



GUIDELINES FOR COMPLYING DEVELOPMENT BED & BREAKFAST ESTABLISHMENTS

#321389 - APRIL 2002

General Exclusions: *Unless otherwise provided in this Development Control Plan, complying development must not be carried out on land or buildings under the following circumstances:*

- a) on items of the environmental heritage;
- b) on flood liable land;
- c) within the following zones:
 - Zone No. 5(a) (Special Uses Zone)
 - Zone No. 5(b) (High Hazard Flood Liable Zone)
 - Zone No. 6(a) (Open Space Zone)
 - Zone No. 7(a) (Wetlands Zone)
 - Zone No. 7(b) (Coastal Habitat Zone)
 - Zone No. 7(c) (Water Catchment Zone)
 - Zone No. 7(d) (Scenic/Escarpment Zone)
 - Zone No. 7(f1) (Coastal Land Zone)
 - Zone No. 7(f2) (Urban Coastal Land Zone)
 - Zone No. 7(j) (Environmental Protection Scientific Zone)
 - Zone No. 7(k) (Habitat Zone)
 - Zone No. 8(a) (National Parks and Nature Reserve Zone)
 - Zone No. 9(a) (Proposed Road Zone)
- d) on land to which the following clauses of the Byron Local Environmental Plan 1988 apply:
 - 27 Building lines along arterial roads;
 - 38A Development within Zone 1(a) shown hatched on the map;
 - 38B Development of land at North Ocean Shores within Zone Nos. 1(b1) and 7(k);
 - 42 Minor variation of zoning boundaries;
 - 47A Development of certain land at Ocean Shores;
- e) where development is permissible only under the existing use rights provisions of the Environmental Planning and Assessment Act and Regulation;
- f) on land that is an Aboriginal Place under the National Parks and Wildlife Act 1974;
- g) on land that is reserved or dedicated under the Crown Lands Act 1989 for the preservation of flora, fauna or geological formations or for other environmental protection purposes;
- h) on land to which State Environmental Planning Policy No 14 - Coastal Wetlands applies;
- i) on land to which State Environmental Planning Policy No 26 - Littoral Rainforest applies;
- j) on land that is an aquatic reserve declared under the Fisheries Management Act 1994;
- k) over any easement;
- l) if located over, or within 1.5m of, a Council pipeline, unless documentary evidence is provided that Council's Water and Sewerage Department approve of the proposed structure;
- m) if, in the case of development requiring earthworks, any excavation (other than for a swimming pool) or filling exceeds 1m in depth of height;
- n) if within 0.9m of any property boundary, apart from fences, signs and works within the outer enclosing walls of an existing building;
- o) if any tree must be removed, apart from trees exempt under the tree removal provisions of this DCP;
- p) on land that has previously been used:
 - as a service station
 - as a cattle dip
 - for intensive agriculture
 - for mining or an extractive industry
 - for waste storage or waste treatment
 - for the manufacture of chemicals, asbestos or asbestos productsand a notice of remediation work for the proposed use has not been given to Council in accordance with State Environmental Planning Policy No. 55 - Remediation of Land.

- q) if it is on land identified in Council records as being potential acid sulfate soils of a class listed in column 1 of the following table and it involves works described in column 2 of the table:

Class 1	Any works
Class 2	Works below natural ground surface
Class 3	Works beyond 1 metre below natural ground surface
Class 4	Works beyond 2 metres below natural ground surface

unless an assessment of the proposed works has been undertaken in accordance with the "Acid Sulfate Soils Assessment Guidelines" and that assessment has been given to the Council and the Council has provided a written response that it is satisfied with the proposed management of acid sulfate soils.

For the purpose of this sub-clause "works" are defined as "any disturbance of more than one (1) tonne of soil or any other works that are likely to lower the watertable".

- r) where, in the case of alterations and additions, sheds or swimming pools on properties where sewage is required to be managed on-site:
- the development is on that portion of the land that is used for on-site sewage management; or
 - there are visible signs of surface surcharging of effluent from the existing on-site management system; or
 - there is less than 1,500 m² of unconstrained land remaining on the land parcel. In this sub-clause unconstrained land is land which satisfies the following requirements:
 - * slope: less than 15 percent;
 - * exposure: high exposure to sun and wind;
 - * erosion potential: no signs of erosion potential present;
 - * subsoil drainage: no visible signs of surface dampness;
 - * surface drainage: site stormwater can be diverted;
 - * land filling: no fill;
 - * buffers: not within 3m of property boundaries.

General Specifications

Development must comply with the following specifications to be complying development:

- a) It complies with the provisions of Byron LEP 1988 and Byron Development Control Plans
- b) It will not prevent or restrict the use of land which is used:
- i) As a means of entrance to, or exit from, the land, or
- ii) For the loading, unloading, manoeuvring or parking of vehicles, or
- iii) For landscaping required to be carried out or maintained by reason of a condition imposed under the Act.
- c) Complying development may only be carried out on existing allotments of land. Development on land not yet created by registration of a Deposited Plan of Subdivision is not complying development.
- d) Buildings in Zone No. 2(a) (Residential Zone) and Zone No. 7(f2) (Urban Coastal Land Zone) must comply with the *building height plane* on all boundaries of the property without any encroachment whatsoever.
- e) Applications for a Complying Development Certificate must demonstrate compliance with the deemed-to-satisfy provisions of the Building Code of Australia.
- f) Residential development must comply with setbacks as follows:
- from the street:
- i) along classified or arterial roads in Zone No. 2(a) (Residential Zone) - **10m**
- ii) elsewhere in Zone No. 2(a) (Residential Zone) except Ocean Shores - **6.5m**
- dwelling-houses with a height of less than 3.6m except Ocean Shores - **4.5m**
- iii) Ocean Shores Zone No. 2(a) (Residential Zone) - **7.6m**
- iv) from the boundary of an arterial road (as defined on Byron LEP 1988 maps) in rural zones- **55m**
- v) elsewhere in rural zones - **15m**
- vi) corner lots - on local or secondary roads in urban areas, setbacks of up to 50% less than the required setback will be permitted on one road frontage.

side and rear setback:

- vii) all areas except Ocean Shores - **0.9m**.....
- viii) Ocean Shores - **3.0m**.....
- ix) Rural areas -
- x) side and rear setback from rural property boundaries on land identified by Council as being subject to high or medium fire danger - **15m**.....
- g) Alterations and additions, sheds, swimming pools and water tanks must comply with the setbacks described in sub-clause (g) above except that in rural and rural residential zones a minimum side and rear setback of 5 metres (rather than 15 metres) is required

Prior to issue of a Complying Development Certificate

A complying development certificate must not be issued until the following matters have been addressed to the satisfaction of the issuing authority:

- a) payment of long service levy as required by the Home Building Act;
- b) plans are to be provided to the same specification required under the Environmental Planning and Assessment Regulation for a development application. Additionally, plans are to include:
 - a locality plan illustrating the Lot number and Deposited Plan number, north point, and names of adjoining roads or streets;
 - site plan illustrating boundary dimensions, setbacks to all boundaries, names of adjoining roads or streets;
 - floor plans, elevations and cross sections.

Conditions

Complying Development Certificates must:

- impose all of the conditions and notes listed below under “General Conditions.”
- impose all of the conditions and notes appearing after each type of complying development in this Plan as in force when the certificate is issued.
- for buildings, state the classification/s of the building/s under the Building Code of Australia.

Bed and Breakfast Establishment

A floor plan of the dwelling-house must be provided. The plan shall illustrate which rooms are to be provided for bed and breakfast accommodation. A copy of the plan shall be attached to, and form a condition of, the Complying Development Certificate.

A site plan must be provided. The plan shall illustrate the provision of car parking for the development in accordance with the requirements of this Development Control Plan and shall form a condition of the Complying Development Certificate.

Bed and breakfast establishments must comply with the definition of "bed and breakfast establishment" under Byron Local Environmental Plan 1988 and must comply with the following criteria in order to be considered as complying development:

- a) Notwithstanding the general provisions of this DCP, bed and breakfast establishments may be conducted in any zone other than Zone No. 2(a)(Residential Zone) and Zone No. 7(f2)(Urban Coastal Lands Zone); and
- b) in an existing approved dwelling-house classified as a Class 1a building under the Building Code of Australia; and
- c) provide a maximum of two (2) guest bedrooms for bed and breakfast accommodation; and
- d) the owner and/or operator is a permanent resident; and
- e) not used in whole or part for the permanent or long-term accommodation of any person other than the person or persons who operate and manage the establishment and who normally reside in the dwelling; and
- f) offer at least breakfast for guests; and
- g) contain no facilities (eg. kitchen, sink and the like) in the guest room for the preparation of food and beverages by guests; and
- h) be consistent with Council's requirements in relation to kitchen facilities, fire protection, acoustic control, etc; and
- i) be capable of providing on-site car parking in accordance with the specifications in Byron DCP No. 1, at the rate of 2 car spaces (one of which should be covered) for the dwelling-house, and 1 space for each guest room. 'Stacked' car parking spaces are not acceptable.
- j) be capable of providing car parking, access and sanitary facilities for people with disabilities in accordance with the relevant edition of AS1428 (Design for Access and Mobility). Access is to be provided from the carpark to, and throughout, all common areas. Access and sanitary facilities are to be provided to at least one guest room.