

9.7 **Ballina Shire Development Control Plan 2012 - Amendment 3.DOC**

Ballina Development Control Plan 2012 – Amendment No. 3

**Ballina Development Control Plan 2012 – Amendment No. 3 – Schedule of Proposed Changes**


The following table provides details of the amendments proposed to Ballina Development Control Plan 2012 (DCP). The amendments relate to issues and ideas identified during the scheduled annual DCP review process. In the main the proposed amendments seek to provide greater clarity relating to Council requirements, correct minor errors and omissions. The proposed amendments also align the DCP with new planning provisions contained within State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – Sign Code.

No.	DCP Reference	Existing Provision	Proposed Amendment	Reason
1	Chapter 1 – Administration - 3.2.3 – Information to accompany development applications	Existing provisions do not contain digital document requirements.	Incorporate new Digital requirements as specified on DA forms  <b>Digital Requirements</b>  Each plan and supporting document must be supplied in PDF format, no larger than 3MB in size and optimised for publishing to the web.  PDF files larger than 3MB should be broken up into logical parts and supplied as separate files.  Documents are to be supplied with a descriptive file name using the following naming conventions: <ul style="list-style-type: none"> <li>• Plan Description - Elevation Plan, Site Plan, Floor Plan</li> <li>• Plan Number (including version) - 12345, 12345 v2</li> <li>• Report Name (including version) - Statement of Environmental Effects</li> </ul> Example - Traffic Management Report v2, Ground Floor Plan 12345	Clarifies new requirements for digital documentation.
2	Chapter 1 – Administration - 3.2.3 – Information to accompany development applications	Existing provisions do not contain digital documentation requirements.	Incorporate the following amendments to DA submission requirements.  1. Digital copies of plans and supporting documentation supplied on a single CD-ROM in accordance with Council's digital requirements (refer below) for all development applications and construction certificates. Council will accept the lodgement of a DA without a digital copy in certain circumstances.  Note: Additional or updated information supplied after the submission of the initial application must also be accompanied by a CD-ROM.  2. Delete reference to 3 plans within clause 3.2.3(ii) and insert 2 plans.	Update requirements for submission of DA to reflect new digital requirement, Group name and process changes.

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			<p>3. Delete reference to <i>Regulatory Services Group</i> in clause 3.2.3(iii) and insert instead <b>Development and Environmental Health Group</b>.</p> <p>4. Insert new subsection (viii) as follows:</p> <p>A completed 'Written Request to Vary a Development Standard' or 'Written Request to Vary a Development Control' form (if applicable)</p>	
3	Chapter 1 – Administration - Appendix 2 - Dictionary	No current definition for deep soil zone.	<p>Insert the following definition of deep soil zone within Appendix 2:</p> <p>Deep soil zone means that part of the site which is unbuilt upon and has a soil profile suitable for planting large trees.</p>	Minimum deep soil zones requirements are specified in Chapter 6a - Commercial Development Ballina Town Centre. Chapter 6a contains various requirements for deep soil zones but does not define the term. Defining the term provides increased clarity.
4	Chapter 1 – Administration – Public Notification and Exhibition of Development Proposals - 3.2.4	<i>Temporary uses</i> referenced in relation to advertising of development proposals. No guidance provided as to what constitutes a <i>temporary use</i> .	<p>The following Note is proposed to be inserted to provide guidance as to what type of uses constitute temporary use of land:</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">  <p><b>Note:</b> Temporary uses are uses permitted on land under the provisions of clause 2.8 of BLEP. They include uses that would otherwise be prohibited within the zone applicable to the land. Examples of temporary uses include markets, sporting and community events and the like.</p> </div>	<p>Guidance is required in relation to the nature of uses that could be considered as temporary uses. In accordance with decisions of the Land and Environment Court uses that are held on a recurrent basis such as one day per month can be regarded as temporary uses.</p> <p>Clause 2.8 of BLEP permits temporary uses on land for maximum period of 52 days (whether or not consecutive days) in any period of 12 months.</p>

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No.	DCP Reference	Existing Provision	Proposed Amendment	Reason
5	Chapter 2 – General and Environmental Considerations - Part 3 General Controls – 3.1 – Land Use Conflicts – 3.1.3	<p><b>B Minimum Buffers and Land Use Conflict Risk Assessment – Non - specific Land Uses</b></p> <p>i. An application for a land use not specified in Table 2.1 is to be supported by a LUCRA where, in the opinion of Council, the location of the proposed use is of a scale and/or type that is likely to:</p> <ul style="list-style-type: none"> <li>Impact on the amenity or agricultural activity of adjoining land, or</li> <li>Affect the potential urban development of adjoining land where that land is currently zoned for urban purposes or is identified as a Strategic Urban Growth Area in the BLEP 2012 and in Council's adopted Growth Management Strategy.</li> </ul>	Deletion of the word "urban" from the second dot point.	There may be instances where non urban land uses may trigger the need for a LUCRA.
6	Chapter 2 – General and Environmental Considerations – Coastal Hazards - 3.14.3 C	<p><b>Area C, Lennox Head – Land between the Immediate Hazard Line and the Maximum 50 Year Hazard Line, between Byron Street and Lake Ainsworth Sport and Recreation Centre.</b></p> <p>i. Development proposals for land between the identified Maximum 50 Year Hazard Line and the Immediate Hazard Line must be suitably designed by a suitably qualified structural engineer and have the ability to accommodate potential erosion and inundation hazards;</p> <p>ii. Building foundations must be designed to address the effect of the zone of reduced bearing capacity and minimum floor levels may apply where there is a threat of inundation. Design criteria for foundations are as follows:</p> <ul style="list-style-type: none"> <li>Building foundations are to comprise piling supporting a suspended floor with a minimum clearance of 0.3 metres between <b>ground level (existing)</b> and the underside of the floor system, and be designed to support the building for the condition of removal of soil to RL 2.0 metres AHD including any lateral loadings imposed by a soil mass failure to this level;</li> <li>Piling referred to above is to be sufficient to fully support the proposed building and is to be designed and certified by a suitably qualified structural engineer;</li> <li>Plans, sections and elevations submitted must</li> </ul>	<p>Delete current Area C provisions and insert the provisions detailed in red below:</p> <p><b>Area C, Lennox Head – Land between the Immediate Hazard Line and the Maximum 50 Year Hazard Line, between Byron Street and Lake Ainsworth Sport and Recreation Centre</b></p> <p>Development is permitted on land that is landward of an adopted interim planning line (22 metres landward of the designated immediate hazard line based on a 10 year planning period – refer to illustration in the Coastal Hazard Protection Map).</p> <p>Development is permitted on land that is seaward of an adopted interim planning line, subject to design by an appropriately qualified engineer to accommodate erosion and inundation potential. 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. The following design criteria is applicable:</p> <ul style="list-style-type: none"> <li>Building foundations are to comprise piling supporting a suspended floor with a minimum clearance of 0.3 metres between <b>ground level (existing)</b> and the underside of the floor system, and be designed to support the building for the condition of removal of soil to RL 2.0 metres AHD including any lateral loadings imposed by a soil mass failure to this level;</li> <li>Piling referred to above is to be sufficient to fully support the proposed building and is to be designed and certified by a suitably qualified structural engineer;</li> </ul>	The amendment seeks to correct an error whereby Area B provisions were applied to Area C. What is now proposed is to reintroduce the Area C provisions as contained in the previously applicable Ballina Shire Combined DCP 2006 with minor updating of references.



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		<p>Identify:</p> <ul style="list-style-type: none"> <li>Floor levels and <b>ground level (existing)</b> and <b>ground level (finished)</b>;</li> <li>Top and bottom levels of foundations, footings or piles, and</li> </ul> <p>The requirements of (i) and (ii) do not apply to minor improvements and renovations or in relation to maintenance works.</p>	<ul style="list-style-type: none"> <li>Plans, sections and elevations submitted must identify:</li> <li>Floor levels and <b>ground level (existing)</b> and <b>ground level (finished)</b>;</li> <li>Top and bottom levels of foundations, footings or piles, and</li> </ul> <p>The requirements above do not apply to minor improvements and renovations, or in relation to maintenance work which are permitted on all land.</p>					
7	Chapter 2- General and Environmental Considerations – 3.19.3 Development Controls – E – Car Parking Requirements	<p>Car parking requirements for Food and Drink premises within Table 2.3 are specified as follows:</p> <table border="1"> <tr> <td><b>Food and Drink Premises</b></td> <td>1 space per 3 seats or 15 per 100m<sup>2</sup> GFA whichever is the greater</td> </tr> </table>	<b>Food and Drink Premises</b>	1 space per 3 seats or 15 per 100m <sup>2</sup> GFA whichever is the greater	<p>Align the car parking requirements for Food and Drink Premises located within commercial centres in the Shire, excluding Lennox Head Precinct A with those applicable in the Ballina Town Centre.</p> <table border="1"> <tr> <td><b>Food and Drink Premises located within commercial centres</b></td> <td> <ul style="list-style-type: none"> <li>1 space per 25 m2 of gross floor area at ground floor level.</li> <li>1 space per 40m2 gross floor area at the first floor level and above.</li> <li>On site car parking is required to be accessible parking.</li> </ul> </td> </tr> </table>	<b>Food and Drink Premises located within commercial centres</b>	<ul style="list-style-type: none"> <li>1 space per 25 m2 of gross floor area at ground floor level.</li> <li>1 space per 40m2 gross floor area at the first floor level and above.</li> <li>On site car parking is required to be accessible parking.</li> </ul>	<p>Car parking provisions applicable to Food and Drink premises (Restaurant and café type uses) are significantly higher in areas outside of the Ballina and Lennox Head commercial centres.</p> <p>The current car parking rates may act as a disincentive to restaurant uses establishing within existing commercial centres such as at Alstonville, Wollongbar and East Ballina. The proposed amendments would facilitate a change of use from a shop or office use to a restaurant or café use within existing commercial centres.</p> <p>Lennox Head Precinct A has not been included as special provisions already apply within this area.</p>
<b>Food and Drink Premises</b>	1 space per 3 seats or 15 per 100m <sup>2</sup> GFA whichever is the greater							
<b>Food and Drink Premises located within commercial centres</b>	<ul style="list-style-type: none"> <li>1 space per 25 m2 of gross floor area at ground floor level.</li> <li>1 space per 40m2 gross floor area at the first floor level and above.</li> <li>On site car parking is required to be accessible parking.</li> </ul>							
8	Chapter 2- General and Environmental Considerations – 3.19.3 Development Controls – E – Car Parking Requirements	No existing provision address public – private use of car parking in relation to required car parking rates.	<p>Insert an additional provision as indicated in red below.</p> <p><b>(ii) The car parking requirements specified in Table 2.3 are minimum requirements. All required spaces associated with commercial and industrial uses shall be made available for unrestricted public access and employee use. Where car parking spaces are proposed to be designated for private use then such spaces are required to be additional to the minimum specified requirements.</b></p>	All parking spaces as required by set DCP rates, in commercial and industrial developments, must be available for unrestricted public access and employee use (clause 3.19.3Aii.) The proposed control reinforces this requirement.				
9	Chapter 2 - General and Environmental Considerations - Appendix	Form 5 contains the following note: Note: Approaches for the management of waste on site should address the relevant matters set out in Appendix C.	<p>Amend the note within Form 5 as indicated in red below:</p> <p>Note: Approaches for the management of waste on site should <b>make provision for the waste generation rates specified with Appendix B.</b></p>	Form 5 was based on a form contained within the Blacktown City Waste DCP. This DCP did not contain an Appendix C or its				




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10	A – Form 5  Chapter 3 – Urban Subdivisions – Section 3.2.3 Major Subdivision Control Elements – Element C – Vision, Content, Master Plan content	<ul style="list-style-type: none"> <li>• <u>Concept Plans</u> – designed to address the following elements:                             <ul style="list-style-type: none"> <li>- Local strategic planning framework</li> <li>- Environmental attributes and characteristics of the land</li> <li>- Relationship to surrounding land uses</li> <li>- Spatial arrangement of land uses</li> <li>- Type and form of residential development (or other urban land uses)</li> <li>- Distribution and function of open space</li> <li>- Movement networks and road hierarchy</li> <li>- Landscaping and street treatments</li> <li>- Staging and delivery of key infrastructure</li> <li>- Provision for community infrastructure</li> </ul> </li> </ul>	Incorporate additional requirements related to the <i>Distribution and function of open space</i> element as indicated in red below: <ul style="list-style-type: none"> <li>- Distribution and function of open space including consistency with the 2008 Ballina Open Space Study and relevant Contribution Plan or Voluntary Planning Agreement requirements.</li> </ul>	equivalent. Amending form 5 as proposed rectifies an error.  Additional guidance is proposed related to matters of relevance when considering open space contained within proposed subdivision concept plans.
11	Chapter 3 – Urban Subdivisions – Section 3.2.3 Major Subdivision Control Elements – Element C – Vision, Content, Master Plan content	 <p><b>Note</b> Minutes of the pre-lodgement consultation meeting will be provided to the proponent identifying the particular issues relevant to the proposed subdivision.</p>	Replace the Note after point ii. In section 3.2.3 – Element C with the following Note:  <p><b>Note:</b> A meeting with the Subdivision Panel may be requested by a proponent for a subdivision involving 10 or more lots. The panel will be chaired by the Manager of Development Services or representative and will include relevant engineering, strategic planning and environmental staff.  The Subdivision Panel meeting is a mandatory consultation step in cases where a Subdivision Master Plan is proposed.  Minutes of the Subdivision Panel meeting will be provided to the proponent identifying the particular issues relevant to the proposed subdivision.</p>	Additional guidance is proposed in terms of the composition of the Subdivision Panel and when a meeting with the panel is required.


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12	Chapter 4 – Residential and Tourist Development 3.1.1 - Application	<p><b>3.1.1 Application</b></p> <p><b>Applies to:</b></p> <table border="1"> <tr> <td>Location/s:</td> <td>Zones B1, B2, B3, B4, B6, R2 &amp; R3</td> </tr> <tr> <td>Development Type/s:</td> <td><i>Residential accommodation and Tourist and visitor accommodation</i></td> </tr> </table>	Location/s:	Zones B1, B2, B3, B4, B6, R2 & R3	Development Type/s:	<i>Residential accommodation and Tourist and visitor accommodation</i>	<p>Exclude <i>Secondary Dwellings</i> from the General Controls contained within Part 3 of Chapter 4.</p> <p>Amend Table 3.11 as indicated in red below.</p> <p><b>3.1.1 Application</b></p> <p><b>Applies to:</b></p> <table border="1"> <tr> <td>Location/s:</td> <td>Zones B1, B2, B3, B4, B6, R2 &amp; R3</td> </tr> <tr> <td>Development Type/s:</td> <td><i>Residential accommodation (excluding secondary dwellings unless specifically stated) and Tourist and visitor accommodation</i></td> </tr> </table> <p>Insert the following Note after the table to section 3.1.1 which indicates that the development controls contained within State Environmental Planning Policy (Affordable Rental Housing) 2009 relating to secondary dwelling complying development will also be applied to secondary dwellings which require consent.</p> <table border="1"> <tr> <td></td> <td><b>Note:</b> The provisions of <b>Part 3 General Controls</b> do not apply to <i>secondary dwelling</i> unless specifically stated. <i>Secondary dwellings</i> will be assessed against the controls contained in Division 2, clause 23(1) (c) to (g) of the Affordable Rental Housing SEPP.</td> </tr> </table>	Location/s:	Zones B1, B2, B3, B4, B6, R2 & R3	Development Type/s:	<i>Residential accommodation (excluding secondary dwellings unless specifically stated) and Tourist and visitor accommodation</i>		<b>Note:</b> The provisions of <b>Part 3 General Controls</b> do not apply to <i>secondary dwelling</i> unless specifically stated. <i>Secondary dwellings</i> will be assessed against the controls contained in Division 2, clause 23(1) (c) to (g) of the Affordable Rental Housing SEPP.	<p>Development controls related to secondary dwellings, which are complying development, are located within the Affordable Rental Housing SEPP. These controls do not apply to Ballina Island and some other parts of the shire which are affected by certain land based exclusions contained within the Codes SEPP. Class 1 and 2 acid sulfate soil affected areas are the most common land based exclusion which excludes secondary dwellings being considered as complying development within Ballina Shire.</p> <p>In cases where secondary dwellings cannot be considered as complying development the provisions of the DCP apply. The DCP provisions at times conflict with those contained within the Affordable Rental Housing SEPP. The proposed amendments will align the development controls applicable to affordable rental housing in the DCP with those specified in the SEPP.</p> <p>Floor Space Ratio will be the only control specified in the DCP which will be applied to secondary dwellings. In this case the FSR permitted by the BLEP and DCP is higher than otherwise permitted by the SEPP.</p>
Location/s:	Zones B1, B2, B3, B4, B6, R2 & R3													
Development Type/s:	<i>Residential accommodation and Tourist and visitor accommodation</i>													
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	<b>Note:</b> The provisions of <b>Part 3 General Controls</b> do not apply to <i>secondary dwelling</i> unless specifically stated. <i>Secondary dwellings</i> will be assessed against the controls contained in Division 2, clause 23(1) (c) to (g) of the Affordable Rental Housing SEPP.													


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No.	DCP Reference	Existing Provision	Proposed Amendment	Reason
13	Chapter 4 – Residential and Tourist Development 3.1.1 - Application	No existing provision addressing presence of residential related provisions in rural areas.	<p>An additional note relating to the location of residential related controls within Chapter 7 - Rural Living and Activity is also proposed. This note will follow the note</p> <div style="border: 1px solid black; padding: 5px;">  <p><b>Note:</b> Refer also to the controls contained within Chapter 7 – Rural Living and Activity which contains controls applicable to residential accommodation, and tourist and visitor accommodation within the RU1, RU2, E2, E3, W1 and W2 zones where permissible.</p> </div>	The insertion of the note will provide increased clarity and assist users to navigate to the DCP chapter which contains additional controls.
14	Chapter 4 – Residential and Tourist Development 3.1.3 - Element A – Building Height	No existing provision	<p>Incorporate the following provisions after Control (iii):</p> <p>(iv) A third storey in the form of a loft only is permitted within residential development subject to a 8.5 metre maximum building height subject to compliance with the following:</p> <ul style="list-style-type: none"> <li>(a) No more than two rooms (for the purposes of a bedroom and/or study) and a bathroom plus an internal link to the storey below are to be contained within the loft space; and</li> <li>(b) Design must ensure that the loft does not have the external appearance of a storey.</li> <li>(c) The maximum roof pitch is not to exceed 35 degrees; and</li> <li>(d) Compliance with building envelop controls.</li> </ul>	<p>The definition of building height provides for the height to be measured from existing ground level to the highest point of the building (top of the roof). The 8.5 metre building height applicable within the RU2 and RU3 zones would enable in certain circumstances the incorporation of lofts within roof space.</p> <p>The proposed controls clarify that lofts are permitted and define the applicable controls.</p>

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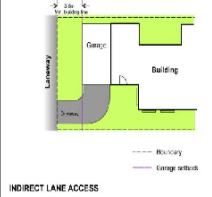
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No.	DCP Reference	Existing Provision	Proposed Amendment	Reason
15	Chapter 4 – Residential and Tourist Development 3.1.3 - Element A – Building Height	No existing provision addressing architectural roof features.	Incorporate the following Note within Element A.  <div style="border: 1px solid black; padding: 5px;">  <p><b>Note</b></p> <p>Architectural Roof Features which comply with the requirements specified within clause 5.6 of Ballina LEP 2012 are permitted to exceed the building heights specified on the Height of Buildings Map.</p> <p>Architectural roof features are decorative building elements not capable of being used as floor space. They must have minimal shadow impacts. The majority of the roof feature must be contained within the prescribed building height.</p> <p>Where an architectural roof feature is proposed that exceeds the otherwise permitted height it is recommended that the design be discussed with Council's Development Services staff.</p> </div>	Guidance is required as to the circumstances where a variation in building height may be permitted.
16	Chapter 4 – Residential and Tourist Development – 3.1.3 Element B – Floor Space Ratio	No existing provision addressing car parking with respect to floor space ratio.	Insert the following additional control within development controls: <ul style="list-style-type: none"> <li>In the case of a dwelling house, dual occupancy or semi detached dwelling, which requires 2 car parking spaces, the maximum floor area excluded from the calculation of gross floor area is 44 square metres.</li> </ul>	The definition of <i>gross floor space</i> , used to determine <i>floor space ratio</i> , excludes from the calculation of floor area the area occupied by car parking to meet any requirements of the consent authority (including access to that car parking). Guidance is required as to the maximum area that may be excluded from the <i>gross floor space</i> calculation.




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No.	DCP Reference	Existing Provision	Proposed Amendment	Reason
17	Chapter 4 - Residential and Tourist Development - 3.1.3 Element F – Development Fronting Laneways	iii. Garages that are directly accessed from the lane shall have a minimum setback of 5.5m from the lane boundary in accordance with Figure 4.5, except as specified in (v).	Amend control iii. To reflect both the direct and indirect lane access requirements in terms of building setbacks as indicated in red below:  iii. Garages that are accessed from the lane shall have a minimum setback of 5.5m for direct access or 3.5m for indirect access from the lane boundary in accordance with Figure 4.5, except as specified in (v).	Figure 4.5 provides two solutions one for direct lane access and the other for indirect lane access. The indirect lane access option (shown below) is not referenced within the controls. In the case of indirect access a minimum setback of 3.5 metres is allowed.  
18	Chapter 4 - Residential and Tourist Development - 3.1.3 Element E – Building Lines	v. Balconies may encroach beyond the specified <b>building line</b> provided that: <ul style="list-style-type: none"> <li>- The balcony is of cantilevered type construction,</li> <li>- No walls or columns are erected below the balcony,</li> <li>- No walls or rooves are erected above the balcony, and</li> <li>- The balcony has a maximum projection of 1.8 metres.</li> </ul>	Amend the control related to the maximum balcony encroachment of 1.8 metres so as to clarify that this concession is not additional to the 1.5 metre articulation zone concession contained within Element D – Articulation zone. The proposed amendment is detailed in red below: <ul style="list-style-type: none"> <li>- The balcony has a maximum projection of 1.8 metres and is not located forward of the 1.5 metre articulation zone.</li> </ul>	Concern has been raised that the permitted balcony encroachment within the building line may be interpreted as being permitted in front of the articulation zone. This was not intended by this control and therefore is now proposed to be clarified by the amendment.

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19	Chapter 4 - Residential and Tourist Development - 3.1.3 Element E – Building Lines	i. Residential accommodation and tourist and visitor accommodation buildings and all ancillary development on a lot must be setback behind the building line specified on the Building Line Map (except as specified in items (iii) or (iv) below).	will be considered. Insert the following advisory note to clarify the circumstances under which building line concessions  <div style="border: 1px solid black; padding: 5px;">  <p><b>Note</b> In cases where exceptional circumstances exist or site constraints dictate a merit-based assessment of the building line will be made. In such cases it must be able to be demonstrated that it would not be practical to maintain the nominated building line and that no adverse impacts on surrounding properties and or the streetscape will result.  Concessions for open form construction such as pergolas and car ports are generally viewed more favourably than for enclosed structures.</p> </div>	The proposed note clarifies the circumstances where building line concessions will be considered.
20	Chapter 4 - Residential and Tourist Development - 3.1.3 Element F – Development Fronting Laneways	vii. Adequate infrastructure servicing, including formalised vehicular access, waste collection and postal delivery, must be available to any lane where direct frontages are proposed, except where the requirements of (viii) are met.	Amend control vii. To incorporate a requirements for pedestrian access as indicated in red below:  vii. Adequate infrastructure servicing, including formalised vehicular and pedestrian access, waste collection and postal delivery, must be available to any lane where direct frontages are proposed, except where the requirements of (viii) are met.	The incorporation of a requirement for pedestrian access reflects current practice that requires such access to be provided.
21	Chapter 4 -Residential and Tourist Development - 3.1.3 Element H – Vehicle Access and Parking	iii. Car parking provided in association with residential flat buildings must not be located forward of the building line or setback unless it can be demonstrated that such car parking will be suitably screened along the street frontage.	Delete the reference to residential flat building where it appears in control iii. Related to car parking and insert instead a reference to residential accommodation as indicated in red below:  iii. Car parking provided in association with the residential accommodation specified in Table 4.4 must not be located forward of the building line or setback unless it can be demonstrated that such car parking will be suitably screened along the street frontage.	The term residential accommodation is a group term which covers the range of uses specified within Table 4.4. This change provides for a wider application of the provision.


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22	Chapter 4 -Residential and Tourist Development - 3.1.3 Element H – Vehicle Access and Parking	Table 4.4 does not provide rates applicable to shop top housing. A note is provided which references Chapter 2.	Amend <i>Table 4.4 – Car Parking for Residential and Tourist Uses</i> to incorporate the car parking requirements applicable to shop top housing as follows:  <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">Shop top housing</td> <td style="text-align: center;">Dwelling requirement plus shop requirement</td> </tr> </table>	Shop top housing	Dwelling requirement plus shop requirement	Amendment provides improved clarity.
Shop top housing	Dwelling requirement plus shop requirement					
23	Chapter 4 -Residential and Tourist Development - 3.1.3 Element H – Vehicle Access and Parking	<b>Controls – Garages and carports</b> i. Garages and carports are to be setback at least 1m behind the building line or 5.5 metres from the property boundary (whichever is greater);	Amend control i. by deletion of the reference to car ports and the requirement for a 1 metre setback as detailed below:  <b>Controls – Garages</b> i. Garages are to be setback 5.5 metres from the property boundary.	The wording of the control is considered ambiguous including its reference to car ports. The intent of the control is to enable a car to park in front of the garage wholly contained on the lot. For this to be achieved the garage is required to have a setback of 5.5 metres. Car ports are frequently approved in front of garages in accordance with controls iii. and iv.		
24	Chapter 4 -Residential and Tourist Development - 3.1.3 Element H – Vehicle Access and Parking	ii. Carports must not be wider than one car space width or 4m where other means of undercover parking is provided on-site;	Delete the control related to single space width car ports.	Control iv. Permits car ports forward of the building line to a maximum width of 6 metres or 33% of the lot width. Control ii. is considered in conflict with control iv. and should therefore be deleted.		

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No.	DCP Reference	Existing Provision	Proposed Amendment	Reason																
25	Chapter 4 -Residential and Tourist Development - 3.1.3  Element I – Overlooking and Privacy	No existing provision providing specific details about fencing to achieve privacy outcomes.	Insert an advisory note after Control iv, which provides that where privacy is proposed to be maintained using a 1.8 metre side boundary fence then such a fence must be erected prior to the adjoining dwelling being occupied. The proposed advisory note is as indicated in below.   Note: Where the privacy screen consists of a 1.8 metre high boundary fence then such fencing is required to be erected prior to the occupation of the adjoining dwelling house.	Where fencing is a condition of consent then a Final Occupation Certificate may not be issued until all fencing has been installed.  Consent conditions which incorporate the advice contained within the proposed note will enable Final Occupation Certificate to be issued.  This provision clarifies Council's policy position.																
26	Chapter 4 - Residential and Tourist Development 3.1.3  Element K – Fences and Walls	<b>Table 4.5 - Height of Fences</b> <table border="1"> <thead> <tr> <th>Fence Location</th> <th>Height</th> </tr> </thead> <tbody> <tr> <td><b>Front Fence*</b></td> <td>1.2 metres</td> </tr> <tr> <td><b>Side Fence</b></td> <td>1.2 metres forward of the building line and 1.8 metres for the remainder.</td> </tr> <tr> <td><b>Rear Fence</b></td> <td>1.8 metres. Where the rear fence is the primary frontage, 1.2 metres.</td> </tr> </tbody> </table> *Front fence refers to a fence on the front boundary or forward of the building line on the primary street frontage of a site.	Fence Location	Height	<b>Front Fence*</b>	1.2 metres	<b>Side Fence</b>	1.2 metres forward of the building line and 1.8 metres for the remainder.	<b>Rear Fence</b>	1.8 metres. Where the rear fence is the primary frontage, 1.2 metres.	<b>Table 4.5 - Height of Fences</b> <table border="1"> <thead> <tr> <th>Fence Location</th> <th>Height</th> </tr> </thead> <tbody> <tr> <td><b>Front Fence*</b></td> <td>1.2 metres <b>unless fence complies with point ii. below</b></td> </tr> <tr> <td><b>Side Fence</b></td> <td>1.2 metres forward of the building line and 1.8 metres for the remainder.</td> </tr> <tr> <td><b>Rear Fence</b></td> <td>1.8 metres. Where the rear fence is the primary frontage, 1.2 metres.</td> </tr> </tbody> </table> *Front fence refers to a fence on the front boundary or forward of the building line on the primary street frontage of a site.	Fence Location	Height	<b>Front Fence*</b>	1.2 metres <b>unless fence complies with point ii. below</b>	<b>Side Fence</b>	1.2 metres forward of the building line and 1.8 metres for the remainder.	<b>Rear Fence</b>	1.8 metres. Where the rear fence is the primary frontage, 1.2 metres.	Additional guidance is provided in respect to the location of applicable controls which permit higher front fences. Point ii. permits front fences and walls to 1.8 metres in height in certain circumstances.  This proposed change provides an improved link between the fencing provisions.
Fence Location	Height																			
<b>Front Fence*</b>	1.2 metres																			
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27	Chapter 4 - Residential and Tourist Development 3.1.3  Element D – Articulation Zone	<b>Controls</b> i. An entry feature porch, veranda or deck associated with <b>residential accommodation or tourist and visitor accommodation</b> in Zone R2 Low Density Residential and Zone R3 Medium Density Residential may project forward of the main <b>building line or setback</b> by up to 1.5m in front,	Include the word "and" after point i.	Inclusion of "and" signifies that points ii. and iii. are also applicable in circumstances where a 1.5 metre projection into the building line is proposed.																


9.7 **Ballina Shire Development Control Plan 2012 - Amendment 3.DOC**

Ballina Development Control Plan 2012 – Amendment No. 3

28	<p>Chapter 4 - Residential and Tourist Development - 3.1.3</p> <p>Element – M – Adaptable Housing</p>	<p><b>M. Element - Adaptable Housing</b></p> <p>Objectives</p> <p>a. Ensure that residential development is designed such that increased opportunities exist for people with limited mobility to reside in the broader community.</p> <p>Controls</p> <p>i. At least 10% of all dwellings in an attached dwelling, residential flat building or multi dwelling housing development (or at least 1 dwelling unit, which ever is the greater) must be designed in accordance with Australian Adaptable Housing Standard (AS 4299-1995), and</p> <p>ii. Car parking and garages allocated to dwellings built to the Australian Adaptable Housing Standard (AS 4299-1995) must comply with the dimensions specified in the Standard.</p>	<p>Council at its meeting on 19 December 2013 (Minute No. 191213/9) resolved that a report be prepare on the implications of Council's existing adaptable housing provisions.</p> <p>Council's adaptable housing provisions were also scheduled for review as part of this DCP following feedback received from staff that they were considered overly onerous by local builders of smaller scale development.</p> <p>Following review it is proposed to amend control i. as indicated in red below:</p> <p>i. At least 10% of all dwellings in an attached dwelling, residential flat building or multi dwelling housing development <b>containing 10 or more dwellings</b> must be designed in accordance with Australian Adaptable Housing Standard (AS 4299-1995). <b>Where this results in a fraction then it shall be rounded to the nearest whole number with 0.5 being rounded down;</b> and</p>	<p>On review the current control which requires a minimum of 1 adaptable dwelling is considered onerous for small scale development. The 1 per 10 dwelling reflects the control applicable in Byron Shire and is seen as more appropriate.</p> <p>A review of Tweed, Lismore, Clarence Valley, Richmond Valley, Coffs Harbour and Port Macquarie Hastings DCPs found no specific provisions relate to adaptable housing.</p> <p>The BCA does not contain adaptable housing provisions. It does however call up AS1428.1-2009 Design for access and mobility for Class 2 to 9 buildings.</p> <p>The option exists to rely only on BCA requirements related to access and mobility and delete the adaptable housing provision from the DCP.</p> <p>The NSW State – Residential Flat Design Code, the principles of which are applicable to residential development having a height of 3 or more storeys, sets out an objective that the building design optimises the number of accessible and adaptable apartments.</p> <p>In the context of Ballina Shire's demographic profile – aging population – the retention of an adaptable housing provision is considered to be desirable.</p>
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9.7 **Ballina Shire Development Control Plan 2012 - Amendment 3.DOC**

Ballina Development Control Plan 2012 – Amendment No. 3

29	<p>Chapter 4 - Residential and Tourist Development - 3.1.3</p> <p>Element – O – Dwelling Density</p>	<p>No existing provision explain the theoretical calculation of dwelling density.</p>	<p>Insert the following advisory note after Control i.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">  <p><b>Note:</b></p> <p>The number of <i>dwelling</i>s enabled under this provision is a theoretical maximum based on land area only. The actual number of <i>dwelling</i>s possible on a site may be less than the maximum once other planning provisions are taken into account.</p> <p>In cases where the <i>Dwelling Density Map</i> does not nominate a maximum dwelling density the dwelling density is to be determined through design analysis. Relevant development controls such as floor space ratio, building height, setbacks, car parking and landscaping requirements will determine dwelling density.</p> </div>	<p>The dwelling density map does not provide for density controls for all R3 areas. In cases where the map does not nominate a dwelling density the density is determined by undertaking a design analysis.</p> <p>Factors such as the floor space ratio, building height, setbacks, car parking and landscaping requirements will determine applicable density.</p>
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9.7 **Ballina Shire Development Control Plan 2012 - Amendment 3.DOC**

Ballina Development Control Plan 2012 – Amendment No. 3

30	<p>Chapter 4 - Residential and Tourist Development - 3.1.3          Element – P –Earthwork and Slope Sensitive Design Controls          Clause 4.2 Aspects Estate &amp; Elevations Estate          Element A – Cut and Fill          Clause 4.3 Wollongbar Urban Expansion Area          Element C – Cut and Fill limits</p>	<p>The controls highlighted in yellow are proposed to be deleted.</p> <p><b>P. Element – Earthworks and Slope Sensitive Design Controls</b></p> <p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>To limit the extent of <b>excavation</b> and <b>filling</b>.</li> <li>To provide for development that is responsive to existing landform.</li> <li>To ensure that building design is compatible with the topographical conditions of the site.</li> </ol> <p><b>Controls</b></p> <ol style="list-style-type: none"> <li><b>Earthworks</b> are to comply with the following provisions, except as provided for under (ii)           <ul style="list-style-type: none"> <li>• <b>Earthworks</b> on a lot that will be visible from any point outside the lot are restricted to a maximum height of <b>1500mm from ground level (existing)</b> for a single cut or <b>fill</b>.</li> <li>• <b>Excavation</b> and site benching resulting in multiple cuts or <b>fill</b> embankments that are visible from any point outside the lot are restricted to a maximum height of <b>1100mm per single cut or fill</b>.</li> </ul> </li> <li>A landscape plan is required to support any application involving <b>earthworks</b> with multiple cuts or <b>fill</b> embankments;</li> <li>The landscape plan is to demonstrate that landscaping suitable to soften the visual impact of the <b>earthworks</b> can be achieved, and</li> <li><b>Earthworks</b> involving <b>excavation</b> and/or <b>filling</b> on or within 900mm of a property boundary are restricted to maximum height of <b>1200mm</b> per single cut, single <b>fill</b> or combination cut/fill. These works are to be retained by a masonry structure designed and certified by a suitably qualified structural engineer.</li> </ol> <p><b>Aspects Estate &amp; Elevations Estate Lennox Head; Wollongbar Urban Expansion Area</b>  <b>Element - Cut and fill</b></p> <ol style="list-style-type: none"> <li><b>Earthworks</b> involving <b>excavation</b> in association with the construction of <b>dwelling</b>s (other than for <b>swimming pools</b>) is limited to a depth of 1.2 metres.</li> </ol> <p><b>Earthworks</b> involving <b>filling</b> in association with the construction of <b>dwelling</b>s is limited to a height of 1.2 metres</p>	<p>Amend Earthwork and Slope Sensitive Design Controls by deletion of sections highlighted in yellow in Column 3 and as indicated in red below.</p> <p><b>P. Element – Earthworks and Slope Sensitive Design Controls</b></p> <p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>To limit the extent of <b>excavation</b> and <b>filling</b>.</li> <li>To reference controls contained within the <b>General Housing Code and the Rural Housing Code under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</b>.</li> <li>To provide for development that is responsive to existing landform.</li> <li>To ensure that building design is compatible with the topographical conditions of the site.</li> </ol> <p><b>Controls</b></p> <ol style="list-style-type: none"> <li><b>Earthworks</b> are to comply with the following provisions, except as provided for under (ii)           <ul style="list-style-type: none"> <li>• The controls contained within this part are additional to those contained within clause 3.29 General Housing Code and clause 3A.29 of the Rural Housing Code.</li> <li>• A landscape plan is required to support any application involving <b>earthworks</b> with multiple cuts or <b>fill</b> embankments;</li> <li>• The landscape plan is to demonstrate that landscaping suitable to soften the visual impact of the <b>earthworks</b> can be achieved, and</li> <li>• <b>Earthworks</b> involving <b>excavation</b> and/or <b>filling</b> on or within 900mm of a property boundary are restricted to maximum height of <b>1200mm</b> per single cut, single <b>fill</b> or combination cut/fill. These works are to be retained by a masonry structure designed and certified by a suitably qualified structural engineer.</li> </ul> </li> </ol> <p>Deletion of the Cut and Fill limit elements as they apply to the Aspect Estate and Elevations Estate at Lennox Head, and to within the Wollongbar Urban Expansion Area and incorporation of a reference to the amended Earthworks and Slope Sensitive Design Controls detailed above.</p>	<p>Amendments to the General Housing Code and the Rural Housing Code under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 came into effect on 22 February 2014. These amendments permit cut and fill for complying development, in most cases, at levels significantly above those permitted by the DCP. The amendments proposed align the controls within the SEPP with those contained within the DCP. The SEPP limits excavation within 1 metre of a boundary to a maximum of 1 metre. In this case Council's control of 1200mm maximum excavation within 900mm of the boundary is proposed to be retained. In other cases the SEPP restricts excavation located more than 1 metre but not more than 1.5 metres from the boundary to 2 metres. Excavation more than 1.5 metres from the boundary is restricted to a maximum of 3 metres. The amended controls are also proposed to be applied to the Aspects and Elevations Estates at Lennox head and to the Wollongbar Urban Expansion Area. In the case of the Coastal Grove Estate at Lennox Head no change is proposed at this time due to the previous geotechnical assessments upon which specified requirements are based.</p>
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9.7 **Ballina Shire Development Control Plan 2012 - Amendment 3.DOC**




Ballina Development Control Plan 2012 – Amendment No. 3

31	Chapter 6a – Commercial Development Ballina Town Centre	No existing provision addressing car parking for health consulting room and medical centre uses specific to Ballina CBD.	<p>Insert car parking provisions for <i>health consulting room, medical centre</i> and other uses within Part 5 – Table 6a.9 Ballina Town Centre Car Parking Requirements.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Health consulting room</td> <td style="padding: 2px;">3 spaces per surgery</td> </tr> <tr> <td style="padding: 2px;">Medical Centres</td> <td style="padding: 2px;">1 space per 25m<sup>2</sup> gross floor area</td> </tr> <tr> <td style="padding: 2px;">Other land uses</td> <td style="padding: 2px;">To be provided in accordance with the rates specified in Chapter 2</td> </tr> </table>	Health consulting room	3 spaces per surgery	Medical Centres	1 space per 25m <sup>2</sup> gross floor area	Other land uses	To be provided in accordance with the rates specified in Chapter 2	<p>The previously applicable DCP made provision for health care centres which contained more than 3 surgeries to be assessed in accordance with the RTA guidelines. The relevant RTA guideline provision stipulated 1 space per 25m<sup>2</sup> of gross floor area.</p> <p>The 1 space per 25m<sup>2</sup> of gross floor area is the same rate as is applicable to ground floor retail, business and office premises uses. For this reason 1 space per 25m<sup>2</sup> has been nominated as the applicable car parking standard.</p> <p>Health consulting rooms which by definition are required to be located within a dwelling house, and are limited to a maximum of 3 health care professionals practicing their profession at any one time, have also been included and the car parking rate applicable previously outside the Ballina Town centre applied.</p> <p>The reference to other land uses provides improved guidance as to the applicability of rates specified in Chapter 2 to development within the Ballina Town Centre.</p>
Health consulting room	3 spaces per surgery									
Medical Centres	1 space per 25m <sup>2</sup> gross floor area									
Other land uses	To be provided in accordance with the rates specified in Chapter 2									





9.7 **Ballina Shire Development Control Plan 2012 - Amendment 3.DOC**

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32	Chapter 7 – Rural Living and Activity – Section 3.1.3 Development Controls – F. Dual Occupancies	 <p><b>Notes:</b> Separation between <b>dual occupancy dwellings</b> will be measured from the external walls of the dwellings or minor ancillary structures attached to the dwellings (such as carports and decks). Where measurements are made from structures such as carports or decks, measurements will be from the wall, column, post etc (not the eaves).</p> <p>If the first dwelling on the land is an expanded <b>dwelling</b> (as per Section E above) the second <b>dwelling</b> is to be of a regular, compact or non-expanded form.</p> <p>Council is not able to grant consent to strata-title subdivision of rural dual-occupancies.</p> <p>Consent for a <b>dual occupancy</b> will require payment of developer contributions.</p>	<p>Amend the Notes as indicated in red below.</p>  <p><b>Notes:</b> Separation between <b>dual occupancy dwellings</b> will be measured from the external walls of the dwellings or minor ancillary structures attached to the dwellings (such as carports and decks). Where measurements are made from structures such as carports or decks, measurements will be from the wall, column, post etc (not the eaves).</p> <p>If the first dwelling on the land is an expanded <b>dwelling</b> (as per Section E above) the second <b>dwelling</b> is to be of a regular, compact or non-expanded form.</p> <p>Council is not able to grant consent to strata-title subdivision of rural dual-occupancies <b>unless each lot created, excluding common property, is not less than the minimum shown on the Lot Size Map.</b></p> <p>Consent for a <b>dual occupancy</b> will require payment of developer contributions.</p>	<p>There is no prohibition against strata subdivision of dual occupancies within the RU1 and RU2 zones. The requirements contained within clause 4.1E(3) of BLEP is that each strata lot, excluding common property, comply with the minimum area shown on the <i>Lot Size Map</i>.</p> <p>This notation provides for consistency between the LEP and DCP.</p>
33	Chapter 7 – Rural Living and Activity – Section 4.1 – South Ballina	No existing provision addressing Threat Abatement Plans applicable at South Ballina.	<p>Incorporate a note at the end of the section relating to Threat Abatement Plans prepared by the Office of Environment and Heritage.</p> <p>The following note is proposed:</p>  <p><b>Note</b></p> <p>The Office of Environment and Heritage (OEH) has prepared <i>Threat Abatement Plans (TAP)</i> for the Red Fox and Bitou Bush. These plans may be accessed from the following web link: <a href="http://www.environment.nsw.gov.au/threatenedspecies/ThreatAbatementPlans.htm">http://www.environment.nsw.gov.au/threatenedspecies/ThreatAbatementPlans.htm</a> Further information concerning consultation requirements associated with a TAP may be obtained by contacting the OEH Pest Management Officer.</p>	The note provides a reference source for Threat Abatement Plans related to pests which are prevalent on South Ballina Island.

9.7 **Ballina Shire Development Control Plan 2012 - Amendment 3.DOC**

Ballina Development Control Plan 2012 – Amendment No. 3

34	<p>Chapter 3 – Other Uses – Section 3.4 Signage – 3.41 Application</p>	 <p><b>Notes:</b></p> <p>The provisions of this Section should be read in conjunction with <i>State Environmental Planning Policy No. 64 – Advertising and Signage</i> (SEPP 64) and BLEP 2012 Schedule 2 which contains provisions regarding exempt development including signage.</p> <p>Where signage provisions are identified elsewhere in this DCP, those provisions prevail over those contained in this section where there is an inconsistency.</p>	<p>Expand the Note after Table 3.41 to incorporate references to the exempt and complying development signage provisions inserted into the Codes SEPP on 22 February 2014. The proposed amendments are shown in red below.</p>  <p><b>Notes:</b></p> <p>The provisions of this Section <b>relate to signage which requires consent</b>. This section should be should be read in conjunction with <i>State Environmental Planning Policy No. 64 – Advertising and Signage</i> (SEPP 64).</p> <p><b>Certain signage is exempt from the requirements to obtain development consent. Details of signage that is exempt development is contained within the following legislation:</b></p> <ul style="list-style-type: none"> <li>• SEPP 64 – clause 33;</li> <li>• <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) – Advertising and Signage Exempt Development Codes;</i></li> <li>• BLEP – Schedule 2</li> </ul> <p>Projecting wall signs and freestanding pylon and directory board signs may also be complying development under the provisions of the Codes SEPP's Commercial and Industrial Alterations Code subject to compliance with nominated development standards.</p> <p>Where signage provisions are identified elsewhere in this DCP, those provisions prevail over those contained in this section where there is an inconsistency.</p>	<p>The proposed note amendments clarify that the DCP provisions only relate to signage that requires consent. The note provides information related to where exempt and complying development provisions are located in other legislation.</p>
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