



# **Bellingen Shire Development Control Plan 2017**

## **Chapter 1** **Single Dwellings**

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## Table of Amendments

<b>Amendment</b>	<b>Date Adopted</b>	<b>Date Commenced</b>
Minor review of DCP - DCP 2017 replaces DCP 2010	22 November 2017	6 December 2017

## 1.1 Aims

The aims of this chapter are to:

- a) To encourage a high standard of residential development that is respectful to the amenity of neighbours, the character of neighbourhoods and the natural and built environment within which it is located.
- b) To encourage development that will contribute towards increased levels of physical activity and healthy living patterns.

## 1.2 Where this Chapter Applies

This chapter applies to all land within Bellingen Shire upon which a dwelling house is permitted under the provisions of Bellingen Local Environmental Plan 2010, unless any site specific development controls included in later chapters of this DCP nominate alternative requirements. In this case, the provisions of the site specific development controls shall prevail.

## 1.3 When this Chapter Applies

This chapter applies when any Development Application is received by Council that proposes the erection of a single dwelling, alterations or additions to a single dwelling or the erection of structures that are normally ancillary to the residential use of the land such as sheds, detached garages or the like.

It does not apply when the proposed development can be considered as “exempt” or “complying” development under the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or any other Environmental Planning Instrument applying to the land.

## 1.4 Variations

Council may consider variations to the standards required of development in this chapter when the overall aims of this chapter and any specific aims that may be detailed for that particular standard can be achieved.

## 1.5 Definitions

Definitions of terms used within this chapter are the same as those contained within Bellingen Local Environmental Plan 2010. Additional terms not defined in BLEP 2010 are included below.

**Building Height Plane Envelope** is defined by a plane projected at an angle of 35 degrees over the land to be built upon, from a height of 3m above the ground level at the boundary of the site to a maximum height of 10m above natural ground level.

**Expanded dwelling** is a single dwelling comprised of two or more buildings erected in close proximity to each other.

**Privacy screen** means:

- a) a structure that provides a screen or visual barrier between a window of a habitable room or an outdoor area on a lot and an adjoining lot that:
  - (i) has no individual opening more than 30mm wide, and

- (ii) has a total area of all openings that is no more than 30% of the surface area of the screen or barrier.

## 1.6 Development Criteria

### 1.6.1 Setbacks from boundaries

#### Aim

- a) To preserve the amenity of streetscapes, future occupants, neighbours and the safe functioning of public roads.
- b) To preserve the rural character of localities and to minimise adverse impacts on occupants arising from proximity to unsealed roads and incompatible adjoining land uses.

#### Criteria

- 1) All dwellings are to comply with the setbacks provided in the following table, unless a written request for a variation to these requirements that outlines a sufficient justification for such a variation together with an explanation of how the proposal meets the aims of this control is lodged with the development application.

Council may consider written requests for variation to side setbacks only where the proposal complies with the Building Code of Australia and will not cause significant adverse impacts on surrounding properties in terms of bulk, overshadowing, ventilation, noise and privacy. Council will require registration of maintenance easements over adjoining properties if there is an inadequate side setback to allow for maintenance of the building.

Table 1.1 Setback Requirements

Land use zoning	Setback (min) to primary road frontage	Setback (min) to secondary road frontage, including rear lanes	Side (min) boundary setback	Rear (min) boundary setback
<b>R1 zoned land</b>	4.5 metres or the average setback of the two nearest dwellings (whichever is greater).	3 metres	900mm from the wall and 450mm from eaves gutter to the boundary.	-
<b>R5 zoned land</b>	10 metres	10 metres	5 metres	5 metres
<b>Rural &amp; Environmental Zones (RU1, RU2, RU4, E3, E4)</b>	20 metres	20 metres	10 metres	10 metres

**Note:** Greater distances to the road frontage may be warranted depending upon the nature of the adjoining road and noise/traffic issues.

## 1.6.2 Buffers to adjoining land uses, areas of environmental constraint or risk

### Criteria

- 1) Where the development site adjoins;
  - a) Land uses that may have an adverse impact on the amenity of the future occupants (eg: intensive agricultural operations, forestry operations, dairies, busy roads, unsealed roads and railways),
  - b) Areas of environmental constraint (eg: Threatened Ecological Communities), or
  - c) Key fish habitat, or
  - d) Areas of bushfire risk,

a greater setback than that specified in Section 1.6.1 may be required to minimise the likelihood of adverse impact.

In such circumstances, the Applicant will need to demonstrate that sufficient buffer zones, or mitigating measures, are to be incorporated into the development site to avoid adverse impact.

**Note:** For the purposes of determining appropriate setbacks and means to address issues of landuse conflict, Council will have principal regard to the publication titled Living and Working in Rural Areas – A handbook for managing land use conflict issues on the NSW North Coast, ISBN 978-0-646-48527-0, as published by the NSW Department of Primary Industries, 2007.

For matters concerning bushfire risk, the relevant regulatory guidelines are specified in Section 79BA of the Environmental Planning & Assessment Act 1979, and the publication titled Planning for Bushfire Protection, ISBN 0 9585987 8 9, as produced by the NSW Rural Fire Service.

For the purpose of determining appropriate buffers to key fish habitats, Council will have principal regard to the publication titled Policy and guidelines for fish habitat conservation and management (Update 2013), as published by the NSW Department of Primary Industries, 2013.

For properties adjoining Rail Corridors and Busy Roads, Council will have principal regard to the publication titled Development Near Rail Corridors and Busy Roads - Interim Guideline, ISBN 978-0-7347-5504-9, as published by The State Government of NSW through the Department of Planning, 2008.

## 1.6.3 The Building Height Plane Envelope

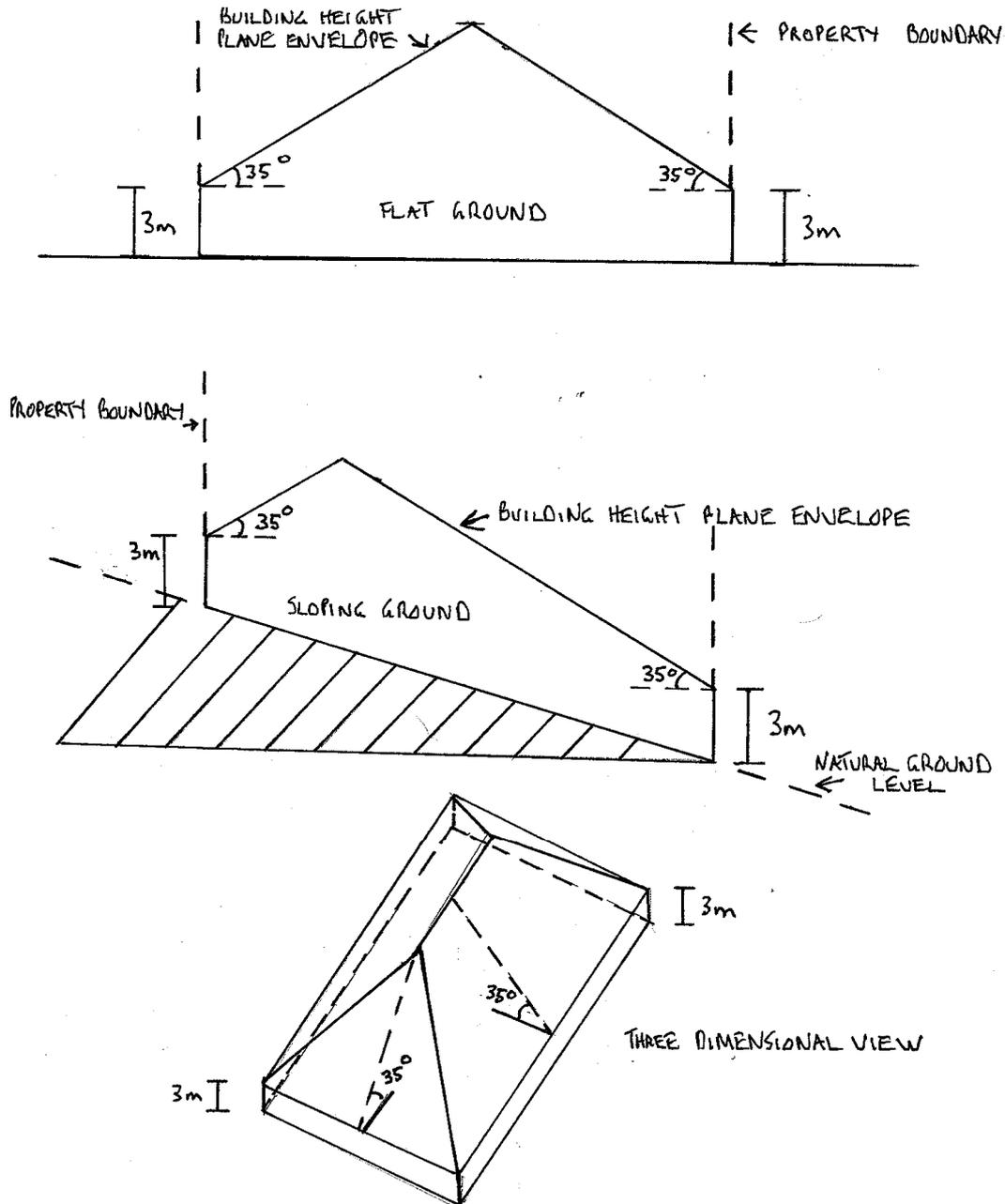
### Aim

- a) To minimise adverse impacts relating to bulk and scale,
- b) To focus larger elements of buildings towards the centre of the site rather than the fringes, and
- c) To preserve reasonable levels of solar access to surrounding properties for reasons including health factors, power generation, clothes drying and food production.

### Criteria

- 1) Buildings shall be constructed so that they fit within the Building Height Plane Envelope depicted in Figure 1.1. The Building Height Plane Envelope is defined by a plane projected at an angle of 35 degrees over the land to be built upon, from a height of 3m above the ground level at the boundary of the site to a maximum height of 10m above natural ground level.

**Figure 1.1 Building Height Plane Envelope**



- 2) Council will consider a request for a variation to this standard to enable minor encroachments outside the building plane envelope only where Council officers consider that the proposal is unlikely to cause significant overshadowing over adjoining residential properties. To prove this, professionally prepared shadow diagrams must demonstrate to Council's satisfaction that:

- At least 50% of the principal area of ground level private open space on surrounding land parcels will receive at least 3 hours of unobstructed sunlight between 9am to 3pm on 21 June. Where existing overshadowing

by buildings and fences is greater than this, sunlight is not further reduced by more than 20%.

- Sunlight to windows within living room areas of any surrounding dwelling will not be reduced to less than 3 hours unobstructed sunlight between 9am to 3pm on 21 June.
- Development will not result in the shading of any existing solar energy or hot water panels installed on any surrounding land parcel or existing clothes drying areas.

#### 1.6.4 Design controls

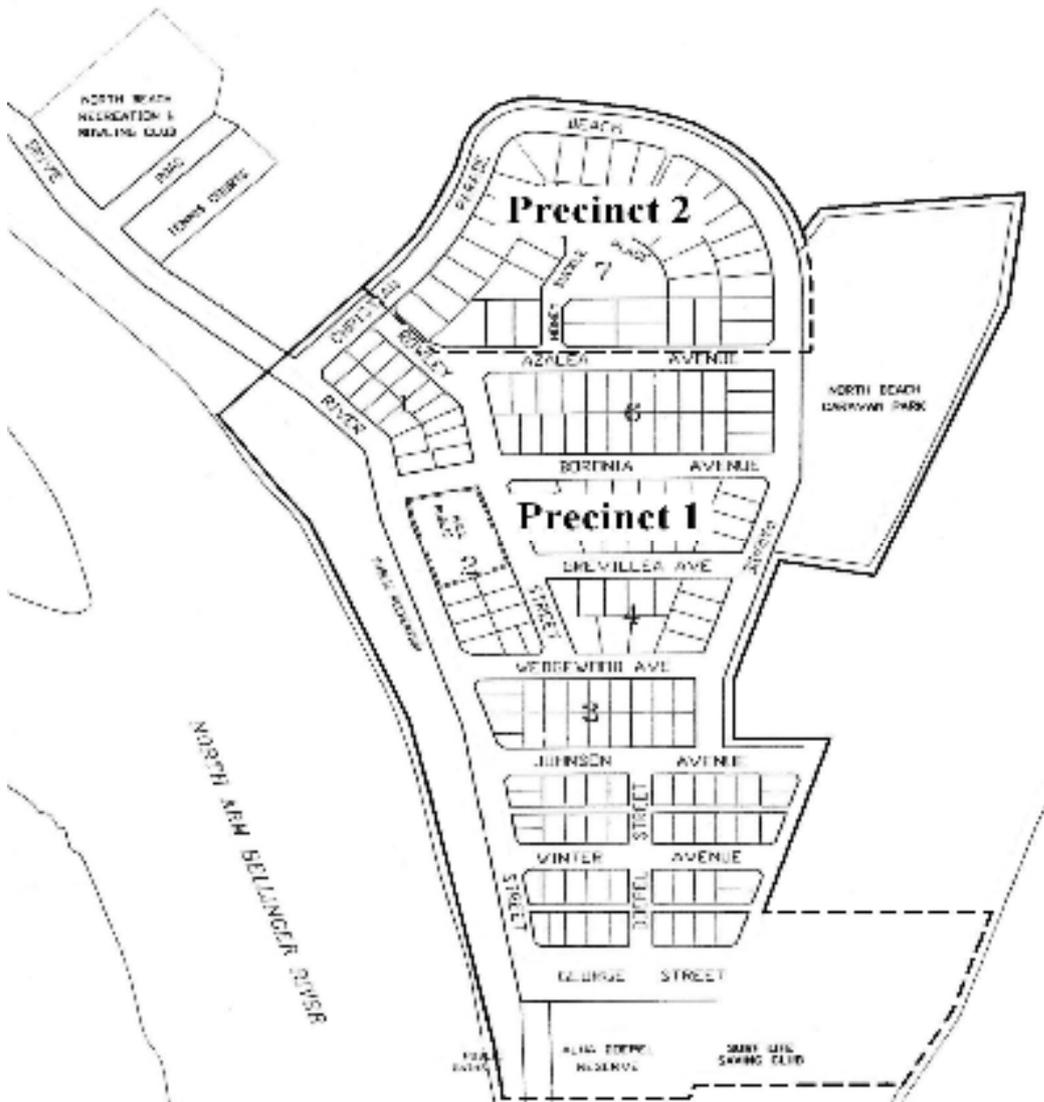
##### Aim

- a) To ensure that dwellings address the street frontage and thereby allow for casual surveillance of the footpath and public areas and encourage walkable environments,
- b) To promote ageing in place by extending the usability of new dwellings to meet “whole of life” needs of the community,
- c) To ensure that new development respects, complements and positively contributes to the existing character of the streetscape, and
- d) To ensure that new development retains and enhances the coastal village atmosphere of Mylestom.

##### Criteria

- 1) Dwellings shall be designed to ensure that a front door and at least one window are visible from the street.
- 2) Garages shall not be located forward of the front building line.
- 3) New dwellings are designed to comply with Chapter 13 – Universal Housing.
- 4) Solid fencing over 1.2 metres in height across street frontages will not be permitted unless necessary for noise mitigation. In such circumstances, fencing shall be articulated and landscaped to provide visual relief.
- 5) The following construction material and external colour scheme controls apply to all new residential development, including alterations and additions, within Precinct 1 in Mylestom as illustrated in Figure 1.2:
  - External materials are to be of light weight construction, using materials consistent with the coastal village character.
  - Mixed construction is only permitted where the external wall on each facade (excluding windows) is not less than 50% light weight construction.
  - Metal roofing only, with pitched roof to use custom orb profile.
  - External colours must blend in with the coastal and river environment of the landscape. Suggested colours are subdued blues, greens and lighter natural tones.

**Figure 1.2 Precincts in Mylestom**



### 1.6.5 Landscaping

#### Aim

- a) To enhance the visual quality and amenity of residential areas,
- b) To improve privacy between adjoining dwellings by enabling planting and healthy growth of screening vegetation,
- c) To enable planting and healthy growth of suitably located shade trees and other deep rooted vegetation in residential areas and protection of existing mature trees,
- d) To enable planting of vegetation that provides additional habitat for native wildlife,
- e) To provide sufficient space for domestic fruit and vegetable growing,

- f) To enable infiltration of rainwater to the water table and to reduce stormwater runoff from residential areas.

### Criteria

- 1) The site must have a landscaped area of at least the following:
- if the lot has an area of at least 200m<sup>2</sup> but not more than 300m<sup>2</sup>—10% of the area of the lot,
  - if the lot has an area of more than 300m<sup>2</sup> but not more than 450m<sup>2</sup>—15% of the area of the lot,
  - if the lot has an area of more than 450m<sup>2</sup> but not more than 600m<sup>2</sup>—20% of the area of the lot,
  - if the lot has an area of more than 600m<sup>2</sup> but not more than 900m<sup>2</sup>—30% of the area of the lot,
  - if the lot has an area of more than 900m<sup>2</sup> but not more than 1,500m<sup>2</sup>—40% of the area of the lot,
  - if the lot has an area exceeding 1,500m<sup>2</sup> – 45% of the area of the lot.

#### 1.6.6 Vehicular access and car parking

*Chapter 5 – Carparking and Vehicular Access* details specific requirements.

#### 1.6.7 Private open space

##### Aim

- a) To ensure that adequate amount of accessible and useable private open space is provided to meet the recreational needs of the residents.

##### Criteria

- 1) The dwelling shall be designed and sited to ensure that a ground floor private open space area for the use of future residents of the dwelling is provided.

This private open space area must be located and orientated to maximise year round use and to provide adequate access to winter sunlight. It also must satisfy the following requirements:

- Minimum area of 24m<sup>2</sup>,
  - Minimum length and width of 4 metres,
  - Maximum grade of 12.5%, and
  - Located and landscaped to provide an adequate level of privacy for future residents of the dwelling.
- 2) Where the site is steep and a suitable area with a grade less than 12.5% is not available for dedication as a private open space area, a balcony or deck with an area of not less than 10m<sup>2</sup> and with a minimum dimension of 2.5 metres will be accepted as an alternative.

- 3) Private open space areas must not include any areas used for on-site effluent disposal.

### 1.6.8 Privacy

#### Aim

To ensure that dwellings are designed to minimise direct overlooking of private open space areas and habitable rooms of existing dwellings on adjoining properties.

#### Criteria

Developments shall be designed in accordance with the following provisions:

- 1) New dwellings and extensions to existing dwellings are to be sited and designed to minimise overlooking of private open space areas and habitable rooms of existing dwellings on adjoining properties.
- 2) Where a balcony, deck or the like is more than 1 metre above ground level (existing) and the edge of that structure is less than 3 metres from a side or rear boundary, privacy screens (excluding lattice) of at least 1.7 metres above the finished floor level of the deck or balcony shall be installed to direct views away from private open space areas and habitable rooms of existing dwellings.
- 3) Where a balcony, deck or the like is more than 2 metres above ground level (existing) and the edge of that structure is less than 6 metres from a side or rear boundary, privacy screens (excluding lattice) of at least 1.7 metres above the finished floor level of the deck or balcony shall be installed to direct views away from private open space areas and habitable rooms of existing dwellings.
- 4) All habitable room windows that are within 3 metres of a side or rear property boundary must be offset from habitable windows in the adjacent dwelling/s **unless** those windows are on a ground floor that has a finished floor level less than 1 metre above ground level (existing) and a common boundary fence of 1.8 metres high already exists or is proposed to be constructed as part of the development.
- 5) If one or more of the habitable windows in the proposed dwelling does not meet criteria (d), the dwelling design must incorporate one of the following design measures to protect the privacy of existing residents:
  - i. The non-complying window has a minimum sill height of 1.5 metres, or
  - ii. Translucent glazing will be provided to any part of the non-complying window less than 1.5 metres above floor level, or
  - iii. External privacy screens will be installed in front of the non-complying window to block the line of sight to habitable rooms in the adjacent dwelling.

### 1.6.9 Environmental impacts

#### Aim

To encourage the location of development in areas that minimise disturbance to existing native or other significant vegetation.

#### Criteria

- 1) Further to the provisions of *Clause 7.5 – Biodiversity* (BLEP 2010), areas for dwelling sites, roads, bushfire mitigation measures and other essential infrastructure associated with the residential occupation of land shall be selected to avoid or minimise the need for removal of native or other significant vegetation.
- 2) Threatened Ecological Communities (TEC's) and Preferred Koala Habitat as shown on the map in Appendix 16.2 of this DCP will be afforded maximum levels of protection and any application involving removal of any part of an TEC or Preferred Koala Habitat will normally require redesign to avoid adverse impacts.

### 1.6.10 Alteration of natural landform

#### Aim

- a) To encourage the use of building techniques that respond to the particular circumstances of the site.
- b) To avoid adverse impacts related to alteration of drainage patterns and undermining.

#### Criteria

- 1) Buildings shall be designed such that they are in keeping with the natural landform and respond to the particular characteristics of the site, as illustrated in Figure 1.3.
- 2) In the R1 zone, excavation and filling is to be limited to a maximum of 1 metre. This is depicted in Figure 1.4.

Figure 1.3 - Following the Natural Landform

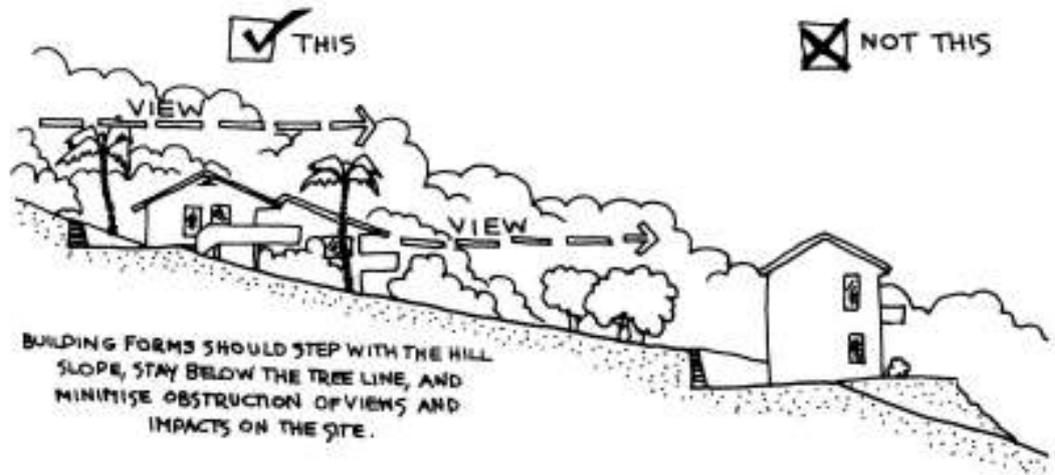
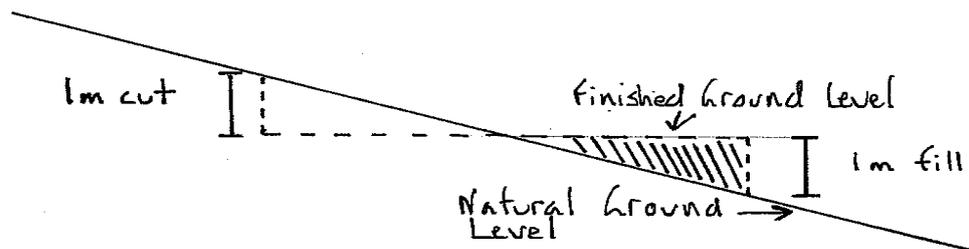


Figure 1.4 – Permissible Excavation and Filling



- 3) The maximum excavation restriction referred to in criteria b) is not applicable where the excavation is incorporated into the building design up to a maximum of 2 metres.
- 4) Where earthworks are proposed for swimming pools, the earthworks are to have a maximum depth of no more than 2 metres. Where swimming pools are partially benched into the side of a hill, the pool is to extend no more than 1 metre out of the ground.
- 5) In R5, Rural (RU1, RU2, RU3 and RU4) and Environmental zones (E3 and E4) zones, Council may consider up to a maximum height of 2 metres of excavation and 2 metres of fill. The increased amount permissible in rural areas is in recognition of the increased setbacks that are possible to adjoining boundaries (and consequently, the ability of the developer to retain any impacts entirely on site), and the desirability of slab construction methods in terms of bushfire safety.
- 6) Council may consider variations to the abovementioned criteria where;
  - i. The visual impact of the proposal is reduced via the variation, and

- ii. The variation will not result in adverse drainage outcomes

Council will not support variations where the proposed cut and fill is necessary to accommodate the erection of a dwelling of fixed design (ie. a project home) where meaningful departures from the typical design are not possible and the design has been selected without due reference to the suitability of the site for that particular house.

- 7) If the proposal involves earthworks on land with a gradient exceeding 15% or involves cut and fill of more than 1 metre, engineering detail that is prepared by a suitably qualified structural or geotechnical engineer is to be submitted with the development application.

#### 1.6.11 Residential infrastructure requirements (R1 zone)

##### Aim

To ensure that adequate infrastructure exists to support the residential occupation of land.

##### Water and Sewerage

- 1) Any construction over a sewer or water main, a sewer or water main easement or within the zone of influence of a main will not be permitted.
- 2) Dwellings must be connected to a reticulated water and sewerage system. Variations may be considered only where;
  - Reticulated services are not currently available to the property and extension of those services is not environmentally or economically realistic, and
  - The subject land has demonstrated capability to dispose of effluent pursuant to *Chapter 10 – On-site Sewage Management*, as detailed in a report prepared by a suitably qualified person.
- 3) Reticulated water services shall not be extended to non-sewered allotments unless they are already fronted by an existing Council Water Main.

##### Storm water disposal

All excess roof water shall be conveyed in a controlled and nuisance free manner to Council's road gutter by means of an approved drainage pipe system and standard kerb adaptor. Where it is not feasible to direct stormwater to Council's road gutter, Council will consider accepting an alternative legal point of discharge ie. a natural watercourse.

##### Electricity services

Dwellings shall be connected to mains power supply. Council may consider proposals to utilise alternative power sources where;

- 1) They are clearly described in the DA and demonstrated to be capable of meeting the reasonable energy demands of the dwelling.
- 2) They will not result in adverse impacts to surrounding properties by way of noise, emissions or otherwise.

- 3) There will be no adverse impacts on the health and safety of occupants (eg: smoke alarms can be provided without mains power)

#### 1.6.12 Large lot residential (R5 zone) and rural infrastructure requirements (RU1, RU2, RU4, E3, E4 zones)

##### **Aim**

To ensure that adequate infrastructure exists to support the residential occupation of rural residential and rural land.

##### Water

- 1) In areas with no reticulated water supply, a minimum of 45,000 litres of storage capacity for potable water shall be provided. (Note: additional requirements may apply in bushfire prone areas – these must be provided in addition to the minimum potable water requirements specified above).
- 2) Reticulated water services shall not be extended to non-sewered allotments unless they are already fronted by an existing Council Water Main.

##### Sewer

On site effluent disposal shall be in accordance with the provisions of *Chapter 10 – On-Site Sewage Management* in this DCP.

##### Stormwater Disposal

Stormwater shall be disposed of initially to a water tank with provision made for nuisance free overflow from the tank. Overflow is to be discharged in a lawful, controlled and nuisance free manner that does not affect adjoining properties, is clear of the effluent disposal area and is directed away from buildings.

##### Electricity services

As per the requirements of Section 1.6.11.

#### 1.6.13 Expanded dwellings

##### **Aim**

- a) To provide for flexible living arrangements for occupants of a single dwelling, and
- b) To control the spatial extent of the dwelling and reduce the likelihood of separate occupation of individual components.

##### **Criteria**

- 1) Kitchen and laundry facilities shall only be located in the main building.
- 2) The distance between the external wall of the main building and expanded dwelling components shall be no greater than 30 metres.
- 3) Any buildings additional to the main building must not have a floor area in excess of 40m<sup>2</sup> (exclusive of verandahs, decks, balconies).

#### 1.6.14 Studios

##### **Aim**

To allow for the erection of buildings not within the curtilage of the main dwelling where these are small scale, visually unobtrusive and intended for use by only the permanent occupants of the main dwelling for artistic or creative purposes.

##### **Criteria**

- 1) Must be one room only (with exception of toilet facilities if necessary).
- 2) Must be located on the same lot as the dwelling.
- 3) The floor area of the studio must not exceed 30m<sup>2</sup> (exclusive of verandahs, decks, balconies).

#### 1.6.15 Retention of original dwellings on rural properties

##### **Aim**

To enable retention of original dwellings in rural areas, where appropriate.

##### **Criteria**

In rural or environmental zones where a new dwelling has been constructed, the existence of the former dwelling on a property shall be inadequate justification in its own right to retain it as an “expanded dwelling”. Any intention to retain the former dwelling as either an “expanded dwelling” or a storage building will require that it be modified to;

- In the case of storage buildings, have no internal separations or rooms (with the exception of toilet/bathroom facilities),
- Have no kitchen or laundry facilities, and
- Be reduced in size through the removal of non-original parts of the building (provided these have no heritage significance) including lean to or other additions and rooms created by verandah enclosure.

Such a proposal would need to be supported by a Structural Engineer’s Report detailing necessary works to ensure the stability of the structure. Buildings with identified heritage significance may not be permitted to undergo alterations.

Note: An alternative option, if the building has a floor area less than 60m<sup>2</sup>, is to seek development consent for the change of use of this building to a secondary dwelling, as defined in the BLEP 2010, where such a use is permissible with consent. Refer to Clause 5.4 of the BLEP 2010 and Chapter 2 of this DCP for applicable controls in this regard.

#### 1.6.16 Relocated houses

##### **Aim**

To ensure that relocated houses are structurally and aesthetically adequate.

## Criteria

Council will permit the relocation of dwellings in the following circumstances.

- 1) A report from a qualified building consultant is submitted to Council attesting to the structural suitability of the building. This is to include identification of any asbestos products and recommendations regarding its removal and/or retention and relocation and compliance with Workcover requirements.
- 2) The building, once relocated within the Bellingen Shire, must have any necessary improvements made to its external features (eg: claddings, roofing materials, painting) such that it demonstrates compatibility with the existing character of the neighbourhood to which it is relocated.
- 3) Prior development approval is to be obtained for the relocation of the building. Council will not allow the temporary relocation of dwellings prior to consent as this pre-empts the consent process and the thorough consideration of all issues regarding its siting.

Note: Council may require the submission of a bond to guard against damage to Council infrastructure (eg: narrow bridges) in the relocation process.

### 1.6.17 Shop top housing

#### Aim

- a) To provide opportunities for residential accommodation in areas with superior access to facilities.
- b) To provide opportunities for passive surveillance of commercial areas in non-business hours.

#### Criteria

The following criteria shall apply to the establishment of shop top housing, for a single dwelling only.

- 1) Dedicated car parking for the residential component is not required, however provision must be made at ground floor level for a lockable enclosure within which it is possible to store two bicycles and which is allocated for the exclusive use of any dwelling not at ground floor level and which is not associated with the ground floor business

**Note:** Council will not support and does not operate any scheme for the allocation of on street parking spaces for the exclusive use of local residents, in the absence of dedicated on site parking for residents of shop top housing.

- 2) Any application for shop top housing must clearly demonstrate the functional relationship between the retail/business component and the residential component. Dwellings that are intended for occupation by the proprietors of the attached business will require reduced levels of independence from the business operations than those intended to be occupied separately. Any consent for such a dwelling will be conditioned so as to prevent occupation of the dwelling by persons unrelated to the business.
- 3) Shop top housing that is to be occupied by persons not associated with the ground floor business must be able to be directly accessible from the main

street frontage of the premises and function separately from the ground floor operations. Matters such as garbage bin storage and bicycle lock up areas must be addressed in any Development Application.

- 4) Shop top housing that is being created as part of an entirely new building must include a 1st floor balcony area for occupants of 10m<sup>2</sup> in area with a minimum width of 2.5m. This balcony is to be located so that the outlook is towards public areas rather than adjoining buildings.
- 5) The development is to be designed to minimise noise impacts on residents and to ensure that noise sensitive areas are screened from noise sources.

**Note:** Council strongly advises that any proposal to create 1st floor residential accommodation is designed with the potential for future strata subdivision in mind. Failure to consider this in the design of the development may result in future subdivision options being made prohibitively expensive or problematic.

# APPENDICES

There are no Appendices for this Chapter