



# Ballina Shire Development Control Plan 2012

## Chapter 7 – Rural Living and Activity





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## Part 1 Preliminary

### 1.1 Introduction

**Name:**

Ballina Shire Development Control Plan 2012, Chapter 7 – Rural Living and Activity.

**Purpose:**

To identify Council's requirements relating to land uses in rural areas.

**Relationship to other Chapters of this DCP:**

The provisions in this chapter prevail over those in chapters 1, 2, 2a and 2b where there is an inconsistency.

Where there is an inconsistency between provisions in chapters 3, 4, 5, 6 and 7 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 chapter 8 apply in conjunction with those in this chapter, but prevail in the event of an inconsistency unless otherwise specified.

Special Area Controls in this chapter prevail over General Controls in the event of an inconsistency

**Application:**

The planning provisions of this chapter apply to land uses in rural areas as specified.

**Planning Objectives and Development Controls:**

The general provisions of this chapter are categorised in relation to a series of land uses and topics. For each land use planning objectives and development controls are specified. There are also special provisions relating to particular areas. Development proposals must be consistent with the planning objectives for the chapter and in relation to each identified land use. Such consistency is typically demonstrated by compliance with the identified development controls, although there may be circumstances where an alternative to the application of a development control is consistent with the planning objectives.





## Part 2 Chapter Planning Objectives

The overarching objectives of this chapter are to:

- a. Protect agricultural land, particularly land that is identified as 'State significant' or 'regionally significant' farmland as referenced in the Northern Rivers Farmland Protection Project, from inappropriate development;
- b. Preserve rural resources by ensuring that land is not effectively sterilised by being developed or encroached upon by urban or other incompatible uses;
- c. Minimise rural land use conflict through a number of strategies including provision of land use buffers, land use regulation and encouragement of best practice in rural land practices;
- d. Encourage and provide for quality rural development within the shire;
- e. Encourage development of a scale and nature which will not adversely impact on the existing amenity of the area;
- f. Maintain or improve cultural and environmental values of rural land; and
- g. Provide information, guidance and controls for specific land uses that occur on rural land.

## Part 3 General Controls

### 3.1 Residential Development in Rural Areas

#### 3.1.1 Application

|                     |                                    |
|---------------------|------------------------------------|
| <b>Applies to:</b>  |                                    |
| Location/s:         | Zones RU1, RU2, C2, C3, W1 and W2. |
| Development Type/s: | <i>Residential accommodation</i>   |



#### Notes:

The BLEP 2012 identifies the circumstances in which Council is able to grant development consent for the erection of dwellings on vacant non-urban zoned land. In certain circumstances, verification of the potential for a dwelling to be approved on a parcel of land may require a detailed investigation of Council's records relating to the subdivision history of that particular allotment.

There are many vacant allotments within the shire where a dwelling may not be erected under the terms of the LEP. That is, dwellings are not permitted on all rural land parcels. It is recommended that, if considering purchasing a lot within a rural or environmental protection zone, Council is consulted to determine if a dwelling is permissible on the subject land.





### 3.1.2 Planning Objectives

- a. Encourage building design and locations that have regard for the existing characteristics of the site and locality;
- b. Ensure **dwelling**s are sited to reduce conflict between adjoining agricultural land uses; and
- c. Ensure that new **dwelling**s are located to minimise intrusion on the privacy and amenity of existing **dwelling**s.
- d. Ensure all new **dwelling**s not connected to a reticulated water supply have an adequate supply of water to service the property.

### 3.1.3 Development Controls

#### A. Design Principles for Dwellings

- i. The design of **dwelling**s and associated buildings should be in keeping with the rural character of the locality. Traditional construction materials (i.e. timber, corrugated roofing or similar) and natural colours (grey, greens and browns) are encouraged;
- ii. Rural **dwelling**s must be designed in a manner which minimises energy and water consumption; and
- iii. Buildings associated with the **dwelling** such as a large sheds, greenhouses and other ancillary structures must be designed, located and landscaped to reduce visual impacts on adjoining properties and public places.



#### Notes:

There are a number of publications that are available to assist home owners and designers in achieving good residential development in rural areas including:

- The North Coast Design Guidelines published by the Department of Planning is a good reference point and Council encourages use of these guidelines in the design of all dwellings.
- BASIX (Building Sustainability Index) is a NSW State Government Initiative that ensures new homes are designed and built to use less potable water and produce fewer greenhouse gas emissions. BASIX operates via a web-based planning tool, which assesses the water and energy usage of the building. The BASIX system means that all new residential buildings need to incorporate design features that reduce water and electricity used by the dwelling.

#### B. Resited Dwellings

A resited **dwelling** is a **dwelling** that has been moved to a site from another location.

- i. In addition to the requirements documented in item A above, a development application for a resited **dwelling** must be accompanied by the following information:





- A report prepared by a practising structural engineer certifying that the building is in a structurally adequate condition and that the structure is capable of meeting the design wind loading for the area in which it is proposed to be resited. Full details of all work necessary to upgrade the building, including footings, to meet the design wind speed and other loading requirements must also be submitted;
  - A pest inspection report, on the subject building, prepared by a licensed pest controller;
  - A detailed external room by room report from an approved competent person, such as a building surveyor, licensed builder, structural engineer or architect. The report is to provide information on the construction and condition of walls, ceiling and flooring of each room and with particular attention to all wet areas, and externally on the walls, roof and guttering etc. The report must detail any repairs/works considered necessary to comply with the Building Code of Australia and to place the building in an as new and well-maintained condition. Photographs showing all elevations and other relevant features must accompany the report;
  - Full building plans of the proposed finished state of the resited dwelling, including a site plan, floor plan of each floor level, sections, all elevations, and a complete specification must be submitted. The plan should clearly identify the original part of the building and the proposed alterations and additions; and
- ii. Applications must demonstrate that resited **dwelling**s are safe, structurally sound and compatible with the characteristics of the surrounding land.



### Notes:

Any approval granted by Council will attract, as a minimum, the following requirements:

- The replacement of all defective materials to the satisfaction of Council;
- A memorandum of agreement to complete the building shall be taken out by the owner/builder with the Ballina Shire Council;
- A monetary bond, the amount nominated by Council, is to be paid to Council and held in trust until after the building work has been completed to Council's satisfaction.

### C. Temporary Residential Occupation of Land

Refers to circumstances where an owner or builder temporarily lives on a property within a shed, caravan or other **temporary structure** while a permanent **dwelling** is being constructed.

- i. Temporary residential occupation of the land must comply with the following requirements:



- The period of occupancy of the temporary dwelling must be no longer than 12 months from the commencement date of construction of the permanent dwelling;
- The property or land must have access to a potable water supply with a 10,000 litre minimum capacity (i.e. tanks, bore etc) during the period of temporary occupation;
- A shower, basin and toilet connection to an approved on-site sewage management system is provided;
- There is an ongoing commitment to construction of the permanent dwelling;
- Prior to temporary occupation of the property, the habitable building, access road and on-site water supply must meet the requirements of the most current NSW Rural Fire Service publication 'Planning for Bushfire Protection'; and
- Temporary occupation may only be granted to the owner, the immediate family of the owner or the licensed builder.



### Notes:

To enable holistic consideration of a proposal for temporary occupation of land, a development application for a permanent dwelling should be submitted at the same time as an application under Section 68 of the *Local Government Act 1993* for temporary occupation of a temporary dwelling.

### D. Rural Worker's Dwellings

A *rural worker's dwelling* is a *dwelling* on land upon which there is already erected a *dwelling* and which is occupied by persons engaged in rural occupation on that land.

- To obtain approval for a *rural worker's dwelling*, it must be demonstrated that:
  - The *dwelling* is on the same legal title as the principal farm *dwelling*;
  - The property meets the minimum lot size and other requirements specified in the BLEP.
  - The erection of each additional *dwelling* will not impair the suitability of the land for *agriculture*;
  - The needs of existing agriculture genuinely require that rural workers reside on the land;
  - The farm generates enough income to support the owner and employee/s;
  - The farm cannot practically operate without the employee's labour;
  - On-site accommodation for the employee is essential to the enterprise;
  - The *dwelling* shares the same road access, power and communication infrastructure as the principal farm *dwelling* (except where solar technology is used as a power source);
  - The *dwelling* is located so that it minimises the likelihood of conflict with adjoining





land uses;

- The **dwelling** is located within 300m of other farm buildings; and
- There is no alternative local labour and/or housing available.



### Notes:

It is recommended that applicants prepare their development applications for a **rural worker's dwelling** having regard for relevant material prepared by the NSW Department of Primary Industries.

It is Council's experience that there are very few circumstances within Ballina Shire where approval of a rural worker's dwelling will be able to be justified based on the above-mentioned criteria.

### E. Expanded Dwellings

An expanded **dwelling** is a single **dwelling house** that consists of a central building surrounded by habitable outbuildings (e.g. kitchen, dining, lounge and laundry areas within a primary building surrounded by bedrooms that are physically separate structures).

- Expanded **dwellings** must comply with the following criteria:
  - All minor buildings must be within 10 metres of the main building and be connected to the main building by a constructed pathway;
  - All minor buildings must be limited to a maximum of 40 square metres and contain not more than 1 bedroom each;
  - All kitchen, dining and laundry facilities must be located within the main building;
  - The expanded **dwelling** must not contain more than 1 laundry and 1 kitchen;
  - The expanded **dwelling** must act as 1 dwelling and must not be used for separate occupation;
  - No outbuildings are to contain cooking facilities;
  - The expanded **dwelling** is to be designed as an integrated unit, with all minor buildings compatible with the design and materials of the main building;
  - Not more than one expanded **dwelling** per property; and
  - No separate driveway is to be provided to service any outbuilding.





### F. Dual Occupancies

**Dual occupancies** involve two **dwelling**s on a single allotment of land.

- i. **Dual occupancies (attached)** must comply with the following criteria:
  - The second **dwelling** must be within 10 metres of the first **dwelling** and is to be attached to the first/ original **dwelling**. Attachment may be achieved by way of a covered walkway, deck or the like;
  - The second **dwelling** must be on the same legal title as the first **dwelling**;
  - The second **dwelling** must have the same road access as the first **dwelling**; and
  - The second **dwelling** must be located so that it minimises conflict with adjoining land uses.
- ii. **Dual occupancies (detached)** must comply with the following criteria:
  - The second **dwelling** must be on the same legal title as the first **dwelling**;
  - The second **dwelling** must be able to be accommodated on the land having regard to on-site disposal and management of sewerage waste;
  - The second **dwelling** must be able to be accommodated on the land having regard to the land's physical characteristics and constraints;
  - The second **dwelling** must have the same road access as the first **dwelling**; and
  - The second **dwelling** must be located so that it minimises conflict with adjoining land uses.



#### Notes:

1. **Dual occupancy (detached) dwellings** are only permitted on land zoned RU1 Primary Production or RU2 Rural Landscape under the Ballina Local Environmental Plan 2012 (BLEP 2012). The provisions relating to **dual occupancy (detached) dwellings** do not apply to land zoned as 'deferred matter' under the BLEP 2012.
2. Separation between **dual occupancy (attached) dwellings** will be measured from the external walls of the dwellings or minor ancillary structures attached to the dwellings (such as carports and decks). Where measurements are made from structures such as carports or decks, measurements will be from the wall, column, post etc (not the eaves).
3. If the first dwelling on the land is an expanded **dwelling** (as per Section E above) the second **dwelling** is to be of a regular, compact or non-expanded form.
4. Council is not able to grant consent to strata-title subdivision of rural dual-occupancies unless each lot created, excluding common property, is not less than the minimum shown on the *Lot Size Map*.
5. Consent for a **dual occupancy** will require payment of developer contributions.



### G. Water Supply

- i. **Dwellings** not serviced by reticulated town water are to have a minimum 45,000 litres of potable water supply per **dwelling**.
- ii. For **dwellings** located on bushfire prone land and where reticulated water is unavailable, an additional water source (or sources) for firefighting purposes may be required.



**Note:**

Refer to [Planning for Bushfire Protection](#) for tank and water supply requirements.

## 3.2 Rural Subdivision

### 3.2.1 Application

| Applies to:         |                                    |
|---------------------|------------------------------------|
| Location/s:         | Zones RU1, RU2, C2, C3, W1 and W2. |
| Development Type/s: | Subdivision                        |

### 3.2.2 Planning Objectives

- a. Preserve existing and potentially productive agricultural land for agricultural production;
- b. Ensure that subdivision design has regard for slope, conservation values, land use conflict, and amenity;
- c. Ensure subdivision of land does not adversely impact on the environment;
- d. Ensure availability and provision of adequate infrastructure and services in an efficient and effective manner; and
- e. Ensure subdivision does not result in rural residential **dwellings** not related to agricultural production.

### 3.2.3 Development Controls

- i. All subdivision applications must demonstrate that the relevant zone objectives set out in the BLEP will be achieved;
- ii. Subdivision of land must not result in a significant diminution of the agricultural production potential of the land the subject of the application or land nearby or must result in a significant environmental benefit;
- iii. Subdivision which achieves or promotes farm build-up must not provide an ability for additional allotments, or dwellings to be created in the future;
- iv. Subdivision design must not create a situation where the relative position of existing or proposed improvements and rural activities on the new lots is likely to result in land use conflict.
- v. The size and shape of the proposed new allotments and their setting must be suited to their intended use;





- vi. Vehicular access to and within the proposed allotments must be adequate having regard for the intended use of the land. The creation of allotments solely dependent on rights of carriageway for access provision is discouraged;
- vii. Applications for subdivision must provide an assessment of the need for harvesting and storage of surface or groundwater for use on the allotments; and
- viii. Applications for subdivision are to be supported with sufficient information detailing that all relevant infrastructure, including on-site sewage management systems, are able to be wholly contained within each proposed allotment.

### 3.3 Rural Tourist and Visitor Accommodation

#### 3.3.1 Application

|                     |   |
|---------------------|---|
| <b>Applies to:</b>  |   |
| Location/s:         | Zones RU1, RU2, C3, W1 and W2.  |
| Development Type/s: | <i>Tourist and visitor accommodation</i> (except <i>caravan parks</i> and <i>camping grounds</i> ). |

#### 3.3.2 Planning Objectives

- a. Provide for the establishment and operation of diverse small scale *tourist and visitor accommodation* within rural and environmental protection zones within Ballina Shire;
- b. Ensure that facilities are designed and constructed so as to maintain rural character and amenity, productive agricultural use of land and environmental values;
- c. Encourage visitor interaction with the rural and natural environment;
- d. Ensure the provision of a satisfactory level of service to guests and that such premises meet acceptable access, community health and fire safety standards; and
- e. Encourage environmental repair, restoration and management activities in conjunction with rural tourist development.

#### 3.3.3 Development Controls

- i. *Tourist and visitor accommodation* uses, where permissible with consent in the applicable zone, may only occur on land that is subject to a *dwelling* entitlement in accordance with the provisions of the Ballina LEP.
- ii. *Tourist and visitor accommodation* must be small scale and compatible with the characteristics of the site and its surrounds (particularly with respect to agricultural land use and environmental values).



**Notes:**

Small scale *tourist and visitor accommodation* is development that is predominantly residential in character and scale and that does not consist of larger commercial activities such as *boarding houses*, *backpackers accommodation* or *hotel or motel*



### *accommodation.*

Applicants must demonstrate that the proposed facility is compatible with the site and locality. In this regard, potential issues and impacts relating to at least the following are to be addressed: agricultural value, scenic amenity, ecological values, bushfire hazard, site access, waste management and land use conflict (including, but not limited to, lighting and noise). These matters should be considered with respect to accommodation form, density and configuration.

Council's controls in relation to **tourist and visitor accommodation** seek to enable such development on properties where the capacity of productive agricultural land is not compromised and the environmental characteristics of the land and its surrounds are not adversely impacted. Accommodation is intended as short term tourist accommodation (that is, it is not to be used for permanent occupation) that complements and provides access to the shire's agricultural and natural features.

- iii. **Tourist and visitor accommodation** must comply with the disability access provisions under the Building Code of Australia.



### **Note:**

Council strongly encourages the provision of access for the disabled to all forms of rural tourist development.

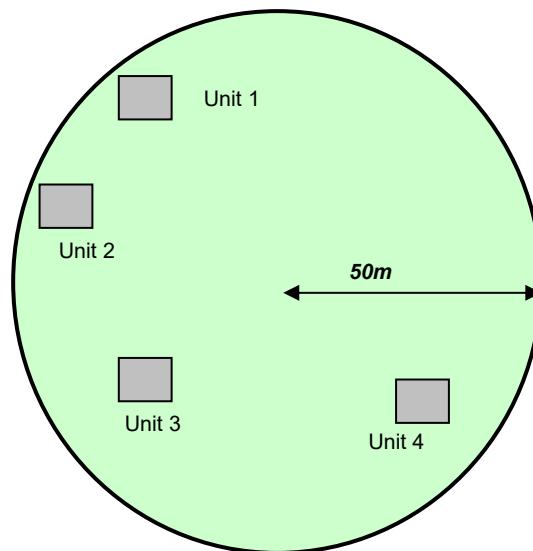
- iv. **Tourist and visitor accommodation** must be temporary and shall not be utilised or let for long term or permanent accommodation. Guests must not be accommodated for more than 42 consecutive days with an interval of at least 14 days between occupancies, or for more than a total of 90 days in any 12 month period.
- v. **Tourist and visitor accommodation** must include a manager's residence on the site, comprised of either the primary residential dwelling or one dwelling in a dual occupancy arrangement. The manager's residence must be in a location suitable to facilitate on site management of the accommodation units.
- vi. **Tourist and visitor accommodation** facilities are subject to the following configuration and design requirements:
- Clustering of buildings within the area established by the radius specified in Table 7.1 (unless it can be demonstrated that a dispersed arrangement provides for a more efficient use of the site and does not adversely impact on the use of productive agricultural land or the environmental characteristics of the land, both on site and off site);
  - Utilisation of a single access point from the public road network to service both the accommodation and residential use of the site;
  - Total internal floor area not exceeding 75m<sup>2</sup> per accommodation unit;
  - Maximum of 2 bedrooms and 1 kitchenette per accommodation unit; and



- Provision of at least one defined car parking space per accommodation unit.

| Table 7.1 - Clustering radii for <i>tourist and visitor accommodation units</i> |   |
|---|---|
| Number of Units   | Clustering Radius                                   |
| 2   | 20m   |
| 3   | 35m   |
| 4   | 50m   |
| 5   | 65m   |
| 6   | 80m   |
| 7 or more   | 90m plus 10m for each additional unit above 7 units |

Figure 7.1 Clustering of accommodation units - example use of radius



**Note:**

Accommodation unit means a single room (or suite of rooms), cabin, cottage or similar building of residential character for use as temporary accommodation. It does not include larger commercial uses such as *boarding houses*, *backpackers' accommodation*, *hostels* or *hotel or motel accommodation*.

As a guide, accommodation facilities consisting of generally not less than 3 and not more than 8 accommodation units are considered best suited to meeting Council's planning objectives for *tourist and visitor accommodation*.

Clustering is assessed via the establishment of a circle with the applicable radius from any given point on the site. It must be demonstrated that each of the building can be located wholly within the applicable circle radius when measured from a single point.



**Bed and breakfast accommodation** must comply with the provisions contained in chapter 8 except in the event of any inconsistency that exists between this section and chapter 8, in which case this section shall prevail to the extent of that inconsistency.



### Note:

Farm and nature-based tourism involves business or activity centred on visitors utilising or experiencing rural land, farm produce and/or the natural environment. Farm and nature-based tourism activities vary significantly in their nature and scale.

Accordingly, these activities will be assessed with respect to the requirements set out under this DCP. In determining the applicable elements of the DCP and the suitability of the proposed development or activity, the following matters will be considered:

- Surrounding land uses and potential land use conflict;
- Internal and external vehicular access;
- Landscape values and amenity;
- Ecological and natural values of the land and surrounds;
- Servicing and waste management (including sewage, solid waste and water supply);
- Bushfire and Public health;
- Directional and advertising signage; and
- Operational attributes (including operating hours etc).



### Note:

Certain development, including eco-tourism facilities, may be afforded concessions by the NSW Rural Fire Service (RFS) when being considered for a *bush fire safety authority* in accordance with section 100B of the *Rural Fires Act 1997*.

The RFS has advised that councils shall determine if a development qualifies as an eco-tourism development.

Development in Ballina Shire will not be categorised differently in relation to the applicable LEP land use definition and bushfire planning provisions. To enable bushfire management concessions to apply, a development proposal must relate to a defined and permitted land use under the LEP. Please refer to the NSW Rural Fire Service *Community Resilience Fast Facts 10/07 Eco-tourism* document for more information.





## 3.4 Agritourism

### 3.4.1 Application

|                     |  |
|---------------------|--|
| <b>Applies to:</b>  |  |
| Location/s:         | Zones RU1 and RU2.   |
| Development Type/s: | <i>Farm Gate Premises, Farm Experience Premises, Roadside Stalls</i> |

### 3.4.2 General

#### Planning Objectives

- a. To allow for tourism development on farms that complements the agricultural use of the land.
- b. To ensure farm gate premises, farm experience premises and roadside stalls are secondary to a commercial farm and do not constrain the agricultural activities on the property or on adjacent lands.
- c. To ensure farm gate premises, farm experience premises and roadside stalls are compatible with the rural character of the property and do not unnecessarily intrude on the landscape.

#### Development Controls

- i. Development for farm experience premises, farm gate premises or roadside stalls is to be compatible with the commercial operations of the farm and not restrict the day-to-day functions of the farm.
- ii. The design of buildings and structures should enhance the sense of place and reinforce the rural character through the selection of materials and design quality.
- iii. The building design and materials should complement and integrate with the existing landscape including scenic values.
- iv. The design and placement of buildings, structures and moveable dwellings for farm experience premises, farm gate premises or roadside stalls should be clustered on the property, to minimise the amount of land occupied by the development.

### 3.4.3 Location

#### Planning Objectives

- a. To reduce land use conflicts by separating farm experience premises or farm gate premises development from existing land uses on the property or on nearby land.
- b. To respond to environmental values, risks and constraints including environmentally sensitive lands that involve native vegetation and habitats, waterways, water sources and drinking water catchments.

#### Development Controls

- i. The development is not to restrict the day-to-day functions of adjacent farms.







- ii. A building, structure, moveable dwelling or activity for farm experience premises or farm gate premises must be located:
  - a minimum of 250 metres from residential accommodation on adjacent land or on land that is separated from the landholding by a road
  - a minimum of 50 metres from a property boundary or road
  - a minimum of 50 metres from a waterway
  - a minimum of 250 metres from a boundary for land used for the purpose of forestry, intensive livestock agriculture, intensive plant agriculture, mines, extractive industries, railway lines or rural industries.
- iii. Amplified noise for farm gate premises and farm experience premises must be no more than 5dB above background noise at the property boundary of the closest residential dwelling.
- iv. The design and placement of buildings, structures and moveable dwellings should consider the existing features of the land and climate, including minimising risk from hazards and weather events.
- v. Buildings and structures should not be placed on the ridgeline or peak of a hill or other visually prominent areas.

#### 3.4.4 Vegetation and Landscaping

##### Planning Objectives

- a. To avoid the clearing and removal of native flora and fauna, in particular threatened species and threatened ecological communities.
- b. To ensure buildings, structures and moveable dwellings are sited and designed to complement, enhance and protect existing native vegetation, features and landscapes.
- c. To minimise the impacts of a development on the environment, including existing vegetation, features, natural resources and biodiversity.
- d. To ensure landscaping is visually complimentary to the development

##### Development Controls

- i. Existing mature trees and vegetation are to be retained where possible.
- ii. A vegetation management plan is to demonstrate how existing native flora (including tree canopies and underground roots systems) and fauna will be protected and maintained during the construction or erection of any new buildings, structures, moveable dwellings or facilities for farm gate premises, farm experience premises or roadside stalls and during the ongoing operation of the premises or accommodation.
- iii. Landscaping should be used to minimise the physical and visual dominance of development for farm gate premises or farm experience premises, including any car parking and vehicle circulation areas, and should include plants native to the local area.

#### 3.4.5 Water Supply and Management

##### Planning Objectives





- a. To ensure adequate arrangements for water supply for visitors and guests to farm gate premises and farm experience premises.
- b. To preserve water supply from contaminants generated by visitors and guests to farm gate premises, farm experience premises, and roadside stalls

#### **Development Controls**

- i. A water supply and management plan is to demonstrate adequate potable water supply, both quality and quantity, is available for the proposed use of a site for farm experience premises or farm gate premises. This water supply is to be in addition to water required for fire fighting purposes.
- ii. Development is not to adversely impact existing water supplies for residential and primary production uses on the landholding.

### **3.4.6 Hazards**

#### **Planning Objectives**

- a. To ensure development is located to minimise exposure to natural and environmental hazards, including bush fire, flooding and site contamination.
- b. To protect any part of a development that could be affected by natural and environmental hazards, including bush fire, flooding and site contamination
- c. To ensure the safety of visitors who could be adversely affected by natural and environmental hazards, including bush fire, flooding and site contamination, for the duration of their stay or visit.
- d. To provide for safe evacuation assembly points and egress pathways.

#### **Development Controls**

- i. Development is not to be located in proximity to areas of high bush fire or flooding hazards.
- ii. For development for farm experience premises and farm gate premises on bush fire prone land:
  - a water tank dedicated for firefighting purposes with a minimum volume as required by *Planning for Bush Fire Protection*, published by the NSW Rural Fire Service, must be provided on the property
  - a bush fire emergency evacuation plan is to identify when the premises will be on alert and will close, evacuation procedures and assembly points, proposed signage, measures to protect human life and property in the event of bush fire, any vegetation hazard clearing needed, contact details for emergency services and any bush fire maintenance measures required.
- iii. For development for farm experience premises and farm gate premises on flood affected land, a flood evacuation plan is to identify when the facility will be on alert and will close, evacuation procedures and assembly points, proposed signage, measures to protect human life and





property in the event of flooding, contact details for emergency services and any maintenance measures required.

- iv. Evacuation routes from the location of a development to a main road or alternate point of refuge are to avoid flood liable land and bush fire prone land where practicable.

### 3.4.7 Waste Management

#### Planning Objectives

- a. To manage waste in an environmentally sensitive manner.
- b. To ensure management of effluent waste is not detrimental to the local environment

#### Development Controls

- i. Development must minimise any impacts on the natural environment and visitor safety caused by waste, effluent disposal and potential contaminants.
- ii. A waste management plan for the ongoing use of farm gate premises or farm experience premises is to provide:
  - details of the business
  - waste types to be managed including through containment, recycling, re-use and landfill
  - waste collection and disposal details
  - waste minimisation measures
  - monitoring protocols to ensure compliance with the waste management plan.
- iii. All effluent waste generated by the development and its ongoing use is to be disposed:
  - to a reticulated sewerage system connected to the landholding; or
  - using a system of sewerage management for which the approval of Council is obtained under the Local Government Act 1993.
- iv. All other waste is to be disposed at an approved waste or resource recovery facility.
- v. Organic waste may be disposed of onsite if disposed in a managed composting system where odours and other pollutants are controlled and/or managed.
- vi. All recyclables should be separated before disposal.
- vii. Onsite waste storage facilities are to have sufficient capacity for the waste generated and be emptied regularly.

### 3.4.8 Biosecurity

#### Planning Objectives

- a. To manage biosecurity risks from pests, disease, weeds and contaminants by effectively minimising impacts, through robust management arrangements, if they cannot be eliminated.
- b. To ensure the general biosecurity duty is met.

#### Development Controls





- i. The planning and assessment of development proposals is to consider the NSW Department of Primary Industries' *Managing biosecurity risks in land use planning and development guide* (2020) to ensure biosecurity is appropriately addressed, including in relation to:
  - buffer zones
  - wash down facilities
  - designated parking areas
  - location to major potable water supply storages and watercourses – poultry production
  - dumping and burying rubbish on site.
- ii. A biosecurity plan for ongoing use of farm experience premises or farm gate premises should be prepared in accordance with the NSW Department of Primary Industries' requirements, including the *Farm Biosecurity Action Planner* at <https://www.farmbiosecurity.com.au/toolkit/planner/>



### Notes:

Under the *Biosecurity Act 2015*, there is a general obligation on people to be aware of their surroundings and take action to prevent the introduction and spread of pests, diseases, weeds and contaminants.

In addition, where a biosecurity plan has been developed at places of commercial or educational activities for intensive or extensive agriculture or horticulture, subject to certain conditions, a person including any visitors must comply with the biosecurity plan.

Council will consider relevant biosecurity guidelines to assess a development proposal and determine relevant conditions of consent for the operation of the development.

### 3.4.9 Traffic, Access, and Parking

#### Planning Objectives

- a. To ensure the safety of vehicle movements associated with farm gate premises, farm experience premises or roadside stalls, including entry, egress and movement within a property.
- b. To minimise the impact of traffic on local roads associated with farm gate premises, farm experience premises or roadside stalls
- c. To ensure adequate parking is available on the property for visitors and employees to farm gate premises, farm experience premises or roadside stalls and to deter overflow parking on local roads.
- d. To ensure safety of pedestrians on a property visiting farm gate premises, farm experience premises or roadside stalls.

#### Development Controls

For development for farm experience premises, farm gate premises or roadside stalls:





- i. An access point to the property is to demonstrate compliance with the sight distance requirements of AS 2890.1 *Off-street car parking* and should be adequate to service the development.
- ii. All vehicles (including trucks) should be able to enter and exit the property in a forward direction.
- iii. All parking and loading or unloading of vehicles must occur within the property boundary.
- iv. The minimum number of car parking spaces to be provided is:
  - 1 space per 2 employees, and
  - 1 space per 25m<sup>2</sup> gross floor area of a building or structure for farm gate premises or farm experience premises, and
  - 1 space per 3 visitors for any outdoor farm gate premises or farm experience premises activity, and
  - 1 space for persons with disability or limited mobility.
- v. Only one driveway is permitted on a property unless the property has a frontage of greater 100m and can accommodate an additional access and egress to improve:
  - traffic management on the property or on and off the road
  - separation between the farming operations and the development, or
  - resident, employee and visitor safety.
- vi. Car parking areas should not form a visually prominent element of the rural landscape or be highly visible from the road frontage and should be located behind the front building line.
- vii. Car parking areas should be finished in a surface that will allow for vehicle movements in all weather conditions.

### 3.4.10 Signage

#### Planning Objectives

- a. To ensure signage for farm gate premises, farm experience premises, or roadside stalls does not detrimentally affect the landscape or road corridor.
- b. To require appropriate signage within the property boundary to assist visitors and guests relating to:
  - the location of activities, facilities and interest points associated with farm gate premises, farm experience premises, or roadside stalls,
  - essential safety information including evacuation procedures in a natural disaster or other emergency.

#### Development Controls

- i. Signage for farm gate premises, farm experience premises, or roadside stalls should be in keeping with the rural character and the nature of the operations on the landholding.
- ii. All signage for farm gate premises, farm experience premises or roadside stalls should only be located within the boundary of the landholding.





- iii. Business identification signs for farm gate premises, farm experience premises, or roadside stalls are limited to a maximum of two (2) signs facing a road frontage on the landholding.
- iv. Business identification signage should only promote the business activity and the goods and services offered on the landholding.
- v. Any sign must:
  - have a maximum height of 3 metres, and
  - have a maximum area of 3 square metres, and
  - if it is illuminated, have lighting that complies with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting*.
- vi. Evacuation signage must be located near the farm gate premises or farm experience premises, the property entrance and emergency assembly points.
- vii. Waypoint markers should be provided to assist visitors and guests traverse a property where farm gate premises or farm experience premises.

### 3.4.11 Ongoing Operations

#### Planning Objectives

- a. To ensure farm gate premises, farm experience premises and roadside stalls minimise impacts on the natural environment and visitor safety.
- b. To ensure visitors and guests have access to important safety and operational information while on a property where farm gate premise or farm experience premises operate.

#### Development Controls

- i. A management plan for the ongoing operation of farm experience premises or farm gate premises is to provide:
  - a description of the development to be carried out on the property
  - a map of where the development will be on the property, relevant dimensions and key features on the land
  - the proposed months, days and hours of operation of the farm gate premises or farm experience premises
  - the maximum number of guests at one time for the farm gate premises or farm experience premises, and how this will be monitored
  - how visitors and guests will be advised to:
    - a) limit impacts to the operational farm,
    - b) preserve and protect existing native flora, fauna and waterways, heritage items and Aboriginal heritage located on the property,
    - c) minimise any biosecurity risk through dispersal of weeds, seeds, insects and contaminants,
    - d) manage their waste, and





- e) be alerted as to risks that may be present on the property such as natural hazards or changing weather
- measures to mitigate adverse environmental and amenity impacts
- the way vehicles will access the landholdings and the premises
- any safety hazards on the property and how they will be managed to ensure the safety of visitors and guests.

### 3.5 Rural Industry

#### 3.5.1 Application

|                     |                                    |
|---------------------|------------------------------------|
| Applies to:         |                                    |
| Location/s:         | Zones RU1, RU2, C2, C3, W1 and W2. |
| Development Type/s: | <i>Rural Industry.</i>             |

#### 3.5.2 Planning Objectives

- a. Ensure siting and physical form of rural industries is compatible with the character and environmental values of the locality;
- b. Ensure that *rural industries* are designed so to ensure acceptable levels of amenity for occupants of adjacent premises; and
- c. Ensure that safe and adequate infrastructure is available to the premises.

#### 3.5.3 Development Controls

- i. Buildings and other structures associated with the operation of the *rural industry* are to be designed so as to be:
  - sympathetic to the visual amenity of the area;
  - appropriately screened by vegetation where visible from adjoining properties or public areas such as parks, reserves, roads or other public viewing locations; and
- ii. Where there is potential for the proposed *rural industry* to generate noise and/or odour impacts, a noise and/or odour impact assessment must be carried out by a suitably experienced and qualified person(s) and provided with the development application.
- iii. Where a rural industry includes an industrial retail outlet:
  - a. The retail activity is to be contained within, or attached to, or within the curtilage of, a building utilised for the rural industry;
  - b. Visitor parking and pedestrian access is to be physically separated from loading/unloading facilities in a manner that maintains public safety; and
  - c. Where food items are sold in an industrial retail outlet this must not comprise a food and drink premises.





**Notes:**

*Industrial retail outlets* in rural zones are subject to *maximum gross floor area* controls set out in Schedule 1 of the BLEP 2012.

Applicants are to include details regarding tastings and tours where such activities are proposed in association with *industrial retail outlets*.

**3.6 Roadside Stalls**

**3.6.1 Application**

|                     |                                    |
|---------------------|------------------------------------|
| <b>Applies to:</b>  |                                    |
| Location/s:         | Zones RU1, RU2, C2, C3, W1 and W2. |
| Development Type/s: | <i>Roadside stalls</i>             |

**3.6.2 Planning Objectives**

- a. Ensure *roadside stalls* are constructed and operated in a manner that is in keeping with the rural amenity of the area; and
- b. Ensure that vehicular access to and from *roadside stalls* occurs in a safe manner.

**3.6.3 Development Controls**

- i. *Roadside stalls* must be erected within the property boundary with no part of the *roadside stall*, other than access, to be located in the road or road reserve;
- ii. Access and parking areas should have sufficient areas so as not to disrupt traffic flow; and
- iii. Food products must be able to be stored and displayed in a hygienic manner that is consistent with relevant NSW Food Authority guidelines.



**Notes:**

*Roadside stalls* located on State controlled roads would generally not be able to meet the requirements of safe vehicular access.

The definition of *roadside stall* under the BLEP 2012 allows sale of items from the subject property as well as adjoining properties. For the purposes of this section, an adjacent property means immediately neighbouring land either on the same side of a public road or directly across a public road.

BLEP also contains a provision regarding the maximum *gross floor area* for *roadside stalls*.

**3.7 Mining and Extractive Industry**

**3.7.1 Application**

|                    |
|--------------------|
| <b>Applies to:</b> |
|--------------------|





|                     |  |
|---------------------|--|
| Location/s:         | Zones RU1, RU2, C2, C3, W1 and W2.           |
| Development Type/s: | <i>Mining</i> and <i>extractive industry</i> |

### 3.7.2 Planning Objectives

- a. Ensure that development in any area of potential landslip or highly reactive soils has proper regard to factors affecting land stability;
- b. Ensure development on steep or unstable land is compatible with the nature of the hazard and with the environmental characteristics of the site and surrounding land;
- c. Ensure that development does not adversely impact on areas of high conservation value; and
- d. Ensure that development is designed to minimise risks associated with geotechnical hazards.

### 3.7.3 Development Controls

- i. Applications for *mining* or *extractive industry* activities must address at least the following and identify proposed mitigation measures where adverse impacts are identified:
  - Efficient and safe movement of the extractive material from the source of supply to the end user;
  - Noise, dust and vibration abatement measures;
  - Visual impact assessment with particular reference to major roads, tourist routes / interest points and surrounding properties / structures;
  - Drainage implications including surface and groundwater impacts;
  - Proposed end-use of the site;
  - Rehabilitation of the site including materials, staging, source materials, re-contouring, replacement of topsoil, screen planting and vegetation;
  - Management techniques to address potential conflict with surrounding land uses and protection of environmental attributes;
  - Any other assessment Council may require including Aboriginal and European heritage assessments, contaminated land assessments, ecological assessments and acid sulfate soil assessments; and
- ii. Council must be satisfied that the mitigation measures proposed are adequate to address potential impacts on amenity, environmental attributes and values, infrastructure and agricultural activity.



**Note:**

In most circumstances there are significant potential impacts associated with *mining* and *extractive industries* that require detailed analysis and as such, there is a complex approvals process associated with this type of development, including the requirement for approvals from other government agencies. Council's Regulatory Services Group should be consulted where





such development is being considered.

### 3.8 Building Lines and Setbacks

#### 3.8.1 Application

|                     |                                    |
|---------------------|------------------------------------|
| <b>Applies to:</b>  |                                    |
| Location/s:         | Zones RU1, RU2, C2, C3, W1 and W2. |
| Development Type/s: | All development.                   |

#### 3.8.2 Planning Objectives

- Minimise potential for land use conflict; and
- Protect the amenity of existing and proposed development.

#### 3.8.3 Development Controls

- All buildings and structures in rural areas must comply with the minimum building line or setback requirements set out in Table 7.2 except as otherwise specified on the Building Line Map.

| Table 7.2 - Minimum Setbacks - Rural Land General |  |
|---|--|
| Location  | Setback  |
| Front Boundary                                    | 20m from a sealed road.<br>50m from an unsealed road (applies only to uses which are likely to be adversely impacted by dust nuisance such as dwellings and visitor accommodation).<br>28m from Pacific Highway and Bruxner Highway. |
| Side Boundary                                     | 10m  |
| Secondary Frontage Setback                        | 10m  |
| Water and Sewer Mains                             | Refer to Policy for Building over Council Assets   |



#### Notes:

**Building lines or setbacks** from roads are measured from the property boundary.

Council will consider variations to **building lines or setbacks** where the specified setback cannot be met due to the existing size and/or configuration of the lot.

Major roads such as the Pacific Highway can result in significant noise nuisance. An acoustic engineer's report may be required to accompany applications for **dwellings** and **tourist and visitor accommodation** developments in close proximity to such roads.

Conformity with the **building line or setback** provisions set out in this section does not offset the need for a LUCRA where



required under Chapter 2.

### 3.9 Roads, Vehicular Access and Parking

#### 3.9.1 Application

|                     |  |
|---------------------|--|
| <b>Applies to:</b>  |  |
| Location/s:         | Zones RU1, RU2, C1, C2, C3, W1 and W2.                     |
| Development Type/s: | All development within the above zones except subdivision. |



#### Notes:

Road, vehicle access and parking requirements for land uses in urban zones and in relation to urban subdivision are contained within chapters 3, 4, 5 & 6.

#### 3.9.2 Planning Objectives

- a. Provide adequate on site car parking for all types of rural development;
- b. Ensure car parking is designed in accordance with relevant standards and has adequate space and provision for vehicular turning areas to ensure all vehicles can enter and leave the site in a forward direction;
- c. Ensure access to the site has the capacity to cope with likely traffic loads including heavy vehicles;
- 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 to maintain the safety and integrity of the road network; and
- e. Minimise disturbance to landform.

#### 3.9.3 Development Controls

- i. Where a proposed development has the potential to generate significant additional traffic and require substantial car parking, a traffic study will be required.
- ii. External vehicular access must:
  - a. not compromise the safety and efficiency of the road network;
  - b. be suitable for use by emergency service vehicles; and
  - c. be suitable for traversing in all weather conditions.
- iii. External road access is generally to be sealed for the following land uses:
  - *Tourist and visitor accommodation;*
  - *Recreation facilities (major and outdoor);*
  - *Agritourism;*
  - *Restaurants or cafes;*
  - *Intensive livestock agriculture;*





- **Aquaculture;**
- **Rural industries and industrial retail outlets;**
- **Mining and extractive industries;**
- **Passenger transport facilities;**
- **Vehicle repair stations;** and
- **Function Centres.**

Council may consider an alternate solutions subject to consideration and mitigation of potential impacts (such as those relating to safety and dust) and where consistency with Council's adopted maintenance strategies is achieved.

iv. Internal vehicular access must:

- be suitable for the access of emergency service vehicles;
- be of all weather dust free construction and be suitable for traversing by standard 2 wheel drive vehicles;
- be sealed in sections where grade exceeds 12%; and
- not exceed a grade of 25%

v. A suitable and safe connection must be provided between the existing road network and any proposed internal vehicular access infrastructure.

vi. A development application must address any potential environmental impacts caused by vehicular accesses (both internal and external) including erosion and sedimentation, dust, noise, traffic generation, amenity and visual impacts and vegetation removal with appropriate mitigation measures identified.



### Notes:

Council does not generally require external access roads to be sealed for primary industries or for low key traffic generators such as **home industries**, **home occupations**, rural **dwelling**s, **dual occupancies** etc. However, as each application is assessed on its merits, there may be circumstances where these generally exempted land uses will require road upgrading (i.e. all-weather, sealed access) to ensure local road safety and efficiency or to minimise dust disturbance and nuisance to other land uses along the route.

The requirement for sealing of external road access involves application of a bitumen seal as a minimum.

Where Council assesses an alternate approach to sealing below the minimum bitumen seal, matters including safety, dust impacts, noise impacts, traffic type and volume and Council's maintenance programs and requirements will be considered.



### Note:

Council does not generally require internal access roads to be sealed in rural areas. However, there may be instances and circumstances where sealing will be required, particularly for larger developments, development involving heavy vehicles,





development on sloping sites or where proposed road access in close proximity to an adjoining dwelling.

Other government agencies, including the Rural Fire Service, may apply additional internal access requirements over and above those required by Council.

vii. Development must comply with the following on site vehicle parking requirements:

- Adequate on site car parking must be available to accommodate all users of the site including residents, visitors or employees.
- On site car parking for a proposed land use must comply with the applicable car parking requirements specified in any other chapter of this DCP.



### Notes:

Requirements will also be considered with reference to the following documents in relation to external and internal roads and parking requirements:

- RTA - Guide to Traffic Generating Developments;
- Austroads – Guide to Traffic Engineering Practice ;
- Australian Standard for parking facilities;
- Australian Standard for disabled parking facilities;
- BSC Policy C11 - Contributions for Dust Sealing of Roads; and
- Northern Rivers Local Government Design and Construction Manuals.

## 3.10 Rural Function Centres

### 3.10.1 Application

|                     |                  |
|---------------------|------------------|
| <b>Applies to:</b>  |                  |
| Location/s:         | Zone RU2         |
| Development Type/s: | Function Centres |



### Notes:

Function Centres are permissible in the RU2 zone under the terms of Clause 7.14 of the *Ballina Local Environmental Plan 2012*.

### 3.10.2 Planning Objectives

- a. To ensure that rural functions and/or events are held on sites that are suitable to such activities,





- b. To ensure that rural functions and/or events avoid or reasonably manage disturbance to the amenity of the neighbourhood or impact on other legitimate rural activities in the locality.

### 3.10.3 Development Controls

#### i. Site Suitability

- a. A site-specific acoustic assessment must be prepared by a suitably qualified person, quantifying existing background noise levels and noise levels predicted for functions and/or events in relation to all nearby dwellings, and demonstrating that the use of the property for functions and/ or events will not result in the generation of offensive noise, as defined in the *Protection of the Environment Operations Act 1997*;
- b. A Traffic Impact Assessment must be prepared, addressing traffic numbers, impact on local roads, access and on-site parking, demonstrating that the use of the site for a function centre will not result in unacceptable adverse impacts on the safety or efficiency of local traffic or the amenity of the neighbourhood;
- c. A Land Use Conflict Risk Assessment must be prepared demonstrating that the use of the site for a function centre will not result in any land use conflict in relation to adjoining or nearby farming activities or preclude future farming activities;
- d. No clearing of native vegetation is to be undertaken in relation to the development;
- e. The function centre must not be located in or immediately adjacent to areas of high Aboriginal cultural heritage significance.

#### ii. Management of Functions and Events

Applications for development consent for a temporary use of land for a function centre must include an Events Management Plan, which contains (as a minimum) provisions that:

- a. provide for all function/ event guests (other than the bridal party) to be transported to and from the site by bus, suitable to the road network to be utilised for transportation to the site; and
- b. ensure that all amplified music will cease no later than 10:00pm; and ensure that all attendees will be off-site no later than 11:00pm, other than those staying overnight on the premises; and
- c. outline measures that will be in place to ensure predicted noise levels are not exceeded at nearby dwellings; and
- d. provide for the monitoring of noise generated at functions and/ or events and annual compliance reporting to Council; and
- e. provide for the notification of nearby residents, including contact details for an appropriate management person who must be on-site and contactable during each function and/ or event and provision of a sign, located so that it can be viewed from a public space outside of the property notifying the name and contact phone number of the management person; and





- f. ensure that adequate arrangements are in place to manage wastewater and general waste for each function and/ or event; and
  - g. manage the potential noise/ amenity impacts associated with any persons staying overnight at the site at the conclusion of the function/ event; and
  - h. prohibit the use of fireworks, helicopters and/or other comparable activities known to cause disturbance to livestock and/or farming activities.
- iii. Other Considerations
- In deciding whether to grant consent for a temporary function centre, the consent authority must consider:
- a. the maximum number of functions and/ or events permitted in any calendar year; and
  - b. the potential loss of farming on the property, particularly where part or all of the site is mapped as State and / or Regionally Significant Farmland; and
  - c. the potential impact on areas of environmental value, whether on the property the subject of the function centre or on adjacent and nearby land, including koala habitat; and
  - d. whether a trial period is appropriate; and
  - e. the need for a biosecurity management plan.

## Part 4 Special Area Controls

### 4.1 South Ballina

#### 4.1.1 Application

| Applies to:         |  |
|---------------------|--|
| Location/s:         | Land identified on the South Ballina Foreshore Land Map. |
| Development Type/s: | All development.   |

#### 4.1.2 Planning Objectives

- a. Minimise impacts of development on threatened species including the Pied Oystercatcher;
- b. Enhance the effectiveness of the South Ballina Regional Wildlife Corridor; and
- c. Minimise risk to humans and domestic animals associated with the use of toxic substances utilised to manage Red Foxes and Bitou Bush.





### 4.1.3 Development Controls

- i. All areas of habitation shall be setback a minimum of 160m from the dune front as shown on the South Ballina Foreshore Map (see definition of habitation below).
- ii. For the purpose of establishing a dwelling envelope (as opposed to the construction of a dwelling), the edge of the dwelling envelope shall be setback a minimum of 160m from the dune front as shown on the South Ballina Foreshore Land Map.



#### Notes:

The 160m setback has been applied based on the location of the dune front and known application of 1080 fox baits along the beach as at the time of the adoption of this DCP.

The 160m setback for habitable buildings will be measured from the wall, deck, staircase, post, column or patio (not eaves) of the building.

The setback has been applied from the dune front to provide for flexibility in the application of the fox baiting program (i.e. to enable bait stations to be moved north/ south over time). A 160m setback (as opposed to the minimum of 150m under the relevant Pesticide Control Order) has been selected to reflect the potential for the dune system to move landward over time.

The 160m setback is not applied to the area 1km north and south of the beach access point at Patches Beach given that it is identified as an off lead dog exercise area and fox baits are not laid within this area.

- iii. Applications must outline arrangements with respect to pedestrian beach access. New access points must be located away from known Pied Oystercatcher nesting grounds.
- iv. Applications are to include details with respect to boundary and other fencing. All fencing on land within Zone C2 – Environmental Conservation must be constructed as follows:
  - Four (4) strands;
  - All strands must be of plain wire;
  - The top strand of wire must be coated with white plastic;
  - The fence must have a 40cm gap at the bottom and a 40cm gap between the top two (2) strands of wire;
  - Within the dunal wetlands the fence height is to be sufficient to ensure top wire is above water level at all times; and
  - Reflectors are to be placed at 5 metre intervals.
- v. Applications are to include details of any weed management or environmental protection works proposed as part of the development. All works are to be undertaken in accordance with the practices and methodologies documented in the Department of Land and Water







Conservation document "Coastal Dune Management: A Manual of Coastal Management and Rehabilitation Techniques" (2001) and the Bitou Bush TAP.

- vi. All dwellings must comply with the provisions of the Coastal Design Guidelines for NSW relating to Isolated Coastal Dwellings.
- vii. Where an applicant proposes to keep domestic dogs, applications are to include details with respect to an appropriate fenced dog enclosure. The enclosure must be designed in accordance with the following:
  - 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; and
  - No gate to the fenced enclosure shall be propped open or otherwise kept open other than for the purpose of passing through.
- viii. Where an applicant does not propose to keep domestic dogs, the applicant must demonstrate that an appropriate location exists on the site for the provision of an enclosure that meets the above requirements.



### Notes:

Council discourages the keeping on dogs on lands adjoining the Coastal Reserve due to their recognised potential impact on the Pied Oystercatcher and requirements associated with the fox baiting program undertaken in the locality. Council recommends that restrictions be placed on the title of the land under Section 88E of the *Conveyancing Act* 1919 prohibiting the keeping of dogs. In the event that a proponent wishes to keep a dog, the requirements documented under items vii and viii apply.

With respect to pedestrian beach access or access within the Crown Reserve at South Ballina, it should be noted that access arrangements require the authorisation of the Land and Property Management Authority. In this regard, the preferred approach is for provision for shared beach access between adjoining landholders that seeks to minimise adverse impacts on environmental values.

With respect to the Crown Reserve at South Ballina, it should be noted that the Land and Property Management Authority is the manager of the land, not Ballina Shire Council.

Habitation - The *Pesticides Control (1080 Liquid Concentrate and Bait Products) Order* 2008 defines "habitation" as meaning a "**dwelling house**" or some other accommodation that is occupied by people and is located on private, crown or public land. It includes but is not limited to domestic dwelling houses, hospitals, shops, schools, pre-schools, kindergartens, childcare and community health centres, factories, nursing homes, public halls, caravan parks and designated camping areas on private, crown or public land. It does not include any caravan, mobile home, vehicle, tent or other structure that is used for the



purpose of camping outside a designated camping area. A designated camping area means any Council regulated or privately operated camping and/or caravan area that is sign posted as a camping area on land reserved under part 4 of the *National Parks and Wildlife Act 1974*"

The Office of Environment and Heritage (OEH) has prepared *Threat Abatement Plans (TAP)* for the Red Fox and Bitou Bush. These plans may be accessed from the OEH web site: [Click here](#)

Further information concerning consultation requirements associated with a TAP may be obtained by contacting the OEH Pest Management Officer.

## 4.2 Fig Tree Hill, Lennox Head

### 4.2.1 Application

| Applies to:         |  |
|---------------------|--|
| Location/s:         | Land identified on the Fig Tree Hill Neighbourhood Map |
| Development Type/s: | All development.                                       |

### 4.2.2 Planning Objectives

- a. Ensure that development is compatible with local landscape amenity and character.

### 4.2.3 Development Controls

- i. Development for the purposes of *residential accommodation, tourist and visitor accommodation* and associated land uses must comply with the requirements of Chapter 4.



#### Note:

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.

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 trialled 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





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the development.

Dual Occupancy development will not be supported on lots highlighted in the Fig Tree Hill Neighbourhood Map.

