

Ballina Shire Development Control Plan 2012

Chapter 7 – Rural Living and Activity

7





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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

Applies to:	
Location/s:	Zones RU1, RU2, E2, E3, 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.



Note:

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 ~~but are attached by walkway or similar structure~~).

i. Expanded **dwellings** must comply with the following criteria:

- All minor buildings must be within 10 metres of the main building ~~and are to be attached by way of a covered walkway, deck or the like~~ 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 ~~only~~ 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 facilities (eg. kitchen, sink or the like) that would enable the preparation of food or beverages;
- 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, car parking area, garage or carport structure is to be provided to service any outbuilding.

F. Dual Occupancies

Dual occupancies involve two **dwellings** on a single allotment of land. These may range in form from a typical "granny-flat" arrangement to two more substantial **dwellings**.

~~i. **Dual occupancies** 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 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:

Separation between **dual occupancy 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).

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.

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*.

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 for firefighting purposes may be required. Refer to *Planning for Bushfire Protection 2006* for tank and water supply requirements.

3.2 Rural Subdivision

3.2.1 Application

Applies to:	
Location/s:	Zones RU1, RU2, E2, E3, 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

Applies to:	
Location/s:	Zones RU1, RU2, E2, E3, 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 3.1 (unless it can be demonstrated that a dispersed arrangement provides for a more efficient use of the



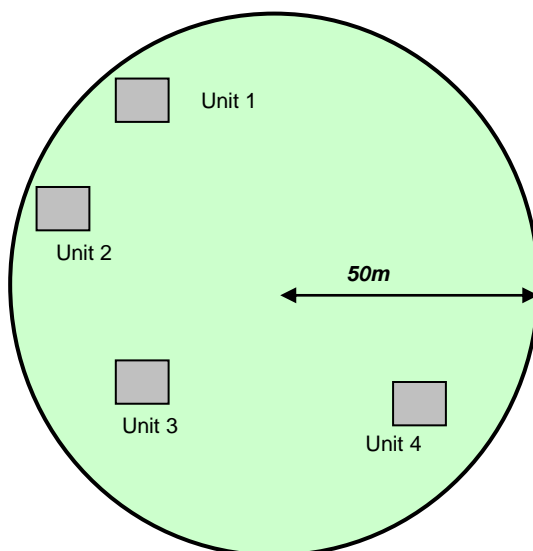


site and does not adversely impact on the use of productive agricultural land or the environmental characteristics of the land, both on site and off site);

- 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 75m² 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 Rural Industry

3.4.1 Application

Applies to:	
Location/s:	Zones RU1, RU2, E2, E3, W1 and W2.
Development Type/s:	<i>Rural Industry.</i>

3.4.2 Planning Objectives

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

3.4.3 Development Controls

- 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
- 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.

3.5 Roadside Stalls

3.5.1 Application

Applies to:	
Location/s:	Zones RU1, RU2, E2, E3, W1 and W2.
Development Type/s:	<i>Roadside stalls</i>

3.5.2 Planning Objectives

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

3.5.3 Development Controls

- 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;
- 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**.

3.6 Mining and Extractive Industry

3.6.1 Application

Applies to:	
Location/s:	Zones RU1, RU2, E2, E3, W1 and W2.
Development Type/s:	Mining and extractive industry

3.6.2 Planning Objectives

- Ensure that development in any area of potential landslip or highly reactive soils has proper regard to factors affecting land stability;
- 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;
- Ensure that development does not adversely impact on areas of high conservation value; and
- Ensure that development is designed to minimise risks associated with geotechnical hazards.

3.6.3 Development Controls

- 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.

3.7 Building Lines and Setbacks

3.7.1 Application

Applies to:	
Location/s:	Zones RU1, RU2, E2, E3, W1 and W2.
Development Type/s:	All development.

3.7.2 Planning Objectives

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

3.7.3 Development Controls

- i. 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. 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). 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 **dwelling**s 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.

3.8 Roads, Vehicular Access and Parking

3.8.1 Application

Applies to:	
Location/s:	Zones RU1, RU2, E1, E2, E3, 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.

3.8.2 Planning Objectives

- Provide adequate on site car parking for all types of rural development;
- 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;
- Ensure access to the site has the capacity to cope with likely traffic loads including heavy vehicles;
- 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
- Minimise disturbance to landform.

3.8.3 Development Controls

- Where a proposed development has the potential to generate significant additional traffic and require substantial car parking, a traffic study will be required;
- External vehicular access must:
 - not compromise the safety and efficiency of the road network;
 - be suitable for use by emergency service vehicles;





- 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);*
- *Restaurants or cafes;*
- *Intensive livestock agriculture;*
- *Aquaculture;*
- *Rural industries;*
- *Mining and extractive industries;*
- *Passenger transport facilities;* and
- *Vehicle repair stations.*

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%;
- not exceed a grade of 25%; and

- 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;



Note:

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 dwellings, 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.

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 Patchs 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 E2 – 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;
 - 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. Applications are to include details with respect 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;
 - No gate to the fenced enclosure shall be propped open or otherwise kept open other than for the purpose of passing through; and
- 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.

