

Ballina Shire Development Control Plan 2012

Chapter 1 - Administration

1





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Part 1 Preliminary

1.1 Introduction

Name:

Ballina Shire Development Control Plan 2012 - Chapter 1 Administration.

Chapter 1 forms part of the Ballina Shire Development Control Plan 2012 (the DCP).

Purpose:

To identify the overarching requirements of the DCP including administrative provisions and public notification procedures for development applications.

1.2 Application of the DCP

Application of the Ballina Shire Development Control Plan 2012:

This DCP applies to land in the Ballina Shire Local Government Area.

The DCP applies to development that requires development consent.

Date adopted by Council:

20 December 2012

Effective Date:

4 February 2013

1.3 Repeal of Orders, Plans & Policies

Upon the commencement of the Ballina Shire Development Control Plan 2012, the following orders, plans and policies are repealed:

Ballina Shire Combined Development Control Plan (August 2006)

Ballina Shire Development Control Plan – Exempt and Complying Development (August 2010)

Lennox Head Vegetation Management Order (December 2003)

1.3A Savings Provisions Relating to Development Applications

If a development application has been made before the commencement of the Ballina Shire Development Control Plan 2012 in relation to land to which the DCP applies and the application has not been finally determined before that commencement, the application is to be determined as if this DCP had not commenced.

1.4 Amendments to the DCP

The *Environmental Planning and Assessment Act* 1979 (EP&A Act) and attendant Regulation establish the procedures for preparing and amending development control plans. **Appendix 1** comprises a comprehensive list of amendments to this DCP. Amendments of an advisory nature which reflect changes in legislation are referenced in **Appendix 3**.





Notice of Council decisions to prepare draft amendments to the DCP, or to adopt changes to the DCP, are published in the Ballina Shire Council “Public Notices” advertisement in the local newspaper and on Council’s website www.ballina.nsw.gov.au.

1.5 Relationship to other planning documents

The DCP has been prepared in accordance with Section 74C of the EP&A Act and clause 16 of the *Environmental Planning and Assessment Regulation 2000* (the Regulation). Under Section 79C of the EP&A Act, the consent authority is required to take into consideration the relevant provisions of this DCP in determining a Development Application for development in Ballina Shire. Where Council is of the opinion that strict compliance with a development standard specified in the DCP is unreasonable or unnecessary, it may permit such a variation notwithstanding the above. The relationship between the DCP and Environmental Planning Instruments applicable in Ballina Shire are outlined below:

- The *Ballina Local Environmental Plan 2012* (BLEP 2012) and *Ballina Local Environmental Plan 1987* (BLEP 1987) are the principal environmental planning instruments applying in Ballina Shire. This DCP contains detailed provisions that supplement the provisions of these LEPs. In the event of any inconsistency between the DCP and LEPs, the LEP provisions will prevail.
- State Environmental Planning Policies (SEPPs) may also apply to certain land and certain forms of development in Ballina Shire. The statutory provisions of any applicable SEPP will also prevail over this DCP in the event of any inconsistency.

1.5A Interpretation – Deferred Areas Ballina LEP 2012

Where land is located within a deferred area under the Ballina LEP 2012, a reference in this DCP to a zone type listed under the Ballina LEP 2012 is to be interpreted as being equivalent to zones under the Ballina LEP 1987 as specified in the table below:

Ballina LEP 2012 – Zone:	Ballina LEP 1987 – Zone:
E2 Environmental Conservation	7(a) Environmental Protection (Wetlands) 7(f) Environmental Protection (Coastal Lands) 7(l) Environmental Protection (Habitat)
E3 Environmental Management	7(c) Environmental Protection (Water Catchment) 7(d) Environmental Protection (Scenic/Escarpment) 7(d1) Environmental Protection (Newrybar Scenic/ Escarpment) 7(i) Environmental Protection (Urban Buffer)
RU1 Primary Production	1(a1) Rural (Plateau Lands Agriculture) 1(a2) Rural (Coastal Lands Agriculture) 1(e) Rural (Extractive and Mineral Resources)
RU2 Rural Landscape	1(b) Rural (Secondary Agricultural Land) 1(d) Rural (Urban Investigation)
RE1 Public Recreation	6(a) Open Space





Ballina LEP 2012 – Zone:	Ballina LEP 1987 – Zone:
R2 Low Density Residential	2(a) Residential (Living Area) 2(b) Residential (Village Area)
R3 Medium Density Residential	2(a) Residential (Living Area) 2(b) Residential (Village Area)
Other zones	As determined by Council

1.6 Dictionary

The DCP adopts the Dictionary contained within the BLEP 2012. Where a term defined in the LEP is used, it is identified as follows: **bold font (blue italics)**. There are also a number of local definitions used in this DCP. Non-LEP terms defined under the DCP are identified as follows: **bold font (green)**.

A copy of the Dictionary for the terms specific to the DCP is provided in Chapter 1, Appendix 2.



Note:

Chapter 2b – Floodplain Management contains a separate Dictionary which contains terms used within this chapter only.

1.7 Notes

Notes are included within various sections of the DCP to guide interpretation. To distinguish the **notes** from the chapter generally, they are contained within a shaded box identified with a notepad symbol, as illustrated below. The **notes** do not form part of the formal requirements of the DCP but may be applied by Council in the interpretation and operation of the provisions of the DCP.



Note:

This is an example of the formatting of interpretive notes within this Chapter of the DCP.

1.8 Document Cross Referencing

A number of external documents are incorporated into the provisions of the DCP. Where a document is referenced, that document is to be taken to be the version of the document current at the time of lodgement of a development application.

1.9 Maps and Other Supporting Plans

A series of maps and plans support the application of provisions in the DCP. These maps and plans, although not contained within the DCP chapters, comprise part of the DCP.





1.10 General Matters for Consideration in Applying this DCP

The DCP identifies Council's local planning policy and associated controls for development in the shire. As such, it does not seek to duplicate requirements for development that are outside the scope of Council's local planning policy or that are otherwise established via other policies and documents. In particular, there is a range of State planning policies and legislation based requirements that may affect proposed development. Key items in this regard are noted below:

Protection of the Environment Operations Act

The *Protection of the Environment Operations Act* 1997 (POEO Act) is NSW legislation that establishes requirements relating to a variety of environmental considerations. The POEO Act is designed to protect public health and the environment from potential harm. Some types of development will need to have regard for the provisions of this Act and associated regulations and requirements.

Building Code of Australia

The *Building Code of Australia* (BCA) establishes national building standards relating to health, safety, amenity and sustainability objectives. The BCA contains technical provisions for the design and construction of buildings and other structures, covering such matters as structure, fire resistance, access and egress, services and equipment and energy efficiency, as well as certain aspects of health and amenity. All development is required to conform with the relevant provisions of the BCA.

Section 94 and Section 64 Developer Contributions

Council operates both Section 94 and Section 64 plans that provide for the provision of contributions as part of development to support the provision of public infrastructure. Section 94 contributions are levied under the terms of the EP&A Act in relation to infrastructure such as roads, open space and community facilities. Section 64 contributions are levied under the terms of the *Local Government Act* 1993 (LG Act) in relation to water and wastewater (sewer) infrastructure. Relevant Section 94 and Section 64 contributions will be applied to development in accordance with Council's adopted plans.

State Environmental Planning Policies

As outlined above, State Environmental Planning Policies (SEPPs) may apply to development. SEPPs identify planning policies and requirements of the State Government in relation to a variety of matters. The requirements of SEPPs prevail over DCP provisions.

Covenants, Easements, Agreements and other Land Title Based Instruments

There are a number of land parcels in Ballina Shire that have covenants, agreements or instruments that may affect the location and types of buildings on certain land. These covenants, agreements or instruments may specify requirements for development beyond those contained in this DCP. Council may consider these requirements in determining whether to grant an approval to a proposed development. However, Council is not required to uphold or enforce these additional controls in accordance with Clause 1.9A of the BLEP 2012. Applicants are advised to seek their own





independent legal advice with regard to any additional applicable covenants, agreements and instruments before proceeding with any development proposal.

Council Policies

Council has a number of policies that are separate to the DCP, but that may have direct relevance to development proposals and be utilised in the assessment of development applications. The *Building Over Council Assets Policy* is a key example of a policy that will have application in relation to a variety of development types.

Australian Standards

All development will be subject to relevant Australian Standards.

1.11 Using the DCP

The steps for the optimal use and application of the DCP are as follows:

1. Determine the applicability of the development application process, general application information requirements and notification/advertising requirements with reference to **Chapter 1**. **Chapter 1** must be considered in relation to all development proposals.
2. Determine the general and environmental planning provisions that apply to the proposed development with reference to **Chapters 2, 2a** and **2b**. These chapters must be considered in relation to all development proposals. The provisions in these chapters prevail over those in **Chapter 1** where there is an inconsistency. Where there is an inconsistency between the provisions of **Chapters 2, 2a** and **2b**, 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.
3. Determine the applicability of the provisions relating to the overall type of development contained in **Chapters 3, 4, 5, 6, 6a, 6b, 6c, 6d** and **7**. The provisions of these chapters 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.
- 3a. Where **Chapters 3, 4, 5, 6, 6a, 6b, 6c, 6d** and/or **7** apply, determine whether any 'Special Area Controls' under each chapter are applicable in addition to 'General Controls'. Special Area Controls prevail over General Controls within each chapter in the event of an inconsistency.
4. Determine the applicability of the land use specific provisions identified in **Chapter 8**. The provisions of **Chapter 8** apply in conjunction with those in **Chapters 1, 2, 2a, 2b, 3, 4, 5, 6, 6a, 6b, 6c, 6d** and **7**, but prevail in the event of an inconsistency unless otherwise specified.





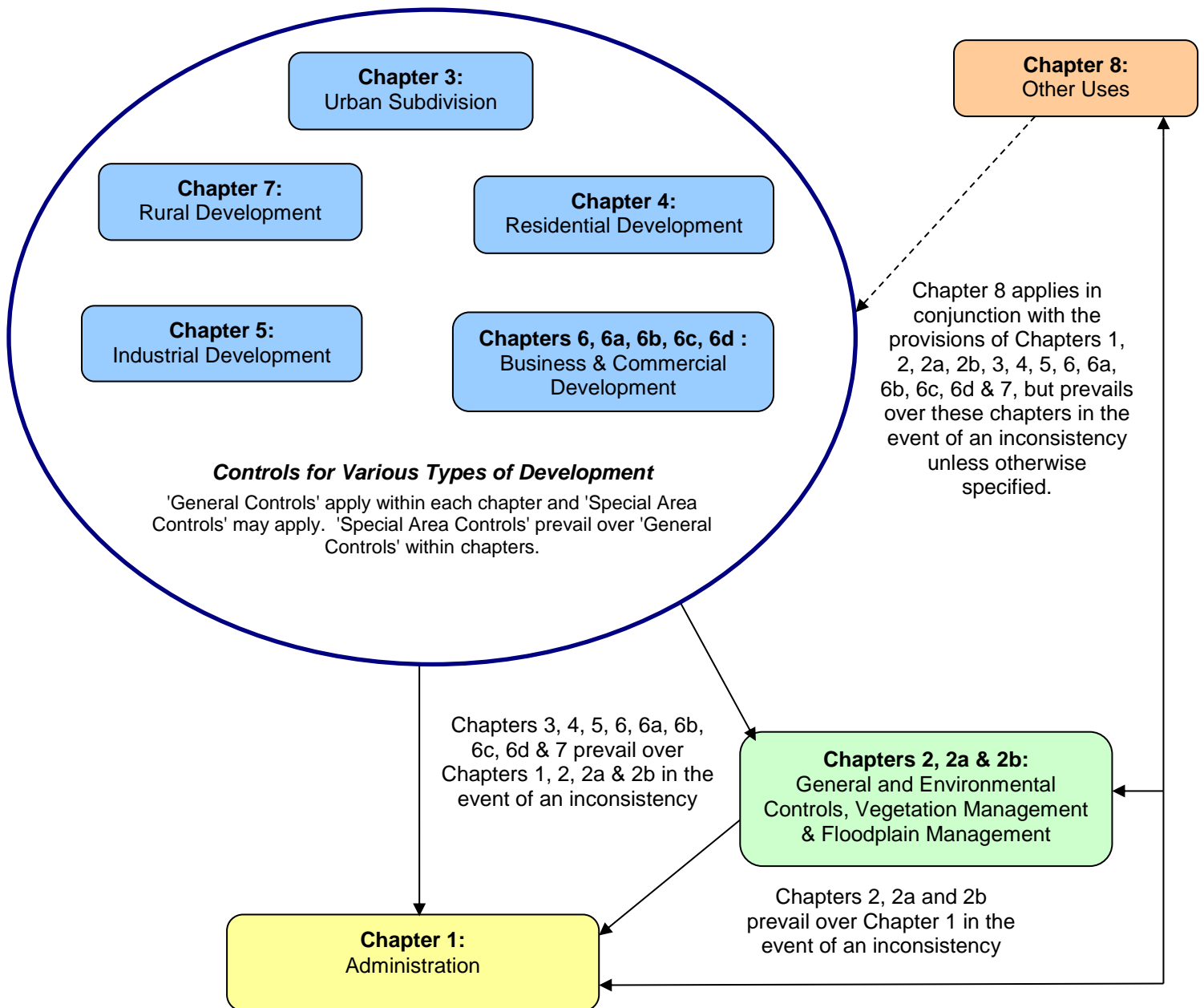
Figure 1 illustrates the relationship between the chapters of the DCP and identifies the elements of the DCP that prevail where there is an inconsistency in the plan provisions.



Note:

Before commencing the process of working through this DCP, and applicable SEPPs and LEPs should be considered to determine the permissibility of land uses and key statutory requirements for development.

Figure 1 - Relationship between Chapters in the DCP





1.12 Application of the DCP and Variations

Under the EP&A Act, DCPs are required to be applied flexibly, and consent authorities are required to allow for alternate solutions to DCP requirements so that otherwise permissible development may be carried out. The role of the DCP is to give effect to an environmental planning instrument (EPI) by supporting the aims of the instrument, the range of permitted development under the EPI and the objectives of applicable land use zones.

Council will consider variations to the development controls set out in the DCP where a proposed development can otherwise demonstrate that it achieves the applicable planning objectives. Council will consider variations to the DCP provisions as set out below:

- a. Where a proposal does not comply with a particular development control, applicants may propose an alternative solution. In some circumstances, variations can produce improved and innovative solutions for particular site.
- b. A written variation request must:
 1. Identify the development control that is to be varied and detail the extent of variation proposed;
 2. Identify the general and/or specific objectives of that control and how the variation complies with the objectives;
 3. Justify why the specific provisions of the policy do not make appropriate provisions with regard to the subject application; and
 4. Demonstrate why compliance with the provisions of this DCP is unreasonable or unnecessary in the particular circumstances of the case.



Notes: Variations to a development control will only be considered where the specific development objective can be met.

Part 2 Aims and Objectives

2.1 Aims and Objectives of the DCP

The overarching aims of the DCP are to:

- a. Provide for a sustainable Ballina Shire that recognises and supports community, environmental, cultural and economic values through the establishment and maintenance of the following:
 - a built environment that contributes to health and well being;
 - a diverse and prosperous economy;
 - a healthy natural environment;
 - diverse and balanced land use;
 - healthy, resilient and adaptable communities; and
 - responsible and efficient use of resources.





- b. Establish local planning policy that is consistent with, and supports, the values and attributes of Ballina Shire and the provisions of the *Ballina Local Environmental Plan 2012*.
- c. Provide opportunities for development proposals to provide for innovative and site specific responses, and define the circumstances for consideration of a variation to identified planning provisions.

2.2 Objectives of this Chapter

The objectives of this chapter of the DCP are to:

- a. Provide a framework for the operation of the DCP;
- b. Outline Council's requirements with respect to the lodgement, processing and public notification of development applications.

Part 3 Approval Processes

3.1 Exempt and Complying Development

Not all development requires development consent. "Exempt development" is minor development that does not require any approval and "complying development" is small-scale, low impact development that can be approved either by Council or an accredited private certifier.

Developments that are considered to be exempt or complying development are primarily listed in *State Environmental Planning Policy - Exempt and Complying Development Codes 2008* (Codes SEPP) and in Part 3 of the BLEP 2012. To be considered "exempt" or "complying" development, the project must comply with all of the applicable criteria documented in the Codes SEPP or BLEP 2012.

3.2 Development Applications

3.2.1 Development application process

The processes for the assessment and determination of development applications are contained within the EP&A Act and attendant Regulation. Information regarding the development application process may be obtained by contacting Council's Development and Environmental Health Group.

3.2.2 Pre-lodgement meetings

Development applications can be complex matters. Proponents are strongly advised to take advantage of pre-lodgement meetings with Council officers to discuss a proposal before committing to a final design. Council can make appropriate staff available to discuss development concepts and guide proponents toward designs that will ensure compliance with relevant requirements.

Fees in accordance with Council's adopted fees and charges may apply to pre-lodgement meetings.

To arrange a pre-lodgement meeting, contact Council's Development and Environmental Health Group.





3.2.3 Information to accompany development applications

General

A development application must be supported by sufficient information to enable Council to understand what the development proposal entails and what its environmental effects are likely to be. Applications must include the material specified in Part 1 of Schedule 1 of the *Environmental Planning and Assessment Regulation 2000* - Development applications, as well as the following:

- i. Payment of the applicable fees in accordance with Council's adopted fees and charges at the time of lodgement of the development application.
- ii. A completed development application form.
- iii. At least two copies of all drawings and documentation including at least one set of plans at A3 size. Plans are to be dimensioned and generally at a scale of 1:100. Plans shall include the following information (where applicable):
 - Floor plans of all building levels,
 - Elevations,
 - At least one cross section for buildings containing more than one level,
 - Details of the relationship of buildings to height planes and setbacks,
 - A site plan that includes details of the location of adjoining buildings, and
 - Details of the location and level of public utilities within and adjacent to the site (i.e. sewer lines, stormwater drains etc.)

Additional copies of all development application documentation and/or a CD-ROM containing the documentation may be required for larger applications depending on the volume of material to be submitted and the need for external referrals. Contact Council's Regulatory Services Group for additional information regarding the number of copies of documents and/or CD-ROMs required prior to the submission of the development application.

- iv. Digital copies of plans and supporting documentation supplied on a single CD-ROM in accordance with Council's digital requirements (refer below) for all development applications and construction certificates. Council will accept the lodgement of a DA without a digital copy in certain circumstances.

Note: Additional or updated information supplied after the submission of the initial application must also be accompanied by a CD-ROM.

Additional copies of all development application documentation may be required for larger applications depending on the volume of material to be submitted and the need for external referrals. Contact Council's Development and Environmental Health Group for additional information regarding the number of copies of documents and/or CD-ROMs required prior to the submission of the development application.

- v. For buildings that exceed 8.5m in height:
 - A shadow diagram for the site at 9.00 am, 12 noon and 3.00 pm on June 21 and December 21.





- Except for **dwelling houses**, **dual occupancies** and industrial buildings, a physical model of the proposed development at a scale of 1:200 or, alternatively, three dimensional computer modelling of the proposed development. Such a model is to illustrate the relationship between the proposed development and all adjoining buildings.
- vi. A schedule of calculations for the following items -
 - Total site area (m²);
 - Site cover (m²) (area of land on which buildings are proposed);
 - Floor space ratio;
 - Gross floor area (m²);
 - Landscaped area (m²);
 - Driveways, car parking and drying areas etc (m²); and
 - Number of car parking spaces.
- vii. A checklist documenting compliance, or otherwise, with the relevant State Environmental Planning Policy, Local Environmental Plan and Development Control Plan provisions.
- viii. A completed 'Written Request to Vary a Development Standard' or 'Written Request to Vary a Development Control' form (if applicable).

Digital Requirements

Each plan and supporting document must be supplied in PDF format, no larger than 3MB in size and optimised for publishing to the web.

PDF files larger than 3MB should be broken up into logical parts and supplied as separate files.

Documents are to be supplied with a descriptive file name using the following naming conventions:

- Plan Description - Elevation Plan, Site Plan, Floor Plan
- Plan Number (including version) - 12345, 12345 v2
- Report Name (including version) - Statement of Environmental Effects

Example - Traffic Management Report v2; Ground Floor Plan 12345



Note:

The EP&A Regulation requires evidence that the landowner(s) consent to the lodgement of a development application.

Additional Requirements

Other chapters of the DCP contain provisions that may require additional information beyond that listed above. This information must also be provided with a development application.

Council may also require further information identified during the development application assessment process in order to enable the complete consideration of an application.





3.2.4 Public Notification and Exhibition of Development Proposals

Certain applications that will not, in the opinion of Council, create any unreasonable impacts on surrounding properties will generally not be subject to any notification, including, but not limited to:

- Change of use applications within Zone B3 Commercial Core and industrial uses in Zone IN1 General Industrial;
- *Dwelling houses, dual occupancies, rural worker's dwellings, secondary dwellings and group homes* (comprising up to 10 bedrooms being within one or more group homes on a site) that generally comply with development controls;
- Industrial developments within Zone IN1 General Industrial;
- Commercial developments within Zone B3 Commercial Core;
- Minor boundary adjustments;
- Vegetation management and/or clearing works; and
- Most forms of *signage*.

For applications that require public notification, Ballina Shire Council has a three tier public notification system for development applications as follows:

Level 1 - Targeted Notification

This involves a letter being sent to owners and occupiers of those properties which, in the opinion of Council's Assessment Officer, are likely to be unreasonably impacted by the proposed development. Level 1 typically applies to relatively small scale development such as:

- Front fences (that are not exempt development);
- Pontoons;
- Building line and/or setback variations;
- *Dwelling houses, dual occupancies, rural worker's dwellings, secondary dwellings and group home* proposals (when such group homes comprise up to 10 bedrooms being within one or more group homes on a site) where it is determined that there may be an issue such as impacts on privacy, overshadowing or view loss beyond that which could have reasonably been expected given the planning controls applying in the locality.

Level 2 - Three Step Notification

This involves notification by way of letters to adjoining owners and occupiers, site signage and an advertisement in the local newspaper. The exhibition and submission period is usually 14 days but may be longer for more substantial developments. Developments which would normally be treated this way are those which, in the opinion of Council:

- Have the potential to have an unreasonable impact on the amenity of adjoining or nearby land uses and/or residents; and/or





- Are of a scale or intensity beyond that which could reasonably have been envisaged given the planning controls applying in the locality.

Developments which Council would typically subject to this advertising process include, but are not necessarily limited to:

- **Residential accommodation** (other than **dwelling houses**, **dual occupancies**, **rural worker's dwellings** and **secondary dwellings**) that do not comply with the development controls applying in the locality;
- **Tourist and visitor accommodation** (other than **bed and breakfast accommodation**);
- Industries of any kind in residential or rural areas;
- **Sex services premises** and **home occupation (sex services)**;
- Subdivisions (except minor boundary adjustments); and
- Temporary uses.



Note:

Temporary uses are uses permitted on land under the provisions of clause 2.8 of BLEP. They include uses that would otherwise be prohibited within the zone applicable to the land. Examples of temporary uses include markets, sporting and community events and the like.

The above list of developments typically subject to advertising is a guide only and is not exhaustive. Advertising of development proposals is at Council's discretion.

Level 3 - Legislative

This applies to development applications required to be publicly exhibited by the *Environmental Planning and Assessment Act 1979* and/or an environmental planning instrument. The procedures for carrying out such exhibitions are established by the Act and attendant Regulation.

Applications Under Sections 82A and 96

Applications for review of determination made under section 82A or applications to modify consent made under section 96 of the *Environmental Planning and Assessment Act 1979* will be subject to the following notification requirements:

- Applications made under sections 96(1) and 96(1A) will not be subject to any notification;
- Applications made under sections 96(2) and 96(AA) will generally not be subject to any form of notification unless the original development application was notified and there is significant change in the potential impacts on surrounding properties and/or the environment or if clause 118 & 119 of the *Environmental Planning and Assessment Regulation 2000* applies; and
- Applications made under sections 82A and 96AB will not generally be subject to any form of notification unless the original application was notified and there is significant change in the potential impacts on surrounding properties and/or the environment.





Council will consider the nature of the original development application in relation to advertising requirements.



Note:

Council reserves the right to undertake notification for any development application, where Council is of the view that such action is warranted. Applicants should liaise with Council to determine whether or not a proposal will need to be advertised.

3.2.5 Submissions

During the specified exhibition period any person may make a submission in writing to Council in respect of the exhibited application. Where a submission is made which objects to an exhibited proposal, the grounds of the objection are required to be specified.

Submissions to development applications are publicly available documents. Submissions may be viewed by other members of the public, listed on Council's website via the DA online facility, and included in Council's business paper. Written reasons must be provided to Council where an exception is sought.

Objections received after the specified close of the submissions period relating to a development application may not be taken into consideration by Council in the assessment of the development application.

3.2.6 Advertising Fees

Council applies charges for the advertising of development proposals in accordance with its adopted fees and charges.

3.2.7 Timing for Assessment of Development Applications

The EP&A Act and attendant Regulation establish the requirements for the assessment of development applications. The time it will take to assess an application will depend on the nature and complexity of a proposal and the adequacy of information provided with the application. In this regard, some applications generally have a relatively straightforward process (such as a single storey house in an existing subdivision). Others are more complicated (for example, a commercial building or a residential flat building). More complex projects (such as a quarry or a residential subdivision next to a wetland) involve a significant level of environmental assessment and comments and/or other approvals may be required from government agencies.

The development application process can be complex. In order to help reduce delays or to ascertain a more likely timeline for assessment, all applicants are strongly encouraged to speak with staff from Council's Development and Environmental Health Group prior to lodging an application and ensure that the information as required by Section 3.2.3 is submitted upon lodgement of an application.



Note:

Some applications are determined by the elected Council. Timing for the assessment and determination of such applications must have regard for the involvement of the elected Council.





Appendix 1 Schedule of Amendments

Schedule of Amendments to Ballina Development Control Plan 2012					
#	Area/s subject to DCP Amendment	Purpose	Council's Decision	Date of Council's Resolution	Effective From
PRINCIPAL PLAN	Ballina Local Government Area	Review of Ballina Shire Combined DCP 2006 to ensure consistency with Standard Instrument LEP. Included substantial review of provisions relating to residential development and urban subdivision.	Approved	20 December 2012	4 February 2013
1	Ballina Local Government Area	General amendments to Chapters 1, 3, 4, 5 and 7, amended Building Line Map, amended Dwelling Density Map and miscellaneous corrections	Approved	27 June 2013	8 July 2013
2	Cumalum Precinct B	Inclusion of precinct-specific controls in Part 5 of Chapter 3 (Urban Subdivision), amendment to Natural Area and Habitats Map and application of public art provisions to subject land.	Approved	24 April 2014	12 May 2014
3	Ballina Local Government Area	General amendments to Chapters 1, 2, 2b, 3, 4, 5, 6a, 7 and 8. Includes revised parking requirements <i>for food and drink premises, shop top housing and for health consulting rooms and medical centres</i> within Ballina Town centre, amended <i>secondary dwelling</i> development standards including site fill requirements, amended <i>adaptable housing</i> provision requirements, and amended Earthwork and Site Sensitive Design Controls.	Approved	26 June 2014	16 July 2014
4	Cumalum Precinct A	Inclusion of precinct-specific controls in Part 5 of Chapter 3 (Urban Subdivision) and amendment to Natural Area and Habitats Map.	Approved	26 February 2015	11 March 2015
5	Ballina Local Government Area	Review and amendment of Chapter 2b – Floodplain Management. Introduces a risk based approach to development of flood prone land consistent with the principles contained within the NSW Floodplain Development Manual.	Approved	28 May 2015	1 July 2015
-	Cumalum Precinct A – Cumalum Views	Amendment of precinct-specific controls in Part 5 of Chapter 3 (Urban Subdivision) clause 5.6.3 B xiii relating to Stormwater	Approved	26 November 2015	26 November 2015
6	Ballina Local Government Area	General amendments to Chapters 1, 2, 4, 5, 6c, 6d, and 8. Includes consolidation of car parking requirements and revised Stormwater Management provisions in Chapter 2, amendment of preferred land use provisions for Lennox Head Precinct D in Chapter 6c, and the correction of various errors and anomalies.	Approved (Refer Minute No 171215/9 Chapter 2b excluded.)	17 December 2015	1 February 2016
7	Skennars Head Expansion Area & Ballina Local Government Area (certain aspects)	Inclusion of precinct-specific controls in Part 5 of Chapter 3 (Urban Subdivision) with respect to the Skennars Head Expansion Area; Amendment of controls relating to external infrastructure in s3.1.2 of Chapter 3; and amendment of controls relating to	Approved	27 October 2016	14 November 2016





		mosquito management with respect to stormwater design in s3.6 of Chapter 2 (General and Environmental Considerations)			
8	16 Tara Downs Lennox Head	Inclusion of clause 4.6 within Chapter 4 Residential and Tourist Development. Clause 4.6 provides for site specific buffers and indicative building envelopes and Asset protection Zones. Also includes Appendix B to Chapter 4 and changes to the Special Area Control Map -Residential SR_003_020	Approved	24 November 2016	12 December 2016
9	44 – 52 Blue Seas Parade	Inclusion of clause 4.7 within Chapter 4 Residential and Tourist Development. Clause 4.7 provides for site specific controls including rear building setbacks, geotechnical and aesthetic controls. Also includes Appendix C to Chapter 4 and changes to the Special Area Control Map – Residential SR_003_020	Approved	15 December 2016	16 January 2017
10	Ballina Local Government Area	General amendments to Chapters 1, 2 and 3. Includes amendment of public notification provisions relating to group homes in Chapter 1, inclusion of an equivalent zone provision in Chapter 1 to address interpretation of deferred matters under Ballina LEP 2012, adjustments to public art and car access and manoeuvring provisions in Chapter 2, inclusion of a new road noise mitigation clause in Chapter 2, and adjustments to Chapter 3 to ensure consistency with new road noise mitigation clause.	Approved	23 February 2017	8 March 2017





Appendix 2 Dictionary

Specific terms and references used in this DCP are defined as follows:

accessible car parking means parking spaces that are freely accessible to the general public for car parking purposes at all times and that are not restricted by boom gates, security screens or other devices that visually or physically restricts access.

advertising display area has the same meaning as defined in under *State Environmental Planning Policy No.64*

ancillary development means any of the following that are not exempt development under any other policy:

- (a) access ramp, retaining wall, driveway, pathway, paving, awning, blind, canopy, fence and screen,
- (b) garage, carport, rainwater tank, balcony, deck, patio, pergola, terrace or verandah that is attached to a dwelling house,
- (c) driveway, pathway or paving,
- (d) outbuilding or detached studio,
- (e) swimming pool or spa pool and child-resistant barrier,
- (f) minor or incidental development to the principal development for which consent is sought.

approved structure means any building or structure approved by Council or other relevant approval authority and includes carports, detached garages, outbuildings and swimming pools.

AQF (Australian Qualifications Framework) refers to the policy framework that defines all qualifications recognised nationally in post-compulsory education and training within Australia. Qualifications range from senior secondary certificates of education, to VET Certificates, Diplomas, university degrees and post-graduate qualifications.

arboriculture means the practice and study of the care of trees and other woody plants in the landscape.

arborist means an industry professional with a minimum qualification of AQF III or equivalent in Arboriculture.

articulation zone means an area within a lot within which building elements are or may be located, that consists of that part of the setback area from a primary road that is measured horizontally for a distance of 1.5m from:





- (a) the foremost edge of the building line, or
- (b) a gable or roof parapet having a surface area of more than 10m².

asset protection zone (APZ) is an area between a bushfire hazard and a building, which is managed to minimise fuel loads, inhibit a fire path and reduce the effects of heat, flame, ember and smoke attack.

building envelope means a three dimensional zone determined by height, width, depth and setbacks that defines the buildable area on a site.

building height plane means a plane projected at an angle of 45 degrees over a site, commencing, at the height specified in this plan, along the boundary of the site or along any other line or boundary specified in this plan for the purpose of establishing a building height plane.

clearing means cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning vegetation.

consent means an approval granted by Council following the lodgement of a Development Application in accordance with Part 4 of the *Environmental Planning and Assessment Act 1979*.

curtilage means the area of land occupied by a dwelling house and its yard and outbuildings that is actually enclosed or considered as enclosed.

dead when used in reference to vegetation means vegetation that is no longer capable of performing one of the following processes: photosynthesis, take up of water through roots, holding moisture in cells or production of new shoots.

Deep soil zone means that part of the site which is unbuilt upon and has a soil profile suitable for planting large trees.

destroy means an activity leading to the death, disfigurement or mutilation of vegetation and includes burning, cutting down, felling, killing, logging and ringbarking.

felling when used in reference to vegetation means the cutting down of vegetation for the purposes of its destruction and/or removal.

foreshore has the same meaning as 'coastal foreshore' as defined in the *Ballina Local Environmental Plan 2012*.





gross leaseable floor area (GLFA) means the sum of the areas at each floor of a building and includes the area within the internal faces of the walls and stock storage areas but excludes stairs, amenities, lifts, corridors and other public areas.

greenfield development means urban development that takes place on land that has not been subject to urban land uses in the past.

habitat when used in reference to vegetation means vegetation that is capable of being used for the nectar feeding, roosting or nesting of birds, arboreal marsupials, micro-bats or vegetation which supports the growth of locally indigenous epiphytic plants such as orchids.

hazard means anything with the potential to harm health, life or property.

height when used in reference to vegetation means the distance measured vertically between the horizontal plane of the lowest point of the base of the vegetation which is immediately above ground and the horizontal plane of the uppermost point of the vegetation.

infill development means urban development that takes place within existing urban zones on land that is currently or has most recently been used for urban land use purposes.

injure when used in reference to vegetation means damage to vegetation and includes:

- a) lopping and topping;
- b) poisoning, including applying herbicides and other plant toxic chemicals to the vegetation or spilling of oil, petroleum, paint, cement, mortar and the like onto the root zone;
- c) cutting, tearing, breaking or snapping of branches and roots that is not carried out in accordance with accepted arboricultural practices or is done for invalid reasons, including vandalism;
- d) ringbarking, scarring the bark when operating machinery, fixing objects by nails, staples or wire or fastening materials that circle and significantly restrict the normal vascular function of the trunks or branches;
- e) damaging the root zone of vegetation by compaction or excavation, asphyxiation including unauthorised land filling or stockpiling of materials around the tree trunk;
- f) underscrubbing, unless carried out by hand tools such as brushcutters and the like;
- g) uprooting; and/or
- h) burning.

lopping when used in reference to vegetation means the practice of cutting branches or stems between branch unions or nodes, with no consideration for pruning to active growth points or branch collars.





native vegetation means vegetation that existed in New South Wales before European settlement and includes:

- a) trees (including any sapling or shrub, or any scrub),
- b) understorey plants,
- c) groundcover (being any type of herbaceous vegetation),
- d) plants occurring in a wetland,

but does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

parallel road means, in the case of a lot that has boundaries with two parallel streets or roads, the road or street that does not comprise the primary road.

primary road means the road to which the front of a dwelling house, or main building, on a lot faces or is proposed to face.

private land means any land in private ownership and/or management by individuals, companies or organisations other than Council.

prune means to cut off or remove living parts or branches of vegetation to predetermined points to improve the shape or growth.

public land means land owned by or in the care, control or management of Council and includes roads, road reserves, public reserves and foreshore areas.

remnant tree or vegetation means a native tree or any patch of native vegetation which remains in the landscape after removal of the majority or all of the native vegetation in the locality.

remove when used in reference to vegetation means to cut down, uproot, take away or transplant vegetation from its place of origin.

ringbarking means the removal of bark from a tree in a ring around its trunk for the purposes of killing the tree.

risk means the likelihood of harm occurring as a result of exposure to a hazard.

routine agricultural management activities has the same meaning as defined in the *Native Vegetation Act 2003*.





rural residential area means an area within a rural residential estate or within an area comprising a specified cluster of rural dwellings and identified on the Rural Residential Areas Map contained within this DCP.

rural zone means land located within the following land use zones pursuant to the *Ballina Local Environmental Plan 2012*: RU1 Primary Production and RU2 Rural Landscape.

secondary road means, in the case of a lot that has boundaries with adjacent roads, the road that is not the primary road.

significant Urban Bushland means vegetation on land within the areas defined on the Significant Urban Bushland Maps as contained in this DCP.

slashing when used in reference to vegetation means the cutting or mowing of vegetation by mechanical means.

topping when used in reference to vegetation means the indiscriminate removal of foliage and branches to a specified height with no consideration for pruning to active growth points or branch collars or the health and long term viability of the vegetation.

tree means a perennial plant with a woody self supporting stem or trunk/s having a height of more than 3 metres and a trunk circumference of more than 300 millimetres when measured from 1 metre above ground level.

urban zone means land located within the following land use zones under the *Ballina Local Environmental Plan 2012*: R2 Low Density Residential, R3 Medium Density Residential, B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, B4 Mixed Use, B6 Enterprise Corridor, IN1 General Industrial, SP2 Infrastructure, RE1 Public Recreation and RE2 Private Recreation.

vegetation means a plant or mass of plants growing in a particular place.

vegetation management work means any activity or work that affects vegetation and includes the undertaking of any of the following actions with regard to vegetation: burning, clearing, cutting down, destroying, felling, injuring, killing, logging, lopping, poisoning, pruning, removing, ringbarking, slashing, thinning, topping, digging up or uprooting.

Other definitions are as described in the *Environmental Planning and Assessment Act 1979* and under the terms of the *Ballina Local Environmental Plan 2012*. In addition Chapter 2b – Floodplain Management





contains a separate Dictionary for terms used within that chapter. Where not identified in these documents, definitions are based on the ordinary Australian dictionary meaning.





Appendix 3 Schedule of Advisory Note Amendments

#	Area/s subject to DCP Amendment	Purpose	Effective From
Chapter 2a	Ballina Local Government Area	Advisory note after clause 3.3 which references the <i>10/50 Vegetation Clearing Code of Practice</i> and changes to the <i>Rural Fires Act 1979</i>	11 August 2014
Chapter 3	Cumbalum Precinct A – Cumbulam Views	Advisory note after clause 5.6.3 B xiii which details when the amended clause was adopted by the Council.	26 November 2015

