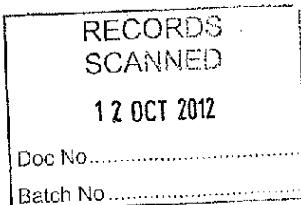




File no. NTH11/00157, CR2012/000203
Your reference: Draft Ballina Shire DCP 2012 – Public Exhibition (12/36499).

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



Dear Sir

Exhibition of the Draft Ballina Shire Development Control Plan 2012.

I refer to your letter of 12 September 2012. The draft Ballina Shire Development Control Plan 2012 (DCP) generally addresses the issues of traffic efficiency and road safety for motorists and pedestrians.

To address heavy vehicle impacts Roads and Maritime Services would suggest that loading and access in industrial areas should meet the requirements of AS 2890.2, Off Street Commercial Vehicle Facilities.

Council's draft document also makes reference the RTA Guide to Traffic Generating Developments. This document is currently under review. While the content is to remain essentially similar to the current publication, some procedural changes are being made to reflect changes in planning legislation. Traffic generation and parking surveys have been conducted for some traffic generating activities; these surveys have identified the need to vary some of the traffic data currently published. It is recommended that any reference to the RTA Guide to Traffic Generating Developments include a statement to reflect any changes to this document in the future.

The primary function of classified roads is the movement of goods and people. Providing access is a secondary function of these roads. It is suggested the draft DCP more strongly reflect the function of the classified road network. Roadside stalls, some rural activities, schools and major urban development can have significant impacts on the safety and efficiency of the classified road network. Ideally, road side stalls and traffic generating activities in rural areas should not have direct access to the classified road network, particularly where other access arrangements are available. If alternate access other than to the classified road network is not available, AUSTRROADS standards for sight distance and traffic generation would need to apply to the design and location of access.

Roads & Maritime Services

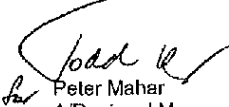
31 Victoria Street, Grafton NSW 2460 | PO Box 576 Grafton NSW 2460
T 02 6640 1300 | F 02 6640 1304 | E development.northern@rms.nsw.gov.au

www.rms.nsw.gov.au | 13 17 82

- 2 -

Should you have any further enquiries regarding the above comments please do not hesitate to contact Michael Baldwin on 6666 1832.

Yours faithfully


Peter Mahar
A/Regional Manager, Northern Region
10 OCT 2012



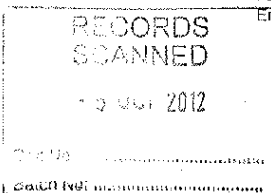
Heritage Council
of New South Wales

3 Marist Place
Parramatta NSW 2150

Locked Bag 5020
Parramatta NSW 2124
DX 8225 PARRAMATTA

Telephone: 61 2 9673 8500
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heritage@heritage.nsw.gov.au
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Contact: Michael Edwards
Phone: (02) 9873 8588
Fax: (02) 9873 8550
Email: michael.edwards@heritage.nsw.gov.au



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

Att: Ms Sally McGarry
Strategic Planner

Dear Ms McGarry,

Consultation on draft Ballina Development Control Plan 2012.

Thank you for referring the draft *Ballina Development Control Plan 2012* (draft *Ballina DCP 2012*) to the Heritage Branch for comment.

This review has taken into consideration the draft *Ballina DCP 2012* and supporting documentation.

It is understood that the draft DCP will support Councils new Local Environmental Plan, known as the draft *Ballina LEP 2011*. Once made, this DCP will replace the existing *Ballina Combined DCP 2006*.

The Heritage Branch provides the following comments to assist Council in their progression of the draft *Ballina DCP 2012*.

Chapter 1 – Administration

Part 2 of Chapter 1 identifies the aims and objectives of the DCP. At the outset, the protection and management of cultural heritage should be seen as a key objective of the DCP. Identifying the protection and management of heritage as an objective of the DCP will ensure provisions are implemented and ingrained in the DCP to protect items and places of cultural heritage significance.

Similarly, the Heritage Branch recommends the inclusion of definitions for heritage management within the DCP Dictionary.

Chapter 2 – General and Environmental Considerations

Clause 3.12 relates to heritage conservation and management, and identifies the circumstances where a Heritage Impact Statement and Archaeological assessment is required.

Helping the community conserve our heritage

The provisions of clause 3.12 provide general objectives for development proposals, but do not provide any prescriptive or detailed development controls, which are considered useful mechanisms in achieving sound heritage management and practice.

The Heritage Branch recommends the development and insertion of detailed development controls that guide development proposals through such considerations as building height, bulk and scale, materiality and finishes of new work, colour schemes, fencing styles and the erection of other site facilities such as garages, carports and swimming pools.

The inclusion of such controls, provides greater certainty and guidance to development proponents where dealing with items of heritage significance or within the vicinity of heritage items.

Chapter 2a – Vegetation Management

Chapter 2a includes a series of controls that seek to protect and enhance the natural landscape through the retention and management of vegetation. These controls will apply to heritage items, including significant landscapes.

Chapter 3 – Urban Subdivision, Chapter 4 Residential and Tourist Development, Chapter 5 – Industrial Development, Chapter 6 – Business and Commercial Development

These chapters provide a range of development controls that relate to specific types of development and land uses. No provisions or controls are proposed that guide the built form of a development proposal through such measures as bulk, scale, form, height, location of new works, materials and finishes, colour schemes, impact on significant views/vistas or curtilage.

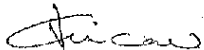
While the merits of any development proposal would be considered by Council as part of the Development Application process, the purpose of the DCP is to establish guidelines and controls which influence the formation and design of a development proposal.

The Heritage Branch recommends that Council considers the development and insertion of further detailed prescriptive controls in the DCP, to guide the appropriate development and works to heritage items, within the vicinity of heritage items and within heritage conservation areas.

Accordingly, the Heritage Branch recommends that Council further develops the draft *Ballina DCP 2012*, and welcomes further consultation with Council.

I trust that these comments are of assistance. Please feel free to contact Michael Edwards on (02) 9873 8588 or michael.edwards@heritage.nsw.gov.au if you have any further enquiries in this matter.

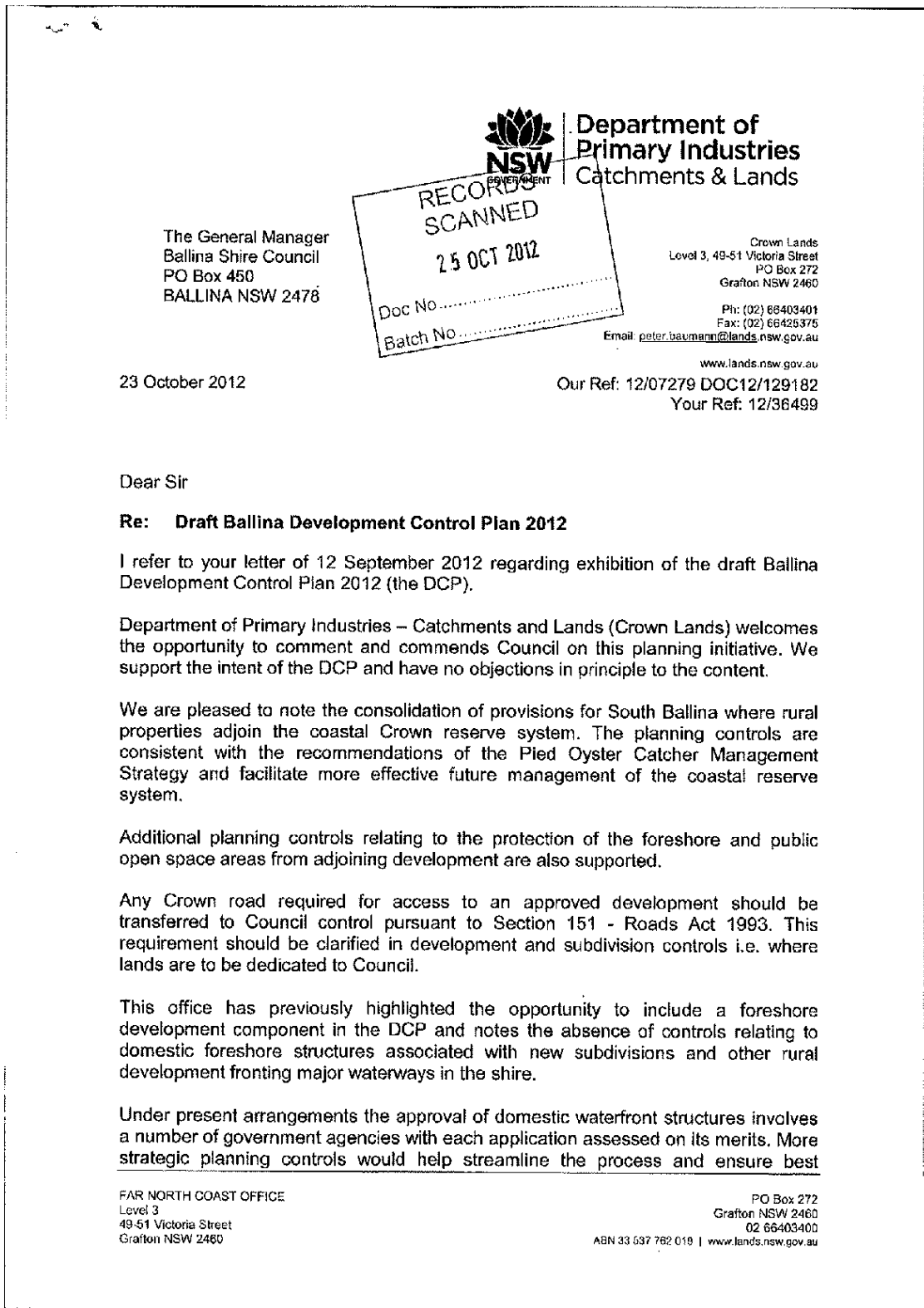
Yours sincerely



27/09/2012

Vincent Sicari
Manager
Conservation Team
Heritage Branch, Environment and Heritage, Policy and Programs Group
Office of Environment & Heritage

Helping the community conserve our heritage



23 October 2012

Our Ref: 12/07279 DOC12/129182
Your Ref: 12/36499

Dear Sir

Re: Draft Ballina Development Control Plan 2012

I refer to your letter of 12 September 2012 regarding exhibition of the draft Ballina Development Control Plan 2012 (the DCP).

Department of Primary Industries – Catchments and Lands (Crown Lands) welcomes the opportunity to comment and commends Council on this planning initiative. We support the intent of the DCP and have no objections in principle to the content.

We are pleased to note the consolidation of provisions for South Ballina where rural properties adjoin the coastal Crown reserve system. The planning controls are consistent with the recommendations of the Pied Oyster Catcher Management Strategy and facilitate more effective future management of the coastal reserve system.

Additional planning controls relating to the protection of the foreshore and public open space areas from adjoining development are also supported.

Any Crown road required for access to an approved development should be transferred to Council control pursuant to Section 151 - Roads Act 1993. This requirement should be clarified in development and subdivision controls i.e. where lands are to be dedicated to Council.

This office has previously highlighted the opportunity to include a foreshore development component in the DCP and notes the absence of controls relating to domestic foreshore structures associated with new subdivisions and other rural development fronting major waterways in the shire.

Under present arrangements the approval of domestic waterfront structures involves a number of government agencies with each application assessed on its merits. More strategic planning controls would help streamline the process and ensure best

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Grafton NSW 2460

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outcomes for the environment and the community. Crown Lands wishes to confirm its willingness to work with Council and discuss how planning and development principles for foreshore structures could be applied in Council's planning instruments.

If you require any further clarification of the above please don't hesitate to contact me.

Yours sincerely



Peter Baumann
Natural Resource Management Project Officer
Far North Coast

All communications to be addressed to:

Headquarters
NSW Rural Fire Service
Locked Mail Bag 17
GRANVILLE NSW 2142

Telephone: (02) 6655 7002
e-mail: csc@rfs.nsw.gov.au

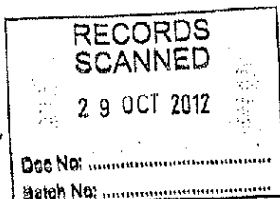
Customer Service Centre
NSW Rural Fire Service
PO Box 203
URUNGA NSW 2455

Facsimile: (02) 6655 7008



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

Attention: Sally McGarry



Your Ref: Draft DCP 2012
Our Ref: L12/0003
DA 12091484793 AB

23 October 2012

Dear Madam,

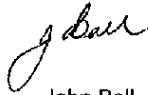
Re: Draft Ballina Development Control Plan 2012

I refer to your letter dated 12 September 2012 requesting the NSW Rural Fire Service (RFS) comments in respect to the draft Ballina Development Control Plan (DCP) 2012. The Rural Fire Service (RFS) comments are provided below.

1. *Chapter 2 General and Environmental Considerations* of the draft DCP provides no reference for development activities on land mapped bush fire prone. The DCP should identify that Bush Fire Protection Measures (BFPM), as specified by state legislation, will need to be considered in respect to development on land mapped bush fire prone. The NSW Rural Fire Service *Community Practice Note 2/12 – Planning Instruments and Policy*, provides detail comment of the role of DCP's in identifying bush fire protection measures for development on land mapped bush fire prone.
2. It is noted that bush fire hazard reduction work (authorised under the Rural Fires Act 1997) may not be considered exempt development under Part 3.3 Chapter 2a Vegetation Management of the draft DCP. The DCP should permit authorised vegetation removal (hazard reduction work) under the Rural Fires Act as an exemption from requiring development consent.

For any enquiries regarding this correspondence please contact Alan Bawden on 6655 7002.

Yours faithfully,



John Ball
Manager - Customer Service Centre, Coffs Harbour

For information on *Planning for Bush Fire Protection 2006* visit the RFS web page www.rfs.nsw.gov.au

NSW RURAL FIRE SERVICECOMMUNITY
RESILIENCE
PRACTICE NOTES**2/12****Bush fire planning in Development Control Plans**

Development Control Plans (DCP) are prepared by Council under the EP&A Act and associated Regulation. They provide guidelines for development standards contained within an LEP and are generally site or land use zone specific. They provide a flexible means of identifying additional development controls and standards.

The following are matters that may be addressed through a DCP:

- a) the proposed intensity of a site commensurate with the level of risk,
- b) provisions that give effect to and are consistent with Planning for Bush Fire Protection 2006, and in particular
 - i. specify minimum residential lot depths to accommodate asset protection zones
 - ii. contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,
 - iii. contain provisions for adequate water supply for fire fighting purposes,
- c) whether development will result in an increase demand for emergency services,

- d) whether bush fire protection measures will adversely affect the environment,
- e) minimising the perimeter of the area of land interfacing the hazard which may be developed,
- f) whether proposed revegetation of a site will result in the introduction or increase of a bush fire hazard.

Bush fire prone land mapping

It is recommended that the bush fire prone land map (required under Section 146 of the EP&A Act) for an area affected by a LEP, DCP or local provision be reviewed, and amended where necessary. Maps are to reflect any changes to the designation of bush fire prone areas that may result from changes in vegetation (e.g. where development has resulted in the clearing of vegetation or where revegetation has introduced a new bush fire hazard to an area).

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Marine Parks Authority

Sally McGarry
Strategic Planner
Strategic and Community Services Group
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

2 November 2012

Dear Sally,

Re: Draft Ballina Shire Development Control Plan 2012

Thank you for your letter dated 12 September 2012 seeking comment and feedback on the Draft Ballina DCP 2012.

In the context of the DCP the Marine Parks Authority (MPA) supports Clause 3.3 of the Ballina LEP that stipulates exempt and complying development must not be carried out on any area within 100 metres of the Cape Byron Marine Park (CBMP). The MPA recommends that suitable mapping products to adequately identify the marine park, including these areas, be available to proponents.

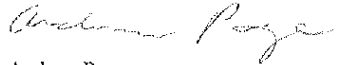
I draw your attention also to the intent of Sections 19 and 20 of the *Marine Parks Act 1997* which requires consultation with the MPA for development within or affecting the marine park requiring consent under Parts 4 or 5 respectively of the *Environmental Planning and Assessment Act 1979*. The MPA requests that these requirements are identified in appropriate parts of the DCP for example Part 3.2 of the Administration Chapter. Developments proposed to be undertaken in the Marine Park by Ballina Shire Council, or any other proponent, that does not require consent under Part 4 of the *Environmental Planning and Assessment Act 1979* will require approval from the MPA in the form of a marine park permit.

The MPA looks forward to working with Ballina Shire Council to ensure stormwater controls reflect the high conservation values in those parts of the CBMP adjacent to the Ballina Shire and Chapter 2 of the Draft DCP refers. Since the declaration of CBMP in November 2002, the MPA has advised consenting authorities that works involving an increase in non-porous surfaces adjacent to the Marine Park results in an increase in surface run-off which can have a negative impact on marine biota. The MPA supports the implementation of controls to mitigate these impacts, including detention, treatment, or other measures. This advice is consistent with section 16 of the *State Environmental Planning Policy 71 (Coastal Protection)*. It is most desirable that mechanisms exist to exclude litter, particularly plastic, from entering the marine environment.

In addition, the MPA recommends that Council requires that lighting from developments does not spill onto ocean beaches and preferably, that lights from developments are not be visible on ocean beaches. In summer, female turtles nest and lay eggs in the area and lights near the beach can distract and disorient them and also subsequent hatchlings.

If you have any queries with respect to these comments, please do not hesitate to contact Dave Maguire on telephone 66209322.

Yours sincerely,



Andrew Page
Manager, Cape Byron Marine Park



Office of
Environment
& Heritage

Your reference: 12/36499
Our reference: DOC12/39009 FIL07/9244-05
Contact: Marcy Mills, (02) 6659 8266

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

Att: Sally McGarry

Dear Sir

Re: Exhibition of the Draft Ballina Shire Council Development Control Plan 2012

Thank you for your letter dated 12 September 2012 notifying the Office of Environment and Heritage (OEH) of the exhibition of the Draft Ballina Development Control Plan 2012 (DCP) and inviting comment. I appreciate the opportunity to provide input on this matter.

OEH commends Council for the preparation of the natural areas and habitat map, the ridgelines and scenic areas map, and the wildlife corridors map, which in conjunction with the controls in the draft DCP aim to protect and enhance high conservation value land.

OEH has reviewed the specific controls of the DCP that apply to biodiversity, Aboriginal cultural heritage, flood hazard, and coastal processes. OEH comments in relation to such matters are detailed in Attachment 1 and outlined in the recommendations below.

OEH recommends that:

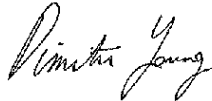
1. Objectives should be provided within a number of controls of the DCP relating to the protection and enhancement of high conservation value land.
2. The controls of the DCP should ensure that applicants are aware of OEH's Aboriginal cultural heritage assessment guidelines when undertaking environmental assessment and should ensure that proponents are aware of the requirements of the *National Parks and Wildlife Act 1974* and *Regulations* during subsequent development processes.
3. The terminology used within the DCP to describe Aboriginal cultural heritage values should be consistent with the terminology used within the draft Ballina Local Environmental Plan (LEP) 2011.
4. The Coastal Zone Management Plan (CZMP) currently being prepared for the Ballina Local Government Area (LGA) be completed prior to the adoption of the DCP so that the coastal hazards management approach adopted in the Plan can be incorporated into the policy.
5. The coastal hazards chapter incorporate the coastal hazards definition work recently completed for Lennox Head by BMT WBM (2011) in the absence of a finalised CZMP, as this work renders the coastal hazard mapping in the draft DCP outdated.
6. The controls within Chapter 2a - Vegetation Management of the DCP, should apply to the E3 Environmental Management land use zone under the draft Ballina LEP 2011.

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Coffs Harbour NSW
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ABN 30 841 387 271
www.environment.nsw.gov.au

7. Compensatory habitat should reflect the value of the particular habitat to be lost or impacted, rather than a fixed compensatory ratio being applied to all habitat types.
8. Adequate vegetated buffers (with native species endemic to the local area) and perimeter roads should be provided adjacent to high conservation value land to mitigate impacts from adjoining development.

Should you require further information or clarification, or should Ballina Shire Council be in possession of information that suggests that OEH's statutory interests may be affected, please contact Marcy Mills, Conservation Planning Officer, on 02 8659 8256.

Yours sincerely

 2 November 2012

DIMITRI YOUNG
Regional Coordinator – North East
Office of Environment and Heritage

Attachment 1 – Detailed OEH comments – Draft Ballina Shire Council DCP 2012

CHAPTER 2 – GENERAL AND ENVIRONMENTAL CONSIDERATIONS

Part 2 Chapter Planning Objectives

- Objective b. should be amended to incorporate the following: *"ensure that development is undertaken in a manner that is compatible with the **environmental** characteristics and **biodiversity values** of the land."*

Part 3 General Controls

3.2 Ridgelines and Scenic Areas

3.2.2 Planning Objectives

- Given that the land identified within the Ridgelines and Scenic Areas Map also forms part of the Natural Areas and Habitat map, OEH recommends that planning objectives c. and d. for this clause incorporate the following:
 - c. **Protect and enhance native vegetation** and encourage the retention of prominent vegetation along ridgelines and visually prominent areas;
 - d. Encourage development to maintain the rural character of the locality and minimise any adverse scenic or **environmental impact**.

3.2.3 Development Controls:

- Control 3.2.3(ii) should be amended to require the use of native species endemic to the local area as part of landscape screening.

3.3 Natural Areas and Habitat

3.3.3 Development Controls:

- The words '**or mitigate**' should be deleted from control 3.3.3(i) and that the control be amended to incorporate the following:

*"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 development, an offset for the loss of biodiversity values **may be considered by Council provided that a 'maintain or improve' outcome can be demonstrated.** Note: appropriate offsets **should be provided in accordance with the OEH Offset Principles and may be calculated via the use of the NSW BioBanking Assessment Methodology (administered by OEH) or via alternative methodologies or requirements based on the value of such habitat to be removed and/or impacted."***

It should be noted that OEH does not support one fixed ratio for compensatory planting for all habitat types. Offsets should be provided in accordance with the OEH Offset Principles.

3.12 Heritage

3.12.3 Development Controls

- Control 3.12.3(iii) should be amended to ensure applicants are aware of OEH's Aboriginal cultural heritage assessment guidelines as part of environmental assessments;
- An advisory note should be incorporated under the controls of this part to ensure that developers are aware of the requirements of the *National Parks and Wildlife (NPW) Act 1974* and the *National Parks and Wildlife Regulation 2009* during subsequent development processes.

In this regard, it is recommended that the DCP references the NPW Act provisions and OEH's Aboriginal cultural heritage assessment requirements including: the '*Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*' (2010), the '*Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*' (2010) and the '*Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales*' (2010) as amended.

- The term '*known item(s) of Aboriginal cultural significance*' is used in control 3.12.3(iii) of the DCP to describe Aboriginal cultural heritage values, whilst Clause 5.10 of the draft Ballina LEP 2011 uses the term '*Aboriginal objects*' and '*Aboriginal places of heritage significance*' to describe the same significant cultural values. To ensure consistency within both documents, it is recommended that the terminology used to describe Aboriginal cultural heritage values within the Draft DCP adhere to the terminology used in the Ballina LEP 2011.

3.14 Coastal Hazards

General Comments

- OEH notes that the coastal hazards chapter (3.14) of the draft DCP is, in its current form mostly extracted from the current Ballina Shire Council Combined DCP 2006 and that Council intends to review the DCP following the finalisation of the Coastal Zone Management Plan (CZMP) currently being prepared for the Ballina Local Government Area (LGA). OEH, however, recommends that the CZMP be finalised prior to the adoption of the DCP so that the coastal hazards management approach can be incorporated into the policy.
- A coastal hazard assessment for the Lennox Head area was commissioned by Council and recently completed by BMT WBM (2011). The assessment identifies the immediate hazard line (and 2050 hazard line) further seaward than that identified in the draft DCP (which is based on earlier hazard assessment work). This recent hazards 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 draft DCP outdated. If Council intends to adopt the DCP prior to the finalisation of the CZMP, then OEH recommends at a minimum that the coastal hazards chapter incorporate the updated WBM (2011) coastal hazard assessment.

3.14.3 Development Controls

- Control 3.14.3(A)(iii) should prescribe how property owners must maintain and repair any damage to the revetment wall protecting their property. In this regard, it the inclusion of the following is recommended:

"property owners must maintain and repair any 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***".

Note: Chapter 3 of the current Ballina Shire Combined DCP 2006 includes a Map showing typical sections for the rock revetments and dune levy. This Map or an updated version may be appropriate for reference / inclusion in the new DCP.

Attachment 1: OEH detailed comments - Draft Ballina Shire Council DCP 2012

- If the coastal hazards chapter of the draft DCP is updated to incorporate the more recent hazard work completed by BTM WBM (2011) then OEH makes the following recommendations in relation to control 3.14.3(B)(i):
 - The current hazard area should be defined as an area that may be eroded during an extreme storm or a series of closely spaced storms. An extreme storm event may occur during any year, as may a series of closely spaced storms.
- In this regard (and given that no private or publicly owned development is located within the current hazard area identified by BTM WBM 2011), there is an opportunity to prohibit new development inside the current hazard area.
- Given that most of the land inside the current hazard area is Crown reserve and road reserve, the implications of such development control on existing uses are insignificant. In the absence of implementation of the long-term coastal hazard management approach enshrined in the CZMP, this measure will ensure that inappropriate development is not permissible on these lands, which may be eroded at any time. Importantly, this measure sets a precedent for Council's future planning controls (under sea level rise induced long-term recession) that is considered prudent. This accords with the general principles as contained in the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise (DoP, 2010)*.
- It is noted that control 3.14.3(C) relevant to development located inside the 2050 hazard area are based on a management approach of retention of development in-situ rather than retreat. In its current form the controls of this part states that:
 - *Development proposals for land between the identified Maximum 50 Year Hazard Line and the Immediate Hazard Line must be suitably designed (by an appropriately qualified engineer) to accommodate erosion and inundation potential;*
 - *Building foundations must address the effect of the zone of reduced bearing capacity and minimum floor levels may apply where there is the threat of inundation. Design criteria for foundations are as follows:*

Building foundations are to comprise piling supporting a suspended floor with a minimum clearance of 0.3 metres above natural ground surface to the underside of the floor system, and designed to support the building for the condition of removal of soil to RL two (2) metres AHD including any lateral loadings imposed by a soil mass failure to this level;

This suggests that development is to remain in-situ (i.e. no retreat) but that it may be subject to erosion hazard (and inundation). This is somewhat conflicting in intent under recognition that if coastal recession and erosion impacts an area with houses on piled foundations to 2m AHD, significant damage might be expected to both houses and infrastructure, thus rendering the houses potentially unviable for occupation. However, this may be the best option at the current time, given that the CZMP (which should describe a long term hazard approach) is not yet complete, and that Council has resolved to protect this developed area from coastal hazards.

3.18 Protection of Foreshore and Public Open Space

3.18.3 Development Controls

- Control 3.18.3(vi) should incorporate the requirement for utilising native species endemic to the local area as part of landscaping elements.

Attachment 1: OEH detailed comments - Draft Ballina Shire Council DCP 2012

CHAPTER 2A – VEGETATION MANAGEMENT

Part 1 Preliminary

The *Native Vegetation (NV) Act 2003* regulates land clearing in rural areas by requiring most clearing to be authorised via development consent or a property vegetation plan under that Act. The NV Act applies only to rural land that is privately owned or leased. Clause 5.9 of the draft Ballina LEP 2011, however, applies to the entire LGA and will operate in tandem with the NV Act.

Whilst Clause 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 that Act is still subject to Clause 5.9 of the LEP by virtue of subclause 5.9(9), where the land is within the R5 Large Lot Residential, E2 Environmental Conservation, E3 Environmental Management or E4 Environmental Living zones.

Division 2 or 3 of Part 3 of the NV Act relates to the clearing of non protected regrowth, the clearing of certain ground cover, routine agricultural management activities, the continuation of existing farming activities, and sustainable grazing. Therefore, development consent under the *Environmental Planning and Assessment Act 1979* may be required for the clearing of vegetation pursuant to Clause 5.9 if the clearing has not been authorised by development consent or a property vegetation plan under the NV Act or where the exemptions provided in Division 2 or 3 do not apply (i.e. zones R5, E2, E3, and E4).

With regard to the above, OEH strongly recommends that the controls of Chapter 2a of the DCP in relation to 'vegetation management works' also apply to the E3 Environmental Management land use zone, given the importance of maintaining and improving biodiversity values in such areas and the need to regulate vegetation clearing in areas that are restored as offsets (typically the E3 zone).

OEH acknowledges that the Ballina LGA does not currently have land zoned R5 Large Lot or E4 Environmental Living, however OEH recommends that the controls of the DCP be applied to such zones if at anytime they are applied to land within the LGA.

Part 3 Development Controls

3.1 Development Consent Requirements Applying to Urban Zones

3.1.2 Development Controls

- OEH strongly supports the requirement for development consent for 'vegetation management works' within urban zones.

3.2 Development Consent Requirements applying to Environmental Conservation Zones

3.2.1 Application

- OEH recommends that control 3.2.1 also apply to land zoned E3 Environmental Management (refer to discussion above).

3.2.2 Development Control

- OEH is unable to support the proposal to enable vegetation management works on land zoned E3 without development consent. OEH recommends that control 3.2.2 of the DCP be applied to both the E2 and E3 zones (refer to discussion above). OEH notes in this instance, that Clause 23 of the Ballina LEP 1987 and the Ballina Shire Council Combined DCP 2006 (Policy Statement 9 –

Attachment 1: OEH detailed comments - Draft Ballina Shire Council DCP 2012

Vegetation Management), currently require consent for the removal of native plants indigenous to NSW within all environmental zones.

Part 4 Development Application Requirements

Clause 4.1 Information to Accompany Development Applications

- OEH strongly supports Control 4.1(h), but recommends that the note provided below this control be amended to incorporate the following:

"Justification for vegetation management works: while this chapter seeks to preserve and protect identified significant vegetation within the shire, it is understood that there will be situations where vegetation management works will be required. In most cases, approval is likely to be granted where sufficient environmental evidence and justification for the work is provided. It should be noted that justification, such as the preservation or maintenance of views for example, will not be considered as sufficient validation for vegetation management works."

Clause 4.4 Guidelines and Requirements for Ecological Assessments

- OEH recommends that control 4.4 refer to the guidelines endorsed by OEH for the assessment and survey of threatened biodiversity (as regularly updated) on the OEH website <http://www.environment.nsw.gov.au/> (i.e. *Threatened Biodiversity Survey and Assessment: Guidelines for Development and Activities (DEC November 2004)*; and draft *Threatened Species Assessment Guidelines – Assessment of Significance (DECC 2007)*).

CHAPTER 2B – FLOODPLAIN MANAGEMENT

The draft DCP has been reviewed by OEH's Urban and Coastal Waters Programs Unit. OEH notes that Ballina Shire Council is currently preparing a Floodplain Risk Management Study and Floodplain Risk Management Plan as part OEH's Floodplain Management Program. OEH also acknowledges that Chapter 2b of the DCP was written in close collaboration with OEH and Council's Floodplain Management Committee. In this regard, OEH has no further comments in relation to this chapter.

CHAPTER 3 – URBAN SUBDIVISION

Part 2 – Chapter Planning Objectives

- OEH supports the inclusion of objective d(1).

Part 3 – Residential Subdivisions

3.1.2 Minor Subdivision Control Elements

B. Element Road Layout:

Development Controls

- OEH recommends the inclusion of the following control to ensure that new subdivisions (including minor subdivisions) provide adequate separation to high conservation value land and to address associated bush fire risk:
 - i. New roads are to be designed to:
 - Provide for perimeter roads adjacent to high conservation value land.

Attachment 1: OEH detailed comments - Draft Ballina Shire Council DCP 2012

E. Element Services and Infrastructure

Planning Objectives

- OEH recommends the following objective for inclusion to this element to protect and enhance high conservation value land.

"Ensure that development does not unnecessarily impact on high conservation value land".

Development Controls

- OEH recommends the following control to minimise impacts to biodiversity from the provision of essential services as part of subdivision developments:

"Service infrastructure is to be designed to avoid areas of high conservation value and to minimise loss of native vegetation".

3.2.3 Major Subdivision Control Elements

A. Element – Master Plan Preparation

Planning Objectives

- OEH recommends the following objective for inclusion to this element to protect and enhance biodiversity within major subdivision proposals:

"Ensure that subdivision outcomes are responsive to the high conservation values on the land"

Part 4 Special Area Controls – Commercial and Industrial Subdivision

Given that commercial and industrial subdivision developments are to be assessed on merit, OEH recommends that a general planning objective and development control be applied in this Part to protect high conservation value land as part of industrial/commercial subdivisions and to require appropriate buffers to such areas from commercial/industrial development.

Part 5 Precinct Specific Controls

5.1 Aspects Estate and Elevation Estate, Lennox Head

- OEH acknowledges that under the draft Ballina LEP 2011 most areas of high conservation value within this release area are proposed to be zoned E2 Environmental Conservation and E3 Environmental Management.

In addition to the zoning mechanism, OEH also recommends that specific controls be provided in the DCP to ensure that high conservation value land is protected from impacts associated with adjoining urban land uses. In this regard, the controls of the B. Element – Environmental Management Buffers should incorporate the following:

- A minimum 50m buffer from urban areas to the Ballina Nature Reserve and State Environmental Planning Policy (SEPP) No. 14 – Coastal Wetlands;

Page 6 of 10

Attachment 1: OEH detailed comments - Draft Ballina Shire Council DCP 2012

- Perimeter roads within future subdivisions 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.
- Controls to ensure that stormwater from development within new release areas, does not impact on adjoining high conservation value land or SEPP No. 14 – Coastal Wetlands.

5.2 Ferngrove Estate and Riveroaks Estate, Ballina

5.2.2 Planning Objectives

- OEH strongly supports planning objective b.

5.2.3 Development Controls

- OEH strongly supports development controls (ii) and (iii).
- OEH recommends the inclusion of an additional control 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.

5.3 Wollongbar Urban Expansion Area

- OEH acknowledges that the Wollongbar Urban Expansion Area is proposed to be zoned R3 Medium Density Residential and E3 Environmental Management under the draft Ballina LEP 2011, with each zone respectively corresponding to the existing 2(b) Village and 7(d) Environmental Protection (Scenic Escarpment) zones under the Ballina LEP 1987.

Similar to the Aspects Estate release area, OEH also recommends that specific controls be provided in the DCP to ensure that high conservation value land is protected from impacts associated with adjoining urban land uses (refer to recommended control below).

5.3.2 Planning Objectives

- OEH strongly supports objective b.
- OEH recommends the following for inclusion to objective g. "Provide suitable buffers between dwellings and adjoining agricultural land, major roads, **high conservation value land**, and active open space facilities"

5.3.3 Development Controls

C. Element – Buffers

- OEH recommends the following changes to control 5.3.3(iv) of this element:

"Buffers are to be provided between urban areas and high conservation value land, with minimum buffer width based on merit relative to the conservation value of such land. 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".

F. Element – Environmental Protection Zones

- OEH strongly supports the controls of this element.

Attachment 1: OEH detailed comments - Draft Ballina Shire Council DCP 2012

5.4 Ballina Heights Estate, Cumbalum

5.4.3 Development Controls

A. Element – Layout of the Estate

- OEH strongly supports control (iv), which seeks to adequately buffer and protect the lowland rainforest and Bangalow Palm forest from residential development via a 30m buffer and 20m wide road reserve. This control should, however, also ensure that bushfire asset protection zones required for future urban development do not encroach within such buffers.

CHAPTER 4 – RESIDENTIAL AND TOURIST DEVELOPMENT

Part 2 Chapter Planning Objectives

- The following objective should be incorporated into this part:
"Ensure that residential and tourist development does not unnecessarily impact on areas of high conservation value".

Part 3 General Controls

G Element - Landscaping and Open Space

- OEH strongly supports objectives d. and e.

Part 4 Special Area Controls

4.1 Coastal Grove Estate, Lennox Head

4.1.2 Planning Objectives

- OEH strongly supports objective b.

4.2 Aspects Estate & Elevation Estate, Lennox Head

4.2.2 Planning Objectives

- OEH strongly supports objectives b. and c.

4.3 Wollongbar Urban Expansion Area

4.3.2 Planning Objectives

- OEH strongly supports objectives b. and c.

4.4 Camden Lane Area, Ballina

4.4.2 Planning Objectives

- OEH strongly supports objective b.

Attachment 1: OEH detailed comments - Draft Ballina Shire Council DCP 2012

CHAPTER 5 - INDUSTRIAL DEVELOPMENT

Part 2 Chapter Planning Objectives

- The following objective should be incorporated into this part:

"Ensure that industrial development does not impact on areas of high conservation value".

Part 3 General Controls

B Element - Landscaping and Screening

- OEH strongly supports control iv.

D Element – Environmental Management

- OEH strongly supports objectives a. and b.

CHAPTER 7 – RURAL LIVING AND ACTIVITY

Part 2 Chapter Planning Objectives

- OEH strongly supports the inclusion of objective f.

Part 3 General Controls

3.2 Rural Subdivisions

3.2.2 Planning Objectives

- Planning objective b. should be reworded to the following:

"Ensure that subdivision design has regard for slope, **high conservation value land**, land use conflict, and amenity".

- OEH strongly supports the inclusion of objective c.

3.2.3 Development Controls

- OEH strongly supports the inclusion of control 3.2.3(ii).

3.3 Rural Tourist and Visitor Accommodation

3.3.2 Planning Objectives

- OEH strongly supports the inclusion of objective b.

3.3.3 Development Controls

- OEH strongly supports the inclusion of control 3.3.3(ii) and the note associated with this control.

3.6 Mining and Extractive Industries

3.6.2 Planning Objectives

- The following objective should be incorporated into this part:

Page 9 of 10

Attachment 1: OEH detailed comments - Draft Ballina Shire Council DCP 2012

"Ensure that development does not impact on areas of high conservation value".

3.6.3 Development Controls

- OEH strongly supports the inclusion of controls 3.6.3(i) and (ii) where they relate to the requirement for ecological assessments to be undertaken for development proposals and the requirement for mitigation measures to address impacts on environmental values.

Part 4 Special Area Controls

4.1 *South Ballina*

4.1.2 Planning Objectives

- OEH strongly supports the objectives for the South Ballina area.

4.1.3 Development Controls

- OEH strongly supports the development controls to this part.

CHAPTER 8 - SPECIAL USES

Part 3 General Controls

3.1 *Temporary Use of Land*

3.1.2 Planning Objectives

- OEH strongly supports objective a.

3.1.3 Development Controls

- OEH strongly supports development control 3.1.3(ii).

3.4 *Signage*

3.4.2 Planning Objectives

- The following objective is recommended for inclusion to this part:

"Enable signage that does not impact on areas of high conservation value".

3.4.3 Development Controls

A. Location Based Requirements

Rural and Environmental Zones

- OEH recommends the following for inclusion to control (iv):

"Must not impact on areas of high conservation value or result in the loss of significant native vegetation".

F. Sensitivity in Special Areas

- OEH strongly supports development control f(i).

Page 10 of 10



**Industry &
Investment**

Our Ref: V12/4105 OUT12/29242
Your Ref: Ballina LEP Renewal – Corres Gen

9th November 2012

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

Attention: Sally McGarry

Dear Sir/ Madam

Public Exhibition - Draft Ballina Development Control Plan 2012

Thank you for your letter of 12th September 2012 inviting comment on the Draft Development Control Plan. Thank you also for the subsequent supply of DCP maps in shapefile format to facilitate GIS analysis.

This is a response from the Mineral Resources Branch (MRB) of the Division of Resources and Energy, Department of Trade & Investment, Regional Infrastructure & Services. Other Branches and Divisions of DTIRIS may respond separately.

Mineral Resources Issues

Mineral resources generally occur where placed by nature, not where communities might consider convenient. Moreover, mining, petroleum production and extractive industry are typically ephemeral land uses which generally incorporate rehabilitation programs and rehabilitation bonds. In addition, while some such land uses are opportunistic and exist purely for economic benefit, others are primarily aimed at meeting community need for materials and services.

Consequently, MRB recommends that Council recognise mining, petroleum production and extractive industry and their related resources as exceptional circumstances where conventional standards for notionally permanent land uses may be inappropriate. Thus, MRB again recommends that Council retain the discretion to treat all such proposals and resources flexibly and on merit so as to optimise resource recovery and community benefit, even if standards applied differ from those for conventional, notionally permanent land uses. Doing so would also meet the spirit, as well as the letter, of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

Chapter 2 - s3.1 Land Use Conflict

MRB welcomes the requirement for a Land Use Conflict Risk Assessment (LUCRA) for all development applications, for it suggests that all DAs will now be subject to requirements currently applied to selected industries (such as mining, petroleum production and extractive industry). Most importantly, **all** DAs for potentially incompatible

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developments in the vicinity of identified or potential resources (see Mineral Resources Audit forwarded to Council on 16/05/2011) should now require a LUCRA.

MRB also welcomes the 500 m and 1000 m buffer zones (non-blasting and blasting respectively) for extractive industry or mining specified in Table 2.1, and proposes extension to include any future petroleum production facilities. For safety reasons, MRB recommends against a general reduction of buffer widths to 150 m surrounding a "dwelling house, dual occupancy or rural workers' dwelling" that is within standard buffer distances of mining, petroleum production or extractive industry. However, MRB recommends that Council specifically retain the discretion to replace these standard buffers for mining, petroleum production and extractive industry with appropriate (generally smaller), performance-based buffers on a case by case basis where circumstance and expert investigations warrant (e.g., for most new mine or quarry consents).

Chapter 2 - s3.2 Ridgelines and Scenic Areas and s3.3 Natural Areas and Habitat
These provisions have the potential to restrict access to mineral resources.

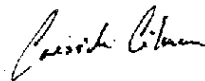
Thus here again, MRB recommends that Council follows recommendations above to retain the discretion to treat mining, petroleum production and extractive industry and their related resources as exceptional circumstances and apply flexible and appropriate standards even if they differ from those for conventional, notionally permanent land uses. Such flexibility is critical for lands with identified or potential resources (see Mineral Resources Audit forwarded to Council on 16/05/2011).

Chapter 2 - s3.4- s3.19 and All Other Chapters

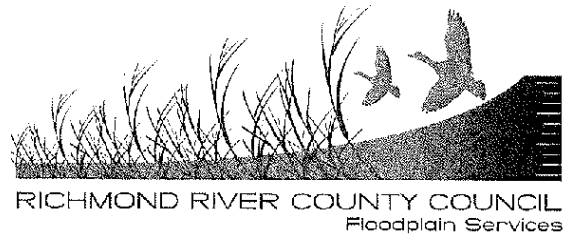
In generally, MRB has no concerns about controls applied in strictly urban or high value conservation (E1 or E2) areas. However, for other rural lands, and in particular for those with identified or potential resources (see Mineral Resources Audit forwarded to Council on 16/05/2011), MRB again recommends that Council retain the flexibility to treat mining, petroleum production and extractive industry and related resources as exceptional circumstances and apply controls flexibly and on merit so as to optimise resource recovery and community benefit.

For further information regarding mineral issues please contact Mr Jeff Brownlow in the Department's Armidale Office (Tel 02 6738 8513 or email jeff.brownlow@industry.nsw.gov.au).

Yours sincerely



Team Leader Land Use



Richmond River County Council submission on

Ballina Shire Council's Development Control Plan (DCP) Chapter 2)

Dear Matt, please find below our submission to your DCP process in regard to Floodplain Management and the County Council's involvement at the Newrybar Swamp. I have included information on the objectives and methodologies.

As the Study has not yet being finalised and management options identified I would like the opportunity to provide these when available to be included in the DCP.

I appreciate the chance to provide comment.

Yours faithfully



Michael Wood
Floodplain Services Manager

RICHMOND RIVER COUNTY COUNCIL'S - NEWRYBAR DRAINAGE & MITIGATION STUDY

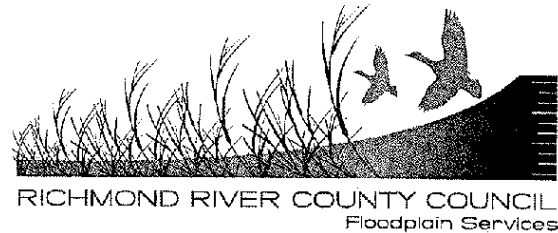
Introduction and background

Richmond River County Council, in partnership with the Office of Environment and Heritage and Ballina Shire Council, has developed a flood model for the area above Ross Lane in the Newrybar Swamp. This model will be incorporated into the current flood modeling that Ballina Shire Council has prepared for the greater shire area.

The primary aim of the flood model is to investigate flooding and drainage issues in the Newrybar Swamp that have been identified as issues affecting a number of land users across the swamp, including agriculture and rural residential development and the Ballina Nature Reserve.

There are also future planning considerations to ensure development applications acknowledge the flood risk, and measures are considered to reduce flood risk to current and future residents in the Newrybar Swamp.

Richmond River County Council, Rous Water Centre, 218-232 Molesworth Street, Lismore NSW 2480
Phone (02) 6621 8314 • Fax (02) 6622 1181 • floodplain@rrcc.nsw.gov.au • www.rrcc.nsw.gov.au
Postal address: PO Box 230, Lismore NSW 2480
ABN: 60 591 934 541



The final flood model will greatly assist in identifying what practical management option could be implemented to reduce flooding impacts in the Newrybar Swamp and associated impacts on drainage water quality.

Newrybar Swamp, as the name implies, is a low lying parcel of land bounded by its catchment boundary to the west, north and east, and to the south by Ross Lane in Ballina Shire Council. In the late 1970s Richmond River County Council (RRCC)

constructed a flood mitigation drain in Newrybar Swamp which drains in a southerly direction, crosses Ross Lane, and discharges into Ballina nature reserve. This work led to the progressive development of the low areas in the swamp and by the early 1980s most of the area, including the swamp, was cultivated with sugarcane.

Levee construction by individual landholders also took place during this time to protect their crop and to maximise production. These works, cumulatively, have caused adverse flood behaviour in the valley which led to animosity amongst the landholders. A report, commissioned by the Water Resources Commission of New South Wales in 1984, suggested various mitigation options which would alleviate problems in critical areas of the floodplain. The approach relied on landholder participation and cooperation for levee modification, but was unsuccessful due to impasse amongst some of the landholders.

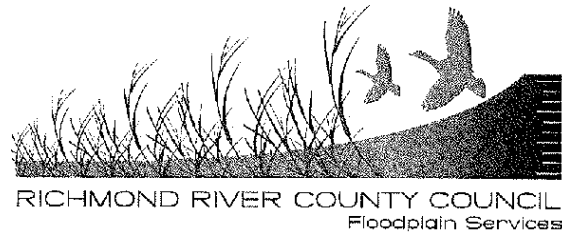
The report, however, concluded that:

- construction of the flood mitigation drain has facilitated drainage of low lying swampland, thereby allowing for its present landuse
- certain levees constructed on the floodplain will increase local flood levels, affect the distribution of floodwater and retard post flood drainage
- the levees may have potential effects on the ecology of the wetland in Ballina nature reserve
- future landuse change or earthworks in the valley has the potential to significantly alter flood and drainage patterns

Since the publication of the 1984 report the Newrybar Drainage Union was unable to find an amicable solution to the flooding and drainage problems confronting the valley. A number of representations have been made to State Government in the past to step in to mediate the situation and by March 2000 the dysfunctional Newrybar Drainage Union was officially dissolved by Proclamation of the NSW Governor. RRCC, being the flood mitigation authority in the valley, has now taken ownership of the flood mitigation drain in Newrybar Swamp.

RRCC is investigating the flooding and drainage problems in Newrybar Swamp before a management decision can be made on the most appropriate flood mitigation works, if any, for the area.

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Phone (02) 8621 8314 • Fax (02) 6622 1181 • floodplain@rrcc.nsw.gov.au • www.rrcc.nsw.gov.au
Postal address: PO Box 230, Lismore NSW 2480
ABN: 60 591 934 541



Objectives

- To identify the flooding and drainage problems of Newrybar Swamp
- To investigate and recommend measures to reduce the flood impacts and improve drainage in Newrybar Swamp
- To consider the consequences of climate change

Modeling of Design Floods

Design floods shall include the 5 year, 20 year and 100 year events for the Richmond River, local catchment and ocean storm tide dominated floods. For each design flood the consultant shall identify the following throughout the study area under existing floodplain conditions:

- flood levels
- flood velocities
- flood depths

Flood/ Drainage Mitigation Measures

These assessments are costly to undertake and for this reason only limited measures may be articulated and considered. The consultant shall allow for two measures. Each measure is to be modelled for flood impact assessment for two different scenarios, for the 5 year and 20 year ARI floods only. For example, a proposed widened culvert opening at Ross Lane would be modelled for two different openings for the two flood events.

Drainage time is critical to the landholders. The consultant shall run the model long enough to assess the drainage up to a period of 10 days or thereabouts.

Consequence of Climate Change

DECCW in February 2009 released a draft sea level rise policy document which recommended two benchmarks, a sea level rise of 0.4m by 2050 and 0.9m by 2100, to assist Councils in their land use planning.

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ABN: 60 591 934 541




Newton Denny Chapelle
 SURVEYORS PLANNERS ENGINEERS

Date: 25 October 2012
Our Ref: 10/025



General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Ms Sally McGarry

Dear Madam,

Re: Submission - Draft Ballina Development Control Plan 2012.

Newton Denny Chapelle have been engaged by Mr & Mrs Bailey to lodge a submission to the exhibition of the Draft Ballina Development Control Plan 2012. This submission relates to the provisions proposed to be applied to tourist and visitor accommodation in rural areas, specifically with respect to the interrelationships between ecotourism and Planning for Bushfire Protection 2006.

Planning for Bushfire Protection 2006 (PBP) provides for flexibility with respect to asset protection zone width, building construction standards and vehicular access requirements for ecotourism developments - provided that they meet they are genuine ecotourism, visitor numbers are capped at 12 and appropriate evacuation and alert systems are in place.

Until recently, the Rural Fire Service (RFS) was the authority who decided whether or not a project was considered to be ecotourism and consequently whether or not the special provisions for ecotourism, as outlined in PBP, apply. However, the RFS has recently transferred this responsibility to Council.

Council's Regulatory Services Group has taken the position that, in the absence of a definition of ecotourism in either the existing or draft LEPs or in the DCP, it is not able to determine whether or not a proposal is ecotourism. Accordingly, it is not possible for applications to utilise the concessions contained within PBP with respect to ecotourism developments.

Our clients had previously lodged an application with Council (DA 2011/236) for the development of eco holiday cabins at the western end of Tobin Close, Lennox Head. The application had been designed utilising the PBP ecotourism concessions and the RFS had agreed to the use of these provisions. DA 2011/236 was withdrawn prior to determination as there were various procedural and other matters relating to the upgrade of the external (public) road which needed to be resolved.

Our clients intend to lodge a revised Development Application addressing the outstanding issues. However, in the absence of a clear and measurable definition of ecotourism within Council's DCP, it is not possible to utilise the ecotourism concessions within PBP. Given the location of the site in a natural bush land setting, the proposal is unlikely to be able to comply with the "standard" PBP provisions.

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In addition to Mr & Mrs Bailey's case, NDC is aware of two other circumstances where this situation applies and it is reasonable to assume that, over time, more examples will come to light.

Given Council's commitment to sustainable development, it is considered reasonable that appropriate provisions be provided within the DCP to enable small-scale nature based ecotourism developments in natural areas to be designed and assessed utilising the ecotourism provisions within PBP.

Accordingly, it is requested that Chapter 7 Rural Living and Activity, Section 3.3 Rural Tourist and Visitor Accommodation be amended to provide clarification with respect to the criteria which need to be met in order for Council to determine that a project is "ecotourism" for the purpose of Planning for Bushfire Protection 2006. It is important that any such definition be clear and, as far as possible, measurable - so that applications are able to proceed with a reasonable level of certainty that they will be able to demonstrate compliance through the assessment process.

We look forward to Council's favourable consideration of the above. NDC is willing to work with Council with respect to developing a workable definition, should this be of assistance.

Should you have any questions, please do not hesitate contacting Karina Vikstrom of this office.

Yours sincerely,

NEWTON DENNY CHAPPELLE



KARINA VIKSTROM
Town Planner. BTP.

Date: 1 November 2012

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

Attention: Ms Sally McGarry

Dear Madam,

**Re: Submission to Exhibition Draft Ballina Development Control Plan 2012
Chapter 3 - Urban Subdivision.**

We refer to the exhibition of Draft Ballina Development Control Plan 2012 and wish to provide this letter of support with respect to the planning processes outlined in Chapter 3 - Urban Subdivision. This submission has been prepared by the undersigned local town planning consultants, who have extensive experience in subdivision design and project management on the north coast of NSW. We note that three of the undersigned were members of Council's DCP Panel engaged to provide industry input into the DCP preparation process.

In particular, we wish to support the following initiatives within Chapter 3 of the Draft DCP:

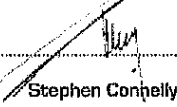
- The establishment of different planning pathways for "minor" and "major" subdivisions in Ballina Shire;
- the requirement to undertake a structured master planning process for major sites which includes a formal engagement process with Council;
- the proposal to establish a Council "Subdivision Panel" which will provide feedback to the proponents at critical stages of the design process. We note, however, that in order for this Panel to work effectively it will need to be staffed by senior officers of the Council with the professional experience and delegation to provide meaningful comments with respect to projects; 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.

It is hoped that the above provisions within the draft DCP will assist in providing for a more collaborative approach with respect to the design of major subdivisions in the Shire and will help to reduce the time and cost associated in obtaining the necessary Council approvals. As such, we urge Council to adopt Chapter 3 of the draft DCP 2012 as exhibited.

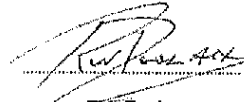
Yours sincerely,



Damian Chapelle



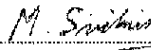
Stephen Connelly



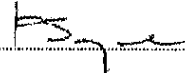
Rob Doonan



Chris Pratt



Mike Sivikis



Paul Snelgrove



Karina Vikstrom

S J CONNELLY CPP FPA

8 November 2012
Our Ref: SJC1038-235

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

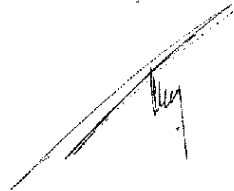
Dear Sir,

Re: Draft Development Control Plan

I have previously lodged a submission in relation to the Development Control Plan and I apologise for the lateness of this further submission. However, there is a matter in the Control Plan that has been troubling me and I have now come to the view that it is sufficiently important to make a further submission. I appreciate that this submission is out of time and may not be able to be incorporated into the relevant report to Council. Nevertheless I advise as follows:

1. The concept of including the "wildlife corridors" in the Development Control Plan is, on its face, quite reasonable and appropriate. However, when one thinks about it a bit more it is dangerous. It is dangerous because the DCP maps "to the millimetre" these corridors which any practitioner (or environmental scientist) would agree is just not possible. These corridors are merely "desire lines" produced as a consequence of macro scale Regional mapping. It is an important planning notion to have regard to the corridors but it is quite inappropriate to map them to the millimetre precision; and
2. The corridor mapping in the DCP of a wildlife corridor gives it a status well beyond its proper ranking. The corridors are mapped in various documents produced by Government so they are known to town planning practitioners and to practising ecologists. The concept of giving them a Development Control Plan status is not required.

Yours faithfully



Stephen J Connelly FPA
Certified Practising Planner
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sjc326302.docx

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1



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Chartered Member of



Date: 13 November 2012

Ballina Shire Council
P.O Box 450, Ballina 2478

ATT: MATTHEW WOOD - STRATEGIC SERVICES GROUP

RE: DRAFT BALLINA SHIRE DCP 1 2012

Thank you for accepting my submission in relation to the above mentioned draft. I would like to register the following observations & comments in relation to this Draft Ballina Shire Development Control Plan 2012.

CHAPTER 2 – General & Environmental Considerations

3.19 Car Parking and Access

3.19.3 Development Controls

B. Car Access and Manoeuvring Areas

iv. Designs for manoeuvring areas are to be in accordance with Australian Standard 2890 and include a swept path analysis for the relevant design vehicle. Residential unit developments shall use the B99 vehicle.

- The requirement for a B99 vehicle (& council's usual requirement for 300mm clear of the vehicle sweep path as required in the Aust. Standards) is the largest possible vehicular manoeuvring areas required & surely is quite excessive in any application other than industrial or business areas where a very high proportion of commercial vehicles are likely, & is definitely considered excessive when used in normal urban residential development.

Table 2.3 – General car Parking Requirements

E. Car Parking Requirements

i. Unless otherwise specified elsewhere in this DCP, car parking is to be provided in accordance with the schedule contained in Table 2.3.

- The carparking requirements I feel need to be reviewed/clarified are the following:

Health consulting rooms

- Previously nominated as 3 spaces per consulting room would seem acceptable.

Pub

- 1 per 25sq.m is fine, 15 spaces per 100sq.m for 'restaurant space' would be hard to calculate the difference in some instances (between people just having a drink & those who then decided to stay for a meal) this requirement reads as if it is both, ie a 'restaurant space' would actually incur 19 spaces per 100sq.m (?)

Roadside Stalls

- While I have had no prior experience with roadside stalls, 4 spaces seem excessive for a small singular road side stall.

CHAPTER 4 – Residential & tourist development

Part 3 – General Controls

3.1 General Controls applying to residential and tourist development

3.1.3 Development Controls

G. Element - Landscaping and Open Space *- Dwayne*

Table 4.2 – Landscaped Open Space Requirements for Multi Dwelling Housing and Residential Flat Buildings

- The requirements of table 4.2 are counterproductive to the intent & current outcomes achieved for residential development in Lennox Head. I believed the original intent of the 'changes' to the landscaping requirements from the old DCP 1 'multiple dwellings – landscaped open space' (table 2) - to the new Lennox Head DCP Chapter was to ensure a flattening out of buildings at ground level & change the trend away from 'bloated' buildings, ie tall double story buildings. My understanding of the new Lennox head DCP Chapter was to provide a minimum 'private outdoor' area & to provide a total required landscaped area ie 25% of the site. This has been working well, & the outcomes are already evident. To now return/include the old DCP idea of landscaping calculation serves no purpose on small scale development & is restrictive on medium scale development, which again will require development to be built on a smaller footprint, & again creating larger 2nd floors.
- I also believe that apart from medium/large scale tourist developments, I cannot see to many residential units being built under 80sq.m. If this is considered along with Table 4.3 for carparking requirements, smaller scale residential developments are most likely to be large 3 bed double garage units, whereas 2 bedroom single car garage (affordable) units will become unviable/unlikely.

H. Element - Vehicular Access and Parking *- Dwayne*

Table 4.3 – Car Parking for Residential and Tourist Uses

- The requirements of Table 4.3 are excessive & are not consistent with the previous carparking requirements. A decent sized 2 bedroom residential unit in a small scale (townhouse/villa) residential development is greater than 85sq.m, (more likely to be 90sq.m excluding garages – does this area exclude garages as it does in Table 4.2?). A simple 4 unit site in Lennox Head with single storey 2 bed residential units would require a total of 9 carparking spaces under this table, making them unviable/unlikely.
- If there is no encouragement/incentive for decent small scale 2 bedroom style developments, larger scale & more expensive 3 bed+ unit development will be built instead.

K. Element - Fences and Walls

- Are other streets in other locations around the shire also going to be included in the list of 'Acoustic fencing' ie Alstonville - Bruxner Highway & Ballinas -Kerr Street & River Street?

L. Element - Roof Pitch

i - Roofs of dwellings are to have a minimum pitch of 8°

- This requirement does not make sense – see picture attached. A 'flat roof' or 'parapet' roofed building can form part of an attractive design & can be 'water-proof' if designed correctly & if specified correctly.

N. Element - Minimum Lot Area

Table 4.5 - Minimum Lot Areas for Residential Accommodation

- I can only surmise that the required minimum 1000sq.m lot area for Multi Dwelling & residential Flat Building requirement are minimum requirements for new subdivisions & not for new development in existing urban areas?
- If this is not the case - the requirements of table 4.5 are not consistent with the existing size of allotments in medium density areas, (shown in the proposed new BLEP) & will eliminate many sites zoned for residential redevelopment that are between 750sq.m & 1000sq.m.
- Amalgamation of existing allotments would be difficult & is not considered likely. If this requirement is relevant to all existing allotments in the shire, the redevelopment of small scale residential development will be halted - & will only be afforded to developers with deep pockets, again the outcome would be at the expense of small (affordable) residential units.

CHAPTER 6 –Commercial development

Part 3 General Controls

3.1 General Controls applying to business and commercial development

3.1.3 Development Controls

C. Element – Roof Form

ii. Roofs are to have a minimum pitch of 8°. This measure may be varied where Council considers it is necessary to maintain views or to fulfil a particular building design;
iii. Parapets and flat roofs should be avoided.

- This requirement does not make sense – (see picture attached) many examples of this type of building design are present in the Ballina Shire now. A 'flat roof' or 'parapet' roofed building can form part of an attractive design & can be 'water-proof' if designed correctly & if specified correctly.

General Comment on draft DCP

- Further to the comments on the 'original' Lennox Head DCP - re Design Objectives to be met, it was understood that Development Controls were not as critical in the assessment ie Development Controls were considered to be minimum standards to be relied upon, not a strict control applied to every DA submitted, however the wording in this draft indicates that this is not the case anymore?

Summary

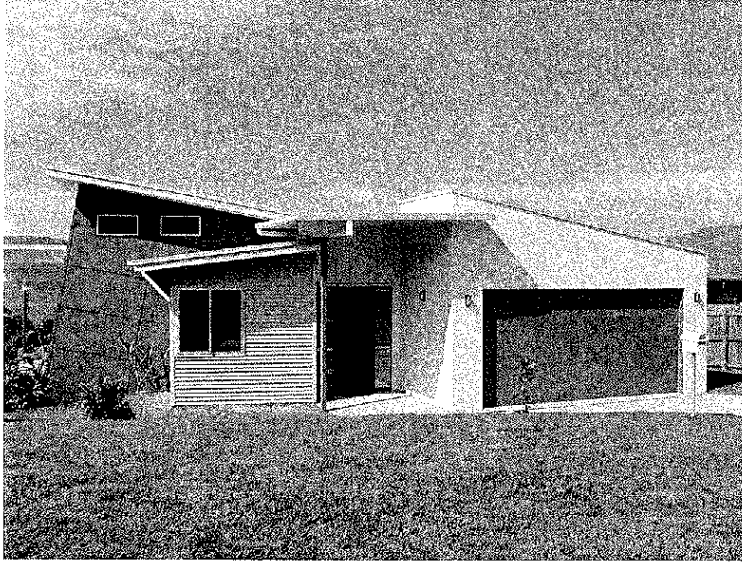
- It is good to see finally a 'single DCP' that is mostly consistent, has a 'singular' approach & is now reliant & consistent with the new BLEP.
- There are still a small number of items (such as signage issues ect) that are left unresolved or are open to either a negative or positive interpretation by the assessing officer, however this is not a fault of the existing or proposed DCP.
- I would also suggest that to provide some consistency in applying the new DCP, the pre-lodgement meetings should also include a Strategic Planner for the first 12 months - so Regulatory Services staff become familiar with the intent of the new DCP & how it is to be applied to proposed developments.

Do not hesitate to contact me if you have any questions, Thanks.

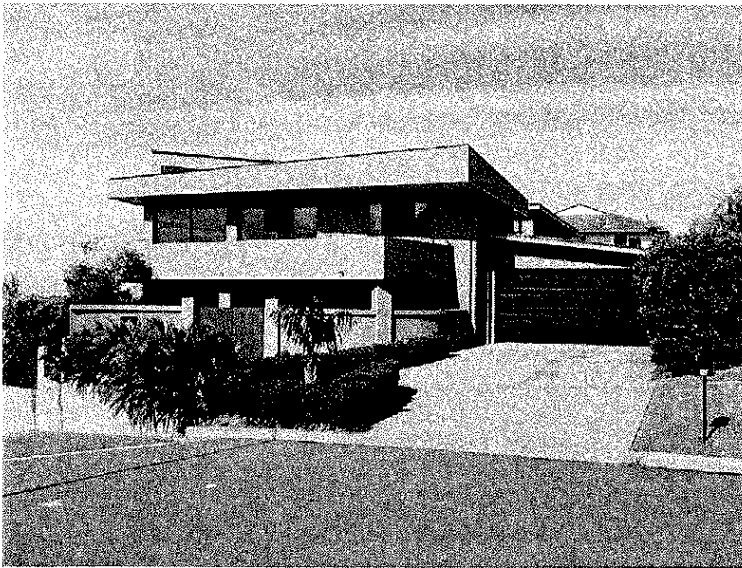
Regards



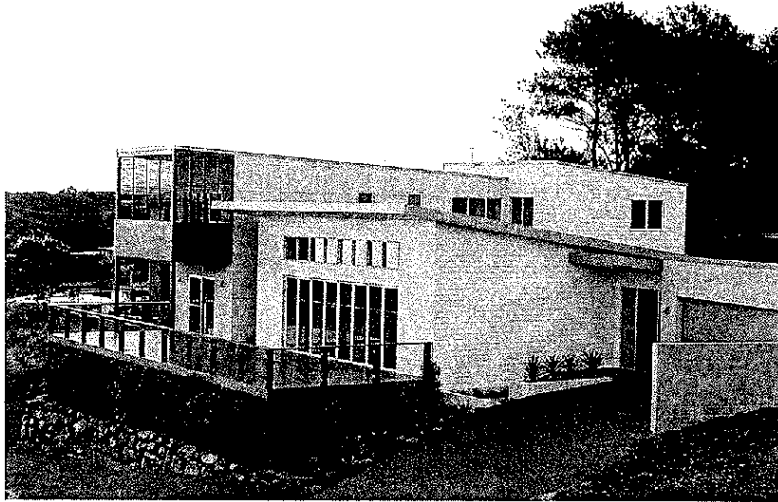
Richard Lutze



Lennox Head residence - Parapet roofs & skillion roofs between 12 degrees & 5 degrees



Lennox Head residence - Parapet roof with 5 degree roof behind & 7 degree roof over living room & over garage.



Lennox Head residence - skillion roofs between 10 degrees & 5 degrees



Evans Head – commercial development with 5 degree roof
(This design is similar to new Westlawn/Clarence Property building in Tamar Street Ballina)

The General Manager
 Ballina Shire Council
 Cnr Tamar and Cherry Streets
 BALLINA NSW 2478

Dear Sir

Please find below comments on the exhibited Development Control Plans.

Chapter 3 - Urban Subdivision		
4.1.2 Industrial Subdivision Control Elements		
<p>Whilst it is acknowledged that there needs to be a variation in lot sizes. It is considered that to require an average of 2000m² for all subdivision in excess of 10 lots is excessive. This means that in a 10 lot subdivision in order to comply with this provision it will be necessary to provide 5 1000m² lots and 5 3000m² lots to maintain the average or 10 2000m² lots. This is considered to be impractical as experience shows that the majority of lots in the existing industrial area are around 1000m² in size.</p> <p>Larger lots can be created if required by the consolidation of lots. The consolidated lots would have the same configuration as a larger lot created as part of the original subdivision, due to the limitations imposed by the street layout of the industrial subdivision.</p> <p>Why require a developer to provide lot sizes which are not wanted.</p>		
Chapter 2(b) – Floodplain Management		
<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 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.</p> <p>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.</p> <p>A better proposal will be to construct a levee around the affected area, thereby, achieving immediate protection for all flood affected buildings.</p> <p>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.</p> <p>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,</p>		

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.

Yours faithfully

Robert Thornton

Strategic and Community Services Group – DCP Exhibition

Issue	Recommendation
<i>Chapter 1 – Administration</i>	
The EP&A Act has been amended since exhibition of the DCP to clarify the role of DCPs in planning decision making. It may be beneficial to reflect this in the DCP by way of an explanation in association with Council’s variation overview.	Amend Chapter 1 to incorporate a stand alone section addressing the status of DCPs in the planning framework and the consideration of variations to provisions (using existing text on variations as a basis for the section)..
The potential for 2 LEPs to apply given the Minister’s decision on E zones is not addressed in the exhibited DCP.	Amend Chapter 1 to clarify that the DCP applies to all land in the shire under either the Ballina LEP 1987 or the Ballina LEP 2012.
Council’s <i>Building Over Council Assets</i> policy is a key consideration in development assessment that could be referenced more explicitly to draw attention to its application.	Include a reference to the building over assets policy in Chapter 1.
The procedure for notifying proposed developments could be improved by clarifying where applications do not require advertising and how modifications and reviews are to be addressed in terms of advertising.	Adjust notification section to clarify application of advertising policy.
<i>Chapter 2 – General and Environmental Considerations</i>	
Crime Prevention Through Environmental Design (CPTED) would be a beneficial consideration in relation to community facilities.	Add community facilities to the uses subject to CPTED assessment.
Application of road widening policy is unclear in relation to changes of use as opposed to new development on a site.	Adjust section to exclude its application to changes of use within the footprint of an existing building.
The waste management provisions include some duplication. Further, the purpose of a site waste management and minimisation plan could be made more explicit for clarity.	Adjust Section 3.7 to remove duplication and redundant provisions and add text identifying that a SWMMP must demonstrate achievement of the waste management of objectives set out in the section.
The Standard LEP provision relating to drinking water catchments has been adjusted in finalising the LEP. As such, it does not align fully with the DCP based drinking water catchment provisions.	Adjust Section 3.13 to reflect the revised LEP provision. This involves minor adjustment only.
<i>Chapter 2a – Vegetation Management</i>	
Broad scale clearing of camphor laurel may be interpreted as not requiring consent.	Include a note that advises that broad scale clearing may be defined as forestry and hence may be subject to a requirement for development consent. Note: clearing of individual or small clusters of camphor laurel vegetation does not require consent under the new LEP.

<i>Chapter 3 – Urban Subdivision</i>	
Development control relating to stormwater under element E is a repetition of the requirements contained in Chapter 2.	Delete stormwater reference under element E.
There are some inconsistencies between minimum lot frontages specified in Table 3.1 compared to the subdivision design examples given in Table 3.2.	Amend Table 3.2 to reflect minimum
Reference to developer contributions in Section 5.4.3 is unnecessary.	Delete reference.
<i>Chapter 4 – Residential and Tourist Development</i>	
References to absorbent surfaces are more suitably referred to as pervious surfaces.	Change references to absorbent surfaces to pervious surfaces.
The dwelling density and minimum lot area provisions could be read as being in conflict when they are intended to operate concurrently.	Adjust the minimum lot area provision to take into account the dwelling density provisions that apply to existing areas in the shire. That is, where a dwelling density provision is in place, it prevails over the site area requirements.
Some of the planning objectives for tourist and visitor accommodation under 3.1.2 could be expressed more clearly.	Adjust expression of objectives to be more specific about the intended outcome (no change to intent).
The reference to compliance with FSR under the LEP in the development controls in 3.1.3 element B is unnecessary.	Delete reference. Rely on the notation in the DCP to direct the user to the LEP.
The objectives in relation to roof pitch do not reflect the intention to discourage 3 storey residential buildings in residential zoned areas.	Amend the objectives to link the application of a minimum roof pitch to an intention to encourage 2 storey (rather than 3 storey) buildings.
Where indirect land access is provided from a laneway, a garage may be setback only 3.5m from the roadway under element F. This should be clarified to confirm that such an outcome is acceptable provided that two cars can be parked within the property boundary as per the car parking requirements under element H.	Include a note under element F advising that two car parking spaces within the property must be provided regardless of the applicable lane building line.
The application of residential development standards under State policy to tourist and visitor accommodation is unclear. The intention is to apply these standards to such accommodation to allow conversion between residential and tourist uses more easily.	Include a section in Chapter 4 establishing a requirement for tourist and visitor accommodation to conform to the requirements of SEPP 65 – Design Quality of Residential Flat Buildings in the same way that the SEPP applies to residential development.
<i>Chapter 5 – Industrial Development</i>	
Car parking and access provisions do not include an objective that addresses servicing of industrial development in terms of site design and layout.	Include an objective under element C that seeks to ensure that industrial development is adequately designed to cater for efficient servicing of industrial land uses by vehicles.

<i>Chapter 6a – Commercial Development Ballina Town Centre</i>	
The Town Centre provision relate to a structure plan previously endorsed by Council. However, the structure plan could be more specifically identified as a matter for consideration in the chapter.	Amend the chapter objectives to refer to the intention for development to be consistent with the structure plan.
<i>Chapter 6c – Commercial Development Lennox Head</i>	
The preferred land uses identified for precinct D are inconsistent with the Council endorsed Standard LEP. The terms used could be adjusted to reflect the permissibility of uses in the Standard LEP, particularly in relation to commercial premises and shop top housing.	Amend preferred land uses section to reflect permissibility of shop top housing (rather than residential accommodation more generally), business premises, retail premises and tourist and visitor accommodation. Retain preference for tourist and visitor accommodation uses.
<i>Chapter 6d – Commercial Development West Ballina Enterprise Corridor</i>	
Chapter 6d contains an extensive series of provisions and explanatory material. Some of the provisions can be simplified and the explanatory material summarised further to reduce the length and complexity of the Chapter and focus the provisions on preferred land use outcomes and practical development standards.	Undertake general adjustments to Chapter 6d to reinforce the preferred land use outcomes and focus the development controls on key outcomes and initiatives.
<i>Chapter 7 – Rural Living and Activity</i>	
The waterways zones under the new LEP encompass rural land but have not been nominated as subject to some elements of the chapter.	Identify the W1 Natural Waterways and W2 Recreational Waterways zones as subject to the provision of Chapter 7 to ensure that there are no inconsistencies between the provisions applying rural land.
Rural residential estates could be incorporated into building line map for consistency.	Add rural residential estate building lines to building line map set.
<i>Chapter 8 – Other Uses</i>	
The provision addressing window signage could be written more clearly to achieve the intended outcome, being that window signage should not be placed such that there is no view into a shop front along a primary street frontage in commercial areas.	Reword 3.4.3 A(ii) to specify the application of window signage provisions to all premises in commercial zoned areas that are located on ground floor along a primary street frontage.
The framework for the use of electronic variable message signage similar to that used in relation to road works has been identified by staff as uncertain. The use of such signage is permitted under State policy, the LEP and by extension, the DCP. However, siting and safety requirements set out in the DCP establish parameters that would be difficult to meet in relation to this type of signage. Further, any such signage on public land would require the authorisation of Council.	Include a note identifying that approval for variable message signage may be difficult to achieve given the siting and safety requirements associated with signage.

Development Services Comments Chapter 1- Administration			
Should we have a stand alone document which contains all the definitions from the LEP and DCP All maps associated with a chapter should be attached to that chapter <i>No amendment proposed</i>			
Clause	Recommended change	Reason	Recommendations
3.1	Remove the word "very" From "exempt development" is very minor development Reference also needs to be made to the Infrastructure SEPP	There are some exempt provisions which could not be considered as very minor. Covers a range of work conducted by Civil Services.	<i>Amend Cl. 3.1 accordingly</i>
3.2.3 iii	Change 'four' to 'three' copies. Add the following at the end of this point: 'Additional copies of all DA documentation and/or a CD containing all documentation may be required by Council for certain larger applications depending on the volume of material to be submitted and the need for external referrals. Please consult with Council on the number of copies of documents and/or CDs required prior to lodgement'.	Less dependence on hard copies	<i>Amend Cl. 3.2.3 iii accordingly</i>
3.2.3 v	Add the word "industrial buildings" Except for dwelling houses and dual occupancies and industrial buildings	It is considered that industrial developments of more than 8.5m in height, within an industrial area, should not be subject to the need for the provision of a physical model	<i>Amend Cl. 3.2.3v accordingly</i>
3.2.3 after Additional Requirements	Insert the following 'The provision of all of the above minimum information requirements will allow your application to proceed to formal assessment in a timely manner. However, should some or all of the above minimum information requirements not be provided upon lodgement, your application may be returned or determined	This could be placed in bold in the document.	<i>No amendment required – Regulations set out requirements.</i>

	by way of refusal on the basis of insufficient information.		
3.2.4 Public Notification and Exhibition of Development Proposals. Level 1 – Targeted Notification	Structure and content of this section modified and re-drafted per consultation with Development Services & Strategic Services staff.	See attached endorsed draft.	<i>Amend Cl. 3.2.4 accordingly</i>
Appendix 2 Dictionary	Definition is required for a “Rural dwelling”. The following to be added as point (f) to the definition of ancillary development “Minor or incidental development to the principal development for which consent is sought”.	Rural dwellings are referred to in a number of chapters and it is considered that a definition should be available	<i>Noted – self explanatory (dwelling in a rural area).</i> <i>Add point (f) to ancillary development</i>
Appendix 2 Dictionary	Wording of Vegetation management works	Definition appears to be too broad, for every time I mow my lawn I undertake an activity or work that affects vegetation	<i>Noted however Chapter 2a Vegetation Management details works that require consent etc.</i>

Development Services Comments Chapter 2 – General and Environmental Considerations			
Add a clause stating that all Land Use conflict buffers, APZs, mozzie buffers, vegetation setback buffers etc are to be contained on private property, and supported by a Section 88B restriction on title, unless otherwise agreed to be Council. <i>These matters should be addressed via a case by case basis and are often provided for at the rezoning / planning proposal stage.</i>			
3.1.3 A Development Controls	Include a definition for a Rural Dwelling in Appendix 2 Dictionary	There is no definition for a rural dwelling and it is critical for this clause.	<i>Noted – self explanatory - dwellings on rural zoned land.</i>
Table 2.1 Minimum buffer distances for specified land uses	Replace Rural Dwellings with Dwelling house, Dual Occupancy or Rural Workers Dwelling. Replace all numbers larger than 150m with 150m in the Rural Dwellings column.	Clause 3.1.3 A specifies that the minimum buffer for a dwelling house, dual occupancy or rural workers dwelling should be the lesser of the specified distances within the table and 150m. By making this change it removes any doubt as to what the buffer distance should be.	<i>Amend Table 2.1 accordingly</i>
Note on Page 7		Refers to Table 2.1 instead of 3.1	<i>Amend</i>
3.1.3 D exclusions to Land Use Conflict Risk Assessment (i)	<p>The reference to subsections 3.1 A, B and C Should be a reference to subsections 3.1.3 A, B and C</p> <p>The deletion of dot points 5 and 6. “Where replacement of an existing dwelling is proposed either on the same site or wholly within a 25m radius of the original dwelling; or Where conversion of an existing dwelling to bed and breakfast accommodation is proposed; or”</p> <p>Reword last dot point: /...the area of the allotments do not exceed 10% of the total/combined original lot areas.</p>	<p>Minor correction</p> <p>It is considered that these uses should not be exempt from the provision of a LUCRA due to the potential for future conflict.</p>	<p><i>Amend</i></p> <p><i>The risk of deleting these dot points may result in sterilisation of a dwelling entitlement through the inability to provide a prescribed buffer. Additionally, conflict issues will need to be addressed through a 79C assessment.</i></p> <p><i>This should also continue to apply to B&Bs, as it is an activity undertaken within a dwelling house.</i></p> <p><i>10% amendment to area of each allotment not significant – no amendment required.</i></p>

3.2 Ridgeline and Scenic Areas	3.2.1 reference to Ridgeline and Scenic Areas Map	Some of the areas shown on the map as being Ridgelines and Scenic Areas should be questioned.	<i>No change. Mapping derived from assessment of scenic areas as part of the LEP renewal.</i>
3.2.2 Natural Areas and Habitat Planning Objectives	To be reworded: Discourage development that intrudes into the skyline when viewed from public land.	Considered to be clearer in intent.	<i>Noted - The DCP was drafted with particular emphasis on positive language. Therefore amendment not required</i>
3.6.3 Mosquito Management Development Controls (iv)	After the 3 rd dot point Require is to be inserted.	This is to distinguish between the types of development and the Controls applicable for those developments.	<i>Amend accordingly</i>
3.6.3 Mosquito Management Development Controls (iv)	Source of mosquito hazard to be changed to breeding sites	Breeding sites are mapped whereas there is no information detailing source of mosquito hazard	<i>Amend accordingly</i>
3.6.3 Mosquito Management Development Controls (iv)	A further dot point is required to be added: The above mentioned 100m buffer zone is to be incorporated into the proposed development in a manner whereby the land remains in private ownership.	This is to ensure that the buffer remains in private ownership and is not forced into Council ownership.	<i>Should be subject to an individual merit assessment.</i>
3.14.3 A Lennox Head – Land adjacent to Seven Mile Beach southward from Byron Street (i)	To be reworded: Building foundations on all beachfront allotments are to comprise pilings supporting a suspended floor with a minimum clearance of 0.3 metres between natural ground surface and the underside of the floor system.	This is considered to be clearer than the existing. The remainder of the subclause is hard to understand, and it is unclear as to what it refers to.	<i>Existing provisions based on extensive community consultation – no amendment recommended.</i>
3.14.3 A Lennox Head – Land adjacent to Seven Mile Beach southward from Byron Street (iii)		Is this requirement to be contained within a Section 88B instrument. If so then it should be stated.	<i>As above</i>

3.16.3 Public Art Development Controls (ii)	The following is to be added to the end of the subclause: Or alternatively a contribution may be made towards the provision of an object of art to be located in a public place.	The addition is in accordance with the decision of Council in the Woolworths Development Application.	<i>Note adequately deals with this issue.</i>
3.16.3 Public Art Development Controls (iii)		Dot point 7 Should a time frame be included or is the maintenance for infinitum	<i>Merit assessment at DA stage.</i>
3.18.3 Protection of Foreshore and Public Open Space Areas (vi)		(vi) appears to be contradictory to the general theme of the clause as it is requiring proposed development to be screened, whereas subclause (v) refers to maximising opportunities for casual surveillance.	<i>Noted – however development can be 'subtle' in terms of design yet still achieve casual surveillance.</i>
3.19 Car Parking and Access (iv)	To be reworded: These spaces must be covered by a waterproof roof or awning structure	The access committee has requested that covering be of a waterproof material, as will be provided at Bunnings	<i>Clause removed – repetitive.</i>
Table 2.3 General Car Parking Requirements		There is no mention of the standard flat rate of car parking for commercial premises in the various town centres and requirements for developments on the ground floor and first floor. Child Care Centre have no parking requirements for staff.	<i>These provisions are contained in Chapter 6a – Commercial Development, Ballina Town Centre, Part 5, Cl. 5.1 – Carparking – Ballina Town Centre and Chapter 6c – Commercial Development, Lennox Head Table 6c.3. Staff requirements usually factored into rates.</i>
Table 2.3 General Car Parking Requirements	Should these spaces be linked to GFA or Leasable area.	The figures quoted relate to Leasable area not GFA	<i>Table specifies where calculated on GFA & GLFA.</i>
3.19.3 H Monetary Contributions		In mixed development all car parking attributable to the residential component shall be provided on site. The 20% contribution provision shall only apply to the commercial component of the required car parking.	<i>Apply a note at the end of Cl.3.19.3 H No note re 20% - matter for Section 94 Contributions Plan.</i>

Development Services Comments Chapter 3 – Urban Subdivision			
Clause	Recommended change	Reason	Recommendations
3.1.2 A Minor Subdivisions Development Controls (iv)	Where subdivision works include site modification of individual lots, cut and fill is restricted to a maximum of 1500mm for a single cut or fill per lot or a maximum of 1100mm per cut or fill for more than 1 cut per lot.	This statement is considered to be more specific than that proposed	<i>Amend accordingly</i>
3.1.2 A Minor Subdivisions Development Controls	New dot point to be included after (iv): Where subdivision works include cut and fill the combined cut and fill shall not exceed 1500mm	This dot point confirms that a combined cut and fill shall not exceed 1500mm.	<i>This will restrict multiple cuts on a site. The intention of this clause is to allow for a single cut of 1500mm or multiple cuts of 1100mm.</i>
Note page 7		Empty boxes in table	<i>Amend accordingly</i>
3.1.2 B Road Layout – Controls	New dot point: To provide legal and practical access	To ensure that subdivisions have legal and practical access to the site.	<i>Amend accordingly</i>
3.1.2 F Retention of Significant Vegetation - Control (ii)	Reword: Lots on which trees are to be retained are to nominate “no build zones” around the trees. A Safe Useful Life Expectancy (SULE) assessment is to be provided by an arborist indicating the anticipated life expectancy of the tree/s. No Build zones are to be determined by the relevant Australian Standard.	Clause is designed to change the emphasis from a building envelope to a no build area. Distinguish role of SULE and Australian Standard.	<i>Amend accordingly</i>
3.1.2 G Minimum Lot Size and Shape (ii)	Subdivision of land involving lots of between 450m ² and 300m ² must include the future dwelling house as part of the development Application(refer to Chapter 4, Section3.2 – Small Lot Integrated Housing Requirements)	Clarification of size of lots for integrated development.	<i>Note inserted.</i>

Table 3.1 – Lot Size Requirements	Multi Dwelling Housing and Residential Flat Building minimum frontage size of 25m	It is considered that these forms of development require a minimum lot frontage of such a size that will facilitate the ability to produce an attractive form of development.	25 metre frontage a substantial increase from the existing provision and the 10 metres advertised for multi dwelling housing. No amendment recommended.
Additional requirements for Cul-de-sacs	The maximum number of lots served by a cul-de-sac shall be 15. Concrete pads shall be provided at the head of the Cul-de-sac sufficient to stand all the garbage bins generated by the Lots fronting the head of the cul-de-sac. A visitor car parking space is to be provided at the head of the cul-de-sac for each lot fronting the head of the cul-de-sac. The car parking space is to be provided external to the turning area of the cul-de-sac.		These amendments are considered matters for merit assessment by Council's Engineers.
3.2 Major Subdivision		Remove all reference to Neighbourhoods for clarification purposes	<i>No amendment – self explanatory term.</i>
3.2.1 Major Subdivision Requirements.		Clarification/Note defining 'potential'.	<i>No amendment – self explanatory term.</i>
3.2.3 C Vision, Concept and Master Plan Content.	Additional dot point: Impact on the future subdivision patterns of adjoining lots.	To facilitate integrated subdivision patterns between adjoining land holdings.	<i>Consideration of dot point 3 – "relationship to surrounding landuses"</i>
3.2.3 C Vision, Concept and Master Plan Content – Development Controls (i)	Additional dot point inserted under Concept Plans - integration of environmental management.	To include consideration of environmental management.	<i>No amendment required - intention of undertaking opportunities and constraints mapping as part of the site analysis.</i>

Table 3.2 Subdivision Design Standards Access		Requirement for all sections to have the same wording in relation to recreation park and public transport stop.	<i>This section and provision relates to larger subdivisions & is not considered necessary for the minor subdivision section.</i>
Table 3.2 Subdivision Design Standards Dwelling density	Removal of the reference to transport nodes. The following words at the end of the note are to be deleted for a whole neighbourhood	The use of the term transport node is not considered appropriate for Ballina. The removal of the reference to a neighbourhood, is in accordance with the general desire of not referring to neighbourhoods.	<i>No amendment required. Source of provisions referenced and applicable to new release areas in Ballina Shire.</i>
Table 3.2 Subdivision Design Standards Suburban and urban neighbourhood lot layout	Remove all numerical values from these columns	It is considered that the numerical values should be removed from these columns in order to facilitate greater flexibility in subdivision design.	<i>Table provides example of contemporary standards – any proposed development will be assessed on a merit basis. No amendment required.</i>
Part 4	Remove the reference to Commercial	There is no reference to Commercial subdivision in Part 4	<i>Section refers to merit-based assessment for commercial. No amendment.</i>
4.1.1	Remove reference to zones B1, B2, B3, B4, B6 and IN4	There are no Commercial requirements therefore there is no need to refer to the commercial zones and there is no IN4 Zone.	<i>IN4 reference removed. Commercial reference to remain.</i>
4.1.2 A Lot size and Configuration IN1 and IN 4 Zones.	Remove reference to IN4 Zone.		<i>As above</i>

4.1.2 A Lot size and Configuration IN1 and IN 4 Zones. Development Controls (iii)	To be reworded: Lots must be regularly shaped and rectangular where practicable.	The ratio of depth to frontage is not critical in an industrial lot, as the main thing to be considered is the relationship between the size of the building and the area required for car parking spaces. It is therefore important to have a frontage which will permit an industrial building of reasonable width, an accessway and car parking spaces. It really does not matter how long this building is as it can be divided into smaller units.	<i>The lot depth ratio was based on GHDs recommendations and comparative benchmarking undertaken with other planning schemes in South East Queensland.</i> <i>This requirement has also been transferred from the existing DCP – Policy Statement No. 4.</i>
5.3.3 A Wollongbar Urban Expansion Area, Wollongbar - Density and Lot size provisions (ii) and (iii)	To be deleted	Duplication of the (i)	<i>No duplication.</i>
5.4.3 A Layout and Estate (iv)	Delete	All ready provided	<i>Retain provision.</i>
5.4.3 B Ballina Heights Estate, Cumbalum – Infrastructure Provisions (i)	Replace telephone with telecommunication	Updating terminology	<i>Amend accordingly</i>
Note page 30	To be amended to read: Each stage of the development must not contain more than 200 allotments and must be consistent with the terms of the original consent (DA 2001/128) and the master plan approval (Aspects)	Updating of note.	<i>Maintain provision.</i>
Note page 32	delete	Already provided	<i>Maintain provision.</i>
5.4.3 Active Open Space and Sports Club House (i) and (ii) and Note on page 33.	Delete	Already provided	<i>Maintain provision.</i>

9.1 **Ballina Shire Development Control Plan - Comprehensive Review.DOC**

5.4.3 C – Residential Precincts (v)	To be deleted	All lots on the eastern side of Cumbalum Way will have access to the Village Centre via a grade separated access across Cumbalum Way.	<i>Maintain provision.</i>
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Development Services Comments Chapter 4 – Residential and Tourist Development			
General Issue Raised		Comments	
Clause	Recommended change	Reason	Recommendations
General	It is considered that a Dictionary be contained within the Chapter to identify and distinguish between the different forms of residential accommodation.		These details are specified in the definitions contained in the Draft LEP which is based on Standard Instrument definitions. No changes made.
General	Clarification to be provided as to the requirements for dual key accommodation.		Controls have been implemented here to apply to all residential accommodation with some controls only applicable to specific (as identified) forms. Clarification of whether definitions are broad (e.g. <i>residential accommodation</i>) or fine (e.g. <i>dual occupancy</i>) is via the dictionary in the LEP. No changes recommended.
General	Clarify interchanging use of definitions, throughout general controls i.e. residential accommodation, dwelling, tourist and visitor accommodation (for e.g. clause 3.1.3C Controls (i) (ii) (iii))		In the absence of specific dual key accommodation controls, these should be treated as two separate tourist accommodation dwellings for the purposes of assessment.

General	Clarify the difference between Building Line and Setback.		Building lines and setbacks are essentially the same and are defined in the LEP dictionary. Generally a building line is the specified setback from a street boundary, though there may be other setbacks such as from side or rear boundaries that are not referred to as building lines. Because of the definition in the LEP dictionary, no further action is recommended.
3.1.3 A Building Height – Control (ii)		Clarification is sought as to why 3 levels has been chosen considering that the matters listed are just as relevant for a 2 storey building.	Recommendation: That control (ii) be deleted as there are other controls addressing overshadowing and privacy included in other sections of this chapter. SEPP 65 also applies to 3 or more storeys.
3.1.3 C Building Envelopes – Controls (i)		Are Residential Flat Buildings required to comply with the building envelope requirements?	Yes, residential flat buildings are a form of “residential accommodation”. No change necessary.
3.1.3 C Building Envelopes – Controls (ii)		Is this reference to dwelling a reference to all dwellings or a particular form of residential accommodation?	Amend to apply to residential accommodation.
3.1.3 C Building Envelopes – Controls (iii)		Does this control apply to tourist and visitor accommodation?	Amend to read “for all forms of residential accommodation and tourist and visitor accommodation that share a common wall.....”

Table 4.1 Secondary Frontage Building lines		It is considered that the headings should be clearer to indicate that the numbers contained in the Reduction column are the reduction from the existing building line and not the reduced building line, or alternatively show the reduced building line.	Amend accordingly. Added third column for varied building line.
3.1.3 F Development Fronting Laneway - Controls (i)		Does this control apply to tourist and visitor accommodation?	Amend to include tourist and visitor accommodation
Figure 4.6 Garage Access		What does the 0.5m shown on figure 4.6 represent.	Uncertain. This dimension has been removed for the purposes of this draft as it is not seen to have relevance. Can be re inserted at a later date if deemed necessary.
3.1.3 G Landscaping and Open Space – (ii)	Outdoor living area to be replaced by Private Open Space	The section is about Private Open Space (POS) There is a definition for POS but no definition for outdoor living area. Suggest reference be changed.	Amend accordingly.
3.1.3 G Landscaping and Open Space– (iii)	To be reworded: A new dwelling must have a private open space area of not less than 40m ² with a minimum dimension of 4m and a maximum gradient of 1:10.	It is considered that the POS for single dwellings should not be less than the POS requirements for a residential flat building. It is further considered that for an open space area to be useable, it must have a minimum dimension of not less than 4m.	24m ² is used to be consistent with the private open space requirements applied in the Codes SEPP. The requirement is based on a usable area of open space, as in most circumstances a considerable amount of space will be available. No changes made.
3.1.3 G Private Open Space for MDH and RFB – Control (i)	To be reworded: Minimum area of 40m ² with a minimum dimension of 4m and a maximum gradient of 1:10.	It is considered that for an open space area to be useable, it must have a minimum dimension of not less than 4m.	Amend accordingly. Changed requirement to minimum 40m ² , minimum dimension 4m and maximum gradient 1:10

<p>3.1.3 G Landscaped Open Space for MDH and RFD – Control (i)</p>	<p>The landscaped area of the site must not be less than the total floor area required for each dwelling unit</p>	<p>Is this correct or should it be the total landscaped requirement for each dwelling. There is no need to include the word unit as we are referring to individual dwellings which will be defined at the commencement of the chapter, and there is no other reference to a dwelling unit.</p>	<p>Reword to read “the landscaped area of the site is to be calculated using table 4.2. Balconies, courtyards, driveways and required car parking are not included in the total floor area calculations per dwelling”.</p>
<p>3.1.3 G Landscaped Open Space for MDH and RFD– Control (ii)</p>	<p>To be reworded: When calculating the landscaped area of the site, POS is calculated as part of the total landscaped area required in table 4.2.</p>	<p>It is considered that the proposed wording is clearer, it also removes the reference to a courtyard, which attracts no open space requirements in this DCP</p>	<p>Amend accordingly.</p>
<p>3.1.3 H Vehicular Access and Parking – Control – Basement Parking (iii)</p>	<p>The walls of basement car parks are to be located within the building’s footprint. Basement car parking is not to extend outside the external line of terraces, balconies and porches.</p>	<p>It is considered that there is no practical reason why a basement car park must be restricted to the footprint of the building.</p>	<p>This provision was included to maintain visual amenity and should only relate to walls that protrude above ground. Amend (iii) to read “The walls of basement car parks that protrude above ground level.....”</p>
<p>3.1.3 J Solar Access</p>	<p>References to sunlight should be changed to a reference to direct sunlight</p>	<p>During the Ramada appeal, much emphasis was placed on the words direct sunlight as opposed to just sunlight.</p>	<p>Amend accordingly. References to sunlight access changed to “direct sunlight”.</p>
<p>3.1.3 J Solar Access – Control (iii)</p>	<p>Wording to be changed: private open space be added after dwelling</p>	<p>Simplification of the fact that direct sunlight is to be provided to both the dwelling and the POS</p>	<p>Amend accordingly.</p>
<p>3.1.3 J Solar Access – Control (iv)</p>	<p>To be reworded : Where existing overshadowing by buildings and fences does not permit this required amount of direct sunlight, the proposed development is not to unreasonably reduce the amount of direct sunlight further.</p>	<p>This rewording is the result of removing the sunlight requirement for the POS from this subclause, and making existing overshadowing a subclause of it’s own.</p>	<p>Amend accordingly</p>

3.1.3 J Solar Access – Control (v)		There is no subclause (v)	<i>Amend</i>
3.1.3 J Solar Access (vi)	To be reworded: Buildings are to be designed	Grammar correction	<i>Amend</i>
Table 4.5 Minimum Lot Areas for Residential Accommodation		For clarification it is considered that per dwelling should be placed in the Semi Detached Dwellings and Attached Dwellings Minimum Lot Area column. It should also be noted that the figure refers to Semi Attached Dwelling where as the definition in the LEP refers to a Semi Detached Dwelling.	<i>Amend</i>
3.1.3 S Tourist Accommodation Length of Stay Control (i)	Change “used on a temporary basis” with “occupied on a short term basis”	Minor change	<i>Amend</i>
Note on page 24		It is considered that the note should be relocated to between 3.1.2 Planning Objectives and 3.1.3 Development Controls.	<i>Amend</i>
3.1.3 and 3.1.4 page 25		Should be 3.2.3 and 3.2.4	<i>Amend</i>
3.2.2 Small Lot Integrated Development - Background	Integrated housing consists of the concurrent subdivision of land into 4 or more allotments (each between 450m ² and 300m ²)	For consistency with Chapter 3 – Urban Subdivision	<i>Amend</i>
3.1.4 Development Controls A Building Design – General (i)	The following to be added as a dot point: There will be not less than 40m ² of POS with a minimum dimension of 4m and adequate solar access.	There is no reference to the provision of POS, and it is considered important that all dwellings have a reasonable amount of POS.	The POS requirements contained in 3.1.3 G apply to integrated developments. A point should be added to (i) noting that the provisions of 3.1.3 G apply.

<p>3.1.4 Development Controls Building Design A (iii)</p>	<p>The reference to building lines and setbacks be deleted</p>	<p>The fact that the development is small lot integrated development should not be used as a reason for not complying with the normal building line requirements. Setbacks will still have to comply with the normal requirements of the BCA.</p>	<p>It is considered reasonable to provide a merit based assessment for building lines, setbacks and building envelopes in integrated developments as circumstances will vary on a site by site basis. It may not always be appropriate for small lot housing to comply with the standards applied to other forms of residential accommodation.</p> <p>No change made other than the insertion of a reference regarding compliance with the BCA.</p>
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Development Services Comments Chapter 5 – Industrial Development			
Clause	Recommended change	Reason	Recommendations
General	The distance from a street frontage boundary to the line behind which a building can be erected should be referred to as the building line.		<i>No change. Reference is sufficiently clear.</i>
General	The distance from a side or rear property boundary and the line behind which a building can be erected should be referred to as the building setback.		<i>No change. Reference is sufficiently clear.</i>
General	Clarification should be provided concerning the establishment of a caretaker's residence on site.		<i>No change. Caretaker's dwellings are not permitted under the Standard Instrument LEP.</i>
3.1.3 A (a)	To be deleted	Considered unnecessary	<i>Noted, however the intent of Chapter 5 is to capture the existing character of each industrial estate. This objective is considered important in maintaining flexibility in the application of other development controls in this section, in particular where a variation may be sought.</i>
3.1.3 A Site Layout Control (i)	The building line to be changed from 6m to 4.6m for all areas.	6.0m is considered excessive. Within an industrial area 4.6m is considered a more appropriate building line. 4.6m is the building line currently applicable to the Southern Cross Industrial area and Barlows Road Industrial Estate.	<i>Whilst a 4.6m building line currently applies in the Southern Cross Industrial Estate, a 6m building line applies in the 1st stage of Southern Cross Estate and at Russelton Estate.</i>

			<p><i>The intent of this clause was to apply the greater of the two building lines, however allow a variation to be taken as an average from the nearest 2 buildings.</i></p> <p><i>No change.</i></p>
3.1.3 A Site Layout Control (ii)	To be deleted	It is considered that there should be no encroachment forward of the building line in light of control (i).	<i>No change as outlined above.</i>
3.1.3 A Building Appearance – Control (i)	To be deleted	Covered by (ii)	<i>No change. Control has a specific purpose.</i>
3.1.3 A Building Appearance – Control (ii)	Reword and include a requirement for all visible concrete walls to be painted.	Reword in a positive manner (i.e. what you can do not what you can't)	<i>Amend. Reword to clarify.</i>
3.1.3 A Building Appearance – Control (iii)	To be Reworded: Buildings erected on any lot shall have a roof pitch no greater than 3.5° and have a low reflective index.	Reword in a positive manner (i.e. what you can do not what you can't)	<i>Amend. Reword to clarify.</i>
3.1.3 A Building Appearance – Control (v)	To be reworded: The architectural form and character of the building shall avoid large unbroken expanses of wall or roof where facing a street frontage; and	To provide certainty and remove possible doubt.	<i>Amend. Reword to clarify.</i>
3.1.3 A Signage - Control	To be reworded: All signs are to be business identification signs only. Refer to Chapter 8 for detailed provisions	Clauses (i) and (ii) and the note are in some parts contradictory and duplication of controls contained in Chapter 8	<i>The intent of this clause is to encourage consolidated signage that compliments the façade. As there are minimal controls contained in this section and the note references Chapter 8, no changes are considered necessary.</i>

3.1.3 B Landscaping and Screening (i)	A landscaped plan is to be submitted with the development application and will form part of the development consent.	Minor correction:	<i>Amend</i>
3.1.3 B Landscaping and Screening (ii)	To be reworded: A landscaped area with a minimum width of 3 metres is to be provided across the entire street frontage, apart from access ways. This landscaped area may also incorporate stormwater controls and pedestrian access.	3 metres is considered to be a reasonable amount of landscaping for an industrial development, and there should be no intrusion into this area.	<i>Amend</i>
3.1.3 B Landscaping and Screening (iii)	To be deleted	It is considered that there is no need to landscape a car parking area within an industrial area and that the landscaping at the front of the site should provided adequate landscaping.	<i>Amend</i>
3.1.3.B Landscaping and Screening (iv)	Planting used in landscaped areas are to be	Minor correction:	<i>Amend</i>
3.1.3 B Landscaping and Screening (v)	To be reworded: A tall tree shall be planted within the front landscaped area for every 10 metres of frontage, supplemented by massed groups of native shrubs and ground covers. Species should be selected for their relatively fast growth and low maintenance and suitability for the purpose.	Provides certainty as to the number of trees to be planted.	<i>Amend</i>

3.1.3 C Car Parking and Access a (i)	Clause to be deleted and replaced with the following: A vehicle manoeuvring area shall be provided on site to facilitate all vehicles entering and exiting the site in a forward direction. Signage is to be provided adjacent to the entrance to the site indicating this requirement.	A new clause is to be introduced requiring the provision of a turning area for all vehicles on site in order that they may enter and leave the site in a forward direction.	<i>No change. Addressed by reference to Australian Standard in the clause.</i>
3.1.3 C Car Parking and Access	Additional clause (inserted after (i) above) Car parking and or manoeuvring areas must not be provided within the front landscaped area.	The new clause allows a manoeuvring area and or car parking space in front of the building but behind the 3m landscaped area as opposed to the reference to the building line or setback referred to in current clause (i)	<i>Adjust existing clause to incorporated the suggested provision.</i>
3.1.3 C Car Parking and Access- Control (v)	Replace the word "must" with "may"	Minor correction:	<i>No change. The word "may" implies that it doesn't necessarily need to be complies with, which undermines the integrity of this clause</i>

Development Services Comments Chapter 6 – Commercial Development			
<p>Consideration should be given to requiring parking spaces for cyclist and scooters within commercial areas. We question why ceiling levels for the ground and first floors are to be 3.6 metres high and 2.7 metres for other floors when BCA requires only 2.4 metres. <i>Response – SEPP 65 provision.</i> Structure plan as well as precinct plan to be attached to Chapter.</p>			
Clause	Recommended change	Reason	Recommendations
3.1.3 A Building Height – Controls (ii)	Change “3 or more levels” to “2 or more levels”	Overshadowing and privacy are just as critical from a 2 storey building as they are from a 3 storey building.	<i>Delete (ii), addressed through SEPP 65 and Chapter 4 provisions.</i>
3.1.3 D Building Setbacks – Controls (i)		Refers to Part 5 of this chapter. There is no Part 5 in this chapter.	<i>Amend to apply to chapter 6a – 6d.</i>
3.1.3 E Arcades - Controls (i) dot point (iii)	To be deleted. Be clear of all obstructions	This is considered to be restrictive, as it precludes any shop owner in the arcade from displaying material or having tables and chairs placed in the arcade. It is considered that an alternative may be to require a cleared path of travel, of a particular width to be provided within the arcade. This would ensure a cleared pathway whilst still allowing for shop owners to place things in the arcade.	<i>Amend accordingly.</i>
3.1.3 E Arcades – Controls (i) dot point (iv)	To be reworded: Where air conditioned, entry doors are to occupy not less than 50% of the width of the entrance. Doors and side walls are to be clear glazed.	To provide certainty and remove possible doubt.	<i>Existing wording to be retained – provision is about the transparency of the doors to air conditioned areas not the % of entrance with a door.</i>
3.1.3 E Arcades – Controls (iii)	pavement	Minor correction	<i>Amend</i>
3.1.3 F Awnings – Controls (ii) dot point 2	To be reworded: A minimum 3.2 metres and a maximum 4.2 metres clearance from the finished ground level at the property boundary.	To provide certainty and remove possible doubt.	<i>Amend</i>

9.1 **Ballina Shire Development Control Plan - Comprehensive Review.DOC**

3.1.3 G Landscaping (i)	“where applicable” should be added to the end of this clause.	It is considered that this should be applied as not all new commercial developments will be in a position to provide landscaping.	<i>Amend</i>
3.1.3 I Vehicular Access and Parking – Controls (iii)	Change the word “designated” to “required”	Designated car parking spaces may include parking spaces in excess of the required number of car parking spaces. Designated car parking spaces in excess of the required number of car parking spaces may be gated if the developer desires.	<i>Amend</i>
3.1.3 L Energy Efficiency – Controls(i)	State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development, should be added to the end of the subclause.	State Environmental Planning Policy No 65 –Design Quality of Residential Flat Development, also contains energy efficiency provisions which should be considered.	<i>Amend</i>
4 Mixed development 4.2.2 Introduction	4.2.2 to be changed to 4.1.2.	Incorrect numbering	<i>Amend</i>
4 Mixed development 4.2.2 Introduction	To be reworded: The controls in this part of Chapter 6 apply to development that contain a mix of residential and other different land uses	To clarify that mixed development relates to residential and other forms of development.	<i>Note covers this – example inserted.</i>
4.1.3. Planning Objectives (b)	Amenity needs to be added to the subclause	It is considered that amenity should be added to the subclause as it is an all embracing term.	<i>Amend</i>
4.1.3 A Building Design - Controls	An additional subclause needs to be provided: All car parking spaces attributable to residential development including visitor spaces are to be provided on site. Car parking spaces attributable to residential development including visitor spaces cannot be paid for under the provisions of a Section 94 Plan.	It is important that sufficient car parking spaces be provided on site for the use of residents.	<i>Amend</i>

<p>4.1.3 A Building Design - Controls</p>	<p>An additional subclause needs to be provided: All car parking spaces attributable to commercial development must be accessible at all times. Car parking spaces attributable to Residential development may be secured parking.</p>		<p><i>Add a note clarifying this requirement</i></p>
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6 a - Commercial Development Ballina Town Centre

References to minimal zero should be changed to zero.
It is considered that all references to deep soil zones are confusing and needs to be reconsidered, especially where it references in front of the building line where the building line is zero.

<p>Table 6a.1 - Town Centre Core Building Envelope Controls (iv)</p>	<p>To be reworded: Corner buildings may have a zero boundary setback to both frontages of the site for all storeys of the building. Building depth. 18m depth of building should be inclusive of balconies. Balconies Replace the word must with may.</p>	<p>Corner buildings within the Ballina Town Centre should have zero boundary setback in order to provide an active street frontage to both streets. Why is zero setback possible from rear lanes up to the second floor and then 25m after that. In other sections the requirements is 24m including balconies, which is in accordance with SEPP65. Minor change</p>	<p><i>The setbacks included in this section are based on the detailed design work undertaken by GeoLINK in association with the preparation of the Ballina Town Centre DCP (Chapter 2 of the Ballina Combined DCP).</i> <i>The intention of the setbacks prescribed in this section were to provide solar access and natural ventilation. These controls also contribute to the bulk and scale, in order to be consistent with the desired future context.</i></p>
<p>Table 6a.2 – Northern fringe precinct building envelope controls.</p>	<p>Side setbacks As above zero frontage should be possible to both frontages.</p>		<p><i>Provisions provide for zero front and side setback.</i></p>

4.3.1 Desired Future Character		Should northerly aspect be replaced with southerly aspect.	<i>Amend</i>
Table 6a-3 Fawcett Park precinct building envelope controls	Rear setbacks to Lane Zero setback required Vehicular access to basement parking Delete the reference to located in the street block between Cherry Street and Moon Street.	The front setbacks in the area between Moon Street and RSL Club. Why are these setbacks being proposed. To encourage development to front onto the reserve. It is considered that access to basements should not be permitted across River Street anywhere in the Ballina Town Centre	<i>The controls are existing controls resulting from a detailed study and urban design assessment. Any revision should be subject to a comprehensive review of the controls.</i>
Table 6.a.4 – Riverside East Precinct Building Envelop Controls (iii) (xvi)	Replace existing with an explanation of the building setback. At this location an integrated vehicular access is to be provided	Minor change Minor change	<i>Building setback adequately explained in Chapter 6.</i> <i>Amend</i>
Table 6a.5 – Riverside west precinct building envelope controls (xiv)	To be reworded: A section of the foreshore located between War Memorial Park and Kerr Street is to be dedicated to Council for public open space in accordance with the requirements of the Ballina Town Centre Structure Plan.		<i>Amend</i>
4.6.1 Desired Future Character		Remove the reference to the highly prominent Kerr and River Street corner Add Old to the reference to the Highway Strip.	<i>Term describes visual prominence of corner.</i> <i>Amend – insert ‘old’</i>

Table 6a.6 – western entrance precinct building envelope controls. (iv) Rear Setbacks. Housing choice. (xix)	Delete all other than zero metres. Those sections deleted from side setbacks.	It is considered that the remainder of the subclause relates to the rear setbacks. It is considered that this subclause needs clarification. Housing choice has not been included in any other precinct, it is therefore considered that housing choice should be taken out of this precinct or added to all the other precincts. It is considered that this section should be combined with rear setbacks (which will need to be numbered). It is also questioned as to whether or not this lane should go through to River Street.	<i>No amendment – relates to front & then upper level setbacks.</i>
4.7	Controls Applying to the Old Highway Strip Precinct	Minor change	<i>Amend</i>
Table 6a.7 – Old Highway Strip Precinct Building Envelope Controls (ii)	It is considered that side should be replaced by front .	Minor change	<i>Amend</i>
Table 6a.9 – Ballina Town Centre Car Parking Requirements.	Residential car parking spaces	All land uses within the Ballina Town Centre should be the same. That is 1 space per 25m ² gross floor area at ground level. 1 space per 40m ² gross floor area at first floor and above. A minimum of 100% of the total required spaces on site are to be accessible parking. Section 94 contributions may be paid for a maximum of 20% of the required number of car parking spaces. All residential car parking spaces are to be provided on site in accordance with the provisions of Table 4.3 – Car parking for residential and tourist uses.	<i>All land uses within the town centre are the same.</i> <i>Amend to require spaces to be accessible to the public.</i> <i>Section 94 Plan to address % able to be addressed via contribution.</i> <i>Amend</i>

5.2 Car Parking Credits – Ballina Town Centre.	New subclause (v) No car parking credits will be provided in relation to Residential accommodation	All residential car parking spaces should be provided on site, therefore no credits will be given for residential accommodation.	<i>Provisions need to provide for credits where the rate for residential has increased post-approval.</i>
6 b _Commercial Development Alstonville			
<p>It is considered that this section contained a lot of duplications and it is recommended that the following subclause be deleted: Part 3 should be changed from The Existing Village Character to Desired Future Character Statement. <i>Retain refers to existing character not desired future.</i></p> <p>4.1 Element – Building Form Subclauses (i), (ii) and (iii) 4.2 Element – Building Design Subclauses (ii), (iii), (v) and (vi) Car parking provisions are to be incorporated into the Chapter. <i>Parking in Chapter 2.</i></p>			
4.1 Element – Building Form and 4.2 Element - Building Design	Building Form be replaced by Building Design and the deletion of 4.2 Building Design	It is considered that there is little if any difference between Building Form and Building Design and with the removal of the duplications, the subclauses form one clause.	<i>Provisions to remain – there are differences.</i>
4.1 Element – Building Form (iv)	Residential be replaced by Commercial	The subclause relates to commercial development not residential.	<i>Amend</i>
4.1 Element - Building Design	New large development should maintain similar articulation as the existing development.	This is considered an important element to maintain the existing character of Alstonville.	<i>Noted – existing provisions adequately address.</i>
4.4 Element – Advertising Signs and Structures (ii)	To be reworded; Advertising must be placed in locations on buildings which would traditionally have been used as advertising areas, these are the faces of veranda awnings, building parapets or walls	Removed the reference to Early Main Street photographs.	<i>Retain reference – provides context.</i>

Chapter 6c – Commercial Development Lennox Head			
<p>New precinct plans required clearly showing the precincts. <i>Plans clearly define precincts</i> Car parking to be moved to Part 4 Development Controls – All precincts. The chapter contains no car parking provisions for precincts B and C – <i>Parking that varies from Chapter 2 detailed here – otherwise refer to Chapter 2.</i></p>			
4.1 Elements – Building Design – controls – Colours and Materials (i)	Coasted needs to be changed to coated.	Minor correction	<i>Amend</i>
4.2 Element – Landscaping – objective (a)	The words an integral to be replaced by a design	Minor correction	<i>Retain – integral is the correct term.</i>
4.2 Element – Landscaping – objective (c)	Delete subclause	There are no landscape species indigenous to Lennox Head.	<i>Amend to refer indigenous to local area.</i>
Table 6c.1 - Precinct A Development Controls	All Car parking to be placed into two rows, under the heading of Commercial Development and Other Land Uses The Commercial development will require: 1 space per 30m ² Gross Floor Area (GFA) to be provided on site plus 1 space per 150m ² GFA to be paid as contributions for the improvement of public lands for car parking purposes. A minimum of 75% of total required spaces to be available for customer accessible parking. Other Land Uses will require car parking to be provided on site, in accordance with the rates specified in Chapter 2.	To facilitate the easy conversion of uses from one form of development to another.	<i>Noted – this does not change the intention of this clause, only sets it out differently. No change considered necessary.</i>

Table 6c.3 - Precinct D Development Controls	All Car parking to be placed into two rows, under the heading of Commercial Development and Other Land Uses The Commercial development will require: 1 space per 25m ² Gross Floor Area (GFA) for ground floor and 40m ² (GFA) for first floor. A minimum of 75% of total required spaces to be available for customer accessible parking. Other Land Uses will require car parking to be provided on site, in accordance with the rates specified in Chapter 2.	To facilitate the easy conversion of uses from one form of development to another.	<i>Noted – this does not change the intention of this clause, only sets it out differently. No change considered necessary.</i>
Chapter 6d – Commercial Development West Ballina Enterprise Corridor			
B6 Enterprise Corridor – Possible Development Built Form Configuration plan and B6 Enterprise Corridor – Site Recommendations plan need to be added to the chapter. As Precinct 1, 3 and 6 are treated as being the same should they be reclassified as one precinct. <i>Separate precincts appropriate – variations within.</i>			
Page 6 second paragraph	Amend Built in incentives	Minor correction It is also considered that this statement should be removed as most if not all of the incentives are provided for development complying with the basic requirements of the plan.	<i>Amend. It important that this statement is maintained as it a key feature of this chapter. The B6 zone allows for a variety of landuses within this precinct, however the DCP encourages particular landuses in various precincts through the use of incentives.</i>

<p>4.1 – Building setback – Control (i)</p> <p>(i) and (ii)</p> <p>(iii)</p>	<p>Change minimum 10 m building line to 6m.</p> <p>Remove reference to setback.</p> <p>Remove reference to building line</p>	<p>10m is considered excessive and will encourage an expectation of being able to provide car parking in front of the building line which is contrary to objective b</p> <p>Setbacks relate to side and rear properties boundaries.</p> <p>Building lines relate to street frontages not side and rear property boundaries.</p>	<p><i>The 10m setback has been based on detailed urban design investigations undertaken in the locality by consultants King & Campbell. The 'built in' incentives included within each precinct will encourage the intended design configurations, which are further supported by the objectives.</i></p> <p><i>Amend</i></p>
<p>4.1 – Building setback – Control (iv)</p>	<p>Delete subclause</p>	<p>The area is designed as a future Industrial/commercial area, which generally provides zero building lines. Will impose unnecessary restriction on development.</p>	<p><i>The side setbacks recommended were based on detailed urban design investigations and are intended to maintain building separation and to encourage the certain building configuration.</i></p>
<p>4.1 – Building setback – Control (v)</p>	<p>Delete subclause</p>	<p>Compliance with the applicable Precinct land use controls is not considered sufficient reason to permit variations.</p>	<p><i>The success of the B6 Enterprise Corridor is based on various precincts that cluster similar land uses & development types. As the DCP can not prohibit certain uses that may be permissible within the zone, it instead provides incentives to encourage appropriate forms of development/land uses. It should be noted, variations should only be supported where the objective can be addressed.</i></p>

4.2 – Access - Objectives (c)	To be reworded: To provide simple, workable and practical access and parking arrangements.	For clarification.	<i>Noted – the suggested words are not considered to clarify the objective any more than the current words.</i>
4.2- Access – Controls (ii)	To be reworded: Access off River Street is to be discouraged. Service roads are to be provided wherever possible, which may require some properties to be affected by road widening provisions.	More practical. The area should be examined to determine where service roads may be provided.	<i>The area was examined during the work undertaken by King & Campbell. A note referencing the Site Recommendations Plan – Exhibit 3 should be added to assist in clarifying this.</i>
4.2 – Car parking – Controls	New subclause: iv) All car parking spaces are to be provided behind the building line.	All car parking should be provided behind the building line in accord with 4.1 b <i>provide an attractive street frontage not dominated by car parking</i>	<i>Changes not recommended. The incentives are designed to encourage the appropriate development configurations.</i> <i>It is considered to restrictive and counteractive in terms of how the DCP operates to restrict where parking is provided.</i>
4.5 – Landscaping – Objective (b)	To be reworded: Improve the amenity of places through the retention and/or planting of trees and shrubs.	Contrary to the controls.	<i>Amend accordingly</i>
4.5 – Landscaping – Control (iii)	Reference to 20m ³	This figure seems excessive should it be 2m ³ .	<i>Delete subclause (iii)</i>
4.5 – Landscaping – Control (iv)		Needs clarification as to where this applies as it appears to contradict (ii)	<i>Subclause (iv) proved additional details to (ii). No changes recommended.</i>

4.5 – Landscaping – Control (v)		There is no provision in Part 3 for the preparation/lodgement of a landscape plan.	<i>Amend subclause (v) to read “Where landscaping is required in accordance with this element, a landscape plan is to be submitted”.</i>
4.6 – Building design – Control (ii)		The requirement of a minimum of 50% of facades to be clear glazed, may not be possible with all residential units required to provide a garage and separate entrance.	<i>The residential component of the development is to be located on the 2nd floor. The 50% requirement only applies to the ground floor. Where there is any inconsistency with the general controls and precinct controls, the precinct controls prevail – as noted in Part 3, C. 3.1.</i>
4.6 – Building design – Control (iv)		This requirement seems to contradict the requirements for the live/work precinct, which requires access onto the communal area.	<i>This subclause relates to the commercial component of the development which is to be generally encouraged on the ground floor. Where there is any inconsistency with the general controls and precinct controls, the precinct controls prevail – as noted in Part 3, C. 3.1.</i>
4.7 – Fencing – Control (iii)	Security fencing should not be built forward of the building line, and must be constructed of black plastic coated chain wire with 2 metres wide landscaping in front	This is the standard security fencing requirement.	<i>No changes required. Subclause (iii) only relates to specific scenarios where storage is required and will therefore be assessed primarily on its merits. This cl. limits security fencing to secondary street frontages.</i>

5.1 - Desired Future Character	Delete Two of these three lots have been granted consent for large footprint retail development.	Delete first paragraph, as no longer relevant. Delete the word therefore from paragraph 2 Not considered relevant. If this subclause is to be retained needs to be amended as there are more than 3 lots in precinct 1, 3 and 6	<i>Amend accordingly</i>
Table 6d.1 Gateway sites – Precinct 1 (i)	Delete subclause 1	No longer relevant	<i>Amend accordingly</i>
Table 6d.1 Gateway sites – Precinct 1 (ii)		Not sure if this should relate to front building lines or to the side and rear property boundaries setback. Could also be in conflict with 4.1.	<i>This subclause provides an incentive for gateway sites by encouraging good visual outcomes through the ability to vary the setback requirements. It relates to the most prominent boundaries being the front and side boundaries.</i> <i>Where there is any inconsistency with the general controls and precinct controls, the precinct controls prevail – as noted in Part 3, C. 3.1.</i>
Table 6d.1 Gateway sites – Precinct 1 (iii)	Delete subclause (iii).	Why should they be given a concession for providing what would be normally expected.	<i>Noted – variations to the front setback can be achieved through the provisions of Cl. 4.1(v). Therefore subclause (iii) can be deleted.</i>
Table 6d.1 Gateway sites – Precinct 1 (iv)	To be reworded: Car parking is required to be provided behind the building line.	All car parking should be provided behind the building line.	<i>Amend accordingly</i>

Table 6d.1 Access	Remove : The following provisions apply to Precincts 1, 3 and 6.	Minor correction.	<i>Amend.</i>
(v)	To be reworded: Limited access onto River Street, with Service lanes provided where possible. delete The following provisions apply to Precinct 1:	Access to River Street should be limited and wherever possible all access should be from other streets.	<i>Amend</i>
(vii)	To be deleted	Not relevant No longer relevant.	<i>Noted - Delete</i>
Figure 6d.1	Building is located the wrong way. The long section of the building is on the wrong side.	The building should be facing the road with the car parking behind the building. Tenants in this section of the building will be exposed to the afternoon sun, whereas if the building is located on the other side of the lot tenants will get the morning sun.	<i>The figure demonstrates an indicative design only. It helps to illustrate the intension of the precinct controls and is by no means the only way of achieving this.</i>
Delete 5.4		Incentives should not be given for providing a development in accordance with the basic requirements of the DCP	<i>A relaxation of certain development controls, provided the relevant objectives can be achieved is considered to stimulate appropriate development within this area. The success of the B6 Enterprise Corridor is based on various precincts that cluster similar land uses & development types. As the DCP can not prohibited certain uses that may be permissible within the zone, it instead provides incentives to encourage appropriate forms of development/land uses</i>
Table 6d.2 Car parking	Delete (i), (ii) and (iii)		<i>Delete (see below)</i>

Table 6d.2 Car parking	(iv), (v), (vi) and (vii) (viii) to be reworded: A reduction in the number of car parking spaces may be granted if the application were to be supported by a parking analysis prepared by a suitably qualified consultant.	Should be added to Table 6d.1 To change the emphasis of the subclause.	<i>Amend accordingly</i>
Table 6d.2 Setbacks	(ix) to be deleted. (x) and (xi) are to be combined and attached to table 6d.1 Setback reductions for sites adjoining residential zones shall only be considered where applicants can demonstrate that the development will not unduly overshadow adjoining residences including access to solar panels and provides adequate visual and acoustic treatments.	Clarification	<i>No changes recommended.</i> <i>This requirement is not considered necessary for Precincts 3 & 6 as they relate to large footprint retail land uses and it is therefore not considered appropriate to encourage a setback reduction for sites adjoining residential areas.</i>
6.1 Desired Future Character	Delete the second paragraph. Delete the second sentence of the third paragraph. Delete the second sentence of the fourth paragraph. Delete encouraged and discouraged lists.	Not considered necessary. Not considered necessary. Not considered to be the right area for storage sheds. Encouraged uses are duplication and it is not considered appropriate to list the uses not encouraged.	<i>Noted – however the text in this section is important in defining the desired future character of this precinct.</i>
Reference needs to be made that table 6d.3 relates to shop top housing development and that all other development must comply with the general requirements contained in Chapter 6.			
Comment – Each precinct within this chapter needs to be named accordingly and indicated on a map within the text.			
Table 6d.3 – Development Controls for precinct 2 – Building design (iv)	Remove reference to two bedrooms	Considered to restrictive	<i>Amend accordingly.</i> <i>The application of a 120m² floor area indicates the intended size of the units.</i>

Table 6d.3 – Development Controls for precinct 2 – Waste services	Delete whole section	Considered to restrictive	<i>Given the nature of the intended form of development in this precinct, it important that waste service location is appropriately considered.</i>
Table 6d.3 – Development Controls for precinct 2 – privacy	Change title to height of building: Amend wording to: Building height is limited to two storeys.	His is what the clause relates to.	<i>The intension of this clause is to maintain privacy for development adjoining existing residential areas. The DCP can not restrict building height as it is a development control contained in the LEP. Reword clause to read "buildings are limited to two storeys where adjoining an existing residential area".</i>
Table 6d.3 – Development Controls for precinct 2 – Fences and walls (xi), (xii) and (xiv)	Delete subclauses (xi) and (xii). Change 1.5 to 1.8 in subclause (xiv)	Considered to restrictive. 1.8 is considered an appropriate height for privacy	<i>Fencing is not considered appropriate within this precinct to encourage active street frontages, whilst maximising the flow of pedestrian traffic through the precinct. The only fencing considered suitable is where areas of private open space associated with the residential component of the development are fenced for privacy.</i> <i>Amend Cl (xiv) to 1.8m.</i>
Table 6d.3 – Development	(xv) Remove the note at the end of the dot point.	Minor change.	<i>Amend subclause (xv) to remove note</i>

<p>Controls for precinct 2 – Access and Parking (xv), (xvi) and (xvii)</p>	<p>Second and third dot point combine and change to 1 space per 75m² for commercial and industrial development. (xvi) delete subclause.</p> <p>(xvii) third dot point add after public street or common area</p> <p>Delete last dot point</p> <p>Additional dot point: Where shop top housing fronts a secondary street pedestrian access to each dwelling fronting the street is to be provided from the secondary street.</p> <p>Additional dot point: No vehicular access is to be provided from a street frontage other than the combined access point.</p>	<p>Bringing into line with general car parking requirement.</p> <p>No need for visitor parking additional parking already provided on site.</p> <p>To provide for entrances which can not be provided from street frontages.</p> <p>Not considered necessary.</p> <p>It is considered appropriate to provide a street frontage to the secondary street for streetscape amenity.</p> <p>It is considered necessary to limit vehicular access from street frontages to improve the streetscape amenity and maximize on street parking.</p>	<p><i>and combine dot points 2 and 3.</i></p> <p><i>The requirement for visitor parking should be assessed on its merits in accordance with clause (xvi) as it really depends on the nature of the land use proposed and the amount of residential accommodation proposed.</i></p> <p><i>Noted – amend accordingly</i></p>
<p>Table 6d.3 – Development Controls for precinct 2 – setbacks (xxi)</p>	<p>Delete subclause</p>	<p>Contrary to other clauses</p>	<p><i>This is an important requirement for this precinct and forms of development encouraged here. No changes recommended.</i></p>
<p>Table 6d.3 – Development Controls for precinct 2 – Private Open Space (xxii) and (xxiii)</p>	<p>(xxii) Change the word width to dimension.</p> <p>(xxiii) change wording to: Includes a minimum area of 16m² with a minimum dimension of 2m.</p>	<p>More appropriate in completeness.</p> <p>More appropriate in completeness.</p>	<p><i>Amend accordingly.</i></p>
<p>Table 6d.3 – Development Controls for precinct 2 – Roof top gardens</p>	<p>Change wording to: Minimum area of 12m² and a minimum dimension of 3m.</p>	<p>More appropriate in completeness.</p>	<p><i>Amend accordingly.</i></p>

Table 6d.3 – Development Controls for precinct 2 – new section required.	Common space sections to be placed in Common space section rather than in rooftop gardens section.	Minor change for clarification	<i>Change the name of this section to Rooftop Gardens and Common Space Areas.</i>
Table 6d.3 – Development Controls for precinct 2 – Hours of operation	Delete section.	Why is there a need to restrict hours, on this type of development, which by its nature must be non intrusive and in particular the need for extended hours on Thursday night if there is to be no retailing in the area.	<i>This clause applies to development that is either noise or traffic generating. This clause need only apply where necessary.</i>

<p>Table 6d.4 – development incentives applying to Precinct 2</p>	<p>Delete all the information provided and instead provide. To encourage shop top housing developments the following special provisions will apply. Building may be three storeys in height at the front of the building for the provision of one additional residential dwelling, in accordance with figure 6d.2 subject to the following;</p> <ul style="list-style-type: none"> • The third storey dwelling may be in excess of 120m²; • The third storey dwelling will not be required to provide any car parking spaces; • Two common parking spaces are to be covered for each dwelling on the third storey; • A roof top garden or communal open space is to be provided; 	<p>why should special provisions be made for developments which comply with the required provisions. However, as this is desired the following alternative is offered to that provided in Chapter 6d which erode the general requirements of Chapter 6. The alternative is considered to be a more positive approach which does not impact on the general provisions of the chapter. It is also considered that these incentives offer real financial incentives.</p>	<p><i>Incentives to be retained but clarified.</i></p>
<p>Part 7.1 Desire Future Character</p>		<p>It is considered that there is no need to require service centres to be linked to related sales.</p>	<p><i>This precinct relates to the Motor Sales Strip and related servicing activities. The two precincts are considered to be closely related and therefore warrant a specific description in the desired future character.</i></p>
<p>Table 6d.5 – Development Controls applying to Precincts 4 & 5 - General Controls – Precinct 4 (ii) and (iv)</p>		<p>Needs to clarify that access should be provided from an access road where one can be provided. Alternatively access will only be provided from River Street where there is no reasonable alternative. Access should be encouraged from Kalinga Road.</p>	<p><i>In order to achieve the provisions contained in this section, it is likely that alternative access arrangement will need to be investigated. No changes required.</i></p>

	(iv) Off street parking is required and should be provided	Minor change	<i>(iv) – no changes required. There may be instances where off street parking can be considered on its merit.</i>
7.4 Precinct 4 and 5 Development Incentives		Why should incentives be provided for complying with the required provisions	<i>The relaxation of certain requirements has been provided to encourage a certain type of landuse.</i>
8.1 Desired Future Character		Precinct 4 and 5 are referred to instead of precinct 7	<i>Amend accordingly.</i>
Table 6d.7		All references to River Street should also include a reference to Barlow Road.	<i>Barlow Road is considered to be a secondary street frontage and therefore not all of the clauses are considered appropriate. Where there is a particular requirement that relates to both street frontages it has been noted.</i>

Draft Ballina Development Control Plan 2012 – EHO and Compliance Submission Summary

Ballina Shire Council – Environmental Health Officers

Submission	Response
<p>Chapter 2 3.4.3 Contaminated Land.</p> <p>Add into the paragraph i) after the words "All development" the words "including Category 2 remediation work"</p>	<p>Difficult to justify, SEPP 55 states what has to be considered for Category 2 remediation work. To include it would have no legal basis. Clause 8 of SEPP 55 specifies that category 2 remediation work may be undertaken without the consent of the consent authority therefore the DCP has no regulatory role in this regard.</p> <p>Recommendation: no further action.</p>
<p>Chapter 2 3.6.3 Development Controls Mosquitoes.</p> <p>At point iii) include after the word "screened" the words "utilising stainless steel or other durable material"</p> <p>After the matter in iv) add the paragraph:</p> <p>"The above may not be required if the development does not have stormwater control ponds or water features that hold water for a period in excess of 48 hours, and where the proposal is an infill development, or where the development is sufficiently removed from identified mosquito breeding areas or SEPP 14 wetland that involvement of an entomologist is unlikely to result in benefit to residents of the development or adjacent developments."</p>	<p>Modification supported.</p> <p>Suggestion supported.</p> <p>Note added after control (vi) in section 3.6.3.</p>
<p>3.8 On-site Sewage Management Systems</p> <p>To 3.9.3 on the subject of on-site sewage management add at the end of the paragraph:</p> <p>"where the land is within the water catchments of Emigrant Creek Dam or Marom Creek Dam the requirements outlined in the Rous Water On-site Wastewater Management Guidelines February 2009 (and as may be amended) are to be taken into account in addition to the above."</p> <p>If better suited this could equally go under 3.13.3</p> <p>In a note to this subject or maybe in the</p>	<p>This additional information could be included as a note or could be added as an additional control either under 3.9.3 or 3.13.3.</p> <p>Recommendation: that reference to the Rous Water Guidelines be included in section 3.13.3</p> <p>The requirement for a plumbing report is inconsistent with Schedule 1 of the EP&A</p>

<p>Rural Chapter we would appreciate a mention of the need for applicants submitting boundary adjustment and other rural area subdivisions to include a plumbing report for all existing on-site sewage management arrangements serving dwellings, sheds or other improvements when preparing applications.</p>	<p>Regs (what information has to be provided in a development application). An alternative option would be to require sufficient detail demonstrating that all infrastructure and services are or can be wholly located within each proposed allotment and that this detail be included in the requirements for rural subdivision in section 3.2 of Chapter 7.</p> <p>Recommendation: That the information specified above be included in section 3.2 of Chapter 7.</p>
<p>3.7.3 Waste Management</p> <p>It has been common for many commercial developments (in particular where food business is undertaken) to require a roofed, screened graded and drained garbage storage area that connects through a suitable arrangement to the sewer system where available. In some instances we have required specific Waste Management Plans for a development and/or chill rooms designed to hold putrescibles prior to disposal. Some warning of these requirements could be appropriate here.</p> <p>We are also of the view with multi use developments that we be shown where for each building type or use waste container storage has been accommodated.</p> <p>These notations may be more applicable at Element J of Chapter 6</p>	<p>An option would be to include these requirements in the SWMMP application forms form(s) and it is recommended that Council EHO's be put in charge of drafting up the forms, ensuring they are consistent with this section.</p> <p>Considering the amount time things like forms take to eventuate it would be best to initiate this process immediately.</p> <p>An alternative would be to strengthen the specifications in Element J of Chapter 6 as suggested.</p> <p>Given the nature of commercial developments and the increasing propensity of exempt and complying development options for commercial premises, including food premises, it will be difficult to obtain compliance for every new premises.</p> <p>Recommendation: that the controls in Element J of Chapter 6 be strengthened to include requirements where the handling/storage of putrescibles (organic) waste is anticipated.</p>
<p>In respect of Chapter 5 Industrial, the following comment is offered</p> <p>Under 3.1.3 A- Element- Building Design Requirements Building Appearance- Control</p> <p>Item i) delete the word "fibro" and replace it with "fibre-cement"</p>	<p>Agreed, correct wording is "fibre-cement."</p>

<p>D – Element – Environmental Management</p> <p>Item iv) The first and last points are similar and should be combined.</p> <p>In relation to industrial areas we express the view that caretaker residences are a potential cause of conflict in land uses and should be discouraged. Similarly child care centres are likely to conflict with the intended use and ought not be located in industrial areas.</p> <p>We have also faced difficulty with "incubator" type development when the uses often within a complex are incompatible. Example surfboard manufacture/ repair where the building is not designed to accommodate fume extraction systems. It may not be possible to mention the need to ensure activities in such development complexes remain compatible.</p>	<p>Not supported. Both points refer to different forms of stormwater storage. No alterations made.</p> <p>The LEP prohibits residential accommodation and childcare centres. No action necessary.</p> <p>This is difficult to regulate as many use changes of industrial buildings can be undertaken as exempt development. The DCP cannot regulate this type of activity unless an application is seeking specific approval for such a use. These types of activities therefore must be regulated via other mechanisms/policies.</p> <p>No changes applicable.</p>
<p>Chapter 6 Commercial</p> <p>We see numerous conflicts arise between land zoned for this purpose and nearby residential uses. Noise, waste management and odour are the most usual conflicts. We note the mention of these matters where mixed uses are to occur. We are unsure how we might go about addressing these matters in these zones where they are joining to residential zones but managing the potential conflict early in the planning process is the most appropriate way of avoiding or minimising conflict.</p>	<p>Amendment supported - suggest additional Control to 3.1.3, similar wording to 4.1.3 (Mixed Use Developments) as purely commercial development should also manage possible conflicts with residential properties in the vicinity. Important aspect to consider at design stage.</p> <p>It is noted that Element I in Chapter 6 (Vehicle Access) contains the requirement for consideration of loading areas and adjoining sensitive land uses.</p> <p>Recommendation: That the waste storage requirements in Chapter 6 (Element J) have added a similar consideration for sensitive adjoining land uses as indicated above.</p>
<p>Chapter 7 Rural Living</p> <p>In relation to the building lines it may be necessary to provide some maps defining the listed "Rural Residential Estates" that may not be known by all.</p> <p>In respect of building envelopes we require where a new dwelling is proposed that these</p>	<p>Request supported. Action has been taken in this regard in response to other triggers. There are now a set of Rural Residential Area Maps and a definition in Chapter 1.</p> <p>This is something that needs to be considered at development assessment</p>

<p>to be the subject of a preliminary assessment for contamination, minimum 2000 sq metres – as described in Council's Policy in relation to Management of Contaminated Land where the previous use of the land has been for agricultural purposes (a requirement from SEPP 55). In addition it is often necessary for the envelope to be assessed for capability to accept effluent from an on-site sewage management facility. In selection of a site for the building envelope constraints that apply to on-site systems should be considered with additional consideration (Rous Water On-site Wastewater Management Guidelines) to be given when the site is within a water supply catchment. This might receive a mention in 3.1.3.</p>	<p>stage for rural subdivision, a development control could be:</p> <ul style="list-style-type: none"> - all rural subdivision applications are to demonstrate compliance with SEPP 55 <p>Potentially contaminated land is addressed in section 3.4 of Chapter 2 and requires all development to comply with SEPP 55 and Council's policy requirements. This requirement also extends to rural land.</p> <p>It is not recommended any additional action be taken in relation to this matter as it is adequately addressed for all development in Chapter 2.</p>
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Ballina Shire Council - Compliance Officer

Submission	Response
<p>With respect to Clause 1.9 General Matters for Consideration in Applying this DCP (Page 4 and 5)</p> <p>It is noted that this Clause provides a number of legislative and other Standards (e.g. Building Code of Australia, Covenants and the like) as matters for consideration.</p> <p>The Building Code of Australia and a number of other pieces of legislation call on the relevant Australian Standard as a measure for compliance, for example, the <i>Swimming Pools Act 1992</i> (NSW) calls up Australian Standard AS 1926.1-2007. These Standards supplement and support the legislation and provide the relevant standards and construction methods for certain development.</p> <p><u>Suggestion:</u> Should Council's DCP identify "Australian Standards" as a Matter for Consideration in Applying this DCP along the lines of Covenants, Easements etc?</p>	<p>Suggestion supported – additional section added to Chapter 1 referencing Australian Standards and their application to all development.</p>
<p>With respect to Appendix 2 – Dictionary (Pages 15 to 19 Inclusive)</p> <p>It is noted that the definition of "Clearing" as</p>	

<p>provided for on Page 16 refers to "vegetation" and not "native vegetation" as previous plans and documentation provided/authorised by Council.</p> <p><u>Question:</u></p> <p>Is this an intentional change in previous policy to bring in the removal of exotic vegetation and weed species into the definition of "Clearing"?</p>	<p>Yes this was a decision by Council to provide consistent rules for vegetation clearance across the Shire and is intended to incorporate non-native amenity trees into the vegetation management process.</p>
<p>With respect to Appendix 2 – Dictionary (Pages 15 to 19 Inclusive)</p> <p>It is noted that the definition of "Tree" as provided for on Page 19 refers to a tree having a "diameter of more than 100 mm when measured at 1 meter above ground level". It is anticipated that this definition or standard of measurement may be difficult to interpret or measure in a live specimen.</p> <p><u>Suggestion:</u></p> <p>Should this definition be amended to provide for a circumference as opposed to a diameter measured at the same height? By way of example "250mm in circumference at 1 meter above ground level".</p>	<p>The use of the definition of "tree" has been based on extensive research into vegetation management controls in other jurisdictions. However, modifying the definition may assist in interpretation and application as suggested. A 100m diameter would provide for a 314mm circumference which is the diameter x pie. You could apply this in a more practical figure like 300mm or 350mm. The 300mm circumference is consistent with other specifications.</p> <p>Recommendation: That the definition of "tree" be modified to reference a trunk circumference of 300mm rather than a diameter of 100mm.</p>
<p>Clause 3.10 - Erosion and Sediment Control (Pages 23 and 24)</p> <p>With respect to Development Controls 3.10.3 i on Page 23, this Clause states:</p> <p><i>All soil erosion and sediment control measures must be designed, installed and maintained in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004;</i></p>	

<p>Further, Development Controls 3.10.3 iv on Page 24 states:</p> <p><i>A Sediment and Erosion Control Plan or Soil and Water Management Plan prepared in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004, may be required depending on the characteristics of the proposal and the site.</i></p> <p><u>Submission:</u></p> <p>The current version of the Blue Book is referred on various websites, including the Landcom Website as "Managing Urban Stormwater: Soils and Construction – Volume 1,4th Edition 2004 (reprinted July 2006)".</p> <p>Should these sub Clauses be amended to reflect this as the most current re print version?</p>	<p>Chapter 1 specifies the requirement that any technical direction or external policy document referred to must be the current version at the time of application.</p> <p>Recommendation: the reference in Chapter 1, section 1.7 provides for the use of the most current version of a referenced document, therefore specification of dates and editions is superfluous and should be removed. In addition, reference to the Blue Book in parentheses has been added adjacent to the references to "Managing Urban Stormwater" where referenced in Chapter 2.</p>
<p>Clause 3.10 - Erosion and Sediment Control (Pages 23 and 24)</p> <p>Development Controls 3.10.3 iv on Page 24 states:</p> <p><i>A Sediment and Erosion Control Plan or Soil and Water Management Plan prepared in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004, may be required depending on the characteristics of the proposal and the site.</i></p> <p>Previously, Council had a number of issues with erosion and sediment runoff at the subdivision which created Matilda Street and Brolga Place, Lennox Head (commonly referred to as "Survey Street Subdivision"). Compounding this, the site was managed by a Private Certifier, who prepared Erosion and Sedimentation Control Plans that were totally inadequate for North Coast sub tropical rainfall events.</p>	

<p>As this matter was privately certified, Council had little control over the activities within the subdivision site. Further, as a result of these inadequate plans and controls, major pollution events were detected resulting in sediment laden waters running into the adjoining wetland.</p> <p>I have perused the Draft Urban Subdivision Chapter as well as this Clause and could not locate any requirement for the submission of Erosion and Sedimentation Control Plans to Council at DA stage for assessment.</p> <p>I am unsure of the best way to address this or where it would be best addressed, however I would like to see some form of requirement for the submission of such plans to Council at DA stage for certain developments.</p>	
<p>Suggestion:</p> <p>That consideration is given for either:</p> <ul style="list-style-type: none"> (i) Sub Clause 3.10.3 iv is amended or added to; or (ii) A Note is added below Sub clause 3.10.3 iv; or (iii) An additional Sub Clause or Note is added into Chapter 3, Urban Subdivision at the appropriate location; and (iv) An additional Sub Clause or Note is added into Chapter 4, Residential and Tourist Development at Element Q – Cut and Fill <p>To require that an Erosion and Sedimentation Control Plan is submitted to Council at the DA stage for certain development proposals. By way of example:</p> <p>"Erosion and Sedimentation Control Plans are required for:</p> <ul style="list-style-type: none"> (a) All Major Subdivisions; and (b) All Minor Subdivisions on steeply sloping land (e.g. 15% slope or greater as this criteria is already identified in Chapter 3, Urban Subdivision, Sub Clause 3.1.2 Development Controls ii OR 20% as 	<p>Suggestion noted. It is considered that the provision of a Sediment and Erosion Control Plan would be unlikely to comply with the requirements of Schedule 1 of the EP&A Regs that specifies what documentation must support a development application. Technical and construction specific information is generally not required at DA stage and cannot be lawfully requested.</p> <p>Schedule 1 does allow that:</p> <p><i>1(g) if the development involves any subdivision work, preliminary engineering drawings of the work to be carried out,</i></p> <p>For a subdivision, preliminary engineering drawings could be interpreted to include soil and erosion sediment control plans but these would likely have to be draft plans and not approvable, or subject to finalisation prior to issue of a construction certificate (civil works) or subdivision certificate.</p> <p>It is therefore considered not unreasonable to request a preliminary sediment and erosion control plan for subdivision proposals that will involve civil works.</p> <p>Recommendation: That a preliminary sediment and erosion control plan or soil and water management plan must be submitted</p>

<p>already identified in Chapter 3, Sub Clause 3.1.2 Development Controls iii, whichever is the more appropriate); and</p> <p>(c) All subdivision or residential construction works include site modification of individual lots for building pads and the like, earthworks are restricted to a maximum cut or fill of 1500mm from natural ground level for a single cut/fill. Where site benching results in multiple cuts, a restriction of 1100mm maximum cut and fill applies; and</p> <p>(d) Subdivision in Drinking Water Catchments; and</p> <p>(e) Development on land identified as <i>Coastal Foreshore</i> land under the Draft BLEP 2011".</p>	<p>for any development application for a subdivision that involves civil works.</p>
<p>Chapter 3 – Urban Subdivision Requirement for provision of Environmental Site Management Plan/Erosion and Sedimentation Control Plan at DA Stage.</p> <p>See detail contained in Submission 2.2 above.</p>	<p>See comments above. It is considered that the requirement for the provision of sediment and erosion controls for subdivision in Chapter 2 is sufficient and duplication in Chapter 3 is not necessary. No further action necessary.</p>
<p>Chapter 4 – Residential and Tourist Development Requirement for provision of Environmental Site Management Plan/Erosion and Sedimentation Control Plan at DA Stage.</p> <p>See detail contained in Submission 2.2 above.</p>	<p>It is considered that this information cannot be requested at DA stage as it is inconsistent with the documentation specified in Schedule 1 of the EP&A Regulation. No further action necessary.</p>
<p>Chapter 5 – Industrial Development With respect to Clause 3.1.3 Development Controls, the Draft states at A. Element – Building Design Requirements, <i>Building Appearance– Control Sub Clause vi</i> states in part:</p> <p><i>iv. Roof forms shall be designed to provide a 'clean' appearance.</i></p> <p>Both the wording of this statement and the intent of this statement are not clear to me as an enforcement officer.</p>	

<p><u>Suggestion:</u> The wording for this Sub Clause is reviewed to identify the intent of this wording.</p>	<p>Suggestion noted. It is recommended that the wording of this control be amended for better application and understanding such as "Roof forms shall be designed to minimise visual intrusions and to prevent any roof top equipment from being visible from the street. Where this cannot be achieved, roof top equipment shall be screened by materials of the same nature as the building's basic materials.</p>
<p>Chapter 6 – Commercial Development</p>	
<p>6.1 With respect to Part 3, Element F – Awnings, my reading of the wording indicates that the document intends to promote fixed / permanent structures.</p> <p><u>Suggestion:</u> If this is the intent, do we need to include a statement that awnings should be permanent/fixed structures and not retractable structures?</p>	<p>It is considered that the current controls adequately achieve this. No change necessary.</p>
<p>6.2 With respect to Part 3, Element H – Gateways and Landmark Sites, are these specifically identified?</p> <p><u>Suggestion:</u> Consideration is given to mapping these locations or for the locations to be specifically identified within the DCP.</p>	<p>Control (i) of this section specifies the design requirements for corner sites and at the end of the business/commercial zone. It is considered this is sufficient to identify what is a gateway/landmark site. No action needed.</p>
<p>6.3 With respect to Part 4, Mixed Use Developments, Clause 4.1.1 – Application, the wording "mixed use developments" is highlighted in Blue Italics. The using of this colour appears to indicate that this is a definition within the BLEP 2011 as identified in Chapter 1 – Administration Clause 1.5 – dictionary, but the accompanying note appears to contradict this.</p>	

<p><u>Question:</u></p> <p>What is the intent of the use of this <i>Blue Italics</i> within Clause 4.1.1 and subsequent clauses of the term "mixed use developments"?</p> <p><u>Suggestion:</u></p> <p>The use of <i>Blue Italics</i> for the definition of "mixed use developments" within these Clauses is reviewed. For example, the definition "mixed use developments" is inserted as a DCP definition within Chapter 1, Appendix 2 – Dictionary.</p>	<p>Blue italics refer to land uses that are defined in the Standard LEP Instrument.</p> <p>A mixed use development, per the Standard Instrument LEP is a building or place containing 2 or more different land uses.</p>
<p>Chapter 6a – Ballina Town Centre</p> <p>6a.1 Reference is made throughout this Chapter to various precincts within the Ballina Town Centre.</p> <p><u>Question:</u></p> <p>Are these various precincts mapped within the Plan or Local Environmental Plan 2011 to clearly identify each precinct?</p>	<p>The Ballina CBD Precincts are detailed in the map sheets supporting the DCP.</p>
<p>Chapter 7 – Rural Living and Activity</p> <p>7.1 With respect to Clause 3.5 - Roadside Stalls (Page 15), the controls are silent on the requirements with the food safety standards.</p> <p><u>Suggestion:</u></p> <p>That Council's Public and Environmental Health Section are consulted and provide advice as required for the correct food safety storage and standards for the operation of Roadside Stalls.</p>	<p>Development Control 3.5.3 iii. Could be expanded upon to include reference to either EHOs or relevant food safety legislation. Discussions held with Graham Plumb regarding this issue confirmed that the majority of stalls do not require this level of control. One option is to provide reference correct food storage requirements and relevant approvals that may be required for perishable items by the NSW Food Authority.</p> <p>Recommendation: That additional wording at the end of control (iii) be added to reference compliance with NSW Food Authority guidelines.</p>
<p>7.2 With respect to Clause 3.6 – Mining and Extractive Industry (Pages 15 and 16), the controls are silent on the need for State Government Licensing for extraction of materials over and above the legislative limits.</p>	

<p><u>Suggestion:</u></p> <p>Consideration is given to inserting into the existing Note, a statement advising of the potential need for Environment Protection Authority and Department of Primary Industries Licensing for some extractive and mining activities.</p>	<p>Expansion could be made to the notes section, however the note does make reference to Council's reg services group and that discussion should be held prior to a DA being prepared.</p> <p>Recommendation: that additional information is added to the notes for this section referencing "additional approval requirements from other government agencies".</p>
<p>7.3 With respect to Part 4 – Special Area Controls, Clause 4.1.3 Development Controls, the Note following this Clause provides a definition of area of habitation and the 160 metre setback for South Ballina.</p> <p>Your attention is also drawn to Chapter 1 Administration, Clause 1.6 Notes, which states:</p> <p><i>Notes are included within various sections of the DCP to guide interpretation. To distinguish the NOTES from the Chapter generally, they are contained within a shaded box identified with a notepad symbol, as illustrated below. The NOTES do not form part of the formal requirements of the DCP but may be applied by Council in the interpretation and operation of the provisions of the DCP. (Emphasis Added)</i></p> <p><u>Question:</u></p> <p>Is it the intention of the 160 meter setback as outlined in Chapter 7 of the DCP to be a non-standard/non-enforceable/informal requirement within the DCP?</p> <p>In this regard, I refer to the Court of Appeal Judgement in the matter of RYDE CITY COUNCIL v ECHT & ANOR [2000] NSWCA 108, Case Number CA 40695/98, where His Honour Chief Justice Spigelman found [at paragraph 55 of that Judgement] that:</p> <p><i>...convey a power using the word "may". Section 9 of the Interpretation Act 1987 states:</i></p>	<p>Comments noted. This setback requirement is identified as a development control in section 4.1.3 (i). The notes provide additional interpretive information to support the control. Having the specific control therefore allows an element of enforceability to the control, notwithstanding the essential requirement that DCP controls are non-statutory and must be applied with flexibility. No change necessary.</p>

<p><i>"In any Act or instrument the word 'may', if used to confer a power, indicates that the power may be exercised or not, at discretion."</i> (Emphasis Added)</p> <p>My understanding of this setback requirement is based on sound environmental grounds and any variation would need to be suitably justified to Council's satisfaction.</p> <p><u>Suggestion:</u></p> <p>Consideration is given to the removal of this definition from the Notes section and the inclusion of this definition within Appendix 2 of Chapter 1 of the DCP.</p>	<p>As detailed above, the 160m setback provision is included in control (i) of section 4.1.3. While it is not a definition, the supporting note provides clarification on why the development control is required. It is not considered necessary to include a definition of this item. No changes necessary.</p>
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Draft Ballina Development Control Plan 2012 – Submission Summary

Building Services Group

Submission	Response
<p>Chapter 2 Section 3.1.3 A. Buffers & LUCRA (Table 2.1) Unreasonable buffer/LUCRA requirement: dwellings and sugar cane, cropping & horticulture</p>	<p>This section recommends a minimum buffer of 150m for rural dwellings without LUCRA (Note: "Living & Working in Rural Areas" guidelines recommend 200m buffer). Where buffer is met, Living & Working in Rural Areas guidelines generally met without LUCRA.</p> <p>Sugar cane farming is a relatively benign land use in relation to land use conflicts and impacts and conflict occurrence is minimal to non-existent. Cane typically takes 18-24 months to mature and harvesting takes place over 1-2 days.</p> <p>One option could be to change the buffer requirement in Table 2.1 to require 150m/200m buffer to "intensive plant agriculture" (which includes higher impact activities such as horticulture with regular and frequent maintenance activity) and excluding "extensive agriculture" from LUCRA (ie. low impact agricultural activities as defined such as crops, grazing etc. which would include sugar cane and similar low-impact cropping)</p> <p>Alternative is to leave buffer and LUCRA requirement as-is in accordance with Living and Working in Rural Areas.</p> <p>RECOMMENDATION: That land use references in Table 2.1 be revised to comply with standard instrument definitions wherever possible. That buffer requirement for sugar cane (i.e. "extensive plant agriculture") be removed from the buffer/LUCRA requirement table. Buffer/LUCRA requirements to remain for other land uses such as "intensive plant agriculture" (includes horticulture) and "intensive livestock agriculture" (piggeries etc.) and others.</p>
<p>Chapter 2 Section 3.1.3 D. Exclusions to LUCRA LUCRA requirement for new dwellings and/or additions in existing urban or rural residential areas and difficulty to establish past LUCRA (if at</p>	<p>Exclusion currently applies to alts/adds to existing approved dwellings and replacement of existing approved dwellings, therefore LUCRA not required for these types of development.</p> <p>Issue arises in relation to new dwellings on</p>

Submission	Response
<p>all) for established residential areas</p>	<p>vacant urban or rural residential sites in established areas where LUCRA may not have been undertaken or is not readily available.</p> <p>It would appear that there are few remaining vacant allotments of urban and rural residential land of the shire that would be affected by this requirement. The submission raises the example of the Panorama Park Estate in Alstonville which has a number of remaining vacant urban allotments that adjoin rural land and may be the only area where this issue is applicable.</p> <p>Aside from retaining the LUCRA requirement for these sites, other options could be to specifically exempt certain sites from LUCRA or for Council to undertake a generic LUCRA for certain identified sites such as the vacant areas at Panorama Park or in rural residential estates and implement the findings/recommendations into the planning controls for vacant lots in these areas. This would have the effect of removing the burden on the proponent of having to obtain a LUCRA but would potentially involve more building controls on the identified sites.</p> <p>RECOMMENDATION: That the exclusions to LUCRA requirements be amended to exclude residential accommodation land uses within an existing residential zone. That the exclusions to LUCRA requirements be amended to include all urban land uses within identified rural residential areas on land with an area less than 5 hectares.</p>
<p>Chapter 2 Section 3.14.3 Coastal Hazards Change reference from "civil engineer" to "structural engineer"</p>	<p>This change is supported and it is recommended that the various references to engineers in this section be amended and applied consistently in reference to "a suitably qualified structural engineer".</p>
<p>Chapter 2 Section 3.14.3 Coastal Hazards Exemptions in Area B and C should be carried over into Area A also</p>	<p>The development controls in this section have been extracted from Chapter 3 – Coastal Hazard Protection and Chapter 17 – Coastal Hazard Protection (Interim Measures) Lennox Head from the current DCP. These controls have been incorporated into the three areas in Lennox Head now identified as Areas A, B and C.</p>

Submission	Response
	<p>Area A comprises the land affected by current DCP Chapter 3. Areas B and C comprise the two areas with building controls contained in current DCP Chapter 17. The controls in these chapters of the current DCP have been replicated in the draft DCP.</p> <p>The submission suggests that the exemptions referenced in Chapter 17 for “minor improvements and renovation” and “maintenance” should also be incorporated into the controls for Area A (ex Chapter 3). Chapter 3 does not currently contain specific exemptions however it is noted that in addition to the requirement for building foundations to have piling, there is also a provision that “applications will be assessed on their merits, having regard for the relevant planning instruments, codes and policies of the day, and to the nature of the development proposed.” This suggests a level of discretion in the assessment of the structural requirements for new buildings and would suggest where warranted and on merit, an exemption to piling could be given. In this regard, the application of the minor improvements, renovations and maintenance exemption for Area A is supported.</p> <p>Notwithstanding the above, it would appear that it is unclear what development would constitute minor improvements and renovations. The submission suggests these include open carports, shade sails, pergolas and open deck verandahs. An option for this section of the DCP would be to consider “minor improvements” to be possibly BCA Class 10 (non-habitable) structures and renovations only internal works to existing lawfully erected buildings.</p> <p>RECOMMENDATION: That the exemptions for minor improvements, renovations and maintenance be included in Area A and the inclusion of a note that defines “minor improvements” and “renovation” (in consultation with Building Services).</p>
<p>Chapter 2 Section 3.14.3 Coastal Hazards Request inclusion of notation relating to “driven</p>	<p>The addition of a notation has been requested that driven pile footings are not permitted due to potential adverse impacts with foundation</p>

Submission	Response
pile" foundation methods	<p>vibration on adjoining properties.</p> <p>The validity of this restriction is questioned where a proponent may be prepared to undertake appropriate protective and dilapidation assessment measures. In addition, the assessment of the structural provisions of piling is unlikely to be considered at development application stage but rather at the construction approval stage. One option could be to include an advisory notation in relation to the hazards and additional requirements likely to be imposed where driven piling methods are utilised during construction. It is noted, however, the DCP and this notation is unlikely to be referenced by a structural engineer or certifier once development consent has been granted.</p> <p>RECOMMENDATION: That a new section is added to Chapter 2 in relation to the impacts of vibration from driven piles and other potentially vibrating construction methods. The objectives and controls of this section are to require the adequate consideration of the effects on the surrounding built environment during the construction of new development.</p> <p><i>New section 3.20 added to Chapter 2, 22/11/2012</i></p>
<p>Chapter 2 Section 3.17.3 Road Widening Inclusion of lane corner splay dedication</p>	<p>The submission has requested the inclusion of this requirement as currently contained in DCP Chapter 16.</p> <p>This requirement has been included and is contained in Chapter 2, Section 3.17.3 C (ii)</p>
<p>Chapter 2 Section 3.17.3 Road Widening Clarification in relation to road widening requirements and changes of use DAs and CDCs (residential to commercial) with minimal alterations</p>	<p>Policy Statement No. 10 in the current DCP implies that road widening is required when certain properties are redeveloped to facilitate the increased traffic generated by the conversion of land for commercial usage, although some road widening requirements also apply to residential redevelopment sites.</p> <p>In the draft DCP, the road widening requirements in Chapter 2 are applicable to all development. No exclusion is specified for certain changes of use where the change may not result in the intensification of the existing use. It is expected that any minor changes of</p>

Submission	Response
	<p>use of a premises where the use may not intensify would constitute exempt development or complying development with a standard set of conditions.</p> <p>With no change to the current wording of this section, it would suggest that any development that requires consent via a development application would constitute an intensification of use, whether it is residential-residential or residential-commercial. In this case, the implied wording of the section is that road widening is required for all development that requires development consent. An alternative would be to include additional details or notification in the section specifying that wherever consent is required for an intensification of the use of a premise or site, the road widening requirements will be applied.</p> <p>RECOMMENDATION: That clarification be provided in the application of where road widening is required for new developments and intensification of existing development.</p>
<p>Chapter 2 Section 3.19.3 Car Parking & Access A (i) Onerous requirement for dwellings and dual occupancies to provide entry and exit in forward direction</p>	<p>The requirement for the provision of manoeuvring areas for forward entry and exit is contained in B (iii) of this section. Dwellings are specifically exempted and duplex/dual occupancy developments are stated as “may be exempt”. In discussion with Council’s engineers it was clarified that this exemption is conditional on the merits of individual cases where it can be demonstrated that no vehicular conflict is created as a result.</p> <p>No further action is needed in relation to single dwellings as these are exempted in the DCP provisions. To address the dual occupancy issue, one option would be to include specifics of where an exemption may be granted. The alternative is to leave the current wording as-is and rely on a merit based assessment for each application.</p> <p>IN addition to the above, it is recommended that the reference to “duplex” in this section (B (iii)) be removed as this is no longer a defined land use under the draft LEP.</p>

Submission	Response
	<p>RECOMMENDATION: Re-word requirement to specifically exempt dwelling houses and advice that dual occupancy developments may be exempt based on the merits of the case. Reference to duplex also removed.</p>
<p>Chapter 2 Section 3.19.3 Car Parking & Access A (iv) Onerous requirement for disabled car parking spaces to be covered for smaller scale developments</p>	<p>There is no requirement under the relevant Australian Standards for disable car parking spaces to be covered. It is understood that this requirement is one that has been applied by Council based on recommendations of the Access Reference Group.</p> <p>Under the requirements of the Building Code of Australia, most commercial, industrial and some larger residential developments are required to provide disabled car parking spaces that comply with the relevant standards. This section of the draft DCP is also requiring these spaces to be provided with roof coverage.</p> <p>RECOMMENDATION: That the suggested threshold of 500m² for commercial, industrial and tourist & visitor accommodation floor space be applied as a benchmark for the requirement for the provision of covering of disabled car parking spaces. Commercial and industrial developments and tourist and visitor accommodation with 500m² floor space or less would not be required to provide the covering.</p>
<p>Chapter 2 Section 3.19.3 Car Parking & Access C (ii) Certain structures in driveway sight lines have been traditionally permitted such as open carports and open style fencing</p>	<p>The wording of the clause in the draft DCP has the effect of excluding any permanent sight obstruction above 1m in height within the Australian Standard truncation area for driveway entrances.</p> <p>An option to overcome this could be to reword this subclause such that any structure (including boundary fencing, garages, carports, landscaping, vegetation, signs or any other structure) must be either less than 1m in height or demonstrate compliance with the truncation specifications in AS 2890.</p>
<p>Chapter 2 Section 3.19.3 Car Parking & Access E, Table 2.3 – reference to car parking for dwelling house, no reference to car parking for</p>	<p>Table 2.3 specifies car parking requirements for dwelling houses but not other forms of residential accommodation. It is also noted that Table 2.3 does not contain the information</p>

Submission	Response
dual occupancies or RFBs	<p>contained in Table 4.3 of chapter 4 with regard to allowing stack parking and that one space can be uncovered.</p> <p>The car parking details for a dwelling house is provided in Table 2.3 in order to cover development in rural areas which may not be subject to the provisions of Chapter 4. Other residential developments are specifically provided for in Chapter 4 and are not necessary to duplicate in Chapter 2.</p> <p>In addition, as specified in section 1.10 of Chapter 2, the provisions of Chapter 4 prevail over those in Chapter 2 in the event of any inconsistency. In this regard, is not considered necessary to make any amendments to Table 2.3.</p>
<p>Chapter 4 Section 3.1.3 C - Building Height Plane - Controls Building height plane and setbacks do not apply to strata boundaries</p>	<p>An exception to the 900mm setback for strata boundaries is contained in control C (ii). Control C (i) (building envelope specifications) does not indicate exception for strata boundaries.</p> <p>RECOMMENDATION: That appropriate wording be implemented to indicate that the building height plane parameters apply to the outer boundaries of the site and not to any internal strata title boundaries.</p>
<p>Chapter 4 Section 3.1.3 C - Building Height Plane - Variations Requesting clarification with typical examples for climate control variations</p>	<p>Currently, the draft specifies that an exception to the BHP is possible for climate control elements which are of minor scale, are of open character and do not affect compliance with the BHP design objectives. It has been requested that typical examples could be given to assist in the interpretation of this variation. Suggestions include minor pergolas, vergolas and shade sails having minimal impacts on overshadowing.</p> <p>It is an option to include these as an example, however the wording of the draft indicates that the application of this variation is on merit and in essence any structure in any form could be designed to comply with the requirements. The risk with the inclusion of examples is that it could form a restriction or limitation on the application of the variation. Another risk is that once specific examples are given, appropriate definition of those examples needs to be</p>

Submission	Response
	<p>provided, such as the definition of a “minor pergola”.</p> <p>RECOMMENDATION: That the request to add typical examples is noted, however it is preferred not to risk the limitation of the options for variation and that any variation should be considered on merit relative to the scale and circumstances of the site, its design, surrounding environment and orientation.</p>
<p>Chapter 4 Section 3.1.3 E – Building Lines Request notation for minor variations to building lines</p>	<p>The current draft contains specified variations (encroachments) for balconies subject to certain requirements. It is requested that a notation be included that indicates variation may be given to such “minor developments” as open pergolas, carports or corner encroachments.</p> <p>Any variation to any control in the DCP can be granted at Council’s discretion. It is considered that the addition of specific notations for certain variations would have the effect of potentially restricting what variations may be considered and could have the effect of encouraging certain types of variations.</p> <p>One option would be to include specifications for standard variations as has been applied for balconies. This would require the preparation of a set of standard variation parameters for each type which would not necessarily be flexible in application across a diversity of development sites. The other option is to simply avoid any specific reference to types of variation based on the principle that any variation to any development control can be considered on its merit.</p> <p>RECOMMENDATION: That the noting of examples of acceptable variations not be provided so as to avoid creating the incentive for specific variations and in the absence of specified controls and parameters for such variations. The absence of specific references to variations (either in notes or controls) allows a more flexible application of variations that can be assessed on merit relative to the scale and circumstances of the site, its design, surrounding environment and orientation.</p>
<p>Chapter 4</p>	<p>The submission considers the requirement for</p>

Submission	Response
<p>Section 3.1.3 H – Vehicular Access & Parking Car parking Requirement for two car spaces and one covered car space per dwelling considered onerous</p>	<p>two car spaces (with stack option) with one covered for dwelling houses onerous. It suggests an alternative of one sealed car parking space per dwelling behind the building line.</p> <p>Current DCP controls require a minimum 1 car space per dwelling house. The majority of dwelling houses in the shire would currently provide at least one covered car parking space, regardless of the above requirement. In this regard, it is considered that the requirement for the provision of the car parking space is not onerous and that the standard is warranted in consideration of the climatic and weather conditions that can be expected in the shire.</p> <p>RECOMMENDATION: That the requirement for the provision of two car parking spaces with one covered for dwelling houses remain. It is considered that in the few circumstances where it may be impractical or undesirable to provide a covered car parking space, a valid justification for a variation could be provided.</p>
<p>Chapter 4 Section 3.1.3 H – Vehicular Access & Parking Garages & carports Request retention of merit assessment for side enclosure of carports</p>	<p>Under current controls, carports may be permitted to be partially enclosed on the side such as by open slat type construction. Proposed control (iv) of this section specifies that carports may not be enclosed on any of its sides. This would mean that a variation would be required where a proposal includes the partial enclosure of the sides of a carport.</p> <p>It is considered reasonable to allow for the partial enclosure of carports. As such, an option would be to either remove this control and allow the assessment of carport enclosure proposals on merit or to amend the control to allow some provision for the partial enclosure of the sides of a carport.</p> <p>It is further noted that the enclosure controls for carports are only applicable where the carport is fully or partially located forward of the specified setback. In this case, an option would be to modify the controls to remove the restriction on enclosure of carports where they are located fully behind the specified setback</p>

Submission	Response
	<p>RECOMMENDATION: That the control restricting the enclosure of a carport be removed and that a further control restricting the enclosure of a carport when located forward of the specified setback to ensure 50% visual permeability.</p>
<p>Chapter 4 Section 3.1.3 I – Overlooking and Privacy Windows Controls for placement of windows on minor developments such as single dwellings and dual occupancies considered overly complex, onerous, inequitable and unnecessary</p>	<p>The proposed controls for the location of windows on residential buildings are currently contained in DCP Chapter 16 for Lennox Head. It is proposed that these controls will now be applied to all residential development in the shire. The primary reason for controlling the location of windows in dwellings is to protect the privacy of living areas both for existing dwellings and any new or redeveloped dwellings on adjoining sites.</p> <p>In review of the current and proposed controls, it is apparent that the wording of the controls are perhaps poorly composed and could be better written for general understanding. It is also noted that in discussion with Building Services representatives the current controls are viewed as excessive and in most cases variations are given.</p> <p>RECOMMENDATION: Having regard for the above, a review of the privacy controls for windows is undertaken and that the section be revised to focus on minimising impacts on privacy of living areas (habitable rooms (except bedrooms) and private open space). It is recommended that the controls be amended to a form similar to the privacy controls in the Codes SEPP with additional controls for consideration of multiple dwellings on the same site that can be addressed at design stage (cc Port Macquarie-Hastings DCP)</p>
<p>Chapter 4 Section 3.1.3 J – Solar Access Concern raised that criteria will be difficult to achieve due to variations in lot size and site filling requirements. Considers that building height plane provisions will adequately address overshadowing. Clarification required for references to living</p>	<p>It is considered that the proposed controls for solar access and overshadowing serve to ensure new dwellings have appropriate access to sunlight as well as ensuring new developments are appropriately designed so as to minimise the impacts on adjoining properties by overshadowing.</p> <p>It is expected that the circumstances where issues may arise when the proposed controls</p>

Submission	Response
<p>areas and living rooms and that these exclude bedrooms.</p> <p>West facing rooves may be better for solar panel location.</p>	<p>are combined with the effects of site filling and/or variations in lot size will be occasional and that these issues should be able to be addressed appropriately by merit assessment variations which are provided for in the objectives and controls.</p> <p>It is agreed that the current wording of the solar access/overshadowing controls could be improved with reference to solar access for living areas and the exclusion of bedrooms.</p> <p>It is considered appropriate to amend the wording of the controls for roof design to incorporate west facing rooves as well.</p> <p>RECOMMENDATIONS: That the proposed controls for solar access and protection of adjoining properties from overshadowing remains as a basic standard. That a review of the references to living areas and living rooms be undertaken and clarification made that these references are not to bedrooms. That the control relating to roof design be amended to include west facing rooves.</p>
<p>Chapter 4 Section 3.1.3 Q – Cut and fill Request permitting of excavations greater than 1500mm where contained within building envelope such as basements and underfloor garages</p> <p>Requests excavations on boundary be restricted to 1200mm</p>	<p>The proposed controls restrict visible cut and fill to a maximum of 1500mm for a single cut or fill. It is considered that the reference to “visible” would exclude any basement or under-floor excavation that would be not visible or appropriately concealed from view.</p> <p>It is considered appropriate to apply a limitation to cutting or filling on site boundaries to 1200mm (where located within 900mm of the boundary) and retained with a masonry structure for the purposes of minimising impacts on adjoining properties.</p> <p>RECOMMENDATIONS: That the wording of the controls be modified for clarity in relation to the maximum height of visible fill. That the terminology in this section be amended to better reflect the standard instrument definitions by utilising the encompassing “earthworks” definition that includes both excavation (cut) and fill. That an additional control be added limiting earthworks (cut and</p>

Submission	Response
	fill) on or within 900mm from the boundary to a maximum height of 1200mm and retained by a masonry structure certified by a structural engineer.
<p>Miscellaneous Inclusion of reference to roof colour restrictions (white, off-white, light grey)</p>	<p>The current DCP controls for residential accommodation do not provide for any restrictions on roof colours. DCP Chapter 16 requires “low reflective materials” unless echoing an existing neighbourhood character. Notwithstanding, Council has consistently in the past applied this restriction as a condition of consent.</p> <p>RECOMMENDATION: Consideration of roof colour and indeed any other colours, materials and/or finishes for a proposed building is largely a merit based, objective assessment and should be based on minimising or addressing impacts on the surrounding environment. In this regard, the addition of specific roof colour controls in the DCP is not recommended.</p>
<p>Chapter 6d Request requirement for public space beautification contribution as requirement for development in enterprise zone</p>	<p>Submission noted. Chapter requirements applicable only to private land. Council OSR implementing River Street beautification scheme, standard s94 contributions will apply to new developments that will be allocated to embellishment of open space in West Ballina</p>

Draft Development Control Plan 2012 Review

Ballina Shire Council – Engineering Comments Summary

Submission	Response
<p>Chapter 2 (pg. 22) Cl. 3.9.3 – Development Controls B. Stormwater Quantity ...</p> <p>Request additional subclause “No increase in flood levels on land adjoining the development where such an increase would cause damage to, or adversely affect either the value or potential use of the land.”</p> <p>Notes</p> <p>Request removal of sentence commencing with “If a site is in a degraded state ...”</p>	<p>Amendment supported.</p>
<p>Chapter 2 (pg. 37) Cl. 3.19.3 – Development Controls A. Parking Layout Standards</p> <p>Request amendment to subclause (ii) to specify “All commercial and industrial parking spaces must be available for unrestricted public access and employee use”.</p>	<p>Amendment supported.</p>
<p>Chapter 2 (p38) Cl. 3.19.3 – Development Controls, B – Car Access and Manoeuvring Areas</p> <p>Request amending subclause (iii) in relation to exempting dual occupancy developments “where there are no potential internal driveway conflicts.”</p>	<p>Amendment supported.</p>
<p>Chapter 2 (p38) Cl. 3.19.3 – Development Controls, E – Car Parking Requirements</p> <p>Request addition of “If a rate is not provided by the RMS Guide a merit based assessment will apply” at end of subclause (i).</p>	<p>Amendment supported.</p>
<p>Chapter 2 (p38) Cl. 3.19.3 – Development Controls, E – Car Parking Requirements Table 2.3</p> <p>Garden centre: amend second part to read “Where landscape supplies are included, an additional 1 space per employee plus 2 visitor spaces and an adequate loading/unloading area is to be provided.”</p>	<p>Amendment supported.</p>

12/51284

<p>Home occupation (sex services): request referring to requirements in Chapter 8 – Other Uses (Sex Service Premises)</p> <p>Shopping centre: request change reference from gross floor area (GFA) to gross lettable/leasable floor area (GLFA)</p>	<p>Amendment supported.</p> <p>Amendment supported and as per note on page 38 re GFA & GLFA & parking provisions.</p>
<p>Chapter 2 (p43) Cl. 3.19.3 – Development Controls, H. Monetary Contributions</p> <p>Request amendment to subclause (ii) to read "In locations not included within a car parking contributions plan, on-site car parking is to be provided on the land that is the subject of the development."</p>	<p>Amendment supported.</p>
<p>Chapter 2b (pp 4-5)</p> <p>Request amendment to section referencing 2010 Ballina Flood Study Update. Change second last sentence to read "The Floodplain Risk Management Plan is currently under review."</p>	<p>Amendment supported.</p>
<p>Chapter 3 – Urban Subdivision Cl. 3.2.1 – Minor Subdivision Element G – Minimum Lot Size & Shape, Controls – Battle-axe lots;</p> <p>The current DCP requires 3.6m wide battle axe lot handles. The Draft DCP is proposing a minimum <u>corridor width</u> of 3.5m. It is considered that both these dimensions are insufficient. The North Rivers LG Development and Design Manual recommends a carriageway width of 3m and a corridor width of 6m for urban subdivision, which could be considered excessive.</p> <p>The requirement for a 3m access carriageway is considered appropriate with an additional minimum of 1m for services and landscaping.</p>	<p>Amendment supported.</p> <p>Recommendation: That subclause (i) for battle axe lots be amended to read "The minimum width for an access corridor for a battle-axe lot is 4m, with a minimum carriageway width of 3m"</p>
<p>Chapter 4 (page 16) Garages and carports controls</p> <p>Suggest removal of duplication subclauses (i) and (v)</p>	<p>Noted. Changes made per feedback from building services. Duplication removed.</p>

12/51284