



Ballina Shire Development Control Plan 2012

Chapter 4 – Residential and Tourist Development





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Part 1 Preliminary

1.1 Introduction

Name:

Ballina Shire Development Control Plan 2012, Chapter 4 – Residential and Tourist Development.

Purpose:

To identify Council's requirements relating to residential and tourist development.

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, 6a, 6b, 6c, 6d 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 development that includes *residential accommodation* and *tourist and visitor accommodation*.

Planning Objectives and Development Controls:

The provisions of this chapter are categorised in relation to a series of planning considerations (referred to as elements). For each element, planning objectives and development controls are specified. Development proposals must be consistent with the planning objectives for the chapter and each of the applicable elements. 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 as follows:

- a. Provide for quality residential neighbourhoods and tourist related development;
- b. Ensure that development is compatible with local landscape amenity and character; and
- c. Ensure the orderly development of land.





Part 3 General Controls

3.1 General Controls applying to residential and tourist development

3.1.1 Application

Applies to:	
Location/s:	Zones E1, E2, E3, MU1, R2 & R3
Development Type/s:	<i>Residential accommodation (including associated buildings such as sheds) and Tourist and visitor accommodation</i>



Notes:

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, C2, C3, W1 and W2 zones where permissible.

3.1.2 Planning Objectives

- a. Achieve well designed developments which relate to the landscape and character of the locality;
- b. Manage the bulk, scale and traffic generation of residential development to avoid adverse impacts on adjoining land uses;
- c. Ensure new development recognises and responds to the privacy and amenity of adjoining premises whilst providing for passive surveillance of public areas;
- d. Encourage dwellings which respond to the sub-tropical climate; and
- e. Provide for flexibility in the use of buildings with respect to residential accommodation and tourist *and visitor accommodation* uses.



Notes:

Private recreational facilities ancillary to a dwelling house are to be used for the recreational enjoyment of the occupants of the dwelling house only.

Examples of private recreational facilities include (but is not limited to) items and areas used for the following activities:

- Basketball
- Cricket
- Handball
- Netball
- Skate board ramps
- Tennis courts



These activities (facilities) are likely to generate noise and other issues and may adversely impact on the amenity of adjoining properties and the surrounding area. A development application that seeks approval for a private recreational facility will be assessed individually on its merit.



Note:

Residential flat buildings, shop top housing or mixed use development with a residential accommodation component which consists of the following:

- 1 the erection of a new building; or
- 2 the substantial redevelopment or the substantial refurbishment of an existing building; or
- 3 the conversion of an existing building;

and where

- the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2m above ground level (existing) that provide for car parking); and
- the building concerned contains at least 4 or more dwellings

are to be designed in accordance with the provisions of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.

It should be noted that this does not include a Class 1a or Class 1b building under the Building Code of Australia (e.g. town houses or villas).

3.1.3 Development Controls

A. Element - Building Height

Objectives

- a. Ensure that the height of buildings (**building height**) is compatible with the bulk, scale and character of the locality;
- b. Minimise adverse impacts on existing or future amenity of adjoining properties and scenic or landscape quality of the locality; and
- c. Protect significant views from public places.

Controls

- i. The height of any building (**building height**) is to comply with the provisions of the BLEP 2012.



B. Element - Floor Space Ratios

Objectives

- a. Ensure that buildings are compatible with the bulk, scale and character of the locality; and
- b. Minimise adverse impacts on the existing or future amenity of adjoining properties and the scenic or landscape qualities of the locality.

Controls

- i. Where development for the purpose of a *dwelling house*, *secondary dwelling*, *dual occupancy* or *semi-detached dwelling* is proposed on land identified on the Floor Space Ratio Map, Council will apply the following approach to the calculation of the *floor space ratio* (FSR):
 - Where the *dwelling house*, *secondary dwelling*, *dual occupancy* or *semi-detached dwelling* is part of a mixed use development involving *commercial premises*, the FSR shown on the Floor Space Ratio Map applies.
 - Where the *dwelling house*, *secondary dwelling*, *dual occupancy* or *semi-detached dwelling* is not part of a mixed use development involving *commercial premises*, an FSR of 0.5:1 applies.
 - In the case of a *dwelling house*, *dual occupancy* or *semi-detached dwelling*, which requires 2 car parking spaces, the maximum floor area excluded from the calculation of gross floor area for parking is 44 square metres.
 - Stairs, stairwells, lifts and the like are excluded from the gross floor area of multi storey buildings on the ground floor only.
 - Separating walls between dwellings are excluded from the calculation of gross floor area.



Notes:

For land shown on the Floor Space Ratio Map, buildings are to comply with the *floor space ratio* provisions of BLEP 2012 clauses 4.4 and 4.5.

For development for the purpose of a *dwelling house*, *secondary dwelling*, *dual occupancy* or *semi-detached dwelling* the FSR is 0.5:1.

C. Element - Building Envelopes

Objectives

- a. Ensure buildings are set back progressively from the side and rear boundaries as building height increases so that buildings do not unduly affect existing or future development on adjoining properties by way of overshadowing, impinging on privacy, or unreasonably obstructing views;
- b. Ensure that the occupants of residential accommodation have the opportunity to enjoy the optimum use of winter sunlight;



- c. Enhance opportunities for solar access to both the development site and adjoining properties;
- d. Achieve varied and interesting streetscapes, good orientation of residential developments with regard to sun, shade, wind and neighbouring development, and effective use of allotments to create usable private open space and courtyards;
- e. Ensure that buildings are compatible with the bulk, scale and character of the locality;
- f. Minimise adverse impacts on the existing or future amenity of adjoining properties and the scenic or landscape quality of the locality; and
- g. To provide flexibility for steeply sloping sites to best address streetscape, solar orientation and location for outdoor amenity areas.

Controls

- i. **Residential accommodation** 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:
 - below a plane measured over the land at 45° from a point 1.8 metres above the side and rear boundaries,
 - below a plane measured over the land at 45° from a point 1.8 metres above the side and rear boundaries
 - where the subject site has a frontage to a secondary street, below a plane measured over the land at 45° from a point 1.8m above a parallel line measured 2.0m inside the secondary street boundary,
 - where the subject site has a frontage to a public reserve, below a plane measured over the land at 45° from a point 1.8m above the boundary to the public reserve, and
 - below a plane measured 8.5 metres above ground level.
- ii. The external walls of a **residential accommodation** or **tourist and visitor accommodation** must be setback a minimum of 900mm from the side and rear boundaries of the site (excluding internal strata title boundaries), subject to consideration of impact on privacy, **private open space** and solar access to adjoining properties;
- 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);



Note:

The location of garages, sheds and similar detached outbuildings are subject to consideration of impacts on privacy, **private open space**, solar access and bulk and scale impacts to adjoining properties.



- iv. For *dual occupancies*, *semi-detached dwellings*, *attached dwellings* and *multi dwelling housing* developments and any *residential accommodation* or *tourist and visitor accommodation* that share a common wall, the **building height plane** as applied from side and rear boundaries of the site (excluding internal strata title boundaries), secondary frontages and public reserves applies to those parts of the development which interface with adjoining properties and public land.



Notes:

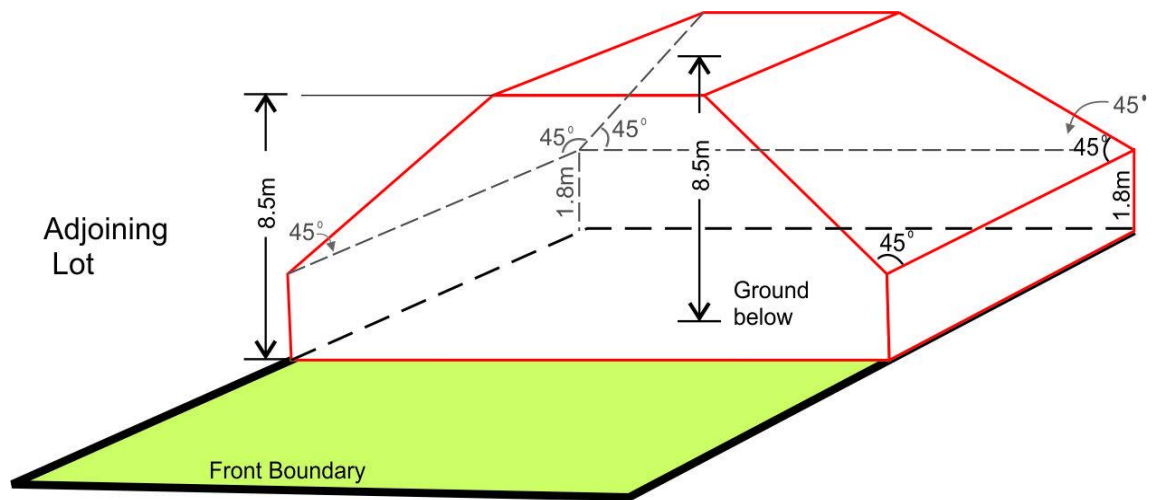
1. All planes referred to under this element are measured from **ground level (existing)**, except where land is identified on the "Flood Planning Maps" (Ballina LEP 2012) as requiring fill, in which case **ground level** is taken to be the minimum required fill level.
2. **Architectural Roof Features** 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.

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.

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.
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.



Figure 4.1 – Typical Building Envelope Controls



Variations

i. The following variations to the setbacks nominated by the **building envelope** are permitted:

- **Eaves and gutters** – up to a maximum of 700mm (note: minimum setback requirements provided by the Building Code of Australia must be complied with i.e. 450mm to the outside of fascia),
- **Climate control elements** - which are of a minor scale and an open character, and that do not affect compliance with the above design objectives, and

Encroachments are permitted along the northern and eastern elevations of the wall length subject to no adverse solar impacts on neighbouring properties.



Note:

Refer to controls contained within Element I – Overlooking and Privacy which do not permit the following structures within the articulation zone:

- balconies, decks, pergolas, terraces or verandahs located within 3 metres of side or rear boundaries that require privacy screens.

D. Element - Articulation Zone

Objectives

- a. Promote building facades which contribute to the character of the streetscape.
- b. To provide a level of consistency with the development standards for complying development within *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.



Controls

- i. The following building elements associated with *residential accommodation* or *tourist and visitor accommodation* in Zone R2 Low Density Residential and Zone R3 Medium Density Residential may project forward of the *building line or setback* to the primary street frontage by up to 1.5m in front:
 - an entry feature or portico,
 - a balcony, deck, pergola, terrace or verandah,
 - a window box treatment,
 - a bay window or similar feature,
 - an eave.
- ii. Up to 25% of the **articulation zone**, when viewed from above, may include building elements. An awning or other feature over a window and a sunshade feature and eaves are not included in the maximum area calculation of building elements.
- iii. New dwellings are to be designed to address the street, provide an easily identifiable entrance for pedestrians and contribute to the streetscape.

Figure 4.3 – Articulation Zones

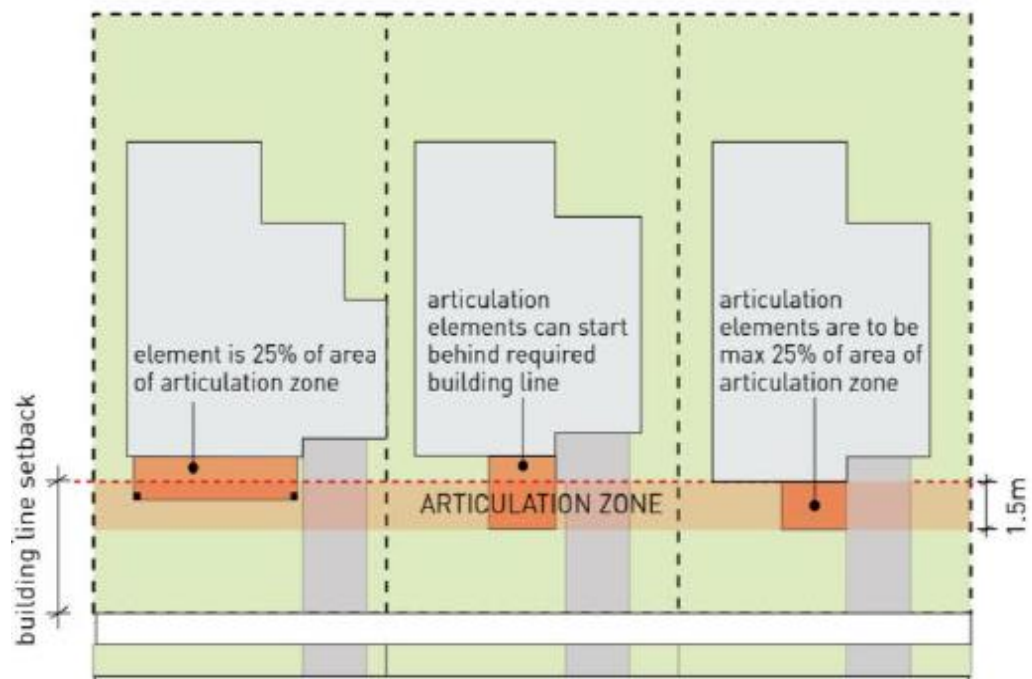
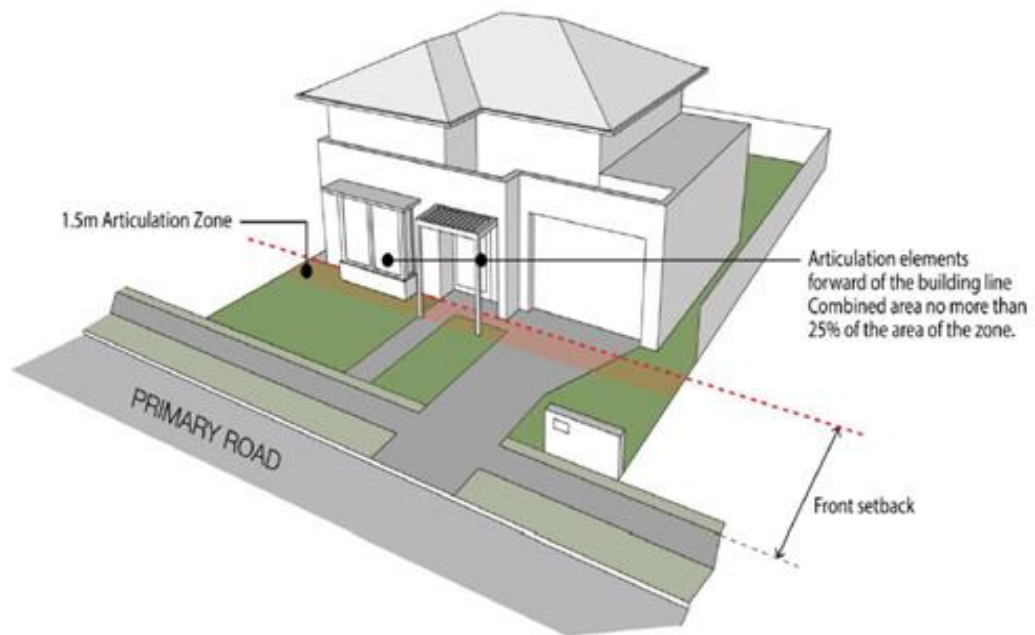




Figure 4.4 – Articulation Zone Elevation View



E. Element - Building Lines

Objectives

- a. Protect the amenity of the locality in which the dwelling is situated;
- b. Ensure new development makes a positive contribution to the local streetscape;
- c. Setback buildings and garages/carports from the street to provide sufficient space for landscaping, visual and acoustic privacy and vehicle parking, whilst protecting the established character of the neighbourhood; and
- d. Protect the amenity of and views to canals, rivers and foreshore areas.

Controls

- i. **Residential accommodation** and **tourist and visitor accommodation** buildings and all **ancillary development** on a lot must be setback behind the **building line** specified on the Building Line Map (except as specified in items (iii) or (iv) below).
- ii. Where a **building line** is not specified in (i) and the land is within Zone R2 Low Density Residential or Zone R3 Medium Density Residential, the **building line** specified in **Table 4.1** applies.

Table 4.1 - Minimum <i>Building Line</i> – R2 & R3 Zone	
Boundary	<i>Building Line</i> (distance from lot boundary)
Primary Road	6.0m
Parallel Road	6.0m



Table 4.1 - Minimum *Building Line* – R2 & R3 Zone

Boundary	<i>Building Line</i> (distance from lot boundary)
Public Reserve or Foreshore*	6.0m
Lane	3.5m
Side or Rear	None specified

* includes foreshore of any waterway (river, creek, etc)



Notes:

1. In conjunction with any specified building lines and setbacks in this section, the building construction and setback requirements of the Building Code of Australia will apply, particularly in relation to side and rear building setbacks from lot boundaries.
2. In cases where exceptional circumstances exist or site constraints dictate, a merit-based assessment of the building line will be made. In such cases it must be demonstrated that it would not be practical to maintain the nominated building line and that no adverse impacts on surrounding properties and or the streetscape will result.
3. Concessions for open form construction such as pergolas and car ports are generally viewed more favourably than for enclosed structures.
4. A reference to 'boundary' in the Building Line Map is taken to mean the lot boundary fronting the feature or asset specified in the map.

- iii. Where an encroachment forward of the building line specified in (i) or (ii) is sought, variation to the standard may be granted where an alternate building line can be established on the basis of the average distance of the building lines of the nearest 2 buildings (either residential accommodation or tourist and visitor accommodation) having a boundary with the same primary road and located within 40m of the lot on which the residential accommodation or tourist and visitor accommodation building is to be erected.
- iv. Variations to the building line specified in (i) or (ii) may be granted in relation to secondary road frontages on corner lots in accordance with Table 4.2 below:

Table 4.2 – Secondary Road Frontage *Building Lines*

<i>Building Line</i>	Reduction	Varied <i>Building Line</i>
4.6m	1.0m	3.6m
6.0m	2.0m	4.0m
7.6m	2.6m	5.0m
Other	On merit	



F. Element - Development Fronting Laneways

Objectives

- a. Ensure that development is compatible with the characteristics of laneways.
- b. Provide for safe vehicular access to and from laneways.
- c. Ensure that development fronting lanes has practical access and infrastructure servicing.

Controls

- i. **Residential accommodation** and **tourist and visitor accommodation** buildings and all **ancillary development** on a lot must be setback from the boundary with a lane behind the **building line** as specified on the Building Line Map.
- ii. Where a lot has a lane frontage and a **building line** to the lane is not specified on the Building Line Map, the **building line** is 3.5m from the lane frontage, as specified in **Table 4.1** above.
- iii. Garages that are directly accessed from the lane shall have a minimum setback of 5.5m for direct access or 3.5 metres for indirect access from the lane boundary in accordance with Figure 4.5, except as specified in (v).
- iv. **Residential accommodation** and **tourist and visitor accommodation** with direct frontages to laneways are permitted except where specified on the Restricted Lane Frontage Map.
- v. Where direct frontage to a lane is restricted under (iv), garages must be provided in accordance with the design parameters shown in Figure 4.6.
- vi. Where development occurs on the corner of a lane, a corner splay of 2.5m x 2.5m must be dedicated to Council.
- vii. Adequate infrastructure servicing, including formalised vehicular and pedestrian access, waste collection and postal delivery, must be available to any lane where direct frontages are proposed, except where the requirements of (viii) are met.
- viii. Where waste collection or postal delivery services are not provided to a lane, direct frontages may be permitted where a paved pedestrian access way with a minimum width of 1.2m is provided on site to enable each dwelling or occupancy direct access to the street frontage.

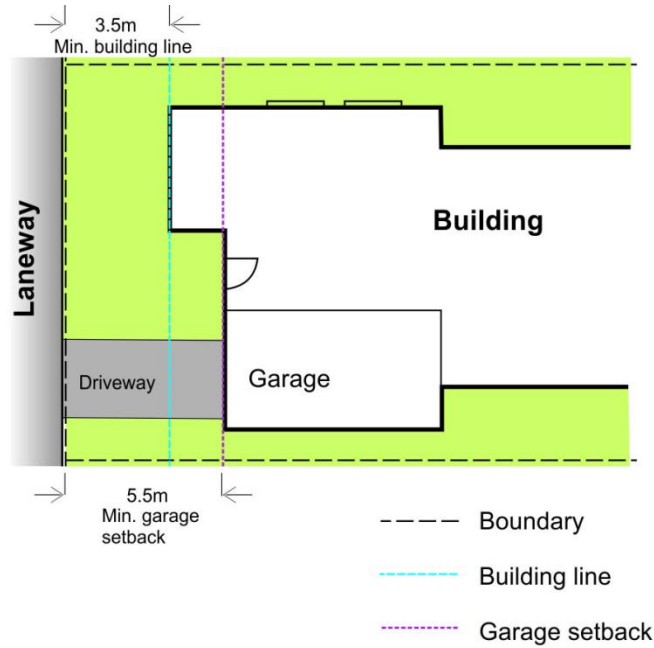


Note:

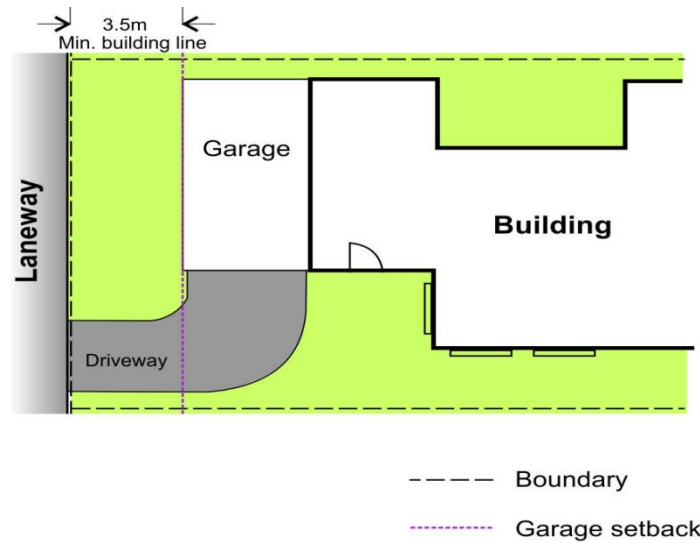
Garages and onsite parking are encouraged from laneways (where available). However, the above controls do not directly prohibit access from the secondary street frontage.



Figure 4.5 – Garage Setback Requirements for Non-restricted Lane Frontages



DIRECT LANE ACCESS



INDIRECT LANE ACCESS

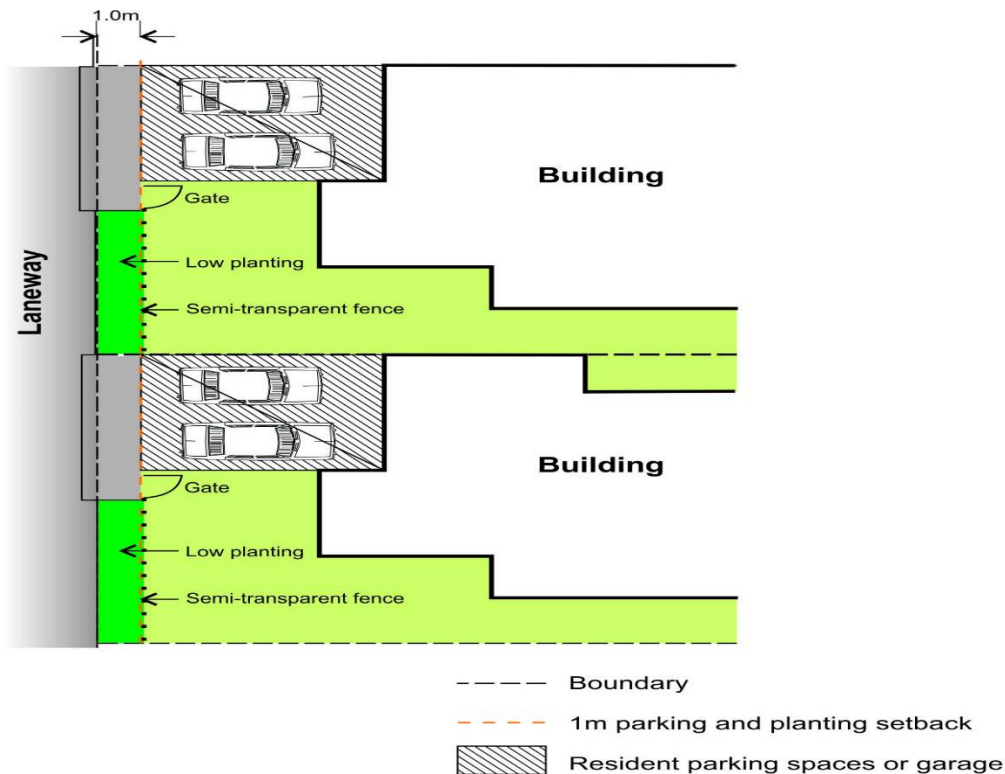


Note:

Provision for 2 car parking spaces within the property boundary is required where a minimum 3.5m building line is applied in association with indirect lane access.



Figure 4.6 – Garage Access - Restricted Residential Frontages in Laneways



G. Element - Landscaping and Open Space

Objectives

- Ensure *residential accommodation* and *tourist and visitor accommodation* are provided with *private open space* which is usable and meets the needs of occupants;
- Maximise the liveability and amenity of *residential accommodation* and *tourist and visitor accommodation*;
- Ensure that *landscaped areas* are an integral component of residential and tourist oriented development proposals;
- Preserve and retain existing mature native vegetation wherever practicable; and
- Support landscape design that incorporates the planning of landscape species indigenous to the part of the shire in which they are being planted.

Controls – Landscaping and Private Open Space for Dwelling Houses, Secondary Dwellings, Dual Occupancies, Attached Dwellings and Semi-Detached Dwellings

- At least 25% of the site must be covered by *landscaped areas* comprising pervious surfaces.
- Each *dwelling* is to be provided with an area of *private open space* that is:
 - Predominately flat, i.e. a maximum gradient of 1:10; and



- At least 24m² in contiguous area; and
 - A minimum dimension of 4m.
- iii. A Each new **dwelling** must have a covered outdoor living area (i.e. patio, courtyard, deck) which adjoins/ abuts the area of private open space.



Note:

This control relates to any new dwelling, whether it be a dwelling-house, secondary dwelling, dwelling in a dual occupancy, etc.

- iv. For dual occupancy dwellings, the entire site is to be fully turfed and landscaped prior to the issue of an Occupation Certificate for any of the dwellings.

Controls – Private Open Space for Multi Dwelling Housing, Residential Flat Buildings and Tourist and Visitor Accommodation

- i. Each **dwelling** will have access at ground level to a court yard with a minimum area of 40m², a minimum dimension of 4m and a maximum gradient of 1:10.
- ii. Where **dwellings** and entries are located entirely above ground floor, Council may consent to the provision of private open space by way of a balcony. To be considered as **private open space**, balconies must contain a minimum area of 25m² and a minimum width of 2.5m.
- iii. **Private open space** must be directly accessible from a living area.
- iv. Where practicable, **private open space** is to be located to the north or east of the dwelling and is required to have appropriate orientation and provisions to allow for winter sun and summer shade.
- v. **Private open space** is not required for development comprising only **backpackers accommodation, bed and breakfast accommodation, farm stay accommodation** or **hotel or motel accommodation**.



Note:

Private open space may be provided in more than one contiguous area subject to at least one portion having a minimum dimension of 4m x 4m.

Controls –Landscaping for Multi Dwelling Housing, Residential Flat Buildings and Tourist and Visitor Accommodation

- i. Landscaped open space comprising **landscaped areas** and **private open space** is to be provided for each **dwelling** in accordance with **Table 4.3**.
- ii. The landscaped open space requirements in (i) are not required for development comprising only **backpackers accommodation, bed and breakfast accommodation, farm stay accommodation** or **hotel or motel accommodation**.



- iii. At least 75% of the landscaped open space area must be covered by pervious surfaces that are defined as landscaped areas, such as lawn or landscaping.
- iv. Development applications for *multi dwelling housing, residential flat buildings or tourist and visitor accommodation* are to be supported by landscaping plans detailing all proposed *private open space* areas and *landscaped areas* and shall detail the main structures on the site (including buildings, car parks, fences, retaining walls, surfacing materials and the like), any existing trees to be retained and all proposed plantings (including common names, botanical names, numbers and mature heights).

Table 4.3 – Landscaped Open Space Requirements for <i>Multi Dwelling Housing, Residential Flat Buildings and Tourist and Visitor Accommodation</i>	
Dwelling size	Minimum landscaped open space area per dwelling <i>(note control (iii) in calculating open space requirements)</i>
<60m ² total <i>dwelling</i> GFA*	50m ²
60m ² - 85m ² total <i>dwelling</i> GFA*	70m ²
>85m ² total <i>dwelling</i> GFA*	90m ²

* Balconies, courtyards, driveways and required car parking spaces are not included in the total *dwelling* GFA calculations

H. Element - Vehicular Access and Parking

Objectives

- a. Provide adequate on site car parking for development;
- b. Provide car parking that is convenient and safe to access;
- c. Ensure garages, carports and sheds do not dominate the streetscape; and
- d. Ensure streetscape amenity, character and utility is maintained.

Controls – Car parking

- i. On site car parking for development is to be provided in accordance with **Table 4.4** below:

Table 4.4 – Car Parking for Residential and Tourist Uses	
	Car Parking
<i>Dwelling Houses</i>	2 spaces per <i>dwelling</i> *
<i>Secondary Dwellings</i>	Nil
<i>Dual Occupancies</i>	2 spaces per <i>dwelling</i> *
<i>Semi-detached Dwellings</i>	2 spaces per <i>dwelling</i> *



Attached Dwellings	2 spaces per <i>dwelling</i> *
Multi Dwelling Housing and Residential Flat Buildings	1 space per <i>dwelling</i> where total GFA of <i>dwelling</i> is less than 60m ² 1.5 spaces per <i>dwelling</i> where total GFA of <i>dwelling</i> is between 60m ² and 85m ² 2 spaces per <i>dwelling</i> where total GFA of <i>dwelling</i> is greater than 85m ² Plus 1 additional space per 5 <i>dwellings</i> for visitor parking
Shop top housing	Dwelling requirement plus shop requirement

* At least 1 required car parking space per dwelling must be covered.

* Stack parking is an acceptable solution.



Note:

Car parking rates for *tourist and visitor accommodation* are determined by the rate applicable to the most equivalent form of housing.

Car parking rates for *hotel or motel accommodation* are specified in Chapter 2.

Controls – Garages and Sheds

- i. 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
- ii. The combined maximum width of garage and shed doors must not be more than 50% of the lot frontage.



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.

Controls – Carports and Car Parking Spaces

- i. Car parking must not be located forward of the *building line or setback* unless as permitted below.
- ii. Carports and car parking spaces located forward of the *building line or setback* will be considered subject to the following criteria:
 - At least one covered parking space (garage or carport) for each dwelling is located behind the building line or, where the building line is less than 5.5 metres, a minimum of 5.5 metres from the street boundary;



- The frontage facing the street remains open and is not fitted with a door or enclosing device of any kind;
- The carport roof does not significantly impact on the streetscape (flat or low pitched roofs are preferred);
- The carport roof is not trafficable;
- The carport is not to exceed 33% of the width of the allotment frontage; and
- No side or rear enclosure or screening is to be provided.



Notes:

1. Please refer to Council's '**Building Over Assets Policy**' in relation to any development proposed forward of the building line.
2. Refer to Element C for building envelope controls for sheds and additional boundary setbacks for larger sheds.

Controls – *Basement Parking*

- i. **Basement** car parking must not extend more than 1m above ground level (finished) where it faces a public street or public space or 1.5m above **ground level (finished)** to the side and the rear of the lot where it does not face a public street or public space;
- ii. Ramps entering off a street or lane must start behind the boundary. Ramps cannot be located on public land; and
- iii. The walls of **basement** car parking that protrude above ground level (existing) are to be located within the building's footprint. **Basement car** parking is not to extend outside the external line of terraces, balconies and porches.



Notes:

Groundwater interception may require a separate approval in accordance with the *Water Act 1912* and the *Water Management Act 2000*.

The design of basement car parking should have regard for mitigation measures suitable to manage impacts associated with inundation or flooding of basement car parking areas.

I. Element - Overlooking and Privacy

Objectives

- a. Ensure buildings do not unduly affect existing or future development on adjoining properties by impinging on privacy or obstructing views; and
- b. Provide visual privacy for internal and external spaces;





Controls

- i. A window must have a privacy screen if:
 - it is a window in a habitable room, other than a bedroom, and
 - the wall in which the window is located has a setback of less than 3 metres from a side or rear boundary, and
 - the window has a sill height of less than 1.5 metres and a floor level greater than 1.0m above **ground level (existing)**.
- ii. A balcony, deck, patio, pergola, terrace or verandah must have a privacy screen if it:
 - 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**.
- 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:
 - Ground and first floor windows are within a 9 metre radius from any part of the window of an adjacent dwelling on the same site, and
 - Other floor windows are within a 12 metre radius of an adjacent dwelling on the same site, and
 - Direct views from habitable rooms, excluding bedrooms, of dwellings into the principal area of **private open space** of other dwellings on the same site shall be screened or obscured where they are within a 12 metre radius.



Notes:

1. A habitable room is defined in the *Building Code of Australia* 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.

- iv. Details of privacy screening required in (i)-(iii) must be submitted with the development application and may consist of:



- Screening that has 25% openings (maximum), is permanently fixed and is constructed of durable materials, or
- A 1.8 metre high visually impervious fence or wall between a ground-level balcony, deck, patio, pergola, terrace, verandah or window where the floor level is not more than 1 metre above **ground level (existing)**, or
- Landscape screening by using existing dense vegetation or new planting that can achieve a 75% screening effectiveness within three years (without affecting solar access or views), or
- Fixed opaque glazing in any part of a window below 1.5 m above floor level.



Note:

Where the privacy screen consists of a 1.8 metre high boundary fence then such fencing is required to be erected prior to the occupation of the adjoining dwelling house.

Controls – additional privacy requirements for roof terraces

- i. Roof top terraces and associated structures shall be designed so their size and location does not impose upon or have unreasonable impacts on the privacy adjoining dwellings; and
- ii. Awnings and coverings on roof terraces must be located within the applicable height limits for structures and must not unduly obstruct views from surrounding properties; and
- iii. Roof terraces are to be appropriately located and screened to prevent direct views into habitable rooms or **private open space** of any adjoining dwellings.

J. Element - Solar Access

Objectives

- a. Ensure new dwellings have adequate direct sunlight to living areas (living rooms, lounge rooms, kitchens, dining rooms and the like) and **private open space**; and
- b. Ensure developments do not significantly overshadow living areas and the **private open space** of adjacent dwellings and areas of foreshore open space.

Controls

- 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;
- ii. The windows of living areas of **dwellings** and **private open space** facing north, north east or north west must receive at least three hours of direct sunlight between 9.00am and 3.00pm (Australian Eastern Standard Time) on 21 June (Winter Solstice);



- iii. The solar access requirements in (i) and (ii) are not required for development comprising only *backpackers accommodation, bed and breakfast accommodation, farm stay accommodation* or *hotel or motel accommodation*.
- iv. New buildings must maintain at least three hours of direct sunlight to the windows of living areas that face north, north east or north west for existing adjacent *dwelling*s and their areas of *private open space* between 9.00am and 3.00pm (Australian Eastern Standard Time) on 21 June (Winter Solstice);
- v. Where existing overshadowing by buildings and fences does not provide the required amount of direct sunlight to existing adjacent *dwelling*s and their areas of *private open space* as required in (iii), new buildings must not result in an unreasonable reduction of existing direct sunlight to adjoining dwellings;
- vi. Buildings are to be designed, wherever practicable, to include a north or west facing roof where a solar hot water system or collector can be installed;
- vii. New buildings must not result in overshadowing of beaches or adjoining public foreshore open space before 3.00pm (Australian Eastern Standard Time) on 21 June (Winter Solstice) or 6.30pm (Australian Eastern Daylight Saving Time) on 21 December (Summer Solstice).



Note:

Where overshadowing is likely to occur, the following measures may be required to reduce potential impacts:

- the building re-sited or setbacks increased,
- heights reduced, and
- amendment of roof designs.

K. Element - Fences and Walls

Objectives

- a. To ensure that fences and courtyard walls:
 - Do not become a dominant built element in the streetscape;
 - Provide a sense of territory, privacy, noise reduction and safety for residents;
 - Do not remove the sense of safety in the street that pedestrians gain from the casual observation by residents;
 - Do not impact on the safe movement of vehicles and pedestrians; and
 - Retain opportunities for casual social interaction in the community.



Controls

- i. The height of fences must not exceed the heights shown in **Table 4.5**:

Table 4.5 - Height of Fences	
Fence Location	Height
Front Fence*	1.2 metres unless fence complies with point ii.below.
Side Fence	1.2 metres forward of the building line and 1.8 metres for the remainder.
Rear Fence	1.8 metres. Where the rear fence is the primary frontage, 1.2 metres.
*Front fence refers to a fence on the front boundary or forward of the building line on the primary street frontage of a site.	

- ii. Where fences or walls are proposed exceed 1.2 metres in height (as required under Table 4.5), the fence or wall is to be designed in accordance with the following:
- The fence or wall is to be articulated so as to provide visual relief and opportunities for landscape plantings between the wall and public areas;
 - The maximum height of the fence or wall is 1.8 m; and
 - The design of the fence or wall incorporates openings with at least 50% visual permeability.
- iii. Where a fence abuts a driveway edge, a minimum 2.5m x 2.0m splayed area in accordance with Australian Standard 2890 is to be provided either side of the driveway for solid fence designs for traffic viewing purposes. Alternatively, a fully open or part open style fence may be adopted either side of the driveway which may incorporate solid construction to a maximum height of 1.0m.



Note:

Some residential streets in the Lennox Head area have been identified as having traffic levels where acoustic mitigation is appropriate. Implementation of acoustic mitigation measures on these sites will be an individual owner's choice. Development controls for acoustic fencing are detailed in (iv) below.

Council applies AS2890 Parking Facilities with respect to the requirements for splays.

- iv. Acoustic fencing may be erected on boundaries to the following streets and roads in Lennox Head:
- Ballina Street
 - Byron Street
 - North Creek Road (The Coast Road to Skennars Head Road)
 - Hutley Drive
 - Montwood Drive

Acoustic fencing is to be designed in accordance with the following:



- The wall or fence is to be articulated so as to provide visual relief and opportunities for landscape plantings between the wall and public areas; and
- Maximum height 1.8 m.

L. Element - Roof Pitch

Objectives

- a. Ensure that roofs are designed to manage stormwater associated with sub-tropical rainfall events; and
- b. Discourage the use of flat roofs on new dwellings to encourage building up to but not exceeding two storeys.

Development Controls

- i. Roofs of dwellings are to have a minimum pitch of 5°; and
- ii. Council may consider a variation to control (i) to maintain views or to correspond with adjoining building design that is consistent with the character of the locality.



Note:

Shading devices and pergolas are exempt from the nominated pitch requirements specified in this control element.

M. Element - Adaptable Housing

Objectives

- a. Ensure that residential development is designed such that increased opportunities exist for people with limited mobility to reside in the broader community.

Controls

- i. At least 10% of all **dwellings** in an **attached dwelling**, **residential flat building** or **multi dwelling housing** development containing 10 or more dwellings must be designed in accordance with Australian Adaptable Housing Standard (AS 4299-1995). Where this results in a fraction then it shall be rounded to the nearest whole number with 0.5 being rounded down; and
- ii. Car parking and garages allocated to **dwellings** built to the Australian Adaptable Housing Standard (AS 4299-1995) must comply with the dimensions specified in the Standard.



Note:

Residents contemplating building new housing are encouraged to consider the design elements contained within the [Liveable Housing Design Guidelines](#) and the design suggestions contained within [The tradies guide to good access](#).



N. Element - Minimum Lot Area

Objectives

- a. Ensure that lot area for different forms of *residential accommodation* are suitable to provide for the desired residential land use in a manner that is compatible with the provision of required services and amenity outcomes and neighbourhood character; and
- b. Provide a clear indication of the potential forms of *residential accommodation* that a land parcel may accommodate.

Controls

- i. Except as provided for under element O, development must comply with the lot area for each form of residential accommodation specified in **Table 4.6**.

Table 4.6 - Minimum Lot Areas and Width for Residential Accommodation		
Type of Residential Accommodation	Zone	Minimum Lot Area
<i>Dwelling House</i>	R2, R3	450m ² 550m ² – corner lots
<i>Dual Occupancy</i>	R3	450m ² - attached 600m ² - detached
<i>Dual Occupancy (Attached) (Alstonville & Wollongbar)</i>	R2	900m ² and width of 12 metres at the building line
<i>Dual Occupancy (Attached) (Wardell)</i>	R2	450m ² and width of 12 metres at the building line
<i>Semi-Detached Dwelling</i> (per dwelling)	R3	300m ²
<i>Attached Dwelling</i> (per dwelling)	R3	300m ²
<i>Multi Dwelling Housing</i>	R3	1000m ²
<i>Residential Flat Building</i>	R3	1000m ²



Notes:

1. The standards for most compatible residential form will apply to *tourist and visitor accommodation*.
2. Strata subdivision of dual occupancy developments are to have regard for the provision of services as outlined in Chapter 3 - Urban Subdivision, Part 3.1.2 E. Where a dwelling or occupancy does not have direct access to the street frontage, lots must be provided with a paved pedestrian access way having a minimum 1.2m width to enable waste collection and postal delivery services.

O. Element - Dwelling Density

Objectives



- a. Ensure that medium density development is compatible with available services and neighbourhood amenity and character; and
- b. Provide a clear indication of the potential extent of medium density development on certain land.

Controls

- i. Development for the purpose of **residential accommodation** (except for a **dwelling house**, **dual occupancy** or **secondary dwelling**) must not exceed the number of **dwellings** provided for on a site as identified on the Dwelling Density Maps.



Notes:

The number of **dwellings** enabled under this provision is a theoretical maximum based on land area only. The actual number of **dwellings** possible on a site may be less than the maximum once other planning provisions are taken into account.

In cases where the Dwelling Density Map does not nominate a maximum dwelling density the dwelling density is to be determined through design analysis. Relevant development controls such as floor space ratio, building height, setbacks, car parking and landscaping requirements will determine dwelling density.

P. Element - Earthworks and Slope Sensitive Design Controls

Objectives

- a. To limit the extent of **excavation** and **filling**.
- b. To reference controls contained within the Housing Code and the Rural Housing Code under the provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- c. To provide for development that is responsive to existing landform.
- d. To ensure that building design is compatible with the topographical conditions of the site.

Controls

- i. **Earthworks** are to comply with the following provisions, except as provided for under (ii):
 - The controls contained within this part are additional to those contained within clause 3.30 of the Housing Code and clause 3A.29 of the Rural Housing Code; and
 - **Earthworks** involving **excavation** and/or **filling** on or within 1 metre of a property boundary are permitted to be a maximum height of **1200mm** per single cut, single **fill** or combination cut/fill. These works are to be retained by a masonry structure which is to be designed and certified by a suitably qualified structural engineer if in excess of 1 metre in height.
- ii. For lots with slopes greater than or equal to 15%, the following provisions must be complied with:



- Building siting is to relate to the original form of the land;
- Alternatives to slab on ground construction are encouraged, where, due to the gradient and characteristics of the site, major **excavation** or **filling** as a result of raft slab construction would be inappropriate. Examples of alternative construction includes: Bearer and joist construction; Deepened edge beam; Split level design; Suspended slab design; and
- **Earthworks** to be kept to the minimum required for an appropriately designed site responsive development.

Q. Element - Screening Underfloor Space of Buildings

Objective

- a. Improve the appearance of elevated buildings and provide for enhanced neighbourhood amenity.

Controls

- i. Where the understorey of a building is visible from adjoining properties or public land, landscaping or screening panels must be provided around the base perimeter of the building and maintained. Screening is to be provided in accordance with the following:
 - Screening panels must not create the appearance of a solid wall and are to be constructed of lattice, slats or other like materials.
 - Proposals for the use of landscaping for the screening of underfloor areas must be accompanied by a landscape plan which includes information identifying the location and species of plantings.
 - Landscaping screening is to be provided utilising mature plants.
- ii. Screening required under (i) is to be provided prior to the occupation of the building.

R. Element - Tourist Accommodation Length of Stay

Objective

- a. Ensure that **tourist and visitor accommodation** is utilised for short term occupation only.

Controls

- i. **Tourist and visitor accommodation** must only be occupied on a short-term basis and shall not be utilised or let for long term or permanent accommodation.
- ii. 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.

S. Element - Tourist Accommodation Building Design

Objective



- a. Ensure that **tourist and visitor accommodation** is constructed in a manner consistent with residential accommodation buildings.

Controls

- i. **Tourist and visitor accommodation** comprising or within a building of 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2m above ground level) and comprising 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops) is to be designed in accordance with the provisions of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.

3.2 Small Lot Integrated Housing

3.2.1 Application

Applies to:	
Location/s:	Zone R3 Medium Density Residential
Development Type/s:	Applications for dwelling houses , semi-detached dwellings or attached dwellings

3.2.2 Background

Integrated housing consists of the concurrent subdivision of land into 4 or more allotments (each with an area between 300m² and 400m²) and the erection of a **dwelling house**, **semi-detached dwelling** or **attached dwelling** on each of the lots created by the subdivision.

As integrated housing applications involve relatively small allotments, issues of privacy and overlooking are particularly relevant in the development assessment process. Furthermore, as these **dwellings** often have a common party wall which share structural support, it is important that detailed consideration is given to the design and construction of this element of the building. Accordingly, the BLEP 2012 requires that the dwelling design be assessed and approved concurrently with the subdivision. For applications involving **attached dwellings** or **semi-detached dwellings**, Council also requires that all **dwellings** sharing common party walls are constructed concurrently.

3.2.3 Planning Objectives

- a. To ensure that integrated housing developments are located in areas which are accessible to local infrastructure and public transport.
- b. To ensure that integrated housing developments are designed:
- to provide visual and acoustic privacy for future residents;
 - with adequate **private open space** to meet the needs of residents; and
 - to provide for solar access.



3.2.4 Development Controls

A. Building Design - General

- i. Designs for integrated housing developments must demonstrate that:
 - there will be adequate privacy within the development for the occupants of each **dwelling** and for existing **dwellings** on adjoining allotments;
 - there are adequate water, sewerage and drainage services for each dwelling;
 - there will be adequate access to natural light for each dwelling; and
 - new **dwellings** will be provided with landscaped areas and **private open space** in accordance with the requirements of Element G in section 3.1.3 of this chapter.
- ii. The **building height plane** specified in section 3.1.3 of this chapter applies to applications for integrated housing for those parts of the development which interface with adjoining properties and public land.
- iii. **Building lines or setbacks** and **building envelopes** for individual **dwellings** within the integrated housing scheme that comply with the *Building Code of Australia* will be assessed on the merits of the case having particular regard for:
 - privacy;
 - overshadowing; and
 - the bulk and scale of the development as a whole.

B. Additional controls for attached dwellings and semi-detached dwellings

- i. Where **attached dwellings** are proposed, all vehicular access is to be provided from a rear service lane wherever possible;
- ii. **Attached dwellings** and **semi-detached dwellings** must be designed to be complementary to one another with respect to building form, materials and landscaping. However, each **dwelling** is to be provided with articulation and detailing to provide an individual identity;
- iii. Each **dwelling** is to front the public street system and have a front door which is readily identifiable and accessible from the street;
- iv. **Semi-detached dwellings** or **Attached dwellings** proposed on a corner allotment shall address both frontages by the use of verandas, balconies, windows or similar modulating elements;
- v. Where vehicular access is from a **primary road** (rather than a service lane) garages and carports must not occupy more than 50% of the width of the façade;
- vi. Construction of **dwellings** with common party walls is to occur concurrently. Occupation certificates will only be issued once all **dwellings** sharing the common wall are completed; and



- vii. The location of mail and garbage services are to be nominated and adequate provision made for each *dwelling* to access such services.

3.3 Attached Dual Occupancy (incorporating retention of existing dwelling)

3.3.1 Application

Applies to:	
Location/s:	Certain lots within the Zone R2 at Alstonville, Wollongbar and Wardell (Refer Ballina LEP 2012 Schedule 1)
Development Type/s:	Applications for <i>attached dual occupancy</i> development which seek to retain an existing <i>dwelling</i>

3.3.2 Background

Ballina LEP 2012 was amended to permit *attached dual occupancy* development upon certain lots within the R2 zone at Alstonville, Wollongbar, and Wardell. The amendments permit new purpose built *attached dual occupancy* development. They also permit the incorporation of existing dwellings within the *attached dual occupancy* development. Section 3.3 addresses amenity impacts associated with the retention of existing *dwellings* as part of *attached dual occupancy development*.

3.3.3 Planning Objectives

- a. Ensure the orderly development of the site;
- b. Minimise the potential amenity impacts associated with developing a new *dwelling* attached to an existing *dwelling* on the same lot of land;
- c. Require improvement or rectification of the existing *dwelling* to ensure its compatibility with and integration into the new development;
- d. Ensure that the *attached dual occupancy* development makes a positive contribution to the streetscape and neighbourhood;
- e. Encourage the renewal of old housing stock as part of any *attached dual occupancy* development seeking to retain an existing *dwelling*; and
- f. To discourage development on battle axe shaped lots.

3.3.4 Development Controls

A. Building Design – General

- i. Designs for *attached dual occupancy* development which retain existing *dwellings* within the development must demonstrate that:
 - the existing *dwelling* can address relevant development controls identified in Part 3 General Controls of this chapter related to *dual occupancy* development. This includes privacy (Element I (iii)) and solar access (Element J);



- Sanitary drainage lines are to be designed and installed so that each **dwelling** has its own individual sanitary drainage lines, each with an overflow gully and inspection shaft upstream of a single connection to the main house drainage line connecting the **dwelling**s;
 - Separate individual Council installed water meters having separate connections from the meter to each **dwelling** are to be provided. Meters are to be individually tagged for residential unit identification and located near the front boundary for ease of meter reading purposes; and
 - each **dwelling** shall be provided with **landscaped areas** and **private open space** in accordance with the requirements of Element G in section 3.1.3 of this chapter.
- ii. The **building height plane** specified in section 3.1.3 of this chapter applies to applications for attached dual occupancy development (old and new sections).

B. Additional controls for attached dual occupancy development

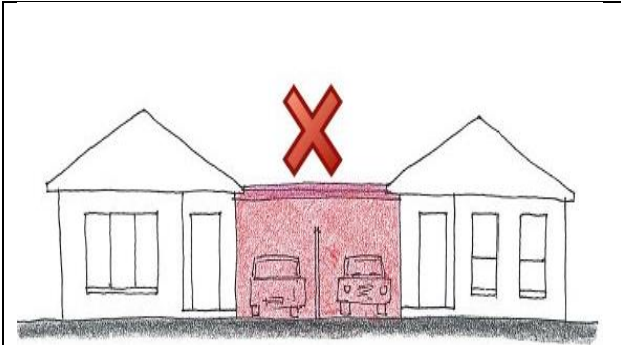
- i. **Attached dual occupancy** development that retains all or part of an existing **dwelling** must be designed to be complementary to one another with respect to building form, materials and landscaping.
- ii. Carports and breezeways are deemed to be an inappropriate means of attaching the existing **dwelling** to the new **dwelling**.
- iii. Uniformity of roof design between the old and new **dwelling** is required.
- iv. Where development of the new **dwelling** affects the existing **dwelling's** ability to comply with the relevant controls in this DCP, or does not comply with relevant Building Code of Australia (BCA) requirements, Council may require the existing **dwelling** to be:
 - upgraded to meet the relevant development controls identified in this DCP and/or BCA requirements; or
 - the applicant to consider rebuilding in accordance with the controls identified in this DCP.
- v. **Attached dual occupancy** development proposed on a corner allotment shall address both frontages by the use of verandas, balconies, windows or similar modulating elements.
- vi. The location of mail and garbage services are to be nominated and adequate provision made for each **dwelling** to access such services.
- vii. Unless demonstrated to the contrary **attached dual occupancy** development on battle-axe shaped lots is deemed an inappropriate form of development.
- viii. Where a wall of an existing **dwelling** forms a separating wall between the two **dwelling**s, details of the means of achieving the fire separation and noise transmission provisions of the BCA are to be provided at the Development Application stage.



Note:

Where a Performance Solution is proposed, for the fire separation and noise transmission provisions of the BCA, a report from a Fire Engineer and / or Acoustic Engineer may be required.

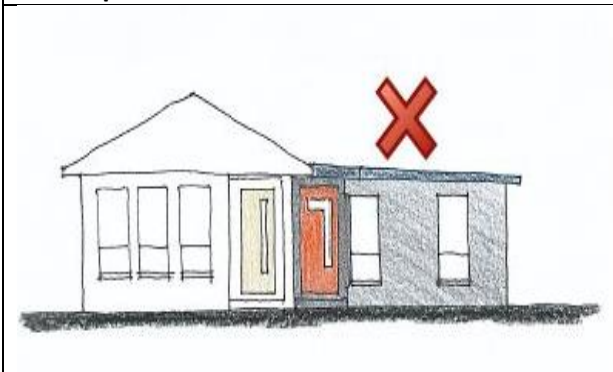
Attached Dual Occupancy - Acceptable and Unacceptable Addition Solutions



Linking dwellings with carports or breezeways is an **unacceptable** solution.



Linking dwellings by incorporating a consistent roof design style is an **acceptable** solution.



Dual occupancy extensions which result in visually inconsistent design elements such as a gable and skillion roof combinations, and inconsistency in the use of building materials such as brick and cladding are **unacceptable**.



Extensions which unify the design through consistency of design elements such as roof, windows, height and materials are **acceptable**.

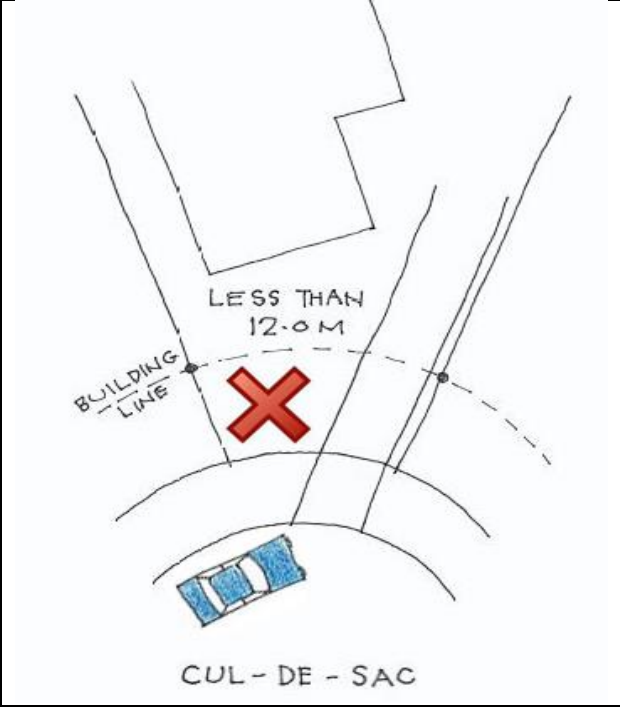
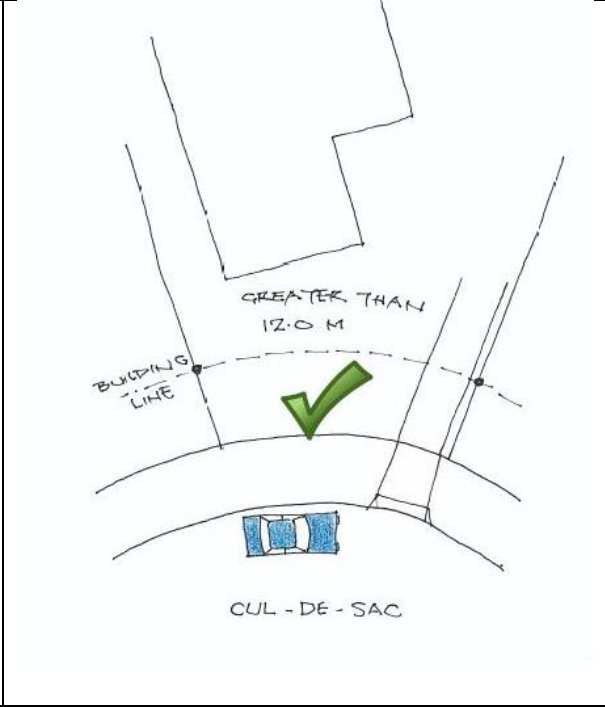


<p>Detached dual occupancy is not permitted by provisions contained within Ballina LEP 2012. Both dwellings must be attached and visually look like one building.</p>	<p>Attached dual occupancy addition onto the rear of an existing dwelling may be acceptable providing the development is visually unified through design and materials.</p>

Attached Dual Occupancy Suitable and Unsuitable Sites

<p>Battle axe lots are considered unsuitable for attached dual occupancy development due to lack of on street parking in front of the lot and overlooking and privacy concerns.</p>	<p>Rectangular lots which provide space for on street parking are considered suitable for attached dual occupancy development.</p>



	
<p>Cul-de-sac lots which have a width of less than 12 metres at the 6 metre building line are considered unsuitable for attached dual occupancy development as they provide insufficient space for the parking of a vehicle in front of the lot.</p>	<p>Larger frontage cul-de-sac lots which have sufficient width to park at least 1 vehicle in front of the lot are considered suitable for attached dual occupancy development.</p>



Part 4 Special Area Controls

4.1 Coastal Grove Estate, Lennox Head

4.1.1 Application

Applies to:	
Location/s:	Coastal Grove Estate (as shown on the Special Area Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation.</i>

4.1.2 Planning Objectives

- a. To provide a high quality residential development to meet the demand for housing within the Lennox Head area;
- b. To protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and riparian vegetation values; and
- c. To provide services and facilities to meet the needs of the future residents of the site.

4.1.3 Development Controls

A. Element - Building Height

- i. *Dwelling houses* must not be comprised of more than 2 storeys except as set out in (ii); and
- ii. *Dwelling houses* located on Lots 26-32 DP 1168665 (Blue Seas Parade) must not exceed 1 storey above *ground level (existing)* when viewed directly from the front street boundary of the lot.



Note:

The building height provisions contained in Part 3 of this chapter apply to residential development in the Coastal Grove Estate.

B. Element - Slope Sensitive Design

- i. *Dwellings* and associated development on residential lots with a slope greater than 15% are required to conform to the following requirements:

Driveways

- Driveways are not to exceed a maximum gradient of 1:6 unless it can be demonstrated to the satisfaction of the consent authority that no reasonable alternative to this solution is possible. In such cases driveways are not to exceed a maximum gradient of 1:4.
- Applications are to include a long section drawing of proposed driveway access that has been prepared by an appropriately qualified person based on site survey information.



Earthworks

- **Earthworks** are subject to the following requirements:

Table 4.7 - Coastal Grove Earthworks Requirements		
Geotechnical zone ¹	Maximum cut or fill - property boundary	Maximum cut or fill - elsewhere on site
1	1.2m	No limitation if works contained fully within building envelope
2	1.2m	2.5m if works contained fully within building envelope
3	1.2m	1.5m

¹Geotechnical zones are shown in the *Coastal Grove Assessed Slope Suitability Zoning Plan* attached in Appendix A.



Notes:

Cut and fill parameters mean that **excavation** and/or **filling** on sites with a slope exceeding 15% may, in some circumstances, exceed 1m (on property boundary) and 1.5m (elsewhere on the site). This is subject to the conditions identified above and relevant engineering and geotechnical assessment demonstrating the suitability of the site for the proposed **excavation/ filling** and associated works.

The geotechnical zones are based on analysis undertaken by Coffey Geosciences in relation to the application for the subdivision of the land.

C. Element - Geotechnical and Engineering Assessment

- Applications for development on land within geotechnical zone 3 (see Appendix A - Coastal Grove Assessed Slope Suitability Zoning Plan) must be accompanied by a geotechnical assessment. The assessment is to be prepared by a qualified geotechnical engineer.
- Where a geotechnical assessment is required, applications for development must demonstrate that the findings of the assessment have been considered in relation to the structural design of the proposed development.



Note:

Applicants may be required to have regard for the geotechnical assessment undertaken by Coffey Geosciences in relation to the application for the subdivision of the land.



4.2 Aspects Estate & Elevation Estate, Lennox Head

4.2.1 Application

Applies to:	
Location/s:	Aspects Estate and Elevation Estate (as shown on the Special Area Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation</i> and <i>tourist and visitor accommodation</i> .

4.2.2 Planning Objectives

- a. Provide a high quality residential development to meet the demand for housing within the Lennox Head area; and
- b. Protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and *biodiversity* values; and
- c. Provide for energy efficient housing that is responsive to the environmental characteristics of the site and its surrounds.

4.2.3 Development Controls

A. Element - Cut and Fill (Refer to controls contained in Clause 3.1.3 P – Element – Earthworks and Slope Sensitive Design Controls)

- i. (Deleted Amendment 3 – 16.7.2014)
- ii. (Deleted Amendment 3 – 16.7.2014)

B. Element - Mosquito Controls

- i. Where an outdoor entertaining area is provided in conjunction with a dwelling fronting Hutley Drive (as extended), a proportion of this area (of a size commensurate with the number of people who would want to use it) will be insect screened.

C. Element - Development of Mews Allotments

- i. Housing development on mews allotments must comply with the following:
 - vehicular access is to be from a rear laneway;
 - a minimum 3.0m front *building setback*;
 - a minimum 1.0m setback from laneway;
 - a minimum of 90m² landscaped area;
 - a minimum 2.0m side setback on at least one side;
 - where a zero setback on one side is proposed, satisfactory legal arrangements are made for maintenance, there are no openings in the wall, and the wall is fire rated masonry construction;



- adequate solar access is provided to each *dwelling*; and
- adequate *private open space* is provided for each dwelling (minimum area of 32m², minimum dimension of 3m) with direct connection to indoor living areas.

4.3 Wollongbar Urban Expansion Area

4.3.1 Application

Applies to:	
Location/s:	Wollongbar Urban Expansion Area (as shown on the Special Area Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation</i> and <i>tourist and visitor accommodation</i> .

4.3.2 Planning Objectives

- Provide a high quality residential development to meet the demand for housing within the Wollongbar area;
- Protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and *biodiversity* values; and
- Provide for energy efficient housing that is responsive to the environmental characteristics of the site and its surrounds.

4.3.3 Development Controls

A. Element - Light-weight construction

- Light-weight construction is required for lots where the **building envelope** is identified as having a 'medium' likelihood of slip.



Notes:

Provision (i) is in place to ensure that the risk of landslip does not increase due to the potential for natural drainage to be altered or slopes steepened by excavation or filling, as can be the case with 'slab on ground' construction.

Where construction other than light-weight construction is proposed, a geotechnical assessment and engineering design/report will be required.

B. Element - High likelihood of slip

- No *dwelling*s or other ancillary residential structures are permitted to be constructed on land that is identified as having a 'high' likelihood of slope instability.



Notes:

Provision (ii) responds to the potential for landslip to be significantly exacerbated if the natural drainage is altered or slopes are modified by **earthworks**.

Slope instability zones are based on survey and analysis undertaken by the Department of Mineral Resources and Coffey Partners Pty Ltd. The areas identified as having a medium or high likelihood of slip are shown in the map titled 'Land affected by slip – Wollongbar Urban Expansion Area' and attached in **Appendix D**.

C. Element - Cut and fill (Refer to controls contained in Clause 3.1.3 P – Element – Earthworks and Slope Sensitive Design Controls)

- i. (Deleted Amendment 3 – 16.7.2014)
- ii. (Deleted Amendment 3 – 16.7.2014)

4.4 Camden Lane Area, Ballina

4.4.1 Application

Applies to:	
Location/s:	Camden Lane Area (as shown on the Special Areas Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation</i> and <i>tourist and visitor accommodation</i> .

4.4.2 Planning Objectives

- a. Preserve the amenity of dwelling houses on the allotments subject to this section; and
- b. Minimise adverse impacts on the amenity and environmental attributes of North Creek.

4.4.3 Development Controls

- i. Development must not be located east of the building lines specified in Table 4.8.

Table 4.8 – Camden Lane Area Foreshore Building Lines			
Address	Lot DP	Foreshore Building Line (east of western lot boundary)	
		at northern boundary	at southern boundary
1 Camden Lane	Lot 33 DP 872966	43.0m	
3 Camden Lane	Lot 3 DP 1079380	29.8m	38.7m
5 Camden Lane	Lot 1 DP 1119099	29.8m	



2 Skinner Street	Lot 10 DP 1126929	33.5m
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Note:

The Camden Lane foreshore building line is measured as the distance specified in Table 4.8 shoreward from the western boundary of each site. For Nos. 1 and 5 Camden Lane and No. 2 Skinner Street the foreshore building line is parallel to the western boundary of each site. For No. 3 Camden Lane, the foreshore building line is measured diagonally across the lot between the specified points on the northern and southern boundaries.

4.5 Lennox Head Coastal Hazard Protection Area

4.5.1 Application

Applies to:	
Location/s:	Lennox Head Coastal Hazard Protection Area (as shown on the Special Area Controls Maps - Residential).
Development Type/s:	<i>Residential accommodation</i> and <i>tourist and visitor accommodation</i> .

4.5.2 Planning Objectives

- a. Minimise adverse impacts and hazard risks associated with coastal processes on dwellings and ancillary uses.

4.5.3 Development Controls

- i. Development must comply with the floor levels and building lines specified in the following tables.

Table 4.9 – Ballina Street Foreshore Building Provisions				
Address	Lot DP/SP	Habitable Floor Level	Foreshore Building Line (east of Ballina St boundary)	
			at northern boundary	at southern boundary
77-83 Ballina Street	SP 45001	6.00m AHD	35.91m	40.5m
85 Ballina Street	Lot 6 Section 1 DP 11687	6.00m AHD	34.7m	35.91m
87 Ballina Street	Lot 5 Section 1 DP 11687	6.00m AHD	33.5m	34.7m



Table 4.10 – Rayner Lane Foreshore Building Provisions				
Address	Lot DP/SP	Habitable Floor Level	Foreshore Building Line (east of Rayner Lane boundary)	
			at northern boundary	at southern boundary
2 Rayner Lane	SP 84004	500mm above centreline of Rayner Lane	41.95m	43.47m
3 Rayner Lane	Lot 43 Section 1 DP 11687		40.43m	41.95m
4 Rayner Lane	Lot 42 Section 1 DP 11687		38.90m	40.43m
5 Rayner Lane	Lot 41 Section 1 DP 11687		37.38m	38.90m
6 Rayner Lane	Lot 40 Section 1 DP 11687		35.85m	37.38m
7 Rayner Lane	Lot 39 Section 1 DP 11687		34.33m	35.85m
8 Rayner Lane	Lot 38 Section 1 DP 11687	500mm above centreline of Rayner Lane	32.18m	34.33m
9 Rayner Lane	SP 74190		31.28m	32.18m
10 Rayner Lane	SP 60473		29.76m	31.28m
11 Rayner Lane	SP 67477		28.13m	29.76m
12 Rayner Lane	SP 66590	6.0m AHD	26.50m	28.13m
13 Rayner Lane	Lot 33 Section 1 DP 11687		24.89m	26.50m
14 Rayner Lane	Lot 32 Section 1 DP 11687		23.25m	24.89m
15 Rayner Lane	Lot 31 Section 1 DP 11687		21.63m	23.25m
16 Rayner Lane	Lot 30 Section 1 DP 11687		20.00m	21.63m
10A Rutherford Street	Lot 45 Section 1 DP 11687	500mm above centreline of Rayner Lane	43.47m	45.00m

Table 4.11 – Rutherford Street Building Provisions		
Address	Lot DP/SP	Habitable Floor Level (AHD)
10 Rutherford Street	Lot 10 DP 20330	3.40m
10A Rutherford Street	Lot 45 Section 1 DP 11687	(see Table 4.10)
11 Rutherford Street	Lot 11 DP 20330	3.40m



Table 4.12 – Allens Parade Area (Reserve Frontage) Building Provisions			
Address	Lot DP/SP	Habitable Floor Level (AHD)	Foreshore Building Line (from eastern lot boundary)
5-7 Tresise Place	SP 33397, SP 36179	3.40m	5.0m
4 Tresise Place	Lot 7 DP 255308	3.40m	5.0m
3 Tresise Place	Lot 8 DP 255308	3.40m	5.0m
10 Allens Parade	Lot 88 DP 29654	3.40m	5.0m
12 Allens Parade	Lot 86 DP 29654	3.40m	5.0m
18 Allens Parade	SP 33295, SP 66541	3.40m	5.0m
26 Allens Parade	Lot 80 DP 29654	3.40m	5.0m
28 Allens Parade	Lot 78 DP 29654	3.40m	5.0m
34 Allens Parade	Lot 76 DP 29654	3.40m	5.0m
36 Allens Parade	SP 75998	3.40m	5.0m
42 Allens Parade	Lot 72 DP 29654	3.40m	5.0m
48 Allens Parade	SP 70447	3.40m	5.0m

Table 4.13 – Allens Parade Area (Seawall Frontage) Building Provisions				
Address	Lot DP/SP	Habitable Floor Level (AHD)	Foreshore Building Line (from eastern lot extremity)	
			at northern boundary	at southern boundary
52 Allens Parade	Lot 2 DP 1004752	5.25m	5.7m	10.3m
56 Allens Parade	Lot 65 DP 29654	5.25m	10.3m	10.3m
58 Allens Parade	Lot 63 DP 29654	5.25m	10.3m	10.3m
64 Allens Parade	Lot 61 DP 29654	5.25m	10.3m	10.3m
44 Dress Circle Drive	Lot 58 DP 29654	5.25m	10.3m	7.0m



46 Dress Circle Drive	Lot 57 DP 29654	5.25m	7.0m	N/A
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Note:

Where compliance with the minimum floor level requirement for buildings in Rayner Lane results in encroachment beyond the maximum building height specified in the LEP, Council may consider a variation to the building height standard under clause 4.6 of the LEP where the building would have otherwise met the building height standard in the absence of the minimum floor level requirement.

4.6 16 Tara Downs, Lennox Head

4.6.1 Application

Applies to:	
Location/s:	16 Tara Downs Lennox Head (as shown on the Special Area Controls Map – Residential - Sheet _SR_003_020).
Development Type/s:	<i>Residential accommodation</i> and Subdivision.

4.6.2 Planning Objectives

- a. Provide for vegetation buffers to significant vegetation located on this site;
- b. Provide for bushfire asset protection zones;
- c. Provide for the location of indicative building envelopes for dwellings impacted by vegetation buffers and bushfire asset protection zones.

4.6.3 Development Controls

A. Element - Retention of Native Vegetation

- i. Buffers must be established to protect certain native trees located on this site. Such buffers must extend a minimum distance of 12 metres from the trunk of native trees contained within nominated tree clusters as shown in **Appendix B**. All lots containing or adjacent to such trees must be designed to incorporate indicative building envelopes as required by Element C.
- ii. All building work, including the installation of swimming pools, must be undertaken outside the vegetation buffer areas.
- iii. Vegetation buffer areas are required to be located generally as indicated in **Appendix B**.



Note:

Vegetation buffer areas may be incorporated into site landscape areas.

B. Element - Bushfire Asset Protection Zones and Site Access Arrangements

- i. Bushfire asset protection zones are required to be provided in locations generally as indicated in **Appendix B**. Final design of bushfire asset protection zones is to achieve separation distances consistent with BAL 29 under AS 3959.



Notes:

- 1 Site access arrangements are to address the requirements of *Planning for Bushfire Protection*.
- 2 Subdivision of this site is subject to further assessment in accordance with Section 100B of the *Rural Fires Act 1997*. Final location of bushfire asset protection zones and site access arrangements will be determined by the Rural Fire Service following such assessment.

C. Element - Building Envelopes

- i. Development must be consistent with the indicative building envelopes, shown in **Appendix B**, relating to the vegetation buffers and bushfire asset protection zones referred to in Elements A and B.



Note:

Final location of buffers and building envelopes to be determined by survey.

4.7 Blue Seas Parade Estate, Lennox Head

4.7.1 Application

Applies to:	
Location/s:	Blue Seas Parade Estate (as shown on the Special Area Controls Map – Residential - Sheet _SR_003_020).
Development Type/s:	<i>Residential accommodation.</i>

4.7.2 Planning Objectives

- a. To provide high quality residential development to meet the demand for housing within the Lennox Head area;
- b. To protect the inherent environmental qualities of the site and its surrounds including visual character, landscape setting and riparian vegetation values; and
- c. To provide services and facilities to meet the needs of the future residents of the site.



4.7.3 Development Controls

A. Element - Rear Building Setbacks for lots subject to 1200m² minimum lot size requirement (Ballina LEP 2012)

The following rear (eastern) boundary building setbacks are applicable:

Table 4.7a – Blue Seas Parade Estate Rear Building Setbacks	
Development Type	Setback
Dwellings and attached carports, garages, balconies, decks, patios, pergolas, terraces and verandahs that are also attached to the dwelling house and which have a height up to 4.5 metres.	5 metre minimum rear building setback and clear of any Right of Carriageway (ROW).
Dwellings and attached carports, garages, balconies, decks, patios, pergolas, terraces and verandahs that are also attached to the dwelling house and which have a height greater than 4.5metres.	12 metre minimum rear building setback and clear of any ROW.
Outbuildings not attached to dwellings with a height up to 3.8 metres.	1.5 metre minimum rear building setback and clear of any ROW.
Outbuildings not attached to dwellings with a height greater than 3.8 metres.	1.5 metre minimum rear building setback plus one quarter of the height of the building above 3.8 metres and clear of any ROW.



Notes:

- 1 No part of any building may encroach on a ROW.
- 2 The width of any ROW may be included in the minimum setback distance.
- 3 The building height plane provisions contained in Part 3 of this chapter also apply to residential development in the Blue Seas Parade Estate.

B. Element - Slope Sensitive Design

Dwellings and associated development on residential lots with a slope greater than 15% are required to conform to the following requirements:

i. Driveways

- Driveways are not to exceed a maximum gradient of 1:6 unless it can be demonstrated to the satisfaction of the consent authority that no reasonable alternative to this solution is possible. In such cases driveways are not to exceed a maximum gradient of 1:4.
- Applications are to include a long section drawing of proposed driveway access that has been prepared by an appropriately qualified person based on site survey information.



- The preferred access point to proposed lots is from a ROW located parallel to the rear eastern boundary.

ii. Earthworks

- **Earthworks** are subject to the following requirements:

Table 4.7b – Blue Seas Parade Estate Earthworks Requirements		
Slope Instability Hazard Zones ¹	Maximum cut or fill - property boundary	Maximum cut or fill - elsewhere on site
1	1.2m	No limitation if works contained fully within building envelope
2	1.2m	2.5m if works contained fully within building envelope
3	1.2m	1.5m

¹ Slope Instability Hazard Zones are shown in the *Blue Seas Parade Assessed Slope Suitability Zoning Plan* attached in Appendix C



Notes:

Cut and fill parameters mean that **excavation** and/or **filling** on sites with a slope exceeding 15% may, in some circumstances, exceed 1m (on the property boundary) and 1.5m (elsewhere on the site). This is subject to the conditions identified above and relevant engineering and geotechnical assessment demonstrating the suitability of the site for the proposed **excavation/ filling** and associated works.

The slope instability hazard zones are based on analysis undertaken by Coffey Geotechnics in the report: *Preliminary Geotechnical Investigation: Lot 2 DP 587685*, dated 6 June 2008.

C. Element - Geotechnical and Engineering Assessment

- Applications for development on land within Slope Instability Hazard Zone 3 (see Appendix C – Blue Seas Parade Estate Assessed Slope Suitability Zoning Plan) must be accompanied by a geotechnical assessment. The assessment is to be prepared by a qualified geotechnical engineer.
- Where a geotechnical assessment is required applications for development must demonstrate that the findings of the assessment have been considered in relation to the structural design of the proposed development.

D. Element - Aesthetic Considerations

- Residential Accommodation must be designed such that buildings address the Blue Seas Parade frontage even if vehicle access is from a Right of Carriageway (ROW) on the eastern edge of the land.
- All underfloor areas between external walls and ground level shall be screened.



4.8 23 Compton Drive, East Ballina

4.8.1 Application

Applies to:	
Location/s:	23 Compton Drive, East Ballina (as shown on the Special Area Controls Map – Residential - Sheet _SR_006_020).
Development Type/s:	<i>Residential accommodation.</i>

4.8.2 Planning Objectives

- To ensure that site hazards are considered as part of the development application process;
- To ensure compliance with Planning for Bushfire Protection (2019);
- To delineate the extent of the site subject to a requirement for a Vegetation Management Plan (VMP);
- To delineate the location of the building envelope for a dwelling house;
- To ensure that residential development on the site does not significantly impact the environmental qualities associated with the site and does not adversely compromise the visual character of this escarpment location.

4.8.3 Development Controls

A. Element - Geotechnical and Engineering Assessment

- Applications for development on the site must be accompanied by a geotechnical assessment. The assessment is to be prepared by a qualified geotechnical engineer.
- Applications for development must demonstrate that the findings of the assessment have been considered in relation to the structural design of the proposed development.



Note:

Previously prepared geotechnical assessments for the site and submitted as part of the site rezoning process are available for viewing from council. Reference CM19/77074 should be quoted when seeking access to these documents.

B. Element - Bushfire Asset Protection Zone

- A 4 metre wide bushfire Asset Protection Zone (APZ) is required in the location indicated in Appendix E. The APZ shall be capable of being managed as an inner protection area, as per the requirements detailed in Planning for Bushfire Protection (2019).



- ii. Future residential accommodation on the site shall be constructed to a minimum Bushfire Attack Level (BAL) 29 as per the requirements detailed in Planning for Bushfire Protection (2019).



Note:

Future development assessment is subject to assumed consultation under S4.14 of the Environmental Planning and Assessment Act 1979. It shall be supported with certification from a suitable qualified consultant that the development proposed complies with the requirement listed in Element B and Planning for Bushfire Protection 2019.

C. Element – Building Envelope

- i. The area within Lot 3 DP 525783 (Lot 3) able to be built upon is restricted to that area indicated as the building envelope area in Appendix E.
- ii. No part of Lot 1 DP 781542 is incorporated within the building envelope area.

D. Element – Ecological Considerations

- i. The compensatory planting ratio required for the site is a minimum of 10:1. This ratio has been set having regard to the EEC vegetation required to be removed to enable the APZ, referenced in Element B, to be provided.
- ii. Development applications for residential accommodation on the site shall be accompanied by an ecological assessment report prepared by an appropriately qualified and experienced professional. The report shall contain details of the type and quantity of vegetation impacted by the development as well the area occupied by such vegetation. The calculation of area is also to incorporate tree canopy impacts as a consequence of the APZ requirements contained in Element B.
- iii. Tests of Significance under s7.3 of the Biodiversity Conservation Act 2016 are to be prepared, and incorporated within the ecological assessment report, for all impacted EECs and threatened species.
- iv. A Vegetation Management Plan (VMP) is required to be submitted with the development application. The VMP is to be prepared in respect to those areas required as offsets for EEC vegetation impacted by the development.
- v. The required compensatory planting area to offset the impact on EEC vegetation shall include that part of the site indicated within Appendix E as the area subject to the Vegetation Management Plan. If this area is insufficient then additional areas in close proximity to the site shall be incorporated as determined by council.



E. Element – Additional Development Controls

- i. Building Height is limited to 6 metres as shown on the Ballina LEP 2012 Building Height Map. One residential storey above excavated car parking and storage is permitted within the building envelope area.
- ii. The building line setback to Compton Drive is 0 metres.
- iii. Waste management and demolition requirements are specified in Ballina Development Control Plan 2012 – Chapter 2 – Section 3.7 Waste Management. The following additional requirements also apply:
 - The footpath adjacent to Lot 3 is to be restored to council's satisfaction following demolition of building works.
 - Restoration to include a 2.5% cross fall, topsoil and turfing for pedestrian accessible sections of the footpath.
- iv. Remediation of contaminated land on Lot 3 is to be carried out to a standard for the land to be used for residential development. Remediation is to be carried out in accordance with applicable environmental standards as well as Council's Policy for the Management of Contaminated Land and Asbestos Management Policy.

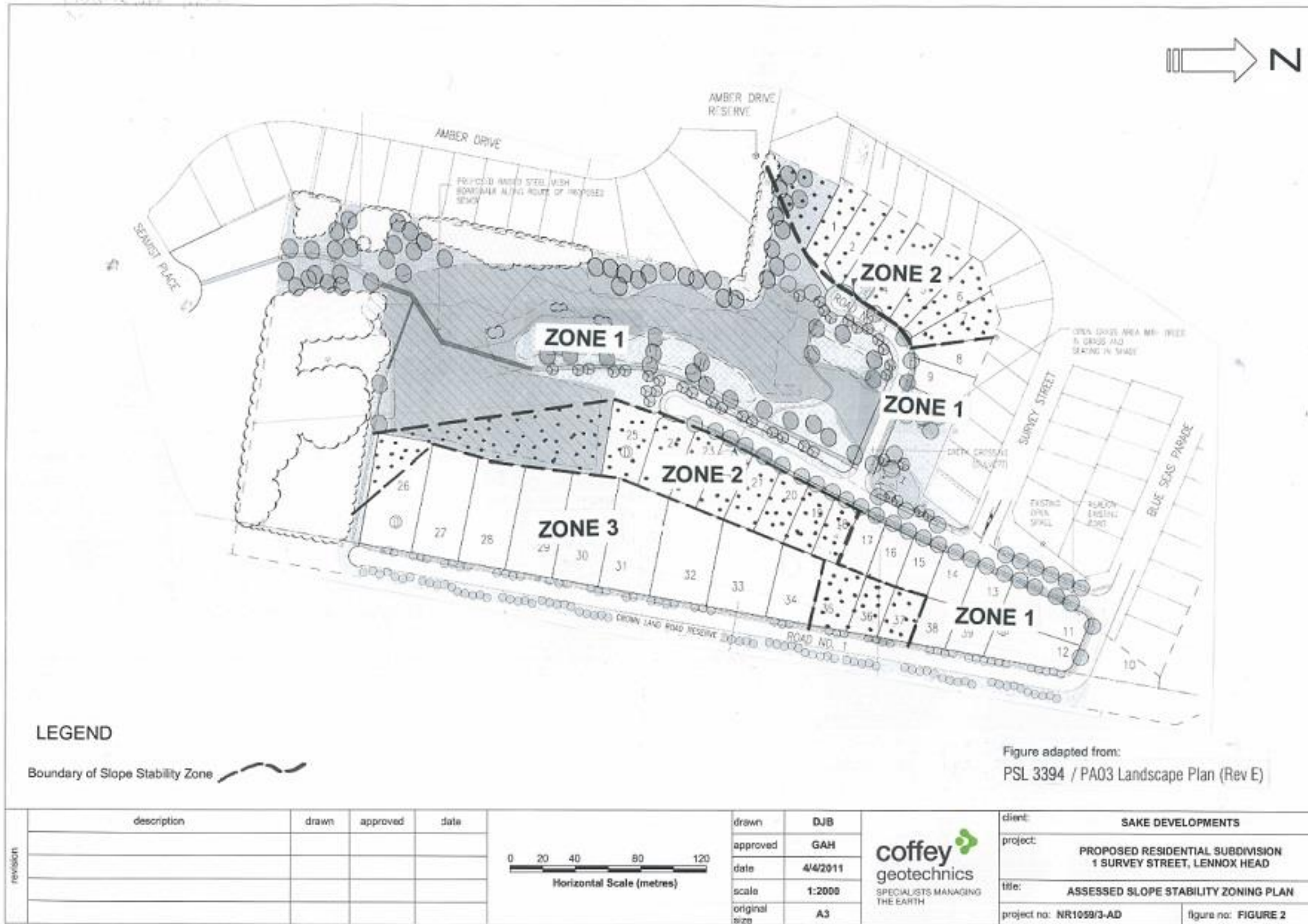


Notes:

1. Lot 3 is contaminated land listed in council's Contaminated Land Register. Asbestos (chrysotile) is present on Lot 3 and is understood to be associated with the existing building on this lot.
2. Restrictions as to user under the provisions of s88B of the Conveyancing Act 1919 have been registered on the title of Lot 3 DP 525783 (see DP 1271115). The restrictions relate to the following matters:
 - Area subject to Vegetation Management Plan;
 - Area designated as an Asset Protection Zone;
 - Area designated as a Building Envelope; and
 - Single residential storey building requirement above car parking.

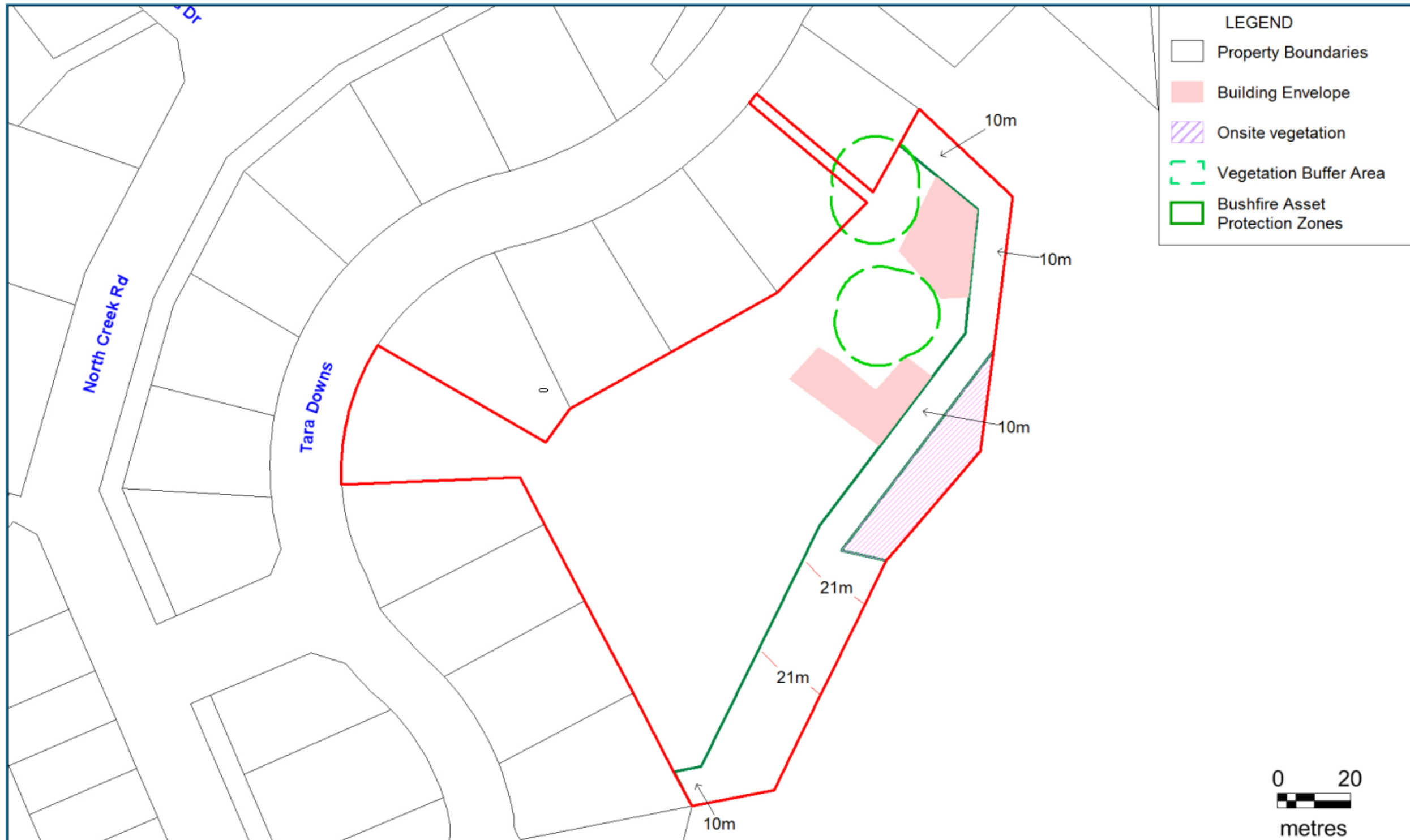


Appendix A – Coastal Grove Assessed Slope Suitability Zoning Plan





Appendix B – 16 Tara Downs Constraints Plan



Appendix B - 16 Tara Downs Constrains Plan -
 Vegetation Buffers; Bushfire Asset Protection Zones and Building Envelopes

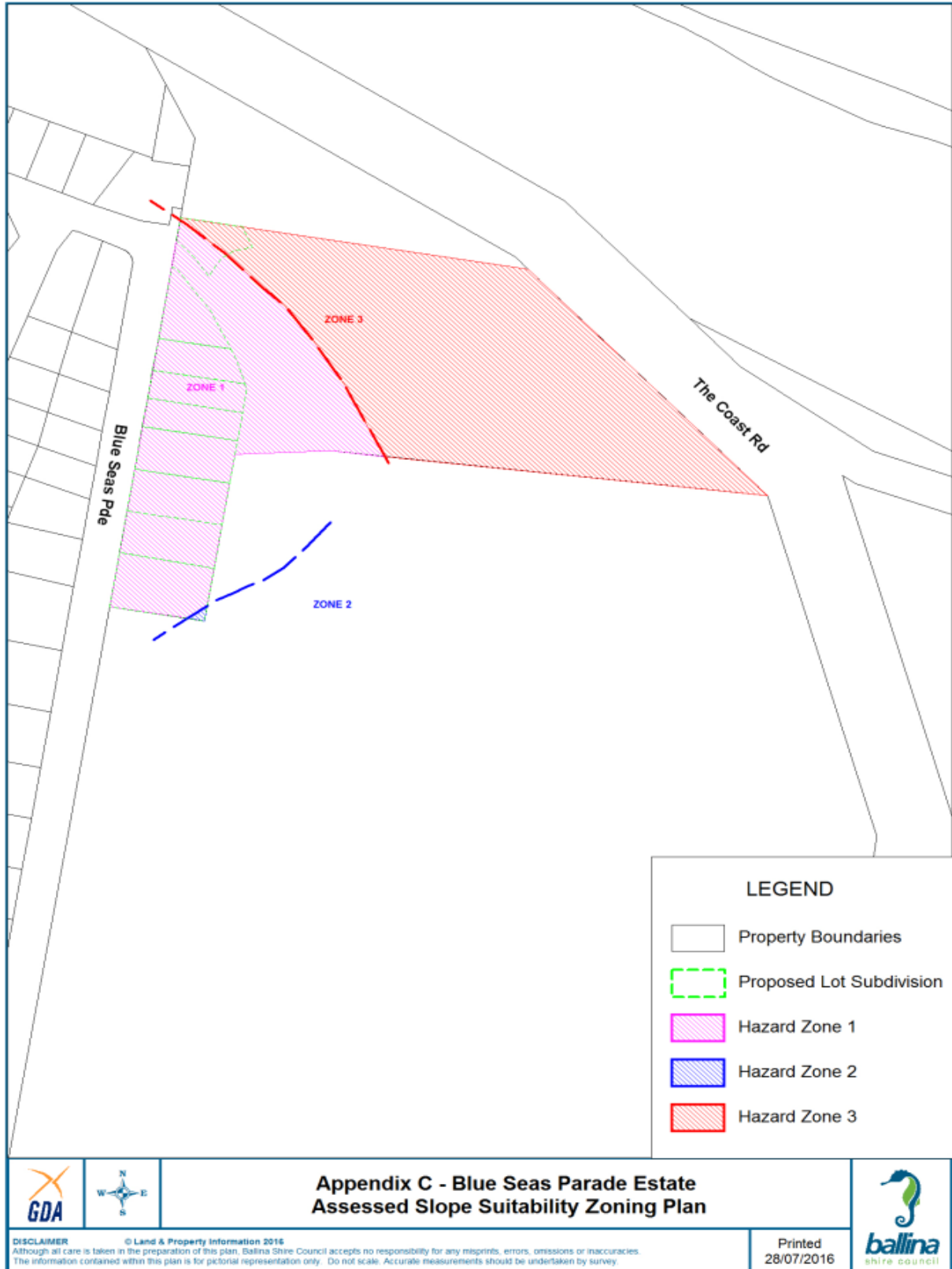
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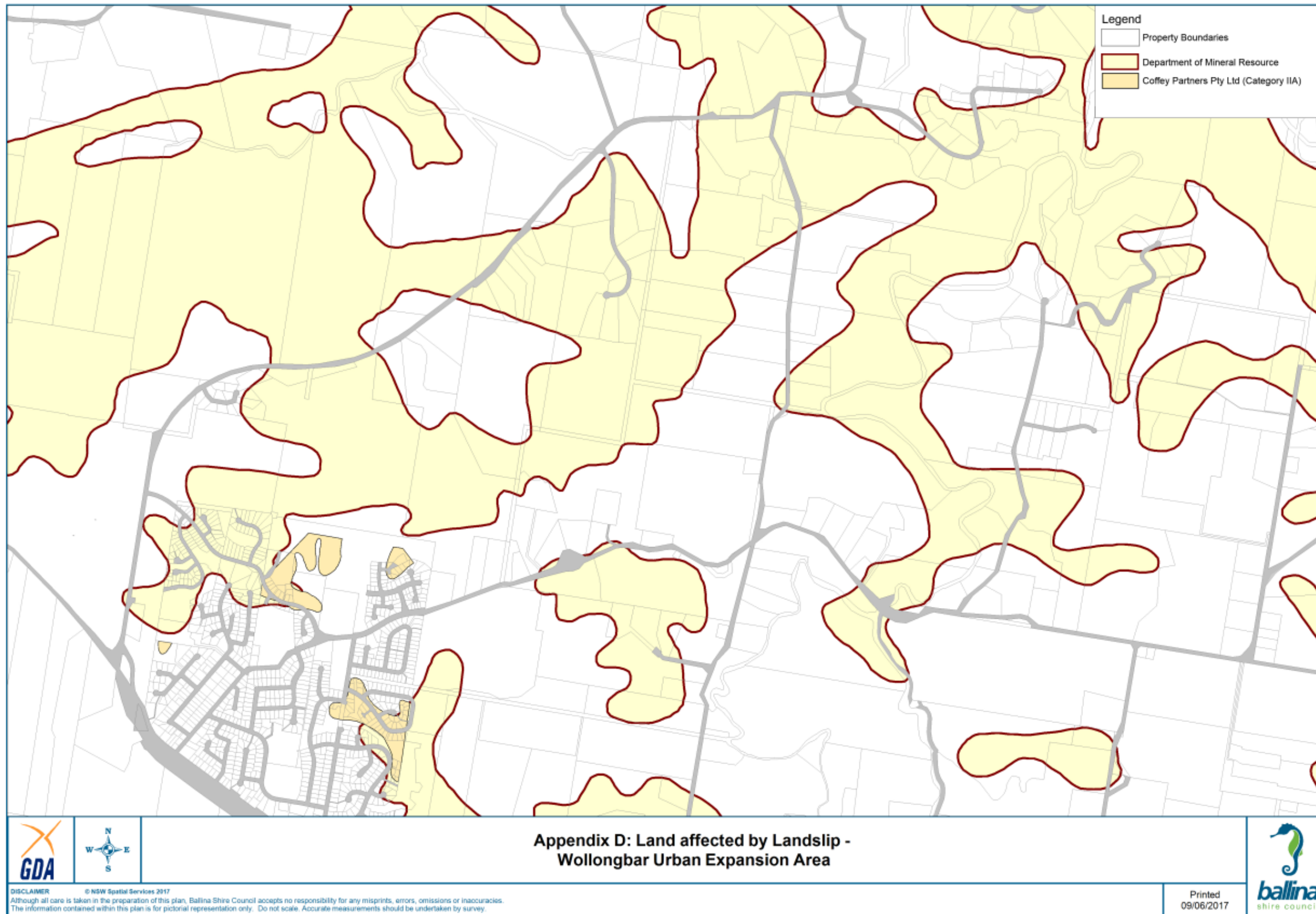


Appendix C – Blue Seas Parade Estate Slope Hazard Plan





Appendix D – Land affected by Landslip – Wollongbar Urban Expansion Area





Appendix E – 23 Compton Drive, East Ballina – Plan showing building envelope and S88B restriction areas

