

9.4 Development Control Plan 2012 - Draft Amendment

Delivery Program Strategic Planning

Objective To advise the Council in relation to a periodic review of the Ballina Shire Development Control Plan 2012 and to seek direction in relation to the public exhibition of proposed amendments.

Background

At its Ordinary Meeting held on 20 December 2012, the Council resolved to adopt the Ballina Shire Development Control Plan 2012 (DCP) [Minute No. 201212/13]. The DCP commenced operation in conjunction with the *Ballina Local Environmental Plan 2012* (LEP) on 4 February 2013.

Since the initial adoption of the DCP a number of amendments have been endorsed by the Council including five general amendments resulting from periodic review processes. The most recent changes occurred through Amendment No.10 which was adopted by the Council at its Ordinary Meeting held on 23 February 2017.

Review of the DCP is an iterative process undertaken periodically as resources permit, and identified issues are researched and addressed through this review process. This ensures that the DCP is able to remain a contemporary and evolving document which is responsive to development issues and changing Council policy.

Proposed amendments addressed within this report include:

- Removal of the third storey/loft provisions contained within Chapter 4 – Residential and Tourist Development;
- Removal of the 300mm high minimum underfloor clearance height for buildings in coastal hazard areas contained within Chapter 2 – General and Environmental Considerations;
- Amendment of provisions in Chapter 5 – Industrial Development relating to the materials permitted for use on the exterior of industrial buildings; and
- Inclusion of a provision within Part 3.2.3 of Chapter 3 – Urban Subdivision relating to local parks which specifies a requirement for shade cover over play equipment.

The following provides an outline of recommended amendments to the DCP and invites the Council to consider presenting these changes through a community consultation process to elicit feedback.

Key Issues

- Review of applicable development controls/guidelines.
- Public exhibition of Draft Amendment No.11 to the Ballina Shire Development Control Plan 2012.

Information

Details of proposed amendments suggested for inclusion in Draft Amendment No.11 are contained within Attachment One to this report. Key proposed amendments are discussed below.

Chapter 4 – Residential and Tourist Development – Clause 3.1.3 Element C – Building Envelopes – Control (iv)

At its Ordinary Meeting held on 26 June 2014, the Council resolved to adopt changes to the DCP to limit the third storey of dwellings to a loft. Recently, concerns have been raised by at least one building design consultant and by Council's Building Services Team that the loft provisions are ambiguous and need clarification to explain the intent of the control.

A Councillor briefing was held on 16 May 2017 to inform Councillors of existing provisions regarding building height and form and to revisit the merits of placing limits on the design of a third storey. It is noted that, generally speaking, few sites are capable of easily accommodating a third residential storey having regard for the applicable 8.5 metre overall height provision (which typically applies to land within the shire zoned for residential purposes), as well as other building and development standards applied under the LEP and DCP. A third storey is sometimes able to be achieved on sloping sites and then typically for only part of the building footprint. The high construction costs associated with third storey construction also forms an additional barrier, limiting their more widespread incorporation into building designs at present.

Having regard for the nature and scope of existing provisions, including the 8.5 metre building height control, building envelope and floor space ratio restrictions, it is considered that these are presently adequate to manage building height, form and bulk concerns without the need for additional provisions, such as those relating to lofts. Therefore the current loft provisions are proposed to be removed from the DCP.

Public exhibition of this proposed change would provide an opportunity for our local building design professionals and interested community members to consider the matter and make submissions for the Council's further consideration.

Chapter 2 – General and Environmental Considerations – Clause 3.14 Coastal Hazards

These provisions apply exclusively to the foreshore residential properties in the vicinity of the southern section of Seven Mile Beach in Lennox Head. The building standards were introduced during the 1990s as part of a range of risk mitigation measures associated with potential impacts to properties arising from coastal processes.

The requirement for a minimum clearance of 300mm between the floor of a dwelling and ground level is considered by Council's Building Services Team to be too limiting as it does not take into consideration contemporary building practices and alternative engineering solutions that may otherwise be quite suitable to achieve the design outcome. The principal protection measures to address the identified risks are considered to be the minimum floor level and associated piling of the structure to a suitable depth.

In addition to the above measures, and to ensure the design of buildings can withstand potential ocean inundation, building design will be required to be prepared and certified by an appropriately qualified engineer experienced in the design of buildings in coastal hazard areas. The design must allow for potential inundation to dissipate across the lot without undermining the building or impacting on adjoining properties.

The proposed DCP amendment in Attachment One has been prepared to reflect the above.

Chapter 5 – Industrial Development – Clause 3.1.3 Element A – Building Design Requirements

At its Ordinary Meeting held on 27 April 2017, the Council approved a development application relating to the construction of 30 mini storage sheds and ancillary cleaner's shed in the Russellton Industrial Estate, Alstonville (DA 2016/752). The application included a variation to the DCP controls to permit the use of texture-coated blue board wall cladding to the Russellton Drive elevation and around the reveals of the storage shed roller doors fronting Northcott Crescent.

At this meeting the Council also resolved to support a variation to the DCP to allow the use of texture-coated blue board as well as masonry construction for the exterior walls of industrial buildings facing a road frontage. This change has been incorporated into the amendments proposed in Attachment One.

Chapter 3 – Urban Subdivision – Part 3.2.3 Major Subdivision Control Elements

At its Ordinary Meeting held on 23 March 2017, the Council resolved to amend its playground policy to require all new playground installations to include a shade structure where there is no adequate overhead shade provided by trees. The Council also resolved to consider retrofitting shade structures to existing playgrounds.

The intent of the DCP amendment as set out in Attachment One is to provide consistency with the Council resolution and the existing park provisions contained within Chapter 3 which require shade cover to be provided over play equipment in certain locations.

Sustainability Considerations

- **Environment**

The DCP establishes local planning policy in relation to a variety of environmental, social and economic considerations. Specifically, it establishes direction for development outcomes within the shire. As such, the DCP provides an opportunity for Council to address a wide range of sustainability considerations in relation to development. The implementation of the draft amendments to the DCP will improve the application of these sustainability considerations.

- **Social**

As above.

- **Economic**
As above.

Legal / Resource / Financial Implications

The preparation of Draft Amendment No.11 to the Ballina Shire Development Control Plan 2012 will be undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and its associated Regulation. The amendment can be completed within existing available staff and financial resources.

Consultation

A number of the proposed amendments have resulted from direct feedback from both internal and external sources following the commencement and operation of the DCP, whilst others are as a result of an adopted resolution of the Council. Local planning and engineering consultancy firms were invited to provide feedback and various suggestions have been received and considered as part of the current review.

If the public exhibition of Draft Amendment No.11 to the DCP is endorsed by the Council, a public exhibition over a period of at least 28 days duration will be undertaken in accordance with the requirements of the EP&A Act and associated Regulation.

Options

1. Endorse Draft Amendment No.11 to the Ballina Shire Development Control Plan 2012 for public exhibition.

This approach would involve the public exhibition of the draft amendments to the DCP, either generally as presented in this report to the Council or with any amendment(s) as specified by the Council.

Following public exhibition of the amendments to the DCP, a report on submissions received would be presented to the Council to provide a further opportunity for the Council to consider the amendments prior to their finalisation and adoption.

This approach is recommended as it will enable further consideration of the proposed amendments that seek to improve the function, interpretation and operation of the DCP.

2. Cease preparation of Draft Amendment No.11 to the Ballina Shire Development Control Plan 2012.

It is open to the Council to cease further progress on Draft Amendment No.11 to the DCP. This option is not recommended as there are substantial advantages in proceeding with the amendments to ensure the optimal function and operation of the DCP in relation to development outcomes for the shire. Some of the amendments also seek to implement Council resolutions in relation to DCP based policy.

3. Defer the endorsement of Draft Amendment No.11 to the Ballina Shire Development Control Plan 2012 and hold a Councillor briefing to enable

Councillors to review the components of Draft Amendment No.11 in greater detail.

This approach is not recommended prior to the public exhibition of Draft Amendment No.11 as a number of the proposed amendments have already been considered by Councillors at briefings or as a consequence of considering development proposals. To a lesser degree there is also an imperative to address the identified issues promptly to ensure the optimal function and operation of the DCP.

However, if a further Councillor briefing is seen as being desirable, it is suggested that this be scheduled during, or at the conclusion of, the public exhibition period of Draft Amendment No.11.

RECOMMENDATIONS

1. That Council proceed to undertake the public exhibition of Draft Amendment No.11 to the Ballina Shire Development Control Plan 2012 (as contained in Attachment One), in accordance with the terms of the *Environmental Planning and Assessment Act* and the associated Regulation.
2. That a further report be submitted to the Council following the public exhibition of Draft Amendment No.11 to the Ballina Shire Development Control Plan 2012.

Attachment(s)

1. Ballina DCP 2012 Draft Amendment No. 11 - Schedule of Proposed Amendments