



Byron Shire Council Development Factsheet

COMPLIANCE

The types of development to which the planning laws apply are broad. They include erecting or altering a building; the use of a building, e.g. as a shop, a dwelling or an industry; the use of land, e.g. for agriculture or environmental protection; earthworks, e.g. excavation or landfill; and vegetation removal, eg land clearing or tree removal.

If an unauthorised development is undertaken, Council can take law enforcement, or compliance, action. People can protect themselves from this action by knowing what kind of development requires approval and by following the approval procedure involved. They should also be aware of the kind of compliance actions that Council is likely to take in cases of unauthorised development.

NSW planning law provides for three broad categories of development which are development that is exempt or complying, and development that requires consent. The legality or otherwise of a development will depend upon which of these categories fits and whether it has satisfied the criteria and procedures applicable to that category. Some other developments are prohibited in particular land use zones.

In the case of unauthorised development the actions that Council may take can be broadly categorised into those that impose a penalty and those that seek to remedy or restrain the illegality.

Examples include:

1. *The unauthorised extension and enclosure of a verandah for use as a bedroom.* Council may issue a \$600 fine. If the work has no significant impacts Council may require details that the work satisfies relevant building safety standards. If the work has unacceptable impacts, eg. upon the neighbours' amenity and would not have been approved anyway, then Council may also issue an Order for the work to be removed or modified. If the Order is not complied with Council may issue a \$1500 fine and take action in the Land and Environment Court for the issue of a court order.
2. *Illegal land clearing.* Council may issue a \$600 fine, or it may take court action for a criminal offence. It may also issue an Order for appropriate revegetation.
3. *The use of a dwelling for an occupation that employs non-resident workers.* Council will issue a \$600 fine which may be repeated daily if the use continues. Council may also issue an order for the use to cease.

In deciding whether to take compliance action, Council will consider matters such as whether the development would have been approved if approval had been sought before the development was undertaken; whether the development has unacceptable impacts, and whether the development creates a safety risk.

The undertaking of an unauthorised development can come at a high cost. If you are in any doubt as to whether your proposed development requires development approval you should make the appropriate inquiries. People intending to purchase a property should inquire about the development consents that have been obtained to ensure the property has no unauthorised aspects.