

» rural area detached dual occupancy development



May 2018

» Background

In 2017 Council resolved to amend the Ballina Local Environmental Plan (LEP) 2012 to permit with consent detached dual occupancy development (in addition to the currently permitted attached dual occupancy development) on land within the RU1 Primary Production and RU2 Rural Landscape zones under the provisions of the Ballina LEP 2012.

This information sheet provides information that you may find useful if you are considering building a detached dual occupancy development in the RU1 or RU2 zones.

» What is a detached dual occupancy?

Dual occupancies are a type of residential accommodation that involves the construction of two dwellings on a single allotment of land.

Dual occupancies (detached) must comply with the following criteria. The second dwelling must:

- be on the same legal title as the first dwelling;
- be able to be accommodated on the land having regard to on-site disposal and management of sewage waste;
- be able to be accommodated on the land having regard to the land's physical characteristics and constraints;
- have the same road access as the first dwelling; and
- be located so that it minimises conflict with adjoining land uses.

» In what rural zones can a detached dual occupancy not be built?

Detached dual occupancy development is not permissible on land that is designated as a Deferred Matter under the Ballina LEP 2012 and is therefore subject to the provisions of the Ballina LEP 1987. Only **attached** dual occupancy development is permissible on land that is designated as a Deferred Matter.

If your property has dual zones (ie. it is zoned under the Ballina LEP 1987 and the Ballina LEP 2012), you will need to contact Council's Development and Environmental Health Group for advice on whether detached dual occupancy development is permitted.

Zones Within Deferred Matter Areas Ballina LEP 1987

1(a1)	Rural (Plateau Lands Agriculture) Zone
1(a2)	Rural (Coastal Lands Agriculture) Zone
1(b)	Rural (Secondary Agricultural Land) Zone
1(d)	Rural (Urban Investigation) Zone
1(e)	Rural (Extractive and Mineral Resources) Zone
2(a)	Living Area Zone
2(b)	Village Area Zone
2(t)	Tourist Area Zone
7(a)	Environmental Protection (Wetlands) Zone
7(c)	Environmental Protection (Water Catchment) Zone
7(d)	Environmental Protection (Scenic/Escarpment) Zone
7(d1)	Environmental Protection (Newrybar Scenic/Escarpment) Zone
7(f)	Environmental Protection (Coastal Lands) Zone
7(i)	Environmental Protection (Urban Buffer) Zone
7(l)	Environmental Protection (Habitat) Zone

» Do I need approval to build a detached dual occupancy?

Yes. You will need to lodge a development application and supporting information including but not limited to the following:

- Statement of Environmental Effects;
- Architectural plans drawn to scale, including site plan, floor plan, elevations and sections;
- On-Site Sewage Management Report;
- Bushfire Assessment Report (if applicable); and
- Preliminary contaminated land assessment report (may be required).

Council staff will assess your application. If your application is approved, you will need to obtain a construction certificate prior to commencing any building work.

SEE OVER...

»» What things do I need to consider if I am thinking of building a detached dual occupancy?

Development applications for detached rural dual occupancy development will need to address the following considerations.

Land Use Conflict (*Ballina DCP 2012, Chapter 2*)

Potential land use conflicts between your proposed development and existing development on adjoining properties should be considered prior to lodging a development application. It may be necessary to undertake a land use conflict risk assessment (LUCRA) to help identify any likely land use conflict issues so that these might be avoided or minimised.

One way of minimising any potential land use conflicts is to provide a buffer (physical separation) between your proposed development and any existing agricultural uses on adjoining land. Further information regarding the LUCRA process including a summary of recommended minimum buffers for primary industries is provided in the NSW Department of Primary Industries handbook [Living and Working in Rural Areas](#) (2007).

On-Site Sewage Management System (*Ballina DCP 2012, Chapter 2*)

Adequate provision must be made for the disposal and management of sewage waste on the site. All applications must demonstrate compliance with Council's *On-Site Sewage and Wastewater Management Strategy*. Approval is also required under Section 68 of the *Local Government Act 1993* for the on-site sewage management system and may be made concurrently with the development application.

Potentially Contaminated Land (*Ballina DCP 2012, Chapter 2*)

Council is required to consider whether the land that is to be developed has been contaminated by past land use practices to determine if it is suitable for residential development. If you think your land may be contaminated contact Council's Public and Environmental Health Section for advice.

Water Supply (*Ballina DCP 2012, Chapter 7*)

Land that is not serviced by a reticulated town water supply is required to supply a minimum 45,000 litres of potable water supply per dwelling. An additional water source for firefighting purposes may also be required for bushfire protection. If applicable, the NSW Rural Fire Service terms of approval will be imposed as conditions of consent.

Waste Management (*Ballina DCP 2012, Chapter 2*)

A site waste minimisation and management plan addressing methods of waste disposal, minimisation and reuse/recycling of waste is to accompany the development application.

Developer Contributions

Developer contributions are applicable to dual occupancy developments in the rural area. Levies are imposed in accordance with Council's Contributions Plan and contribution rates can be found in Council's schedule of fees and charges.

Bushfire

If your land is identified as being in a bushfire prone area, a bushfire assessment report will need to accompany your development application. Information relating to building in a bushfire prone area can be found on the NSW Rural Fire Service website www.rfs.nsw.gov.au

Flooding (*Ballina LEP 2012, Clause 7.3; Ballina DCP 2012, Chapter 2b*)

If your land is identified as being flood affected in accordance with the Ballina Local Environmental Plan 2012 you will need to consider potential flood impacts and mitigation strategies when deciding on a site for a new dwelling. Refer to Chapter 2b – Floodplain Management of Ballina Shire Development Control Plan 2012 for further information.

Vehicular Access (*Ballina DCP 2012, Chapter 7*)

Council's Development Engineer will assess all new detached rural dual occupancy applications for sight distance and access requirements. You may be required to upgrade your existing access from the public road to the property boundary in accordance with the [Northern Rivers Local Government Development Design and Construction Manuals](#). Each dwelling must use the same vehicular access to and from a public road.

Conversion of Existing Buildings to a Detached Dual Occupancy

If you have an existing building and think it may be suitable to convert it into a detached dual occupancy development, please contact Council's Building Enquiries Section for advice.

»» **If you have any questions please contact:**

Building Services Section

Ballina Shire Council

Ph: 6686 1415 | Email: council@ballina.nsw.gov.au

