHD, significant damage might be expected to both houses and infrastructure, thus rendering the houses</p>	<p>As above.</p>

Submission	Recommendations
<p>potentially unliveable for occupation. The OEH notes, however, that this option may be the best approach at the current time, given that the CZMP (which should provide a long term hazard approach) is not yet complete and that Council has resolved to protect this development area from coastal hazards.</p>	
<p>Amend Chapter 2, Cl. 3.18 Protection of Foreshore & Public Open Space, Cl. 3.18.3(vi) to incorporate the requirement for utilising native spaces endemic to the local area as part of landscaping elements.</p>	<p>No change.</p>
<p>In relation to Chapter 2a – Vegetation Management, the following comments were made;</p> <p>The <i>native Vegetation (NV) Act 2003</i> regulates clearing in rural areas by requiring most clearing to be authorised via development consent or a PVP under the Act. The NV Act applies only to rural land that is privately owned or leased. Clause 5.9 of the draft LEP 2011 applies to the entire LGA and operates in conjunction with the NV Act.</p> <p>Whilst Cl. 5.9 does not apply to the clearing of native vegetation authorised under the NV Act, the clearing of native vegetation that is otherwise permitted under Division 2 or 3 of Part 3 of the Act is still subject to Clause 5.9 of the draft LEP (by virtue of Cl. 5.9(9) where the land is zoned R5 – Large Lot Residential, E2 – Environmental Conservation, E3 – Environmental Management or E4 – Environmental Living zones.</p> <p>Division 2 & 3 of Part 3 of the NV Act relates to the clearing of non protected growth, clearing of certain ground cover, routine agricultural activities, the continuation of existing farming activities and sustainable grazing. Therefore, development consent may be required under the EP&A Act for clearing of vegetation pursuant to Cl. 5.9 of the draft LEP if the clearing has not be authorised under the NV Act or where exemption s provided in Division 2 or 3 doe not apply (ie. In zones R5, E2, E3 or E4).</p> <p>Accordingly, the OEH recommends that Chapter 2a should be applied to ‘vegetation management</p>	<p>Based on vegetation mapping undertaken by Council, the E2 – Environmental Conservation zone has been applied to rural areas of the shire containing significant vegetation.</p> <p>The E3 – Environmental Management zone has been applied to all rural land, in particular recognising existing agricultural activities and the lack of significant vegetation. Clearing in the E3 zone will be subject to the <i>Native Vegetation Act</i>. As such, it is considered appropriate that the local provisions for clearing focus on the E2 zone.</p> <p>As the R5 – Large Lot Residential and the E4 – Environmental Living Zones have not been applied in the Draft LEP, the DCP should not be updated to include these zones. This approach has been consistently applied in other sections of the DCP. Should the LEP be amended to include such zone, the DCP will be updated at that time.</p>

Submission	Recommendations
<p>works' in the e3 – Environmental Management Zone, given the importance of maintaining and improving biodiversity values in areas and the need to regulate vegetation clearing in areas that are restored as offsets (typically E3 Zones).</p> <p>Whilst the OEH acknowledges that the R5 – Large Lot Residential and the E4 – Environmental Living Zones have not been applied in the Draft LEP, the DCP should still be applied to such zones if at anytime they are adopted.</p>	
<p>The following comments have been made in relation to the development controls contained in Part 3 of Chapter 2a – Vegetation Management;</p> <p>Cl. 3.1 – Development consent requirements applying to urban zones – the OEH strongly supports the requirement for development consent for 'vegetation management works' within urban zones.</p> <p>Cl. 3.2 – Development consent requirements applying to environmental conservation zones – the OEH recommends that Cl. 3.2.1 be amended to apply to the E3 Environmental Management zone.</p> <p>Cl. 3.2.2 – OEH notes that they are unable to support vegetation management works to occur on land zoned E3 without development consent and recommends amending this clause to apply to the E3 zone.</p>	<p>See comments above</p>
<p>The following amendments were recommended in relation to Part 4 of Chapter 2a;</p> <p>Amend the noted contained in Cl. 4.1 to read <i>“In most cases, approval is likely to be granted where sufficient environmental evidence and justification for the works is provided. It should be noted that justification, such as preservation or maintenance of views for example, will not be considered as sufficient validation for vegetation management works”</i>.</p> <p>Reference should be made in Cl. 4.4 to refer to the guidelines endorsed by OEH for the assessment and survey of threatened biodiversity – <i>Threatened Biodiversity Survey and</i></p>	<p>Amend Cl. 4.1 in accordance with the comments provided by OEH.</p> <p>Add a note at the end of Cl. 4.4 referencing the OEH endorsed guidelines.</p>

Submission	Recommendations
<p><i>Assessment Guidelines for Development and Activities (DEC Nov 2004) and draft Threatened Species Assessment Guidelines – Assessment of Significance (DECC 2007).</i></p>	
<p>The following comments were made in relation to Chapter 3 – Urban Subdivision;</p> <p>Cl. 3.1.2 Minor Subdivision, B. Element – Road Layout, the OEH recommends inclusion of a control to ensure that new subdivisions (including minor subdivisions) provide adequate separation to high conservation value land and to address associated bush fire risk.</p> <p>Element E Services and Infrastructure – it is recommended that an objective be added to protect and enhance high quality vegetation.</p> <p>It was also recommended that a control be added to Element E to minimise the impacts to biodiversity from the provision of essential services.</p> <p>An objective should be added to Cl. 3.2.3 Major subdivision development control elements, Element A – Master Plan Preparation to protect and enhance biodiversity within major subdivision proposals</p>	<p>Include the following provision in Cl. 3.1.2, Element B;</p> <p><i>i. New roads are to be designed to :</i></p> <ul style="list-style-type: none"> • <i>Provide for perimeter roads adjacent to high conservation land.</i> <p>Add the following objective to Cl. 3.2.3 Major subdivision development control elements, Element A – Master Plan Preparation; <i>“Ensure that subdivision outcomes are responsive to the physical and environmental attributes of land”.</i></p> <p><i>No other change recommended.</i></p>
<p>It was recommended that an objective and control be applied to Part 4 – Special Area Controls – Commercial and Industrial Development to protect high conservation value land and to require appropriate buffers to such areas from commercial and industrial development.</p>	
<p>The following comments were made in relation to Part 5 Precinct Specific Controls, Cl. 5.1 Aspects Estate and Elevations Estate, Lennox Head;</p> <p>OEH recommends the addition of a clause to ensure that high conservation value land is protected from impacts associated with adjoining land uses by incorporating the requirement for a minimum 50m buffer from urban areas to the Ballina Nature Reserve and SEPP 14 Wetlands.</p> <p>Perimeter roads within future subdivisions</p>	<p>As the controls contained in this section have been applied based on the existing conditions of approval, it is considered inappropriate to apply additional controls.</p> <p>Appropriate buffers and the location and design of stormwater management controls have been considered at the development application stage for the entire subdivision layout.</p>

Submission	Recommendations
<p>adjacent to environmental buffers to reduce impacts from urban development on high conservation value land and to prevent bush fire asset protection zones from encroaching within environmental buffers.</p> <p>Controls to ensure that stormwater from development within new release areas do not impact on adjoining high conservation value land or SEPP 14 wetland.</p>	
<p>OEH recommends the inclusion of an additional control to Cl. 5.2 Ferngrove Estate and Riveroaks Estate to require adequate buffers and perimeter roads between urban areas and high conservation value land (including land to be offset for the loss of mangroves) to minimise impacts from urban development.</p>	<p>These estates are both substantially constructed, based on the already approved subdivision layout. The controls contained in this section reflect the conditions of consent applied at the development application stage for the subdivision layout. It is therefore considered inappropriate to apply additional controls that may require an amendment to the already approved subdivision layout.</p>
<p>The following comments were made in relation to Cl. 5.3 Wollongbar Urban Expansion Area;</p> <p>The application of an objective and control to ensure that high conservation land is protected from impacts associated with adjoining urban land uses is recommended.</p> <p>Amend Element C – Buffers Cl. 5.3.3(iv) to provide buffers between urban areas and high conservation value land, with a minimum buffer width based on merit relative to the conservation value of such land. Additionally, buffers are to be vegetated with native species endemic to the local area. Applications for subdivision are to clearly identify environmental buffers and are to provide planting detail.</p>	<p>As the controls contained in this section have been applied based on the existing conditions of approval, it is considered inappropriate to apply additional controls.</p>
<p>Amend 5.4 Ballina Heights Estate, Cumbalum, Element A – Layout of the Estate (iv), to also ensure that bushfire asset protection zones required for future urban development do not encroach within such buffers.</p>	<p>As the controls contained in this section have been applied based on the existing conditions of approval, it is considered inappropriate to apply additional controls.</p>
<p>It was suggested that an objective be added to Chapter 4 – Residential and tourist development, Part 2 Planning Objectives to “ensure that residential and tourist development does not unnecessarily impact on areas of high conservation value”.</p>	<p>No change. Conservation objectives contained in Chapter 2.</p>
<p>In relation to Chapter 5 – Industrial Development, Part 2 – Planning Objectives, it</p>	<p>No change. Conservation objectives contained in Chapter 2.</p>

Submission	Recommendations
<p>was recommended that an objective be added to “ensure that industrial development does not impact on areas of high conservation value”.</p>	
<p>The following comments were made in relation to Chapter 7 – Rural Living and Activity;</p> <p>Amend Cl. 3.2 Rural Subdivisions, 3.2.2 planning objectives ensure that subdivision design has high conservation value land.</p> <p>Amend Cl. 3.6.2 of 3.6 Mining & extractive industries to ensure development does impact on areas of high conservation value.</p>	<p>Amend Cl 3.2 Rural Subdivisions, 3.2.2 planning objectives be amended to read <i>“Ensure that subdivision design has regard for slope, high conservation values, landuse conflict and amenity”</i>.</p> <p>Amend Cl. 3.6.2 of 3.6 Mining & extractive industries to read; <i>“Ensure that development does impact on areas of high conservation value”</i>.</p>
<p>The following comments were made in relation to Chapter 8 – Special Uses;</p> <p>Amend Cl. 3.4.2 of 3.4 – Signage to including an objective to ensure that signage does not impact on areas of high conservation value.</p> <p>Amend Cl. 3.4.3(iv) to ensure that signage does not impact on areas of high conservation value.</p>	<p>Amend Cl. 3.4.2 of 3.4 – Signage read; <i>“Enable signage that does not impact on environmental values”</i>.</p> <p>Add the following to Cl. 3.4.3(iv); <i>“Must not impact on areas of high conservation value or result in the loss of significant native vegetation”</i>.</p>

NSW Industry & Investment, Mineral Resources Branch (MRB)

Submission	Recommendations
<p>Generally, it was recommended that Council retain the discretion to treat all proposals for mining, petroleum and extractive industries on their merits and to ensure that the provisions of State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007 be considered in the DCP.</p>	<p>Noted</p>
<p>In relation to Cl. 3.1 Landuse Conflicts of Chapter 2, MRB supports the application of a LUCRA assessment for development applications. However, for safety reasons, MBR recommends against a general reduction to buffer widths to 150m surrounding a “dwelling house, dual occupancy or rural workers dwelling” (Cl. 3.1.3 (ii)) that is within the standard buffer distance of mining petroleum production of extractive industry. MBR suggests performance based buffers on a case by case basis where circumstances and expert investigations warrant.</p>	<p>Amend Cl. 3.1.3 to not apply to industries that are considered to present a safety risk such as mining and extractive industries where blasting is involved or potential hazardous and dangerous industries.</p> <p>It should be noted, a minimum buffer distance of 1000m or 500m (depending on whether blasting is involved) is applied from mining and extractive industries and 1000m to potentially hazardous and dangerous industries. A LUCRA assessment can be used to vary this requirement to demonstrate a more appropriate or</p>

	“performance based” buffer based on the merits of the application.
MBR recommends that Council apply flexibility and appropriate controls in the DCP with relation to restricting access to mineral resources.	Noted. The LUCRA requirements applied in Chapter 2, Cl. 3.1 – Land use conflicts assist in achieving this. It should be noted that generally, mining, petroleum and extractive industries are controlled by higher order State and Commonwealth legislation.

Richmond River County Council (RRCC)

Submission	No change. Conservation objectives contained in Chapter 2.
RRCC notes the work they are currently undertaking in relation to the Newrybar Drainage Study to investigate flooding and drainage issues in that are affecting landowners across the Newrybar Swamp and flooding across Ross Lane. The submission notes that this work should be considered in the DCP once it has been completed.	Noted.

Newton Denny Chapelle (NDC)

Submission	Recommendations
<p>The submission relates to provisions applied to tourist and visitor accommodation in rural areas, specifically with respect to the inclusion of ‘ecotourism’ as a defined land use.</p> <p>It was noted that the NSW Rural Fire Services Planning for Bushfire Protection 2006 provides certain concessions for ecotourism developments, however in the absence of a definition in the draft LEP or DCP it will be difficult to determine whether or not an application will be considered to be ‘ecotourism’.</p>	Amend Cl. 3.3 Rural Tourist & Visitor Accommodation of Chapter 7 – Rural Living & Activity to address ‘Ecotourism’. Information to be added following further review of a suitable definition but before implementation of the DCP.

Submission prepared by Damian Chapelle, Stephen Connelly, Rob Doolan, Chris Pratt, Mike Svkis, Paul Snellgrove, Karina Vikstrom

Submission	Recommendations
<p>The submission strongly supports the planning process outlined in Chapter 3 – Urban Subdivision. In particular the following initiatives;</p> <ul style="list-style-type: none"> - The establishment of different pathways for ‘minor’ and ‘major’ subdivisions; - The requirement to undertake a 	Noted

<p>structured master planning process for major sites which includes formal engagement with Council;</p> <ul style="list-style-type: none"> - The establishment of a subdivision panel which will provide feedback to the proponents at critical stages of the design process. It is also noted, that it is recommended that the panel be staffed by senior officers to provide meaningful feedback; and - The opportunity for merit based design solutions for major subdivisions, subject to these solutions being developed in accordance with the methodologies documented in the Draft DCP. 	
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SJ Connelly CPP Pty Ltd

Submission	Response
<p>Concerns were raised in relation to the concept of wildlife corridors and their inclusion in the DCP. In particular, the preciseness of the mapping which should be more appropriately based on a macro scale of regional mapping.</p>	<p>The intention of Cl. 3.3 – Natural Areas & Habitat of Chapter 2 is to provide specific detail and a framework to address environmental issues for land identified by way of Cl. 7.8 of the Draft LEP 2011 as having environmental value.</p> <p>Clause 7.8 – Natural Areas and Habitat of the Draft LEP 2011 was incorporated as a means of ensuring that environmental attributes of land are considered in the development assessment process. The clause is designed to address the issues that are currently the subject of provisions under the North Coast Regional Environmental Plan which will cease to apply upon adoption of the new LEP and to reflect contemporary environmental considerations.</p> <p>Clause 3.3 of the Draft DCP is designed to support Cl. 7.8 of the Draft LEP by providing details in relation to interpretation and requirements associated with each element of the provision.</p> <p>The mapping assists in identifying where special consideration is required. In order to determine if the clause applies, it is important that the mapping is available to minimise ‘grey areas’ in the development assessment process.</p>
<p>It was noted that corridor mapping in the DCP gives ‘wildlife corridors’ a status well beyond its proper ranking. The corridors are mapped in a</p>	<p>As above.</p>

various documents produced by the Government so they are known to town planning practitioners and ecologists. The concept of giving then DCP status is not required.	
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Richard Lutze & Associates

Submission	Recommendations
<p>Chapter 2, Cl. 3.19 Car Parking & Access, 3.19.3 Development Controls, Element B – Car parking and manoeuvring areas (iv);</p> <p>The requirement for a B99 vehicle (& Council’s usual requirement for 300mm clear of the vehicle sweep path) is considered excessive in any application other than industrial or business areas where a very high proportion of commercial vehicles are likely, in particular when applied to residential developments.</p>	<p>Use of the B99 as a standard vehicle size is appropriate as the B99 is the same size as a Ford Falcon and equivalent to many common 4WD vehicles and is consistent with AS 2890. In this regard, the continued use of the B99 vehicle as a standard for designing car parking and access in residential and commercial developments is considered acceptable.</p> <p>No change.</p>
<p>Chapter 2, Cl. 3.19 Car Parking & Access, 3.19.3 Development Controls, Element E – General parking requirements (Table 2.3);</p> <p>It was suggested that following car parking requirements be reviewed;</p> <ul style="list-style-type: none"> - Health consulting rooms - the previous requirement of 3 spaces per consulting room was considered acceptable; - Pub – 1 space per 25m² GFA is considered acceptable. The additional 15 spaces per 100m² GFA (or 1 space per 3 seats) for restaurant space would be hard to calculate the difference in some instances (ie patrons having a drink and those deciding to stay for a meal). It is noted that this requirement reads as if it is both, i.e. a ‘restaurant space’ would actually incur 19 spaces per 100m² GFA. - Road side stall – 4 spaces is considered excessive for a small singular road side stall. 	<p>Under the provisions of the Combined DCP the following rates are applied;</p> <p>Health Consulting rooms – 3 spaces per surgery or consulting room. The Draft DCP recommends an additional 1 space per 2 employees plus any dwelling requirements. These rates are considered acceptable – no change necessary.</p> <p>Pub – currently rate determined on merit. Based on comparable studies & recent assessments, 1 space per 25m² GFA is considered appropriate. Separate areas within the pub that are designated exclusively for a restaurant are to apply an applicable restaurant rate of food and drink premises. The proposed car parking rates for a pub are considered acceptable and no change is necessary.</p> <p>The provision of space for 4 off-street car parking for a road side stall is consistent with the RTA Guide and is considered acceptable. It is considered that for smaller stalls where provision of 2 spaces may be acceptable on merit would depend on the circumstances of the case. In this regard, it is considered appropriate to remain consistent with the RTA Guide with a merit-based variation to reduce spaces determined upon application.</p> <p>No change .</p>

<p>Chapter 4 – Residential & Tourist Development , Cl. 3.1 General Controls, Element G – Landscaping and open space for multi dwellings and residential flat buildings;</p> <p>Concerns were raised that the requirements outlined in Table 4.2 are counterproductive to the intent and current outcome achieved for residential development in Lennox Head. It was noted that the original intent of the changes to the landscaping requirements in Lennox Head were to ensure flattening out of buildings at ground level and change the trend away from ‘bloated’ buildings (ie. tall double storey dwellings). The provisions contained in Chapter 16 – Residential & tourist development in Lennox were to provide a minimum ‘private outdoor’ area and to provide a total required landscaping calculation of 25% of the site. It is noted that this provision is working well. The introduction of landscaping calculations is considered to serve no purpose to small scale development and is restrictive on medium scale development, which will require development on a smaller footprint and again creating larger 2nd floors.</p> <p>It was also noted that apart from medium/large scale tourist developments, it is unlikely that there will be many smaller scale residential units being built under 80m². If this is considered along with the car parking requirements outlined in Table 4.3, it is considered that smaller scale residential developments are most likely to comprise of large 3 bedroom/double garage units, whereas smaller 2 bedroom/single garage (affordable) units will become unviable.</p>	<p>The Combined DCP applies a density rate of 250m² per unit, which is also to landscaped open space, private open space and parking requirements apply. These factors ultimately determine the dwelling density of a site.</p> <p>Under the Draft DCP, dwelling density is determined through the application of landscaped open space, private open space and parking rates. Rates are determined based on the floor area of each dwelling (being small, medium & large dwellings). Primarily, this would encourage small unit developments as more dwellings can be accommodated on a site based on the new provisions.</p> <p>It should be noted, private open space requirements are now less then that previously required.</p> <p>No change.</p>
<p>Element H – Vehicular Access & Parking, Table 4.3 – Car parking;</p> <p>Concerns were raised that the parking requirements outlined in Table 4.3 were excessive and inconsistent with the previous parking requirements. It was noted, a 2 bedroom residential unit in a small scale development is generally greater than 85m². A simple 4 unit site in Lennox (e.g. single storey 2 bedroom units) would require a total of 9 car parking spaces in accordance with the new provisions, which would make the development unviable.</p>	<p>The parking rates applied in Table 4.3 are based on a sliding scale depending on the dwelling size. The benefit of this is that consideration of bedrooms (& habitable rooms) in the assessment of parking is no longer an issue.</p> <p>The draft DCP also allows for stack parking for certain forms of housing, therefore the requirement for one covered space or garage applies and must be setback at a minimum of 5.5m from the front setback to enable a car to be parked off the street.</p> <p>No change.</p>

<p>The new parking provisions are considered to encourage larger scale (more expensive) 3 bedroom+ unit developments, whilst being a disincentive for small scale 2 bedroom style developments.</p>	
<p>Element K – Fences and walls;</p> <p>It was suggested that there should be further identification of streets around the shire to which ‘acoustic fencing’ applies, for example, Bruxner Highway, Kerr St & River Street.</p>	<p>The draft provisions in relation to acoustic fences currently apply to nominated streets in Lennox as they have been transferred from Chapter 16 of the Combined DCP. The list of nominated streets could be extended to apply to other areas of the shire, however this investigation will be undertaken at a later stage.</p>
<p>Element L – Roof Pitch;</p> <p>Concerns were raised in relation to the application of a minimum roof pitch. It was noted that a flat roof or parapet roof can form an attractive design and can be water-proof if designed correctly.</p>	<p>The intension of this clause is to discourage flat roofs due to the sub-tropic climatic nature of the locality and limit potential for 3 storey buildings.</p> <p>Adjust objectives to clarify intent and change roof pitch minimum to 5 degrees.</p>
<p>Element N. – Minimum Lot Area</p> <p>Concerns were raised in relation to Table 4.5 – Minimum Lots Areas for Residential Accommodation. It was noted that the minimum 1000m² lot requirement applied for Multi dwellings & residential flat buildings should only apply to new subdivisions and not existing residential areas, as its application will eliminate many medium density allotments between 750m² - 1000m².</p>	<p>The Dwelling Density Map referred to in Element O ensures that the current development potential of particular medium density lots is carried over into the Draft DCP.</p> <p>Accordingly, the 1000m² minimum lot size referred to in Table 4.5 applies generally to new subdivisions. The intension is to give some level of certainty to prospective owners and neighbours as to what forms of development could be considered for lots that are above this size.</p> <p>Adjust element N to ensure there is no conflict with exiting dwelling density provisions.</p>
<p>Chapter 6 – Commercial Development, Part 3.1 General Controls, Element C – Roof form;</p> <p>Concerns were raised in relation to the application of a minimum roof pitch. It was noted that a flat roof or parapet roof can form can of an attractive design and can be water-proof if designed correctly.</p>	<p>The intent of this clause is to discourage flat roofs due to the sub-tropic climatic nature of the locality.</p> <p>Apply a minimum 5 degree pitch to roofs.</p>
<p>Generally, it was noted that Chapter 16 – Residential & Tourist Accommodation in Lennox applied design objectives, whereby the development controls were not as critical in the assessment (if the design objective could be addressed). Development controls were considered to be a minimum standard to be relied upon & not a strict control that is applied</p>	<p>Chapter 1 clearly outlines how the DCP operates, in particular Cl. 1.11 Variation, which outlines the process by which a variation can be achieved.</p> <p>In the draft DCP, careful consideration was given to each control and supporting design objectives to enable variations to be achieved, provided</p>

<p>to every DA. However, it is noted that the wording in the draft DCP indicates that this is no longer the case.</p>	<p>that the objective can be suitably addressed.</p> <p>The DCP recognises that variations can encourage innovative design responses and are therefore encouraged.</p>
<p>It was suggested that a strategic planner be involved in pre-lodgement meetings for the first 12 months so that there is consistency in its application and to ensure that the intent is implied.</p>	<p>Noted</p>

Robert Thornton (Community Submission)

<p>Submission</p>	<p>Recommendations</p>
<p>Chapter 3 – Urban Subdivision, Cl. 4.1.2 Industrial Subdivision Controls;</p> <p>Whilst it is acknowledged that there need to be variations to lot sizes, it is considered that to require an average of 2000m² for all subdivision in excess of 10 lots is excessive. This is considered to be impractical as the majority of lots in the existing industrial area are around 1000m².</p> <p>Larger lots can be created if required by the consolidation of lots. It was raised that the consolidated lots will have the same configuration as a larger lot created as part of the original subdivision, due to limitations imposed by the street layout of the industrial subdivision.</p>	<p>In the work undertaken by GHD to investigate the shire’s industrial areas and recommend suitable controls it was noted that “a minimum lot size of 1000m² may lead to fragmentation of parcels and insufficient supply of appropriate lot sizes for large scale uses. A provision for a range of land sizes across the shire is imperative to ensure that there is choice available to the market”.</p> <p>It was noted that the average lot size in the shire’s industrial estates ranges between 1280m² and 3800m². The report also notes that feedback from the community suggests there is not a sufficient supply of larger lots. This has contributed to affordability issues (associated with purchasing 2 lots for consolidation) and contributed to the emergence of industrial uses in rural zone.</p> <p>The recommendation for a 2000m² average lot size was based on the benchmarking work undertaken by GHD and the consideration of the type and scale of industrial uses typically found in the shire.</p>
<p>Chapter 2(b) – Floodplain Management</p> <p>The whole premise of this Chapter is flawed, as it relates to Council’s Flood Plain Management Plan which is based on the filling of all flood affected urban land within Ballina.</p> <p>This presumption is impossible to achieve, in an economical and timely manner.</p> <p>This policy to be fully implemented requires the</p>	<p>Chapter 2(b) is subject to review In association with the floodplain management study.</p>

lifting of every flood affected building within Ballina. A feat that would take decades to achieve, thus leaving all those building which have not been raised vulnerable to future flooding.

A good example of this can be seen at the Ballina Hospital. The additions to the Hospital are being constructed in accordance with the present requirements. This requires the floor level of the new section to be built at a level above that of the existing hospital, leaving the existing hospital to periodic inundation by flood waters until it can be rebuilt to the higher floor level, which will not be for many years, and how many floods are going to go through the hospital before this can be achieved.

A better proposal will be to construct a levee around the affected area, thereby, achieving immediate protection for all flood affected buildings.

The construction of a flood levee would provide flood protection for Ballina decades before the present policy. Thereby saving many homes and businesses including the Council chambers yet to be raised from periodic inundation.

The flood policy states that with the uncertainty of Global warming the present levels may not be sufficient, in which case it will be necessary to raise the levels still further. If this proved to be true, it will be much easier to raise the level of a levee than to raise the floor level of every affected building.

Another concern with the present policy is. Where will the fill come from? For to raise all the land currently flood affected, will require an enormous amount of fill, which will result in a correspondingly large hole in the ground.