



Ballina Shire Development Control Plan 2012

Draft Amendment No 13 – General Amendments

Schedule of Proposed Amendments

May 2020 (20/13121)

BDCP 2012 Draft Amendment No 13 – May 2020

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><i>Chapter 2 – General and Environmental Considerations</i></p> <p><i>Part 3.11 Provision of Services</i></p> <p><i>3.11.3 Development Controls</i></p> <p><i>C – Sewage Management</i></p>	<p>3.11.2 Planning Objectives</p> <p>a. Ensure adequate water, electricity, sewerage, drainage, road and telecommunication facilities are provided to development;</p> <p>b. Provide flexibility for the provision of alternative water, electricity and telecommunications sources where appropriate; and</p> <p>c. Protect public health.</p>	<p><u>Add new objective:</u></p> <p>3.11.2 Planning Objectives</p> <p>a. Ensure adequate water, electricity, sewerage, drainage, road and telecommunication facilities are provided to development;</p> <p>b. Ensure development is compatible with the capacity of the reticulated sewerage network and environmental characteristics of land;</p> <p>c. Provide flexibility for the provision of alternative water, electricity and telecommunications sources where appropriate; and</p> <p>d. Protect public health.</p>	<p>To advise that where rural-residential lots are connected to the reticulated sewer system, on-site sewage management systems cannot be used to meet sewage management requirements for new dwellings, particularly in circumstances where the reticulated sewer system does not have the capacity to accommodate new dwellings, eg. the Fig Tree Hill Estate in Lennox Head.</p>
	<p>C Sewage Management</p> <p>i. Development shall be provided with an adequate reticulated sewer connection or have suitable arrangements in place for such a connection to be made where access to reticulated sewer is available.</p> <p>ii. Where access to reticulated sewer is not available, wastewater disposal must meet the requirements of Section 3.8 in relation to on-site sewage management.</p>	<p><u>Amend wording of C. Sewage Management and add new Note:</u></p> <p>C Sewage Management</p> <p>i. Development shall be provided with an adequate reticulated sewer connection or have suitable arrangements in place for such a connection to be made where access to the reticulated sewer network is available to the site. Access to the reticulated sewer network must have capacity to allow such connection.</p> <p>ii. Where access to no reticulated sewer network exists, is not available, wastewater disposal must meet the requirements of Section 3.8 in relation to on-site sewage management.</p>		

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		No existing note.	<p>Notes:</p> <p>Where a lot is connected to the reticulated sewer network, an on-site sewage management system cannot be used to meet sewage management requirements. This also applies where the reticulated sewer network is at capacity.</p> <p>Fig Tree Hill Estate:</p> <p>Historically, dual occupancy development within the Fig Tree Hill Estate has not been permitted due to inadequate sewerage capacity. Despite dual occupancy developments being permissible in rural zones under the provisions of the Ballina LEP 2012, the current capacity of the reticulated sewer network prevents dual occupancy development as the requirement for suitable arrangements for connection to the sewer network to be in place cannot be met unless capacity is increased.</p> <p>In 1983, Council approved a subdivision for 50 dwellings within the Fig Tree Hill Estate. An on-site sewage disposal method for each household was trialed but found to be ineffective. Consequently, reticulated sewer was installed as per the development consent conditions. In 1994, Council approved an additional 12 allotments under the closer rural settlement housing of the LEP, as they then applied. Council approved this subdivision on the basis that reticulated services, including sewer services, were presently available and able to cater for the development.</p>	
2	<p><i>Chapter 2 – General and Environmental Considerations</i></p> <p><i>Part 3.8 On-site Sewage Management Systems</i></p> <p><i>3.8.3 Development Controls</i></p>	<p>Notes:</p> <p>On-site management of sewage may only be undertaken where access to reticulated sewer is not available (see Section 3.11 Provision of Services).</p> <p>The type of management strategy needed for different sites can vary. It is advised that applicants proposing an on-site sewage management system consult with Council's Regulatory Services Group for further information.</p> <p>In addition to any development approval obtained, approval under Section 68 of the <i>Local Government Act</i> 1993 is also required with respect to On-site Sewage Management Systems. Application for a Section 68 approval should be made concurrently with a development application.</p>	<p>Notes:</p> <p>On-site management of sewage may only be undertaken where access to no reticulated sewer network exists is not available (see Section 3.11 Provision of Services).</p> <p>The type of management strategy needed for different sites can vary. It is advised that applicants proposing an on-site sewage management system consult with Council's Regulatory Services Group for further information.</p> <p>In addition to any development approval obtained, approval under Section 68 of the <i>Local Government Act</i> 1993 is also required with respect to On-site Sewage Management Systems. Application for a Section 68 approval should be made concurrently with a development application.</p>	Amend note for consistency with proposed amendments noted above.

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3	<p><i>Chapter 2 – General and Environmental Considerations</i></p> <p><i>Part 3.16 Public Art</i></p>	<table border="1"> <tr> <td colspan="2" data-bbox="710 354 1146 379">Applies to:</td> </tr> <tr> <td data-bbox="710 379 824 427">Location/s:</td> <td data-bbox="824 379 1146 427">Zone B3 Commercial Core (Ballina). Zone B2 Local Centre. (Alstonville, Lennox Head, Ballina Heights Estate and Cumbalum Precinct B). Zone B1 Neighbourhood Centre (Wollongbar, Lennox Head and Wardell only).</td> </tr> <tr> <td data-bbox="710 427 824 507">Development Type/s:</td> <td data-bbox="824 427 1146 507"><i>Commercial premises and tourist and visitor accommodation</i> with an estimated development cost in excess of \$1,000,000.</td> </tr> </table>	Applies to:		Location/s:	Zone B3 Commercial Core (Ballina). Zone B2 Local Centre. (Alstonville, Lennox Head, Ballina Heights Estate and Cumbalum Precinct B). Zone B1 Neighbourhood Centre (Wollongbar, Lennox Head and Wardell only).	Development Type/s:	<i>Commercial premises and tourist and visitor accommodation</i> with an estimated development cost in excess of \$1,000,000.	<table border="1"> <tr> <td colspan="2" data-bbox="1164 354 1601 379">Applies to:</td> </tr> <tr> <td data-bbox="1164 379 1279 427">Location/s:</td> <td data-bbox="1279 379 1601 427">Zone B3 Commercial Core (Ballina). Zone B2 Local Centre. (Alstonville, Lennox Head, Ballina Heights Estate and Cumbalum Precinct B). Zone B1 Neighbourhood Centre (Wollongbar, Lennox Head, Skennars Head and Wardell only). Zone RE2 Private Recreation Zone RU2 Rural Landscape</td> </tr> <tr> <td data-bbox="1164 427 1279 507">Development Type/s:</td> <td data-bbox="1279 427 1601 507"><i>Commercial premises and tourist and visitor accommodation, recreation facilities (outdoor), or recreation facilities (major)</i> with an estimated development cost in excess of \$1,000,000 (calculated in accordance with the <i>Environmental Planning and Assessment Regulation</i>).</td> </tr> </table>	Applies to:		Location/s:	Zone B3 Commercial Core (Ballina). Zone B2 Local Centre. (Alstonville, Lennox Head, Ballina Heights Estate and Cumbalum Precinct B). Zone B1 Neighbourhood Centre (Wollongbar, Lennox Head, Skennars Head and Wardell only). Zone RE2 Private Recreation Zone RU2 Rural Landscape	Development Type/s:	<i>Commercial premises and tourist and visitor accommodation, recreation facilities (outdoor), or recreation facilities (major)</i> with an estimated development cost in excess of \$1,000,000 (calculated in accordance with the <i>Environmental Planning and Assessment Regulation</i>).	<p>Inclusion of new commercial zone located within the Aureus development at Skennars Head.</p> <p>Inclusion of zones where recreation facilities can occur.</p> <p>Extending the development types that requires public art to include recreation facilities (major and outdoor). This includes theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks, golf courses, equestrian centres and skate board ramps. These types of development have the potential to become key public locations that have the capacity to reinforce the shire's cultural identity, community values or sense of place through the addition of public art.</p>
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		<p>3.16.3 Development Controls</p> <p>i. Developments must include public art to the value of at least \$15,000 as an integral part of the development;</p>	<p>3.16.3 Development Controls</p> <p>i. Developments must include public art in a civic space to the value of at least \$15,000 as an integral part of the development to the minimum value as outlined in Council's Public Art Policy.</p>	<p>Linking the minimum value of public art to the Fees and Charges Schedule rather than specifying a set amount in the DCP allows the amount to change without having to exhibit the DCP. It is suggested that this amount is indexed annually according to the Consumer Price Index (CPI).</p>												

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		<p>iii. Applications must outline the nature of the work/s (eg fountain, statue, mosaic etc); show its approximate location and size and demonstrate how the proposed public art addresses the following Design Selection Criteria:</p> <ul style="list-style-type: none"> • Standards of excellence and innovation; • Relevance and appropriateness of the work in relation to its site; • Relevance and appropriateness of the work to Ballina Shire; • Consistency with current planning, heritage and environmental policies and plans of management; • Consideration for public safety and the public's use of and access to the public space; • Consideration of maintenance and durability requirements, including potential for vandalism; • Evidence of funding sources and satisfactory budget, including an allocation for ongoing maintenance; and • Evidence of appropriate Public Liability Insurance to cover construction and installation of the work. 	<p>Delete Control (iii) and replace with the following:</p> <p>iii. A Public Art Plan is to be prepared that provides details of the proposed public art and must be submitted as part of the Development Application. The Public Art Plan must include the following:</p> <ul style="list-style-type: none"> a) An illustration of the public art concept/s providing the expected form, dimensions, materials and location of the proposed public art. b) A statement explaining the rationale behind the public art work and how it relates to the development and site. c) A description of how the public will interact or access the public art. d) A program for design, fabrication, installation of the public art and how it integrates with the construction of the development. e) Expected life of public art, maintenance requirements and deaccessioning arrangements. f) Evidence of Public Liability Insurance to cover construction and installation of the public art. g) Expected expenditure for the public art and a budget for ongoing maintenance. h) Demonstration of how the proposed public art addresses the following Design Selection Criteria: <ul style="list-style-type: none"> • Demonstrates artistic excellence and innovation; 	<p>Requires more detail on the proposed public art to be provided to Council and at what stage in the application and approval process this should occur.</p>

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			<ul style="list-style-type: none"> • Demonstrates local and cultural appropriateness to the site and to Ballina Shire; • Is consistent with current planning, heritage and environmental policies and plans of management; • Meets relevant building and safety standards; • Considers public safety and the public's use of and access to the public artwork; and • Considers maintenance and durability, including potential for vandalism. 	
		No existing provisions.	<p>Include the following new provisions:</p> <p>iv. Any substantial changes to the Public Art Plan must be submitted to Council prior to the fabrication of the public artwork.</p>	Ensures any changes to the public art plan are known to Council prior to the completion of the development.
			<p>v. Where artworks are to be intended to be transferred to Council upon completion of a development, a Detailed Public Art Plan is also required prior to a construction certificate being issued. A Detailed Public Art Plan is to include final design drawings, material specifications, engineering certificates and insurance documents.</p>	Provides additional requirements for public art that is to be handed over to Council for management and maintenance in the longer term. Allows Council to consider these implications earlier in the assessment and approval process.
			<p>vi. A Public Art Report is to be submitted to Council prior to issue of an Occupation Certificate. The purpose of the Public Art Report is to satisfy Council that the public art has been delivered and the public art commitments have been fulfilled.</p>	The requirement of a Public Art Report prior to the issue of an occupation certificate is to satisfy Council that the public art has been delivered and the public art commitments have been fulfilled. The information

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			<p>A condition of consent will be included in development consents issued involving public art, which will require the submission of a Public Art Report that addresses the following:</p> <ul style="list-style-type: none"> a) Location address of the artwork and its position within the development; b) Name of the artist/s and the artist's statement relating to the public art; c) Details regarding the fabrication and installation of the work; d) Photos of the installed artwork; e) Relevant documentation including material specifications, maintenance schedule and engineers' drawings or certificates; f) The expected life of the artwork and ongoing maintenance requirements; g) Evidence of public art expenditure; and h) Any other relevant information regarding ownership, decommissioning arrangements, warranty or copyright of the work. <p>vii. Where artworks are to be transferred to the care of Council, they will be assessed by the Public Art Advisory Panel who will then make a recommendation regarding the suitability of the artwork for the collection. Depending on the work, the recommendation will be passed to Council or the GM for approval. Any public art entering Council's public art collection will be accompanied by a maintenance schedule and associated costs and a legal document</p>	<p>contained in the Public Art Report will inform Council's Public Art register.</p> <p>Provides information regarding ownership and maintenance of the public artwork that is to be transferred to Council's public art collection.</p>

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		<p>Notes:</p> <p>The Ballina Shire Public Art Policy involves the establishment of both an Artists Register and a Public Art Advisory Panel, which will be utilised by Council when acquiring Public Art to be placed on Public Land. For works to be provided on Private Land, there is no requirement to refer proposals to the Public Art Advisory Panel or to engage artists on the Artist Register. It is however open for applicants to utilise these services should they wish to do so.</p> <p>It is open to applicants to request that Public Art required pursuant to this Chapter be placed on Public Land within the town or local centre (rather than on the development site). Under such circumstances the selection procedures documented in the Public Art Policy apply.</p> <p>Development to which the policy applies must incorporate an item of public art with a minimum value of \$15,000 as an integral part of that development in a civic space.</p> <p>To meet this requirement, Council may accept the contribution of an equivalent amount towards the provision of public art in a public place.</p>	<p>transferring full rights of ownership to Ballina Shire Council. Council will have exclusive copyright licence of the works, however full copyright will remain with the artist/author of the work/object.</p> <p>Notes:</p> <p>The Ballina Shire Public Art Policy involves the establishment of both an Artists Register and a Public Art Advisory Panel, which will be utilised by Council when acquiring Public Art to be placed on Public Land.</p> <p>Public art documents submitted to Council may be reviewed by Council's Public Art Advisory Panel for comment and any recommendations will be recorded and passed on to the developer. Local artists and art professionals are provided on the Arts Northern Rivers - Northern Rivers Creative directory website.</p> <p>For works to be provided on Private Land, there is no requirement to refer proposals to the Public Art Advisory Panel or to engage artists or art professionals on the Artist Register Creative Directory. It is however open for applicants to utilise use these services should they wish to do so.</p> <p>It is open to applicants to request that Public Art required pursuant to this Chapter be placed on Public Land within the town or local centre (rather than on the development site). To meet this requirement, Council may accept the contribution of an equivalent amount towards the provision of public art in a public place. Under such circumstances the selection procedures documented in the Public Art Policy apply.</p> <p>Development to which the policy applies must incorporate an item of public art with a minimum value of \$15,000 \$16,000 as an integral part of that development in a civic space.</p> <p>To meet this requirement, Council may accept the contribution a payment of an equivalent amount towards the provision of public art in a public place.</p>	<p>Provides information on where advice and professional services regarding public art can be found.</p>												
4	<p>Chapter 2 – General and Environmental Considerations</p> <p>Part 3.21 Bushfire Management</p>	<p>3.21.1 Application</p> <table border="1"> <tr> <td colspan="2">Applies to:</td> </tr> <tr> <td>Location/s:</td> <td>All land.</td> </tr> <tr> <td>Development Type/s:</td> <td>All development.</td> </tr> </table>	Applies to:		Location/s:	All land.	Development Type/s:	All development.	<p>3.21.1 Application</p> <table border="1"> <tr> <td colspan="2">Applies to:</td> </tr> <tr> <td>Location/s:</td> <td> <p>All land that</p> <ul style="list-style-type: none"> has been designated (mapped) as bush fire prone land under legislation; or has been identified in the course of processing and determining a development application, <p>as land that can support a bush fire or is likely to be subject to bush fire attack.</p> </td> </tr> <tr> <td>Development Type/s:</td> <td>All development.</td> </tr> </table>	Applies to:		Location/s:	<p>All land that</p> <ul style="list-style-type: none"> has been designated (mapped) as bush fire prone land under legislation; or has been identified in the course of processing and determining a development application, <p>as land that can support a bush fire or is likely to be subject to bush fire attack.</p>	Development Type/s:	All development.	<p>To ensure provision of applicable housing construction standards to development that is located on or adjacent to land that has been identified as capable of supporting a bush fire or likely to be subject to bush fire attack.</p>
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Location/s:	<p>All land that</p> <ul style="list-style-type: none"> has been designated (mapped) as bush fire prone land under legislation; or has been identified in the course of processing and determining a development application, <p>as land that can support a bush fire or is likely to be subject to bush fire attack.</p>															
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		<p>3.21.2 Planning Objectives</p> <p>a. Ensure that development does not occur in a manner that creates unreasonable safety risks to site occupants, the community and/or emergency services; and</p> <p>b. Ensure development is designed to manage and mitigate the risk to human life from bushfire; and</p> <p>3.21.3 Development Controls</p> <p>i. Development must conform to the requirements of the NSW Rural Fire Service's <i>Planning for Bushfire Protection</i> publication and associated Rural Fire Service policy.</p>	<p>3.21.2 Planning Objectives</p> <p>a. Ensure that development does not occur in a manner that creates unreasonable safety risks to site occupants, the community and/or emergency services; and</p> <p>b. Ensure development is designed to manage and mitigate the risk to human life from bushfire. and</p> <p>3.21.3 Development Controls</p> <p>i. Development must conform to the requirements of the NSW Rural Fire Service's <i>Planning for Bush Fire Protection</i> publication and Australian Standard AS3959 – Construction of buildings in bushfire-prone areas. associated Rural Fire Service policy.</p>	
5	<p><i>Chapter 2 – General and Environmental Considerations</i></p> <p><i>Part 3.23 Boat Ramps, Pontoons and Jetties</i></p>	<p>3.23 Boat Ramps, Pontoons and Jetties</p> <p>A Assessment of Structures</p> <p>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.</p> <p>E Retaining Walls</p> <p>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.</p>	<p>3.23 Waterway Structures</p> <p>A Assessment of Structures</p> <p>i. Development applications for waterway 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.</p> <p>E Retaining Walls</p> <p>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.</p>	<p>To provide consistency in the naming of these structures which will assist customers when searching for the information on Council's website.</p> <p>Council's website will also be updated to include the typical/standard layout drawings within the one location.</p>

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6	<p><i>Chapter 3 – Urban Subdivision</i></p> <p><i>Fire Asset Protection Zones – Private Use of Public Land Policy</i></p>	<p>No existing provision.</p>	<p>Insert new provisions under Part 3.1 Minor Subdivision General Controls (Element H) and Part 3.2 Major Subdivision Requirements (Element D):</p> <p>Element – Asset Protection Zones</p> <p>Planning Objectives</p> <p>a. To regulate the use of public land in respect to its use as a fire asset protection zone, and</p> <p>b. To ensure that public land is not constrained by private uses.</p> <p>Development Controls</p> <p>i. Asset Protection Zones (APZs) required for private developments are to be located entirely within the boundary of the development.</p> <p>ii. Where new subdivisions are required to provide APZs these must be located within the subdivision and may include the use of roads, private property or in some cases public reserves that are part of the subdivision.</p> <p>iii. Existing public reserves must not be used to provide APZs for private development.</p> <p>Notes:</p> <p>New subdivisions located on land mapped as bush fire prone land must have regard to Council's <i>Fire Asset Protection Zones – Private Use of Public Land Policy</i>.</p> <p>APZs must be determined in accordance with the NSW Rural Fire Service publications <i>Planning for Bush Fire Protection and Standards for Asset Protection Zones</i>.</p>	<p>The review of the <i>Fire Asset Protection Zones – Private Use of Public Land Policy</i> was considered by Council at its February 2020 Ordinary meeting. Council resolved to adopt the amended policy and place on exhibition for public comment.</p> <p>This policy position is being incorporated into the DCP to reinforce the requirement that asset protection zones, where required for private development, must be located wholly within the boundary of the development site and not on public land.</p>

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7	Chapter 3 – Urban Subdivision E. Element – Services and Infrastructure	<p>Control - Service Infrastructure Internal to the Development Site</p> <ul style="list-style-type: none"> i. Subdivisions shall be fully serviced with water, sewer, roads, drainage, underground electricity and communication services; ii. Where lots are proposed having frontage only to a lane, adequate infrastructure servicing, including formalised vehicular access, waste collection and postal delivery, must be available to the lane frontage, except where the requirements of (iii) are met. iii. Where waste collection or postal delivery services are not provided to a lane, lots must be provided with a paved pedestrian access way having minimum 1.2m width to enable each future dwelling or occupancy direct access to the street frontage. iv. All service infrastructure is to be designed and constructed in accordance with the <i>Northern Rivers Local Government Development and Design Manual</i>; and v. Service infrastructure internal to the development site shall be provided by the developer at no cost to Council. 	<p>Control - Service Infrastructure Internal to the Development Site</p> <ul style="list-style-type: none"> i. Subdivisions shall be fully serviced with water, sewer, roads, drainage, underground electricity and communication services; ii. All lots are required to have frontage to a public road to provide adequate infrastructure servicing, including waste collection and postal delivery (refer to Element G for minimum requirements for battle-axe lots); iii. Where lots are proposed having frontage only to a lane, adequate infrastructure servicing, including formalised vehicular access, waste collection and postal delivery, must be available to the lane frontage, except where the requirements of (iv) are met; iv. Where waste collection or postal delivery services are not provided to a lane, lots must be provided with a paved pedestrian access way having minimum 1.2m width to enable each future dwelling or occupancy direct access to the street frontage; v. All service infrastructure is to be designed and constructed in accordance with the <i>Northern Rivers Local Government Development and Design Manual</i>; and vi. Service infrastructure internal to the development site shall be provided by the developer at no cost to Council. 	<p>To clarify that all allotments are required to have public road frontage to ensure adequate provision of services and infrastructure to each lot.</p> <p>Where Torrens Title lots are provided with access corridors, they are to comply with the controls for battle-axe lots in Element G – Minimum Lot Size and Shape contained within Chapter 3 – Urban Subdivision.</p>

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8	Chapter 4 – Residential and Tourist Development Part 3 General Controls Secondary Dwellings	3.1.1 Application Applies to: Location/s: Zones B1, B2, B3, B4, B6, R2 & R3 Development Type/s: Residential accommodation (excluding secondary dwellings unless specifically stated) and Tourist and visitor accommodation Notes: 1. The provisions of Part 3 General Controls do not apply to secondary dwelling unless specifically stated. Secondary dwellings will be assessed against the controls contained in Division 2, clause 23(1) (c) to (g) of the Affordable Rental Housing SEPP. 2. 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.	3.1.1 Application Applies to: Location/s: Zones B1, B2, B3, B4, B6, R2 & R3 Development Type/s: Residential accommodation (excluding secondary dwellings unless specifically stated) (including associated buildings such as sheds) and Tourist and visitor accommodation Notes: 1. The provisions of Part 3 General Controls do not apply to secondary dwelling unless specifically stated. Secondary dwellings will be assessed against the controls contained in Division 2, clause 23(1) (c) to (g) of the Affordable Rental Housing SEPP. 1. 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.	Controls within Chapter 4 have been amended to provide clarity and consistency regarding the assessment of applications for secondary dwellings.
		C. Element - Building Envelopes i. Residential accommodation (optional for secondary dwellings) and tourist and visitor accommodation in Zone R2 Low Density Residential and Zone R3 Medium Density Residential must be contained within a building envelope measured as follows:	C. Element - Building Envelopes i. Residential accommodation (optional for secondary dwellings) and tourist and visitor accommodation in Zone R2 Low Density Residential and Zone R3 Medium Density Residential must be contained within a building envelope measured as follows:	As above.
		G. Element - Landscaping and Open Space Controls – Landscaping and Private Open Space for Dwellings, Dual Occupancies, Attached Dwellings and Semi-Detached Dwellings	G. Element - Landscaping and Open Space Controls – Landscaping and Private Open Space for Dwelling Houses, Secondary Dwellings, Dual Occupancies, Attached Dwellings and Semi-Detached Dwellings	As above.
		I. Element - Overlooking and Privacy iii. For residential accommodation and tourist and visitor accommodation involving multiple dwellings on the same site, direct views between habitable rooms, other than bedrooms, shall be screened where:	I. Element - Overlooking and Privacy iii. For residential accommodation (excluding secondary dwellings on R2 zoned land) and tourist and visitor accommodation involving multiple dwellings on the same site, direct views between habitable rooms, other than bedrooms, shall be screened where:	The exemption to provide screening in certain circumstances does not apply to secondary dwellings located on R3 zoned land as they have the potential to be converted to

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No	DCP Reference	Existing Provision	Proposed Amendment	Reason
		<p>I. Element - Overlooking and Privacy</p> <p>Note: A habitable room is defined in the <i>Building Code of Australia</i> and includes rooms used for normal domestic activities such as living rooms, lounge rooms, dining rooms, studies, playrooms, family rooms, rumpus rooms, kitchens and the like but does not include bathrooms, laundries, water closets (toilets), walk-in wardrobes, corridors, hallways, lobbies and the like.</p>	<p>I. Element - Overlooking and Privacy</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. A habitable room is defined in the <i>Building Code of Australia</i> and includes rooms used for normal domestic activities such as living rooms, lounge rooms, dining rooms, studies, playrooms, family rooms, rumpus rooms, kitchens and the like but does not include bathrooms, laundries, water closets (toilets), walk-in wardrobes, corridors, hallways, lobbies and the like. 2. This element applies to secondary dwellings on R3 zoned land as they have the potential to be converted to other forms of residential accommodation, each dwelling within which may be owned under separate ownership. 	<p>other forms of residential accommodation in the future.</p>
9	<p>Chapter 4 – Residential and Tourist Development</p> <p>C. Element – Building Envelopes</p>	<p>No existing provision.</p> <p>Notes:</p> <p>The 8.5m plane above <i>ground level</i> is applied to the existing ground level, except where land is identified on the "Flood Planning Maps" (Ballina LEP 2012) as requiring fill, <i>ground level</i> is measured from the finished ground level.</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>	<p>Add new Control (iii):</p> <p>iii. The external walls of garages, sheds and similar detached outbuildings with a floor area greater than 50m² must be setback a minimum of 2 metres from the side and rear boundaries of the site (excluding internal strata title boundaries), subject to consideration of impacts on privacy, <i>private open space</i> and solar access to adjoining properties; and</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. The 8.5m plane above ground level is applied to the existing ground level. All planes referred to under this element are measured from ground level (existing), except where land is identified on the "Flood Planning Maps" (Ballina LEP 2012) as requiring fill, in which case ground level ground level is measured from the finished ground level taken to be the minimum required fill level. 2. 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>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> <ol style="list-style-type: none"> 3. Boundary setbacks for larger sheds provide opportunity for landscape screening to minimise amenity impacts. Landscaping details may be required as part of a development application. 4. The minimum setbacks referred to in Controls (ii) and (iii) above may need to be increased to minimise impacts to adjoining properties. 	<p>In response to court proceedings associated with DA 2018/189, provisions are included to address bulk and scale issues associated with the construction of sheds in residential areas.</p> <p>Amend note (1) to clarify the measurement of the building height plane in respect to land that is identified as being flood prone land.</p> <p>Addition of notes (3) and (4) to address bulk and scale issues associated with the construction of sheds in residential areas.</p>

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No	DCP Reference	Existing Provision	Proposed Amendment	Reason
10	Chapter 4 – Residential and Tourist Development D. Element – Articulation Zone	No existing note.	<p>Note: Refer to controls contained within Element I – Overlooking and Privacy which do not permit the following structures within the articulation zone:</p> <ul style="list-style-type: none"> • balconies, decks, pergolas, terraces or verandahs located within 3 metres of side or rear boundaries that require privacy screens. 	<p>To clarify that structures located within the articulation zone should be open type structures. The inclusion of a required privacy screen is counter-productive to this and therefore is not permitted.</p> <p>Refer to item no. 14 in this schedule.</p>
11	Chapter 4 – Residential and Tourist Development H. Element – Vehicular Access and Parking	<p>H. Element - Vehicular Access and Parking Objectives</p> <ol style="list-style-type: none"> Provide adequate on site car parking for development; and Ensure streetscape amenity, character and utility is maintained. <p>Controls – Garages</p> <ol style="list-style-type: none"> Garages are to be 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; and The maximum width of the garage door must not be more than 50% of the lot frontage. 	<p>H. Element - Vehicular Access and Parking Objectives</p> <ol style="list-style-type: none"> Provide adequate on site car parking for development; and Provide car parking that is convenient and safe to access; Ensure garages, carports and sheds do not dominate the streetscape; and Ensure streetscape amenity, character and utility is maintained. <p>Controls – Garages and Sheds</p> <ol style="list-style-type: none"> Garages and sheds are to be 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; and The combined maximum width of the garage and shed doors must not be more than 50% of the lot frontage. <p>Note: The design of garages and sheds that are required for additional vehicular storage, eg. caravans, motorhomes and the like, must not detract from the existing, or planned, future streetscape and character of the locality.</p>	<p>In response to court proceedings associated with DA 2018/189, provisions are included to address bulk and scale issues associated with the construction of sheds in residential areas.</p>

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14	Chapter 4 – Residential and Tourist Development I. Element – Overlooking and Privacy	<p>ii. A balcony, deck, patio, pergola, terrace or verandah must have a privacy screen if it:</p> <ul style="list-style-type: none"> has a setback of less than 3 metres from a side or rear boundary, and has a floor area of more than 3 square metres and a floor level greater than 1.0m above ground level (existing). 	<p>iii. A balcony, deck, patio, pergola, terrace or verandah must have a privacy screen if it:</p> <ul style="list-style-type: none"> has a setback of less than 3 metres from a side or rear boundary, and has a floor area of more than 3 square metres and a floor level greater than 1.0m above ground level (existing). Balconies, decks, pergolas, terraces or verandahs that are within 3 metres of side or rear boundaries and require privacy screens are not permitted within the articulation zone. 	To clarify that structures located within the articulation zone should be open type structures. The inclusion of a required privacy screen is counter-productive to this and therefore is not permitted.																				

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15	Chapter 4 – Residential and Tourist Development J. Element – Solar Access	Controls – Dual Occupancies, Semi-attached Dwellings, Attached Dwellings, Multi Dwelling Housing, Residential Flat Buildings and Tourist and Visitor Accommodation i. Dwellings are to be orientated with the main indoor and outdoor living spaces and major window areas facing towards the north and east;	Controls – Dwellings, Dual Occupancies, Semi-attached Dwellings, Attached Dwellings, Multi Dwelling Housing, Residential Flat Buildings and Tourist and Visitor Accommodation i. Residential accommodation and tourist and visitor accommodation are to be designed so that dwellings are to be orientated with the main indoor and outdoor living spaces and major window areas facing towards the north and east;	In response to court proceedings associated with DA 2017/707, the controls are amended to avoid ambiguity and to clarify that the controls apply to all residential development, including single dwellings.
16	Chapter 6a – Commercial Development Ballina Town Centre Activation requirements and accessible car parking provisions	Applies to the whole of Chapter 6a.	Refer to Chapter 6a for consolidated development controls with changes highlighted in yellow.	To incorporate activation requirements associated with residential flat building development in the B3 zone within the Ballina Town Centre in accordance with Amendment #42 to the Ballina LEP 2012 and Council resolution of 25 July 2019. To clarify that on site car parking for certain development is required to be freely accessible to the general public at all times.
17	Chapter 8 – Other Uses Part 3.1 Temporary Use of Land 3.1.3 Development Controls	3.1.3 Development Controls i. Development must comply with the relevant requirements documented in Council's Special Events Policy;	3.1.3 Development Controls Development must comply with the relevant requirements documented in Council's Special Events Policy;	Council no longer has a 'Special Events Policy' therefore the reference is to be deleted.

Attachment 2 – Copy of Submissions

1. Richard Lutze

Having read the document, is it easy to read and understand?

Yes

Do you support the overall objectives and content of the document?

Yes

Please provide further comments if you wish.

amendment No. 4

Chapter 2 re Part 3.21 - I am concerned that the changes to the provisions suggests that in assessing all DA's on land that is not identified as bushfire prone 'can' be identified by council staff as Bushfire prone & therefore presumably would require a Bushfire report?

Does this include DA's for houses ect in rural areas?

its hard enough to provide this sort of advice when we know what council is going to require, i guess now it will be a case of 'see what happens when we lodge a DA' & in some cases, 'see who is the assessing officer'?

amendment No. 15

Chapter 4 element J Solar access: Solar access to ALL residential buildings is a good idea but must not have been applied to alot of homes built recently in the new subdivisions? the DA cited in this amendement has living areas & windows facing east (& north) but would be considered non-compliant with this provision? not sure why.

amendment 16

Chapter 6 Part 5 re: I disagree that ALL carparking is to be accessible carparking.

I suggest that carparking requirements are made up of spaces for staff & shop keepers/managers AND for direct customers ect as well as for the general public.

council assertion is that ALL onsite carparking is for general use by anyone & I disagree that this is the original intent on carparking provisions/requirements.

I also sugget that to follow this thru to its conclusion, fully accessible carparking puts a priority on the location & prominence of carparking, whereas i believe there are other more significant elements to a successful workable useable aesthetic project/development than ensuring that ALL carparks can be accessed by anyone any time.

2. Paola Rickard

Having read the document, is it easy to read and understand?

Yes

Please provide any suggestions for improvement.

Objection to Chapter 3- Urban subdivision Fire APZ - Private Use of Public Land
The proposed amendment that 'Asset Protection Zones (APZs) required for private developments are to be located entirely within the boundary of the development.' is contrary to the provisions of PBP 2019- specifically s. 3.2. Importantly according to s. '3.2 Asset Protection Zones (APZ)', the APZ can include roads or properties managed to be consistent with APZ standards set out in Appendix 4 and the NSW RFS document Standards for Asset Protection Zones. If a neighbouring property, including Public Land is managed to be consistent with APZ standards (for instance by virtue of DA consent prescribing APZs or Public Land PoM), then there is no reason to not consider such neighbouring land as an effective setback buffer to a given hazard. The key question is there a mechanisms to ensure that the land will managed to be consistent with APZ standards? If the answer is yes, eg. because of DA consent or statutory requirements for Council managed parkland and roads, then the APZ intent is fulfilled.

Do you support the overall objectives and content of the document?

No

Please provide further comments if you wish.

I do not support the proposed changes to Chapter 3- Urban subdivision Fire APZ - Private Use of Public Land. Specifically because they are not consistent with s. 3.2 of PBP 2019. I believe there is a general confusing with the APZ function particularly concerning in-fill development. For instance, a proposal to build a dwelling on residential block within Bush Fire Prone Land could be required, under this provision, to provide APZ setbacks to a classified hazard wholly within the lot even if such hazard occur is say 80m away and the the new dwelling is surrounded by residential development and a Council public park. Notably, in such case the Public Land is managed to be consistent with APZ standards and is thus an effective setback buffer to a given hazard. This does not mean that a Bushfire Attack Level (BAL) would not apply to the dwelling construction (indeed it will). The BAL is determined by the classified hazardous vegetation and the separation (i.e. the managed land including residential and a public park) distance to the proposed dwelling. I urge Council to ensure any changes to DCP provisions are consistent with PBP2019 in its entirety.