



Ballina Shire Development Control Plan 2012

Draft Amendment No 12 – General Amendments

Schedule of Proposed Amendments

April 2019 (19/23577)

8.3 Development Control Plan 2012 - Amendment.DOC

BDCP 2012 Draft Amendment No 12 – April 2019

The following table provides details of the amendments proposed to Ballina Shire Development Control Plan 2012 (DCP). The amendments relate to issues and ideas identified as a result of periodic review of the DCP.

No	DCP Reference	Existing Provision	Proposed Amendment	Reason
1	<p>Chapter 1 – Administration</p> <p>Part 3.2 Development Applications</p> <p>3.2.4 Public Notification and Exhibition of Development Proposals</p>	<p>3.2.4 Public Notification and Exhibition of Development</p> <p>Level 1 - Targeted Notification This involves a letter being sent to owners and occupiers of those properties which, in the opinion of Council's Assessment Officer, are likely to be unreasonably impacted by the proposed development. Level 1 typically applies to relatively small scale development such as:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Front fences (that are not exempt development); <input type="checkbox"/> Pontoons; <input type="checkbox"/> Building line and/or setback variations; <input type="checkbox"/> <i>Dwelling houses, dual occupancies, rural worker's dwellings, secondary dwellings</i> and <i>group home</i> proposals (when such group homes comprise up to 10 bedrooms being within one or more group homes on a site) where it is determined that there may be an issue such as impacts on privacy, overshadowing or view loss beyond that which could have reasonably been expected given the planning controls applying in the locality. 	<p>3.2.4 Public Notification and Exhibition of Development</p> <p>Level 1 - Targeted Notification This involves a letter being sent to owners and occupiers of those properties which, in the opinion of Council's Assessment Officer, are likely to be unreasonably may be impacted by the proposed development. Level 1 typically applies to relatively small scale development such as:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Front fences (that are not exempt development); <input type="checkbox"/> Pontoons; <input type="checkbox"/> Building line and/or setback variations other than those considered as minor; <input type="checkbox"/> <i>Dwelling houses, dual occupancies, rural worker's dwellings, secondary dwellings</i> and <i>group home</i> proposals (when such group homes comprise up to 10 bedrooms being within one or more group homes on a site) where it is determined that there may be an issue such as impacts on privacy, overshadowing or view loss beyond that which could have reasonably been expected given the planning controls applying in the locality. 	<p>To clarify that not all notifications are the result of the assessment officer's opinion that the development may have unreasonable impacts.</p>
2	<p>Chapter 2 – General and Environmental Considerations</p> <p>Part 3.1 Land Use Conflict</p> <p>3.1.3 Development Controls</p>	<p>No current provision.</p>	<p>3.1.3 Development Controls</p> <p>A Minimum Buffers and Land Use Conflict Risk Assessment (LUCRA) – Specified Land Uses</p> <ul style="list-style-type: none"> • Add minimum buffer distances for hot mix asphalt / bitumen batch plants to Table 2.1, differentiating between new technology (500m) and old technology (1,000m). • Add the following new control (ii): <p>iii. Minimum buffer distances for specified land uses are to be calculated from the property</p>	<p>Introduces minimum buffer distances for hotmix asphalt / bitumen batch plants and includes diagrams which detail how buffer distances for specified land uses are to be calculated.</p>

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			<p>boundary (not from the location of the activity) as shown in Figure 1, unless it can be demonstrated that an area within the property is not capable of being used as part of the activity.</p> <ul style="list-style-type: none"> Addition of diagrams to show how buffer distances are to be calculated. <p><i>Refer to Chapter 2, Part 3.1 for consolidated development controls with changes highlighted in yellow.</i></p>	
3	<p>Chapter 2 – General and Environmental Considerations</p> <p>Part 3.7 Waste Management</p> <p>3.7.3 Development Controls</p>	<p>3.7.3 Development Controls</p> <p>Notes:</p> <p>All waste generated as part of any development must be disposed of in accordance with the Protection of the Environment and Operations Act 1997 and regulations and in accordance with the Local Government Act 1993.</p> <p>A template for completion of a SWMMP is available from Council.</p> <p>Design of waste management facilities and their conformity with the requirements of this DCP will be considered having regard to Council's Policy for Waste Management in Multi Unit Developments (in preparation as at June 2014).</p>	<p>3.7.3 Development Controls</p> <p>Notes:</p> <p>All waste generated as part of any development must be disposed of in accordance with the Protection of the Environment and Operations Act 1997 and regulations and in accordance with the Local Government Act 1993.</p> <p>A template for completion of a SWMMP is available from Council provided at Appendix A.</p> <p>Design of waste management facilities and their conformity with the requirements of this DCP will be considered having regard to Council's Policy for Waste Management in for Multi-Unit Developments. (in preparation as at June 2014).</p>	<p>To advise that the policy was adopted by the Council at its Ordinary Meeting held on 22 November 2018.</p> <p>Also advises that the template is provided in Appendix A of Chapter 2 of the DCP.</p>
4	<p>Chapter 2 – General and Environmental Considerations</p> <p>Part 3.14 Coastal Hazards</p> <p>3.14.3 Development Controls</p>	<p>3.14.3 Development Controls</p> <p>A Area A, Lennox Head – Land adjacent to Seven Mile Beach southward from Byron Street.</p> <p>iv. On all beachfront allotments, boundary fences eastward of the eastern <i>building line</i> shall be a maximum height of 1 metre above <i>ground level (finished)</i> and shall be of an open style construction (i.e. not a solid screen fence).</p>	<p>3.14.3 Development Controls</p> <p>A Area A, Lennox Head – Land adjacent to Seven Mile Beach southward from Byron Street.</p> <p>iv. On all beachfront allotments, boundary fences eastward of the eastern <i>building line</i> shall be a maximum height of 1 metre above <i>ground level (finished)</i> and shall be of an open style construction (i.e. not a solid screen fence).</p> <p>Fully cantilevered balconies are permitted to extend up to 1.8m eastward of the eastern <i>building line</i> (subject to no unreasonable adverse impacts on adjoining properties by way of view loss, privacy or shadowing).</p>	<p>To reinstate the provisions of previous development controls for this area.</p>

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5	<p>Chapter 2 – General and Environmental Considerations</p> <p>Part 3.19 Car Parking and Access</p> <p>3.19.3 Development Controls</p> <p>E. Car Parking Requirements</p>	<p>3.19.3 Development Controls</p> <p>E. Car Parking Requirements</p> <p>Table 2.3 – General Car Parking Requirements</p> <p>Land Use:</p> <ul style="list-style-type: none"> - Business premises - Food and drink premises - Office premises - Retail premises 	<p>3.19.3 Development Controls</p> <p>E. Car Parking Requirements</p> <p>Table 2.3 – General Car Parking Requirements</p> <p>For each of the nominated land uses in Table 2.3 (business premises, food and drink premises, office premises and retail premises), amend first dot point under the heading 'Lennox Head Precinct A' to read as follows:</p> <div style="border: 1px solid black; padding: 5px;"> <p>- 1 space per 30m² 25m² Gross Floor Area (GFA) to be provided on site, plus 1 space per 150m² GFA to be paid as contributions for the improvement of public lands for car parking purposes.</p> </div> <p>For the land use 'Food and drink premises', delete third dot point under the heading 'Lennox Head Precinct A' as shown below:</p> <div style="border: 1px solid black; padding: 5px;"> <p>Where additional car parking is required in relation to applications to legitimise existing alfresco dining activities on public land, and where it is not possible to physically accommodate such parking on the subject site, Council may consider a monetary contribution for the provision of such parking in accordance with the adopted Parking Contributions Plan.</p> </div>	<p>At its Ordinary Meeting held on 28 February 2019, the Council resolved to close the car parking contributions plan for the Lennox Head Village Centre and to amend the DCP to remove reference to the use of the contributions plan for car parking in the Lennox Head Village Centre.</p>
6	<p>Chapter 6c – Commercial Development Lennox Head</p> <p>Part 4.3 Element – Vehicle Access</p>	<p>Note: In accordance with the provisions of the Lennox Head Parking Contributions Plan, where the size of a new development does not warrant a contribution to a whole space, a partial contribution will be accepted.</p>	<p>Delete note.</p>	<p>See above.</p>

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7	<p>Chapter 6c – Commercial Development Lennox Head</p> <p>Part 5.3 Development Controls</p> <p>Table 6c.1 - Precinct A Development Controls</p>	<p>TABLE 6c.1 – PRECINCT A DEVELOPMENT CONTROLS</p> <p>Element: Car Parking</p> <p>Office Premises / Business Premises</p> <ul style="list-style-type: none"> - 1 space per 30m² Gross Floor Area (GFA) to be provided on site plus 1 space per 150m² GFA to be paid as contributions for the improvement of public lands for car parking purposes. - A minimum of 25% of total required spaces to be available for customer accessible parking. <p>Shops</p> <ul style="list-style-type: none"> - 1 space per 30m² GFA to be provided on site plus 1 space per 150m² 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. <p>Restaurant or Café</p>	<p>Amend first dot point under each heading (office / business premises, shops, restaurants / cafes) to read as follows:</p> <div style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> - 1 space per 30m² 25m² Gross Floor Area (GFA) to be provided on site, plus 1 space per 150m² GFA to be paid as contributions for the improvement of public lands for car parking purposes. </div> <p>Delete the third dot point under the heading 'Restaurant or Café':</p> <div style="border: 1px solid black; padding: 5px;"> <p>Where additional car parking is required in relation to applications to legitimise existing alfresco dining activities on public land, and where it is not possible to physically accommodate such parking on the subject site, Council may consider a monetary contribution for the provision of such parking in accordance with the adopted Parking Contributions Plan.</p> </div>	See above.

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		<ul style="list-style-type: none"> - 1 space per 30m² to be provided on site plus 1 space per 150m² 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. - Where additional car parking is required in relation to applications to legitimise existing alfresco dining activities on public land, and where it is not possible to physically accommodate such parking on the subject site, Council may consider a monetary contribution for the provision of such parking in accordance with the adopted Parking Contributions Plan. 						
8	<p>Chapter 6c – Commercial Development Lennox Head</p> <p>Part 8 Development Controls - Precinct D</p> <p>Table 6c.3</p>	<table border="1"> <thead> <tr> <th>Element</th> <th>Controls</th> </tr> </thead> <tbody> <tr> <td>Building Setback</td> <td> <p>Ballina Street</p> <ul style="list-style-type: none"> - A line perpendicular to the northern boundary of the site and 2 metres from its north-eastern corner. Setback area is to demonstrate consistency with the Lennox Head Village Centre Landscape Master Plan (see Appendix A). </td> </tr> </tbody> </table>	Element	Controls	Building Setback	<p>Ballina Street</p> <ul style="list-style-type: none"> - A line perpendicular to the northern boundary of the site and 2 metres from its north-eastern corner. Setback area is to demonstrate consistency with the Lennox Head Village Centre Landscape Master Plan (see Appendix A). 	Delete 'north-eastern' and replace with 'north-western'.	Corrects an anomaly with respect to the calculation of setback controls for properties located in Ballina Street, Lennox Head.
Element	Controls							
Building Setback	<p>Ballina Street</p> <ul style="list-style-type: none"> - A line perpendicular to the northern boundary of the site and 2 metres from its north-eastern corner. Setback area is to demonstrate consistency with the Lennox Head Village Centre Landscape Master Plan (see Appendix A). 							
9	<p>Chapter 2 – General and Environmental Considerations</p> <p>Part 3 General Controls</p> <p>3.23 Boat Ramps, pontoons and Jetties</p>	No current provision.	<p>3.23 Boat Ramps, Pontoons and Jetties</p> <p><i>Refer to Chapter 2, Part 3.23 for consolidated development controls.</i></p>	To provide development controls to ensure the management and use of waterfront land and land adjoining waterfront land is appropriately regulated.				

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10	<i>Chapter 2a – Vegetation Management</i>	Applies to the whole of Chapter 2a.	<p>Chapter 2a has been amended to delete reference to the <i>Native Vegetation Act 2003</i> and the <i>Threatened Species Conservation Act 1997</i> which have been repealed and replaced by the following legislation:</p> <ul style="list-style-type: none"> • <i>Biodiversity Conservation Act 2016</i>; • <i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i>; and • <i>Local Land Services Act 2013</i>. <p>Refer to Chapter 2a for consolidated development controls with changes highlighted in yellow.</p>	Chapter 2a is amended to reference new biodiversity legislation and provisions which commenced on 25 August 2017.																
11	<i>Chapter 2b – Floodplain Management</i> <i>Part 3.5 Factoring Climate Change into Flood Planning Levels (FPLs)</i>	<p>Table 3.1 – Applicable Climate Change Conditions</p> <table border="1"> <thead> <tr> <th>Year at which climate change conditions are used to determine FPLs</th> <th>Type or Location of Development</th> </tr> </thead> <tbody> <tr> <td rowspan="3">2100</td> <td>Development on rural zoned land where the site is vacant at the date of commencement of this Policy.</td> </tr> <tr> <td>Development on land rezoned to permit urban development after January 2010.</td> </tr> <tr> <td>New development in undeveloped areas within: <ul style="list-style-type: none"> • Southern Cross Industrial Estate, Ballina; • Ferngrove Estate, Ballina; • Pacific Pines Estate, Lennox Head; and • Ballina Heights Estate, Cumbalum. </td> </tr> <tr> <td>2050</td> <td>All other development</td> </tr> </tbody> </table>	Year at which climate change conditions are used to determine FPLs	Type or Location of Development	2100	Development on rural zoned land where the site is vacant at the date of commencement of this Policy.	Development on land rezoned to permit urban development after January 2010.	New development in undeveloped areas within: <ul style="list-style-type: none"> • Southern Cross Industrial Estate, Ballina; • Ferngrove Estate, Ballina; • Pacific Pines Estate, Lennox Head; and • Ballina Heights Estate, Cumbalum. 	2050	All other development	<p>Table 3.1 – Applicable Climate Change Conditions</p> <table border="1"> <thead> <tr> <th>Year at which climate change conditions are used to determine FPLs</th> <th>Type or Location of Development</th> </tr> </thead> <tbody> <tr> <td rowspan="3">2100</td> <td>Development on rural zoned land where the site is vacant at the date of commencement of this Policy.</td> </tr> <tr> <td>Development on land rezoned to permit urban development after January 2010.</td> </tr> <tr> <td>New development in undeveloped areas within: <ul style="list-style-type: none"> • Southern Cross Industrial Estate, Ballina; • Ferngrove Estate, Ballina; • Pacific Pines Estate, Lennox Head; and • Ballina Heights Estate, Cumbalum. </td> </tr> <tr> <td>2050</td> <td>a. All development in all other areas; and b. On-site sewage management systems and effluent land application areas in all areas.</td> </tr> </tbody> </table>	Year at which climate change conditions are used to determine FPLs	Type or Location of Development	2100	Development on rural zoned land where the site is vacant at the date of commencement of this Policy.	Development on land rezoned to permit urban development after January 2010.	New development in undeveloped areas within: <ul style="list-style-type: none"> • Southern Cross Industrial Estate, Ballina; • Ferngrove Estate, Ballina; • Pacific Pines Estate, Lennox Head; and • Ballina Heights Estate, Cumbalum. 	2050	a. All development in all other areas; and b. On-site sewage management systems and effluent land application areas in all areas.	Provides clarity regarding On-Site Sewage Management (OSSM) installation heights in the flood plain regions of the shire, and advises which climate change year flood height data to use for OSSM purposes.
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12	<p><i>Chapter 2b – Floodplain Management</i></p> <p><i>Part 3.8 Filling of Flood Liable Allotments Prior to Constructing Buildings</i></p>	<p>3.8 Filling of Flood Liable Allotments Prior to Constructing Buildings</p> <p>v. Where filling is required, rural buildings shall be located on fill pads. The fill (at the required level) shall cover a minimum area comprising the building site plus a curtilage extending a minimum distance of 3 metres beyond the structure. FPL1 is applied to any additional areas required for waste water storage and disposal.</p>	<p>3.8 Filling of Flood Liable Allotments Prior to Constructing Buildings</p> <p>v. Where filling is required, rural buildings shall be located on fill pads. The fill (at the required level) shall cover a minimum area comprising the building site plus a curtilage extending a minimum distance of 3 metres beyond the structure. FPL1 is applied to any additional areas required for waste water storage and disposal. FPL1₂₀₅₀ is applied to any additional areas required for on-site sewage management systems and effluent land application areas.</p>	<p>Provides clarity regarding On-Site Sewage Management (OSSM) installation heights in the flood plain regions of the shire, and advises which climate change year flood height data to use for OSSM purposes.</p>
13	<p><i>Chapter 4 – Residential & Tourist Development</i></p> <p><i>Part 3.1.2 Planning Objectives</i></p> <p><i>and</i></p> <p><i>Chapter 8 – Other Uses</i></p> <p><i>Part 4 Provisions for Other Development in Residential, Business and Industrial Zones</i></p>	<p>No current provision.</p>	<p>Insert new note:</p> <p>Notes:</p> <p>Private recreational facilities ancillary to a dwelling house are to be used for the recreational enjoyment of the occupants of the dwelling house only.</p> <p>Examples of private recreational facilities include (but is not limited to) items and areas used for the following activities:</p> <ul style="list-style-type: none"> - Basketball - Cricket - Handball - Netball - Skate board ramps - Tennis courts <p>These activities (facilities) are likely to generate noise and other issues and may adversely impact on the amenity of adjoining properties and the surrounding area. A development application that seeks approval for a private recreational facility will be assessed individually on its merit.</p>	<p>To provide guidance for the consideration of potential impacts of development involving private recreational facilities such as skate board ramps.</p> <p>At its Ordinary Meeting on 24 August 2017 Council resolved to refuse DA 2017/312 for the use of a private skateboard ramp facility forward of the building line at 2-12 Greenwood Place, Lennox Head.</p> <p>Council also resolved to develop a policy in relation to private skateboarding facilities in R2 and R3 zones. In lieu of a policy, it is considered that DCP controls are a sufficient mechanism for providing guidance on such facilities.</p>

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14	Chapter 4 – Residential & Tourist Development Part 3.1.3 Development Controls A. Element – Building Height	Controls i. The height of any building (building height) is to comply with the provisions of the BLEP 2012. ii. Buildings with 3 levels or greater development must be designed to minimise overshadowing and protect the privacy of occupants of adjoining buildings.	Controls i. The height of any building (building height) is to comply with the provisions of the BLEP 2012. ii. Buildings with 3 levels or greater development must be designed to minimise overshadowing and protect the privacy of occupants of adjoining buildings.	Control (ii) is an objective, not a control. A control should provide a means of satisfying the objective. Overlooking and privacy controls are provided for in Element I and solar access provisions are included in Element J of the DCP.
15	Chapter 4 – Residential & Tourist Development Part 3.1.3 Development Controls B. Element – Floor Space Ratio	Controls i. Where development for the purpose of a <i>dwelling house, secondary dwelling, dual occupancy</i> or <i>semi-detached dwelling</i> is proposed on land identified on the Floor Space Ratio Map, Council will apply the following approach to the calculation of the <i>floor space ratio</i> (FSR); <ul style="list-style-type: none">▪ Where the <i>dwelling house, secondary dwelling, dual occupancy</i> or <i>semi-detached dwelling</i> is part of a mixed use development involving <i>commercial premises</i>, the FSR shown on the Floor Space Ratio Map applies, and▪ Where the <i>dwelling house, secondary dwelling, dual occupancy</i> or <i>semi-detached dwelling</i> is not part of a mixed use development involving <i>commercial premises</i>, an FSR of 0.5:1 applies.▪ 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.	Controls i. Where development for the purpose of a <i>dwelling house, secondary dwelling, dual occupancy</i> or <i>semi-detached dwelling</i> is proposed on land identified on the Floor Space Ratio Map, Council will apply the following approach to the calculation of the <i>floor space ratio</i> (FSR): <ul style="list-style-type: none">▪ Where the <i>dwelling house, secondary dwelling, dual occupancy</i> or <i>semi-detached dwelling</i> is part of a mixed use development involving <i>commercial premises</i>, the FSR shown on the Floor Space Ratio Map applies, and▪ Where the <i>dwelling house, secondary dwelling, dual occupancy</i> or <i>semi-detached dwelling</i> is not part of a mixed use development involving <i>commercial premises</i>, an FSR of 0.5:1 applies.▪ In the case of a <i>dwelling house, dual occupancy</i> or <i>semi-detached dwelling</i>, which requires 2 car parking spaces, the maximum floor area excluded from the calculation of gross floor area for parking is 44 square metres. <ul style="list-style-type: none">▪ Stairs, stairwells, lifts and the like are	To provide clarity in the calculation method for gross floor area and to clarify that the exclusion under the 44 square metres provision only applies to areas for parking.

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			<p>excluded from the gross floor area of multi storey buildings on the ground floor only.</p> <ul style="list-style-type: none"> ▪ Separating walls between dwellings are excluded from the calculation of gross floor area. 	
16	<p>Chapter 4 – Residential & Tourist Development</p> <p>Part 3 General Controls</p> <p>Clause 3.1.3</p> <p>D. Element – Articulation Zone</p>	<p>Objectives</p> <p>a. Promote building facades which contribute to the character of the streetscape.</p> <p>b. To reference the controls contained within the Housing Code under the provisions of <i>State Environmental Planning Policy (Exempt and Complying Development Codes)</i> 2008.</p> <p>Controls</p> <p>i. The following building elements associated with <i>residential accommodation</i> or <i>tourist and visitor accommodation</i> in Zone R2 Low Density Residential and Zone R3 Medium Density Residential may project forward of the main <i>building line or setback</i> by up to 1.5m in front:</p> <p>a) an entry feature or portico,</p> <p>b) a balcony, deck, pergola, terrace or verandah,</p> <p>c) a window box treatment,</p> <p>d) a bay window or similar feature,</p> <p>e) an eave.</p> <p>ii. Up to 25% of the <i>articulation zone</i>, when viewed from above, may include building elements. An awning or other feature over a window and a sunshade feature and eaves are not included in the maximum area calculation of building elements; and</p>	<p>Objectives</p> <p>a. Promote building facades which contribute to the character of the streetscape.</p> <p>b. To provide a level of consistency with the <i>development standards for complying development within State Environmental Planning Policy (Exempt and Complying Development Codes)</i> 2008.</p> <p>Controls</p> <p>i. The following building elements associated with <i>residential accommodation</i> or <i>tourist and visitor accommodation</i> in Zone R2 Low Density Residential and Zone R3 Medium Density Residential may project forward of the <i>main building line or setback to the primary street frontage</i> by up to 1.5m in front:</p> <p>a) an entry feature or portico,</p> <p>b) a balcony, deck, pergola, terrace or verandah,</p> <p>c) a window box treatment,</p> <p>d) a bay window or similar feature,</p> <p>e) an eave.</p> <p>ii. Up to 25% of the <i>articulation zone</i>, when viewed from above, may include building elements. An awning or other feature over a window and a sunshade feature and eaves are not included in the maximum area calculation of building elements; and</p>	<p>To provide clarity that the articulation zone does not include areas forward of the building line to secondary or parallel road frontages or foreshore, canal or river frontages.</p>

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		iii. New dwellings are to be designed to address the street, provide an easily identifiable entrance for pedestrians and contribute to the streetscape.	iii. New dwellings are to be designed to address the street, provide an easily identifiable entrance for pedestrians and contribute to the streetscape.	
17	Chapter 4 – Residential & Tourist Development Part 3 General Controls Clause 3.1.3 E. Element – Building Lines	Objectives a. Protect the amenity of the locality in which the dwelling is situated; b. Ensure new development makes a positive contribution to the local streetscape; and c. Setback buildings and garages/carports from the street to provide sufficient space for landscaping, visual and acoustic privacy and vehicle parking, whilst protecting the established character of the neighbourhood.	Objectives a. Protect the amenity of the locality in which the dwelling is situated; b. Ensure new development makes a positive contribution to the local streetscape; c. Setback buildings and garages/carports from the street to provide sufficient space for landscaping, visual and acoustic privacy and vehicle parking, whilst protecting the established character of the neighbourhood; and d. Protect the amenity of and views to canals, rivers and foreshore areas.	To provide a distinction between building lines to a road, street or lane frontage as distinct from a rear building line to a canal, river or foreshore as there are different objectives for each.
18	Chapter 4 – Residential & Tourist Development Part 3 General Controls Clause 3.1.3 G. Element – Landscaping and Open Space	Controls – Landscaping and Private Open Space for Dwellings, Dual Occupancies, Attached Dwellings and Semi-Detached Dwellings i. At least 25% of the site must be covered by landscaped areas comprising pervious surfaces. ii. Each dwelling is to be provided with an area of private open space that is: ▪ Predominately flat; ▪ Located at ground level; ▪ Accessible directly from a living area; and ▪ Where practicable, located to the north or east of the dwelling. iii. A new dwelling must have an outdoor living area of at least 24m ² with a minimum dimension of 4m x 4m and a maximum gradient of 1:10.	Controls – Landscaping and Private Open Space for Dwellings, Dual Occupancies, Attached Dwellings and Semi-Detached Dwellings i. At least 25% of the site must be covered by landscaped areas comprising pervious surfaces. ii. Each dwelling is to be provided with an area of private open space that is: ▪ Predominately flat; and ▪ At least 24m² in contiguous area, and/or ▪ Minimum dimension of 3m x 3m. ▪ Located at ground level; ▪ Accessible directly from a living area; and ▪ Where practicable, located to the north or east of the dwelling. iii. A new dwelling must have an outdoor living area of at least 24m ² with a minimum	Allows the use of upper floor balconies to be used for two storey developments, is less prescriptive on permitted gradients and more consistent with minimum area for complying development as provided in the <i>State Environmental Planning Policy (Exempt and Complying Development Code) 2008</i> (Codes SEPP). New provision (iv) requires landscaping to be completed for dual occupancy developments prior to occupation.

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No	DCP Reference	Existing Provision	Proposed Amendment	Reason
			dimension of 4m x 4m and a maximum gradient of 1:10. iv. For dual occupancy dwellings, the entire site is to be fully turfed and landscaped prior to the issue of an Occupation Certificate for any of the dwellings.	
19	Chapter 4 – Residential & Tourist Development Part 3 General Controls Clause 3.1.3 H. Element – Vehicular Access and Parking	<p>Objectives</p> <ul style="list-style-type: none"> a. Provide adequate on site car parking for development; b. Ensure car parking is designed in accordance with the current Australian Standard 2890 (Parking Facilities). c. Ensure car parking areas include adequate space and provision for vehicles to manoeuvre safely on site; d. Ensure site accesses have adequate sight distances and are designed to ensure that all vehicles are able to safely enter and exit the site and maintain the safety and integrity of the road network; and e. Ensure streetscape amenity, character and utility is maintained. <p>Controls – Car parking</p> <ul style="list-style-type: none"> i. On site car parking for development is to be provided in accordance with Table 4.4; ii. At least one of the required car parking spaces is to be a covered car parking space and located in accordance with Control Element – Garages and Carports; and 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 	<p>Objectives</p> <ul style="list-style-type: none"> a. Provide adequate on site car parking for development; and b. Ensure car parking is designed in accordance with the current Australian Standard 2890 (Parking Facilities). c. Ensure car parking areas include adequate space and provision for vehicles to manoeuvre safely on site; d. Ensure site accesses have adequate sight distances and are designed to ensure that all vehicles are able to safely enter and exit the site and maintain the safety and integrity of the road network; and e. Ensure streetscape amenity, character and utility is maintained. <p>Controls – Car parking</p> <ul style="list-style-type: none"> i. On site car parking for development is to be provided in accordance with Table 4.4; and ii. At least one of the required car parking spaces is to be a covered car parking space and located in accordance with Control Element – Garages and Carports; and 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 as permitted below. it can be demonstrated that such car parking will 	<p>Objectives b, c and d are proposed to be deleted as they are covered by provisions contained within Chapter 2 – General and Environmental Considerations, Part 3.19 Car Parking and Access.</p> <p>The requirement that car parking provided forward of the building line be suitably screened along the street frontage is proposed to be deleted. The term 'suitably screened' is subjective and there are no controls available to determine what constitutes effective screening of parking areas. The cumulative impact of such screening also reduces the residential amenity of the streetscape.</p> <p>The proposed amendment seeks to permit carports of greater than 6m width on larger lots based on a merit assessment.</p> <p>The proposed amendments provide consistency with the provisions for complying development contained within the Codes SEPP.</p>

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No	DCP Reference	Existing Provision	Proposed Amendment	Reason
		<p>along the street frontage.</p> <p>Controls – Garages and carports</p> <p>i. Garages are to be setback 5.5 metres from the property boundary;</p> <p>ii. The maximum width of the garage door must not be more than 50% of the lot frontage;</p> <p>iii. (Deleted Amendment 3 - 16.7.2014)</p> <p>iv. Carports forward of the setback specified in (i) will be considered subject to the following criteria:</p> <ul style="list-style-type: none"> No other suitable location is available behind the setback specified in (i), The carport is located a minimum of 900mm from the side boundary, The frontage facing the street remains open and is not fitted with a door or enclosing device of any kind, The carport roof does not significantly impact on the streetscape, The carport roof is not trafficable, The carport does not exceed 33% of the width of the allotment frontage or 6m (whichever is lesser), and Any side and/or rear enclosure or screening is to include minimum 50% visual permeability. 	<p>be suitably screened along the street frontage.</p> <p>Controls – Garages</p> <p>i. Garages are to be setback located behind the building line or, where the building line is less than 5.5 metres, a minimum of 5.5 metres from the property street boundary; and</p> <p>ii. The maximum width of the garage door must not be more than 50% of the lot frontage.</p> <p>Controls – Carports</p> <p>i. Carports forward of the building line or setback specified in (i) will be considered subject to the following criteria:</p> <ul style="list-style-type: none"> No other suitable location is available behind the setback specified in (i), The carport is located a minimum of 900mm from the side boundary, At least one covered parking space (Garage or Carport) for each dwelling is located behind the building line or, where the building line is less than 5.5 metres, a minimum of 5.5 metres from the street boundary, The frontage facing the street remains open and is not fitted with a door or enclosing device of any kind; The carport roof does not significantly impact on the streetscape (flat or low pitched roofs are preferred), The carport roof is not trafficable; The carport does not exceed 33% of the width of the allotment frontage or 6m (whichever is lesser), and Any side and/or rear enclosure or screening is to include minimum 50% visual permeability. 	<p>The separation of controls provides clarification of the differing controls for garages, carports and the permissibility of stack parking forming part of the required parking.</p>

No	DCP Reference	Existing Provision	Proposed Amendment	Reason												
20	Chapter 4 – Residential & Tourist Development Part 3 General Controls Clause 3.1.3 P. Element – Earthworks and Slope Sensitive Design	<p>Controls</p> <p>i. Earthworks are to comply with the following provisions, except as provided for under (ii)</p> <ul style="list-style-type: none"> The controls contained within this part are additional to those contained within clause 3.30 of the Housing Code and clause 3A.29 of the Rural Housing Code; A landscape plan is required to support any application involving earthworks with multiple cuts or fill embankments; The landscape plan is to demonstrate that landscaping suitable to soften the visual impact of the earthworks can be achieved; and Earthworks involving excavation and/or filling on or within 900mm of a property boundary are restricted to maximum height of 1200mm per single cut, single fill or combination cut/fill. These works are to be retained by a masonry structure which is to be designed and certified by a suitably qualified structural engineer if in excess of 1 metre in height. 	<p>Controls</p> <p>i. Earthworks are to comply with the following provisions, except as provided for under (ii)</p> <ul style="list-style-type: none"> The controls contained within this part are additional to those contained within clause 3.30 of the Housing Code and clause 3A.29 of the Rural Housing Code; A landscape plan is required to support any application involving earthworks with multiple cuts or fill embankments; The landscape plan is to demonstrate that landscaping suitable to soften the visual impact of the earthworks can be achieved; and Earthworks involving excavation and/or filling on or within 900mm 1 metre of a property boundary are restricted to permitted to be a maximum height of 1200mm per single cut, single fill or combination cut/fill. These works are to be retained by a masonry structure which is to be designed and certified by a suitably qualified structural engineer if in excess of 1 metre in height. 	<p>The proposed amendments are required:</p> <ul style="list-style-type: none"> To clarify that the DCP controls permit 1200mm depth of earthworks adjacent to boundaries, whereas the Housing Code (Codes SEPP) is limited to 1 metre; and To align the offset distance from the boundary with the Codes SEPP provisions of 1 metre in lieu of 900mm. 												
21	Chapter 4 – Residential & Tourist Development Part 3.2 Small Lot Integrated Housing	<p>3.2.1 Application</p> <table border="1"> <tr> <td colspan="2">Applies to:</td> </tr> <tr> <td>Location/s:</td> <td>Zone R3 Medium Density Residential</td> </tr> <tr> <td>Development Type/s:</td> <td>Applications for detached dwellings, semi-detached dwellings or attached dwellings</td> </tr> </table> <p>3.2.2 Background</p> <p>Integrated housing consists of the concurrent subdivision of land into 4 or more allotments (each with an area between 300m² and 450m²) and the erection of a dwelling house, semi-detached dwelling or attached dwelling on each of the lots created by the subdivision.</p>	Applies to:		Location/s:	Zone R3 Medium Density Residential	Development Type/s:	Applications for detached dwellings, semi-detached dwellings or attached dwellings	<p>3.2.1 Application</p> <table border="1"> <tr> <td colspan="2">Applies to:</td> </tr> <tr> <td>Location/s:</td> <td>Zone R3 Medium Density Residential</td> </tr> <tr> <td>Development Type/s:</td> <td>Applications for detached dwellings, dwelling houses, semi-detached dwellings or attached dwellings</td> </tr> </table> <p>3.2.2 Background</p> <p>Integrated housing consists of the concurrent subdivision of land into 4 or more allotments (each with an area between 300m² and 450 400m²) and the erection of a dwelling house, semi-detached dwelling or attached dwelling on each of the lots created by the subdivision.</p>	Applies to:		Location/s:	Zone R3 Medium Density Residential	Development Type/s:	Applications for detached dwellings, dwelling houses, semi-detached dwellings or attached dwellings	<p>This part of the DCP supplements the provisions contained within Clause 4.1A of Ballina LEP 2012 which provides exceptions to minimum lot sizes for certain residential development.</p> <p>To provide consistency with Clause 4.1A which references lot sizes of 300m² and 400m².</p> <p>To clarify that Part 3.2 applies to 'dwelling houses' in lieu of 'detached dwellings' which is</p>
Applies to:																
Location/s:	Zone R3 Medium Density Residential															
Development Type/s:	Applications for detached dwellings, semi-detached dwellings or attached dwellings															
Applies to:																
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Development Type/s:	Applications for detached dwellings, dwelling houses, semi-detached dwellings or attached dwellings															

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No	DCP Reference	Existing Provision	Proposed Amendment	Reason
				not a defined land use under the provisions of the Ballina LEP 2012.
22	<i>Chapter 5 – Industrial Development</i> <i>Part 4.2 Southern Cross Industrial Estate</i> <i>Control (iv)</i>	iv. A 4.6m foreshore building line or setback applies to allotments on Endeavour Close, Southern Cross Drive and Racecourse Road that adjoin the waterway. Buildings and ancillary structures are to be setback a minimum of 4.6 metres from the waterway frontage boundary.	No amendments are proposed to the wording of Control (iv). Amendments required to Building Line Map Sheet BL_007.	Corrects an anomaly. The proposed amendment seeks to include the area referred to in Control (iv) on the Building Line Map Sheet BL_007 and the DCP Building Lines Combined layer in Intramaps.
23	<i>Chapter 7 – Rural Living and Activity</i> <i>Part 3 General Controls</i> <i>Clause 3.1.3</i> <i>F. Dual Occupancies</i>	F. Dual Occupancies Dual occupancies involve two dwelling s on a single allotment of land. These may range in form from a typical "granny-flat" arrangement to two more substantial dwelling s.	F. Dual Occupancies Dual occupancies involve two dwelling s on a single allotment of land. These may range in form from a typical "granny-flat" arrangement to two more substantial dwelling s.	To clarify that granny flats (secondary dwellings) are not permissible in rural zones. Regardless of the size of the second dwelling, even small dwellings are to be assessed as dual occupancies as "secondary dwellings" are not a permissible land use on rural zoned land.
24	<i>Chapter 7 – Rural Living and Activity</i> <i>Part 4 Special Area Controls</i> <i>Part 4.1 South Ballina</i> <i>4.1.3 Development Controls</i> <i>4.1.3 (vii)</i>	vii. Applications are to include details with respect an appropriate fenced dog enclosure. The enclosure must be designed in accordance with the following: <ul style="list-style-type: none"> • In reasonable proximity to the dwelling there shall be constructed and maintained a fenced enclosure which is designed and constructed so as to provide a secure enclosure for keeping dogs; • Any gate forming part of the fenced enclosure shall be a self-closing gate; • No gate to the fenced enclosure shall be propped open or otherwise kept open other than for the purpose of passing through; and 	vii. Where an applicant proposes to keep domestic dogs , applications are to include details with respect an appropriate fenced dog enclosure. The enclosure must be designed in accordance with the following: <ul style="list-style-type: none"> • In reasonable proximity to the dwelling there shall be constructed and maintained a fenced enclosure which is designed and constructed so as to provide a secure enclosure for keeping dogs; • Any gate forming part of the fenced enclosure shall be a self-closing gate; • No gate to the fenced enclosure shall be propped open or otherwise kept open other than for the purpose of passing through; and 	The proposed amendment to clause (vii) clarifies that these details are only required to be provided for applications which propose to keep domestic dogs.



3.1 Land Use Conflict

3.1.1 Application

Applies to:	
Location/s:	Zones RU1, RU2, E2 and E3 and land adjoining these zones.
Development Type/s:	All development.

3.1.2 Planning Objectives

- a. Minimise conflicts between land uses (including from residential / urban expansion towards rural lands);
- b. Provide for lawful agricultural and associated rural industry uses that take precedence over other land uses in rural zones; and
- c. Protect significant environmental and natural resources.

3.1.3 Development Controls

A Minimum Buffers and Land Use Conflict Risk Assessment (LUCRA) – Specified Land Uses

- i. Proposed development must meet the minimum buffer distances set out in Table 2.1 except:
 - where the requirements of subsection C - Variation to Buffers can be met to Council's satisfaction; or
 - where the proposed development meets one of the exclusion criteria contained in subsection E - Exclusions to LUCRA.
- ii. New or encroaching development is required to provide the specified land use buffer/s.
- iii. Minimum buffer distances for specified land uses are to be calculated from the property boundary (not from the location of the activity) as shown in Figure 1, unless it can be demonstrated that an area within the property is not capable of being used as part of the activity.

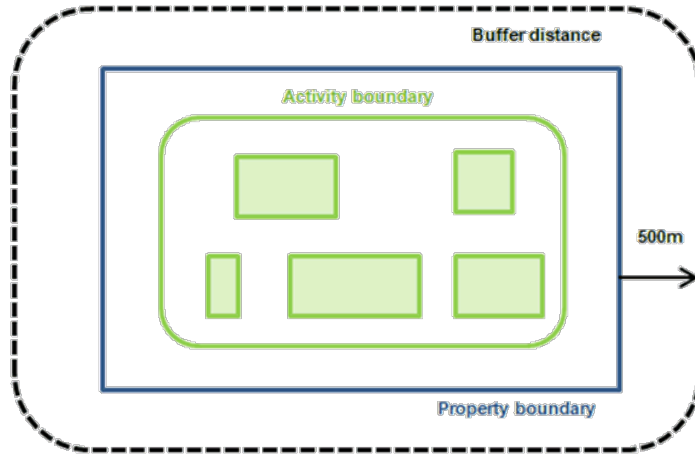




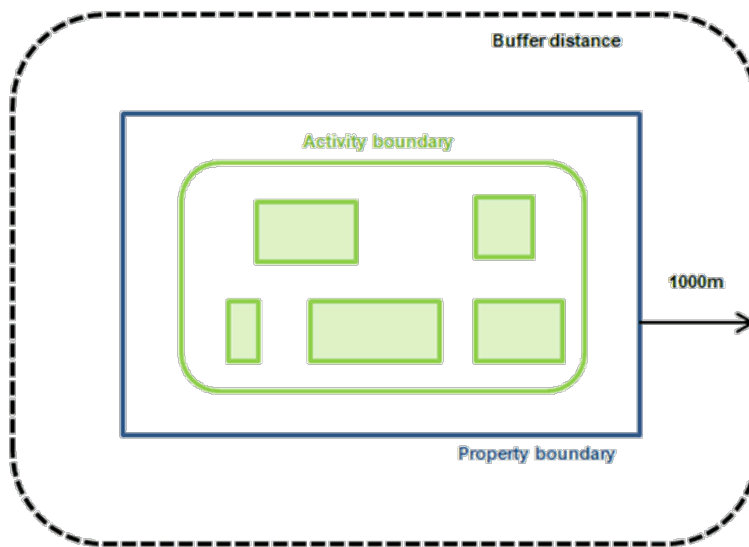
Ballina Development Control Plan 2012
**CHAPTER 2 – GENERAL AND ENVIRONMENTAL
CONSIDERATIONS**

Figure 1 – Calculation of Buffer Distances for specified land uses

NEW TECHNOLOGY



OLDER TECHNOLOGY





Ballina Development Control Plan 2012 CHAPTER 2 – GENERAL AND ENVIRONMENTAL CONSIDERATIONS

Table 2.1 Minimum buffer distances for specified land uses			
Land Use	Urban residential areas	Dwelling-house, Dual occupancy or Rural workers dwelling	Rural tourist facilities
<i>Agricultural produce industry</i> (including macadamia de-husking)	300 m	150 m	300 m
<i>Animal boarding or training establishment</i>	500m	150m	500m
Dairying infrastructure (incl. buildings containing operational plant, machinery and associated yards)	500m	150m	250m
Dip sites	200m	150m	200m
<i>Extractive industry or mining</i> ¹	500m 1000m	500m 1000m	500m 1000m
<i>Hazardous or offensive industry</i>	1000m	150m	1000m
<i>Heliport</i>	1000m	150m	1000m
High voltage power lines	20m	20m	20m
Hot mix asphalt / bitumen batch plant (New technology) ²	500m	500m	500m
Hot mix asphalt / bitumen batch plant (Older technology)	1000m	1000m	1000m
<i>Intensive livestock agriculture</i>	1000m	150m	500m
Intensive livestock operations (other than <i>intensive livestock agriculture</i>)	500m	150m	300m
<i>Intensive plant agriculture</i>	300m	150m	200m
<i>Livestock processing industry</i>	1000m	150m	1000m
<i>Sawmill</i>	1000m	150m	500m
<i>Sewerage systems</i> (excluding <i>sewage reticulation systems</i>)	400m	150m	400m
<i>Stock and sale yard</i>	300m	150m	300m
<i>Waste or resource management facility</i>	300m	150m	300m

¹ Extractive Industry or Mining - The larger minimum distance is required when blasting is involved.

² New technology - refers to asphalt / bitumen batch plants that provide a method of direct truck delivery and have gas reclaim systems to ensure odour emission rates are significantly lower than older plants.



Notes:

Where the minimum buffer distances specified in Table 2.1 are met a LUCRA is not required.

people • place • prosperity

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CONSIDERATIONS**

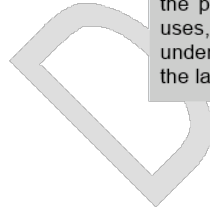
The buffers identified in Table 2.1 are based on the publication *Living and Working in Rural Areas - a handbook for managing land use conflict issues on the NSW North Coast* (Department of Primary Industries, Northern Rivers Catchment Management Authority and Southern Cross University).

Buffers and regulations relating to the location and height of buildings near airports are subject to the provisions contained within the *Ballina Local Environmental Plan 2012*.

Applicants may request a variation to the minimum buffer requirement specified in subclause 3.1.3A. Council has the discretion to either reduce or increase the required buffer, depending on the specific circumstances of the proposal.

Council may also consider relaxation of the buffer requirements where it can be demonstrated that the adjoining land is extremely unlikely to be used for *agriculture*, forestry, rural industry or other such uses. In such cases, the adjoining land will need to comprise remnant vegetation either with high conservation value or located on land with limited development potential, such as extremely steep slopes, narrow gullies or wetlands.

Where a variation to the required buffer is proposed, applications must include a Land Use Conflict Risk Assessment (LUCRA) in accordance with the Department of Primary Industries Handbook 'Land Use Conflict Risk Assessment (LUCRA) Guide'. A LUCRA is an appraisal of the potential for conflict between new and adjoining land uses, given the activities or expected activities to be undertaken in association with the use and management of the lands.





3.23 Boat Ramps, Pontoons and Jetties

3.23.1 Application

Applies to:	
Location/s:	Land on and adjoining waterways in all zones
Development Type/s:	Construction of new (or alteration to existing) ramps, pontoons, jetties and associated retaining walls.

3.23.2 Planning Objectives

- a. Provide controls to ensure the management and use of waterfront land and land adjoining waterfront land is appropriately regulated;
- b. Balance amenity and equitable access to waterways for all properties fronting waterways;
- c. Ensure development enables waterway maintenance and/or dredging to be undertaken with minimal obstructions;
- d. Protect the waterfront environment and sea grass areas;
- e. Maintain suitable waterway widths for watercraft to safely manoeuvre; and
- f. Ensure structures on public land are designed to be safe and can withstand flood forces.

3.23.3 Development Controls

A Assessment of Structures

- i. Development applications for structures (boat ramps, pontoons, jetties and retaining walls) shall be assessed by the waterway owner (Council or Crown) to ensure consistency with the relevant standards and drawings.



Note:

Council has typical design drawings for suitable waterway structures which can be found on Council's website.

- ii. Structures which potentially affect or disturb any sea grass beds may require referral to the NSW Department of Primary Industries (DPI) for their comment/concurrence. In these instances, the proposal is regarded as Integrated Development under the *Environmental Planning and Assessment Act 1979* as amended. An integrated referral attracts additional NSW Government referral and Council administration fees.
- iii. All structures within waterways require development consent and a Construction Certificate to be issued prior to the commencement of works.





Ballina Development Control Plan 2012 CHAPTER 2 – GENERAL AND ENVIRONMENTAL CONSIDERATIONS

- iv. Any Development Application for proposed structures within Crown waterways will require the Crown to sign the Development Application as the owner of the land and any Development Application for proposed structures within Council owned waterways will require the General Manager or other Council officer with appropriate delegations to sign the Development Application as the owner of the land.



Notes:

Information about licensing waterway structures with the Crown can be accessed on the NSW Department of Primary Industries website.

NSW Department of Trade & Investment – Crown Lands have issued the 'Domestic waterfront facility' policy to assist with these activities.

B Licensing for the Occupation of the Waterway

- i. All pontoons, jetties and boat ramps within waterways are to be licensed. The licensing agreement is between the owner of the structure and the owner of the land as indicated below:
- a. Council owned waterways are Ballina Quays Canals, Banyanda Lake and Endeavour Lake.
 - b. Crown owned waterways are most other waterways on Crown land including the Pacific Ocean, Richmond River, North Creek and Emigrant Creek.
- ii. The licensing agreement for private structures within Council owned waterways is required to be entered into with Council prior to the issue of a Construction Certificate for the structure.



Notes:

The following documents can be accessed on Council's website:

- Private Structures within Council Owned (Public) Waterways Policy
- Fact Sheet – Private Structures within Council Owned (Public) Waterways
- Private Structures within Council Owned (Public) Waterways Application Form

Information about licensing waterway structures with the Crown can be accessed on the NSW Department of Primary Industries website.





Ballina Development Control Plan 2012 CHAPTER 2 – GENERAL AND ENVIRONMENTAL CONSIDERATIONS

C Boat Ramps

- i. Boat ramps are to be constructed in accordance with Council's standard boat ramp design. Where an alternative design is proposed, the design is to be prepared and certified by a practicing structural engineer as meeting the relevant engineering standards.

D pontoons and Jetties

- i. Pontoon and jetty structures located within the Ballina Quays and Banyanda Estate areas can have a maximum length of 18 metres as measured from the revetment wall/kerb line to the furthest edge of the pontoon.
- ii. The first three metres of the pontoon structure is permitted to be a fixed structure with piles, whilst the remaining 15 metres must be floating from a demountable pivot point attached to the three metre fixed section of the pontoon.
- iii. Bracing piles are permitted within the three metre zone as measured from the revetment wall/kerb line waterway side edge. No additional piling is permitted beyond this three metre zone.
- iv. Structural engineer designed bracing/piling details for the pontoon, addressing any forces from waves, tides and flood waters are required to be submitted with the development application.
- v. Consideration must be given to the location of pontoons and neighbouring properties to ensure equitable access is maintained to the waterway within the prolongation of the side boundary of the property.

E Retaining Walls

- i. Retaining walls are to be constructed in accordance with Council's standard layout of drawing. The design of the structure is to be prepared and certified by a practicing structural engineer as meeting the relevant engineering standards.



Ballina Shire Development Control Plan 2012

Chapter 2a- Vegetation Management

(Proposed Amendments Highlighted in yellow)





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Part 1 Preliminary

1.1 Introduction

Name:

Ballina Shire Development Control Plan 2012, Chapter 2a - Vegetation Management.

Purpose:

To establish the circumstances where development consent is required for **vegetation management works**.

Relationship to State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP):

This development control plan is a development control plan for the purposes of the Vegetation SEPP pursuant to clause 26 *General savings and transitional provisions* of the Vegetation SEPP.

The reference to a permit within the Vegetation SEPP shall be taken to be a development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* for the purposes of this development control plan.

Relationship to other Chapters of this DCP:

The provisions in this chapter prevail over those in **Chapter 1** where there is an inconsistency.

Where there is an inconsistency between provisions in chapters 2, 2a and 2b, Council will determine which provision(s) will apply based on consideration of the strategic planning framework for the land the subject of the application, statutory considerations, relevant planning objectives and the nature of the proposed development.

The provisions of chapters 3, 4, 5, 6, 6a, 6b, 6c, 6d, 7 and 8 prevail over the provisions of this chapter unless otherwise specified.

Application:

This chapter applies to land within the following zones as specified in the *Ballina Local Environmental Plan 2012* (BLEP 2012):

- R2 Low Density Residential;
- R3 Medium Density Residential;
- B1 Neighbourhood Centre;
- B2 Local Centre;
- B3 Commercial Core;
- B4 Mixed Use;
- B5 Business Development;
- B6 Enterprise Corridor;





Ballina Development Control Plan 2012 CHAPTER 2a - VEGETATION MANAGEMENT

- INI General Industrial;
- SP2 Infrastructure;
- RE1 Public Recreation;
- RE2 Private Recreation;
- E2 Environmental Conservation.



Note:

The provisions of this chapter do not apply to land in zones not specified above. Landholders are advised, however, that other approval requirements may be applicable to development under legislation such as the [Native Vegetation Act 2003](#), [Local Land Services Act 2013](#) and the [Threatened Species Conservation Act 1995](#), [Biodiversity Conservation Act 2016](#).

Development Controls:

The provisions of this chapter are provided in response to the provisions of clause 5.9 of the BLEP 2012 (repealed 25 August 2017) and clause 9 of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* (Vegetation SEPP), which provide for a DCP to establish development consent requirements in relation to vegetation management in certain circumstances. Given the above, this chapter is structured to identify the circumstances where development consent is required for **vegetation management works** including **vegetation management works relating to native vegetation that does not exceed the biodiversity offsets scheme threshold**. In particular, this chapter specifies the types of works that are subject to development consent in urban zones and on land zoned E2 Environmental Conservation. The chapter also identifies circumstances where exemptions to the requirement for development consent apply. As a result of the provisions of this chapter being effectively an extension of the BLEP 2012, development proposals must comply with its requirements in the same way that proposals are required to conform to the provisions of the LEP.



Note:

The proposed **vegetation management works** exceeds the biodiversity offsets scheme threshold if it is:

- the clearing of **native vegetation** of an area that exceeds the threshold (see Table below), or
- the clearing of **native vegetation** is on land mapped as 'Sensitive Values' on the Biodiversity Values Map prepared by the Office of Environment and Heritage and located on their website.

If the proposed **vegetation management works** exceeds the biodiversity offsets scheme threshold it requires an approval from the Native Vegetation Panel (refer to Part 4 of the Vegetation SEPP).



**Table: Threshold by minimum lot sizes**

Minimum lot size of land	Area of clearing
Less than 1 hectare	0.25 hectares or more
Less than 40 hectares but not less than 1 hectare	0.5 hectares or more
Less than 1,000 hectares but not less than 40 hectares	1 hectare or more
1,000 hectares or more	2 hectares or more

The minimum lot size applicable to any land being cleared is as follows:

- a) the minimum lot size as shown on the Ballina LEP 2012 Lot Size Map, or
- b) if the Lot Size Map does not map a minimum lot size for the land, the actual size of the allotment of land on which the proposed development is to be carried out.

Part 2 Chapter Planning Objectives

The overarching objectives of this chapter are to:

- a. Identify, in accordance with Clause 5.9(2) of BLEP 2012 (repealed 25 August 2017) and clause 9 of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP), when development consent is required from Council for **vegetation management works** in relation to certain trees and vegetation;
- b. Protect the amenity of urban areas through the preservation of significant trees and vegetation;
- c. Enable most routine gardening and landscaping on private land to occur without the need for Council regulation;
- d. Provide assessment criteria that will be applied when Council approval is required to remove or otherwise impact on vegetation; and
- e. Conserve trees of ecological, heritage, aesthetic and cultural significance to Ballina Shire.

**Note:**

How do I know if vegetation management work on my land requires consent?

It is the responsibility of the landowner/proponent to identify the species of a tree(s) or other vegetation on the site prior to making an enquiry or submitting a development application with Council. It may be necessary to engage the services of a qualified professional to undertake this identification and assist in determining the need for development consent.





Part 3 Development Controls

3.1 Development Consent Requirements applying to Urban Zones

3.1.1 Application

Applies to:	
Location/s:	Zones R2, R3, B1, B2, B3, B4, B5, B6, IN1, SP2, RE1 & RE2.
Development Type/s:	Applications for vegetation management works

3.1.2 Development Control

Development consent is required for **vegetation management works** on land located within an **urban zone** when the vegetation management works will affect:

- a) Any tree (either native or non-native) with a height of 6 metres or greater;
- b) Any tree of the species *Pandanus tectorius* (Screw Pine) with a height of 3 metres or greater and located in the localities of East Ballina, Lennox Head or Skennars Head;
- c) Any vegetation located on land identified as **Significant Urban Bushland** on the **Significant Urban Bushland Map**; and
- d) Any tree with a height of 3 metres or greater located on land containing an Item of Environmental Heritage as specified in Schedule 5 of the *Ballina Local Environmental Plan 2012*.



Note:

Development consent is not required under this section if an exemption is applicable under Section 3.3 of this chapter or the BLEP 2012. Landowners are advised, however, that other approval requirements may be applicable under separate legislation such as the [Native Vegetation Act 2003](#), [Local Land Services Act 2013](#), and the [Threatened Species Conservation Act 1997](#), [Biodiversity Conservation Act 2016](#).

3.2 Development Consent Requirements applying to Zone E2 Environmental Conservation

3.2.1 Application

Applies to:	
Location/s:	Zones E2
Development Type/s:	Applications for vegetation management works

3.2.2 Development Control

Vegetation management works in Zone E2 Environmental Conservation **that are exempt under the provisions of the Native Vegetation Act 2003** require development consent where the **vegetation management works** will affect:

- a) Any native vegetation not located within the curtilage of a **dwelling house**; and
- b) Any non-native tree not located within the curtilage of a **dwelling house** with a height of 6 metres or greater.





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**Note:**

Development consent is not required under this section if an exemption is applicable under Section 3.3 of this chapter or the BLEP 2012. Landowners are advised, however, that other approval requirements may be applicable under separate legislation such as the ~~Native Vegetation Act 2003~~ Local Land Services Act 2013 and the ~~Threatened Species Conservation Act 1997~~ Biodiversity Conservation Act 2016.

**Note:**

Development consent is not required for vegetation management works on land zoned RU1 Primary Production, RU2 Rural Landscape or E3 Environmental Management. Vegetation management activities in these zones should be undertaken in accordance with the provisions of the ~~Native Vegetation Act 2003~~ Local Land Services Act 2013 and the ~~Threatened Species Conservation Act 1997~~ Biodiversity Conservation Act 2016.

While Council consent is not required for vegetation management works in the above zones, other approval requirements may be applicable.

Works on rural land involving the harvest of timber or forest products may require consent as *forestry* under the provisions of the BLEP 2012. There is also separate legislation such as the ~~Native Vegetation Act 2003~~ Local Land Services Act 2013 and the ~~Threatened Species Conservation Act 1997~~ Biodiversity Conservation Act 2016 that provide for the protection of certain vegetation. When considering vegetation management works on rural land, landowners should contact Council or the Northern Rivers Catchment Management Authority for further advice.

**Note:***Camphor Laurel Trees*

There are a number of mature Camphor Laurel trees that may be considered significant within the urban environment of the shire. Because this species is a declared noxious weed, its removal is exempt from any consent requirements of this chapter. ~~under Clause 5.9(8)(e) of the BLEP 2012 (repealed)~~

Broad scale clearing of Camphor Laurel trees may be defined as forestry and as such may be subject to a requirement for development consent.



3.3 Exemptions

The consent requirements described in Section 3 of this chapter do not apply to **vegetation management works** that:

- a) are authorised by a previously issued development consent;
- b) are authorised under the provisions of section 600 of the *Local Land Services Act 2013*;
- c) are authorised under the provisions of clause 8 of *State Environmental Planning Policy (Vegetation in Non – Rural Areas) 2017*;
- d) are authorised in a property vegetation plan issued under the *Native Vegetation Act 2003*;
- e) take place on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) and are authorised by a development consent under the provisions of the *Threatened Species Conservation Act 1997* as continued in force by that clause;
- f) involve trees or other vegetation within a State Forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*;
- g) are required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002*;
- h) involve the removal and control of plants declared to be noxious weeds under the *Noxious Weeds Act 1993*;
- i) involve the removal and control of vegetation identified as an undesirable tree species in section 3.4 of this chapter;
- j) involve the removal and control of non-native vegetation planted for food production (such as citrus trees, stone fruit trees and the like);
- k) involves the removal of dead branches (including palm fronds) and the selective removal of those branches up to and including a circumference of 150 millimetres where it:
 - does not result in the removal of more than 10% of the canopy;
 - does not destroy the aesthetic appearance of the canopy;
 - does not alter the growth structure of the vegetation; and
- l) involve vegetation where the trunk of the tree or base of the vegetation at ground level is within three (3) metres of the nearest external edge of an existing permanent **approved structure** located within the same property and is not on land identified as containing an item of environmental heritage;
- m) are undertaken on public land when undertaken by or on behalf of Council or the Crown and in accordance with Council's *Urban Vegetation on Public Land Policy* or an adopted Plan of Management or Vegetation Management Plan for the land;
- n) it can be demonstrated to Council's satisfaction that a tree or other vegetation is dying or dead and is not required for the habitat of native fauna; or
- o) it can be demonstrated to Council's satisfaction that a tree or other vegetation represents an immediate risk to human life or property.





Note:

In most cases, the removal of trees or other vegetation that is dying, dead and/or presents an immediate risk can be justified with photographic evidence and consultation with Council officers. Where there is uncertainty an assessment by a suitably qualified arborist may be required and/or a development application in accordance with the requirements of this Chapter. Persons acting upon the above exemptions without prior consultation with Council and without adequate proof as to the condition of the vegetation removed may face subsequent legal action should it be determined that prior consent was required.



Note:

Vegetation clearing works situated within the 10/50 vegetation clearing entitlement area

From 1 August 2014 an entitlement to remove vegetation from land located near designated bushfire areas may exist under provisions contained within the *Rural Fires Act 1997*. Removal of vegetation in these areas must be undertaken in accordance with the 10/50 Vegetation Clearing Code of Practice for New South Wales.

Full details of the vegetation clearing exemptions applicable under the *Rural Fires Act 1997* and the *10/50 Vegetation Clearing Code of Practice for New South Wales* may be obtained from the Rural Fire Service web site - <http://www.rfs.nsw.gov.au/plan-and-prepare/1050-vegetation-clearing>.

Residents are encouraged to use the NSW Rural Fire Service's [online tool](#) to determine whether land is located within a 10/50 clearing entitlement area. A copy of the search results should be retained as proof of the lands inclusion within the 10/50 clearing entitlement area.



3.4 Undesirable Tree Species

The following table identifies tree species classified as undesirable in Ballina Shire.

Table 2.1 – Undesirable Species	
Common Name	Scientific Name
African Olive	<i>Olea africana</i>
Black Locust	<i>Robinia pseudoacacia</i>
Brazilian Cherry	<i>Eugenia uniflora</i>
Broad-leaved Pepper Tree	<i>Schinus terebinthifolius</i>
Cadaghi	<i>Eucalyptus torelliana</i>
Camphor Laurel	<i>Cinnamomum camphora</i>
Cherry Guava/Purple Guava	<i>Psidium cattleianum</i>
Chinese Celtis	<i>Celtis sinensis</i>
Chinese Tallow	<i>Triadica sebifera</i>
Cocos Palm	<i>Syagrus romanzoffianum</i>
Coffee	<i>Coffea arabica</i>
Golden Rain Tree	<i>Koelreuteria paniculata</i>
Golden Willow Wattle	<i>Acacia saligna</i>
Guava	<i>Psidium guajava</i>
Honey Locust	<i>Gleditsia triacanthos</i>
Ice Cream Bean	<i>Inga edulis</i>
Leucanea	<i>Leucanea leucocephala</i>
Loquat	<i>Eriobotrya japonica</i>
Orange Jessamine	<i>Murraya paniculata</i>
Pine (Radiata)	<i>Pinus radiata</i>
Pine (Slash)	<i>Pinus elliottii</i>
Powton	<i>Paulownia fortunei</i>
Princess Tree	<i>Paulownia tomentosa</i>
Privet (Large Leaf)	<i>Ligustrum lucidum</i>
Privet (Small Leaf)	<i>Ligustrum sinense</i>
Senna (Winter)	<i>Senna pendulata var. glabrata</i>
Umbrella Tree	<i>Schefflera actinophylla</i>





Part 4 Development Application Requirements

4.1 Information to Accompany Development Applications

Applications for **vegetation management works** are to be made on the appropriate form (available from Council) and must be supported by the following:

- a) payment of the prescribed fee (in accordance with Council's adopted fees and charges);
- b) description of the property on which the vegetation is located (street address, lot, deposited plan);
- c) applicant's name and contact details;
- d) written consent of the landowner;
- e) a plan illustrating the location(s) of the vegetation and its location in relation to the boundaries of the site and any existing buildings located in close proximity;
- f) a description of the vegetation detailing the following:
 - species;
 - quantity affected;
 - approximate height;
 - reasons the vegetation works are required;
- g) where the application is for **vegetation management works** on a tree or other vegetation in an **urban zone** that is thought to be dying, unsound or presents a risk to life or property and there is uncertainty as to the health of the tree or other vegetation, the application must be supported by an Arboricultural Assessment Report. The Arboricultural Report is to be prepared at the applicant's expense and in accordance with the requirements of Part 4 of this Chapter; and
- h) where the application is for **vegetation management works** in an environmental protection zone or on land identified as containing **Significant Urban Bushland**, in most cases the application must be supported by a **biodiversity** assessment report prepared by a suitably qualified ecological consultant.



Note:

Justification for vegetation management works:

While this chapter seeks to preserve and protect identified significant vegetation in the shire, it is understood that there will be situations where **vegetation management works** will be required. Approval will likely be granted where sufficient environmental evidence and justification for the works is provided. It should be noted that certain reasons, such as for the preservation or maintenance of views, will not be considered sufficient justification for vegetation management works.





4.2 Assessment of Development Applications

4.2.1. Urban Zones

In determining an application under this Chapter for **vegetation management works** on land within urban zones, an assessment will be undertaken having regard for at least the following:

- a) whether the tree or other vegetation contributes to the aesthetic qualities of the locality and comprises an important component of the skyline;
- b) whether the tree or other vegetation makes a significant contribution to the amenity and character of the locality;
- c) whether the tree or other vegetation is important from a cultural and/or heritage perspective;
- d) whether the growth habit (crown or root) or mature size of the tree or other vegetation is undesirable in a given situation (e.g. under power lines, on top of or under retaining walls or banks, over sewer lines, close to roads or driveways etc.) such that it unreasonably interferes with infrastructure or sight distances;
- e) whether the tree or other vegetation is causing damage to public or private utilities and services including kerb and guttering and the aesthetic value of the tree or other vegetation is not greater than the effect of damage caused by the tree;
- f) whether the tree or other vegetation is interfering with, or may interfere with, the efficiency of a solar or communication appliance;
- g) whether the tree or other vegetation is in an overcrowded situation where the overcrowding is detrimental to tree growth and the judicious removal of tree(s) will result in improved growth of other trees;
- h) whether the species and/or growth form of the tree or other vegetation is ecologically significant in the local or regional context and its ability in providing habitat for native fauna; and
- i) whether, based on supporting documentation submitted with the application, the tree or other vegetation is dying or diseased and its safe useful life expectancy is diminished.

4.2.2 Environmental Conservation Zone and Significant Urban Bushland

In determining an application under this Chapter for **vegetation management works** on land within environmental protection zones or on land identified as containing **Significant Urban Bushland**, assessment will be undertaken by Council officers having regard for the following:

- a) the ecological significance of the vegetation in the local or regional context;
- b) the significance of the vegetation in its provision of habitat for native fauna;
- c) whether the proposed **vegetation management works** will result in a significant effect on threatened species, populations or ecological communities or their habitats; and
- d) the contribution the vegetation makes towards the environmental amenity of the locality.





4.3 Guidelines and Requirements for Arborist Reports

Where an arborist report is required in support of an application for vegetation management works under this Chapter, it shall be prepared in accordance with the requirements of Australian Standard 4373:2007 *Pruning of Amenity Trees*, AS 4970:2009 *Protection of Trees on Development Sites* and competencies outlined in the Australian Qualifications Framework (AQF).

Applicants are advised that Council will only accept arborist reports from qualified professionals with a minimum AQF Level **III Five (Diploma Horticulture (Arboriculture) and/or Diploma Arboriculture)** qualification. All reports associated with Development Applications such as Preliminary Tree Assessments, Preliminary Arboricultural Reports, Arboricultural Impact Assessment Reports and all matters concerning arboricultural issues on development sites, as well as general tree removal and pruning reports and plans must be prepared by an arborist with the specified AQF Level **III Five** qualification.

Council will at times require an arborist report in relation to tree and vegetation matters not required by AS 4970:2009 *Protection of Trees on Development Sites*. Reports such as Visual Tree Assessments, Tree Hazard Reports, Tree Removal Plans and Tree Pruning Plans may be required as part of the supporting documentation for applications made under the requirements of this Chapter.

An arborist report submitted in support of an application made under this Chapter must contain the following information:

- a) the name, business address, telephone number of the company/ proprietor;
- b) evidence of Industry Body Membership, technical qualifications and experience of the arborist, who undertakes the tree inspection, diagnoses and prepares the report;
- c) the address of the site containing the trees;
- d) the name of the person or company for whom the report is prepared;
- e) the methods or techniques used in the inspection;
- f) a suitably scaled plan of the site showing:
 - the location of all trees on the site and any trees on adjoining land with overhang or undergrowth, including street/park trees;
 - the subject land;
 - the location of above and below ground services/utilities in proximity to the trees shown;
- g) a table showing each tree surveyed showing:
 - its common and full scientific name;
 - its age class;
 - its estimated height;
 - its trunk Diameter at Breast Height (DBH) measured from approximately 1.4m from natural ground level;
 - its canopy spread to the four cardinal points;





- a summary of the tree's health and structural condition;
 - an estimation of the tree's useful life expectancy using appropriate industry methods i.e. Safe Useful Life Expectancy (S.U.L.E.) or Tree AZ;
- h) a summary and/or discussion of other relevant tree and site information such as soil and drainage characteristics, pests and diseases and tree hazard assessment details;
- i) the tree assessment should be conducted and recorded in accordance with industry best practice;
- j) supporting evidence such as annotated photographs and laboratory results if relevant;
- k) a discussion of all options available, including why they are recommended or not recommended, e.g. can a built structure be relocated, repaired and tree(s) retained;
- l) a list of recommendations and the reasons for their adoption;
- m) the sources of technical information referred to in the report. References not used in the report should not be included;
- n) present information as objectively as possible without attempting to support a specific development or client based outcome; and
- o) provide the scientific and common names of all tree species proposed for planting, including recommendations on the size and quality characteristics of trees to be planted.

**Note:**

Council will not accept substandard arborist reports with inadequate information or reports that have been prepared by persons who do not hold the qualifications detailed in this policy.

4.4 Guidelines and Requirements for **Ecological Biodiversity Assessment Reports**

Where ~~an ecological assessment~~ a biodiversity assessment report is required in support of an application for **vegetation management works** under this chapter, the report shall be prepared by a suitably qualified ecological consultant.

Where ~~an ecological assessment~~ a biodiversity assessment report is required for **vegetation management works** that affect threatened species, populations or ecological communities or their habitats, the assessment is required to adequately address the requirements of ~~section 5A of the Environmental Planning and Assessment Act 1979~~ the Biodiversity Conservation Act 2016.

~~Ecological assessments should have regard for the Office of Environment and Heritage publications *Threatened Biodiversity Survey and Assessment Guidelines for Development and Activities* and draft *Threatened Species Assessment Guidelines – Assessment of Significance*.~~

Biodiversity assessment reports are required to be prepared in accordance with the Biodiversity Assessment Method provisions established by the Biodiversity Conservation Act 2016 and any associated guidelines issued by the Office of Environment and Heritage.

