

PART D - COMMERCIAL DEVELOPMENT

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Note: ^(D) = definition included in Part A8 of this DCP

D1. INTRODUCTION

What is the purpose of this Part?

The primary purpose of this Part of the DCP is to provide controls and guidelines for business and commercial development within Byron Shire.

What are the Objectives of this Part?

The objectives of this Part are:

- To encourage commercial development which will enhance the appearance and functions of commercial and retail areas within the Shire, and reinforce the natural sub-tropical tourist image of the centres.
- To provide a high standard of innovative architectural and landscape design that fits into the context of, and is sensitive to, the existing surrounding locality particularly any adjoining residential or open space areas, and that enhances Byron Shire's environmental integrity.
- To encourage the creation of effective and attractive malls, arcades, outdoor eating and other pedestrian areas.
- To encourage development that makes appropriate use of the Shire's favourable climatic conditions.
- To ensure optimum use of existing social, transport and other infrastructure by encouraging development close to existing infrastructure, lessening the need for motor vehicle trips, and encouraging pedestrian and bicycle mobility.
- To ensure that adequate provision is made for vehicular movement and car parking in and around commercial and retail areas.
- To encourage economic development and the creation of employment opportunities within the Shire.
- To promote an acceptance of people as individuals, and to facilitate their access to a fair and equal opportunity to participate fully in community life.
- To provide for affordable residential development in the town centre without detracting from the viability of the commercial/retail sector.

D2 REQUIREMENTS FOR COMMERCIAL DEVELOPMENT

D2.1 Element - Location and Function

Element Objective

To promote development that is consistent with and reinforces the identified role of the centres within the commercial centres hierarchy.

Performance Criteria

Developments that complement each other are to be located in close proximity to help consolidate centres and so improve viability and provide a better and more efficient environment for clients and workers. Development must be consistent with, and reinforce the role of the centre within the commercial centres hierarchy.

Development must contribute to the attractiveness of the centre in terms of vitality and the type and range of services offered by the centre.

Prescriptive Measures

There are no prescriptive measures for this Element.

D2.2 Element - Scale and Appearance

Element Objective

To reinforce the role and function of Business Centres and to ensure that development is compatible with the surrounding built form.

To ensure that the design of developments complements and enhances the public realm within existing business precincts.

Performance Criteria

The scale and appearance of development within commercial and retail areas must be compatible with adjoining and nearby development. The scale and appearance of the development must reflect and complement the character of the centre. Development within coastal centres must reflect a low-scale, tourist/beach image, and development in rural centres must be consistent with the village atmosphere.

Landscaping must complement the sub-tropical environment of the region and be integrated with the design of the development. In this regard, applicants must refer to Part H - Landscape.

Prescriptive Measures

The height^(D) prescribed within Zone No. 3(a)(Business Zone) under the provisions of the Byron Local Environmental Plan 1988, and the design controls specified in this policy, are the major determinants of scale. However, Council will give consideration to the overall scale and character of the centre within which a site^(D) is located, and to specific design requirements which are incorporated in any precinct plan or an area-specific DCP adopted by Council.

The design of new buildings must reflect and enhance the existing character of the business precinct.

Special emphasis must be given to the design of corner buildings, including careful consideration of the following:

- How the building addresses its neighbouring buildings, dual frontage and its turning of the corner.
- Stepping up at the corner and having a perceived greater height^(D) than neighbouring buildings.

The incorporation of distinctive features to enhance the streetscape, ie. stepped parapet turrets, towers, clocks etc.

- Giving the corner a splayed or square recess treatment such that it gives form to the intersection and provides more circulation space for pedestrians at the corner.

Building design must relate to its retail/ commercial/ office function with quality materials at the pedestrian level.

The pattern of windows must provide visual interest and variation and relate to those of adjacent buildings.

Materials must relate to the context of buildings within the area to achieve continuity and harmony. Contrasting materials may be used to provide diversity, however materials and colour must not be used so that they dominate the streetscape.

The building design, roof profile, detailing, colours, materials, etc, that are visible from the street and adjoining properties, are to be compatible with any dominant design themes within the surrounding locality.

D2.3 Element - Parking

Element Objective

To provide sufficient and convenient on-site parking to meet user needs.

Performance Criteria

Vehicular driveways, parking and loading areas must not interfere unduly with the free flow of pedestrians on or adjacent to the site^(D).

Car parking, loading and manoeuvring areas must be located so as to provide the maximum convenience and safety for customers, staff and service vehicles. The visual impact of such areas must be softened by the appropriate use of landscaping, and shade trees provided at frequent intervals throughout the car parking area, in accordance with Part H - Landscape.

Underground car parks are to be designed so that they meet ESD principles.

Prescriptive Measures

Car parking, loading facilities and vehicle access and movement must be designed in accordance with Part G - Vehicle Circulation and Parking.

Underground car parks must be designed so as to exclude the entry of stormwater and/or groundwater to the basement. Underground car parks must not be located below the top of the watertable.

D2.4 Element - Loading Docks

Element Objective

To ensure that loading docks are designed and located so that they will not adversely affect the streetscape or visual character of the area when viewed from roads, public places or nearby properties.

Performance Criteria

Loading docks and service areas must not be visible from any public place and must be suitably screened from adjacent properties. Screening may be achieved by locating such areas behind the buildings, by fencing, landscaping, mounding or a combination of these, or by other means to Council's satisfaction.

Prescriptive Measures

See Section G2.4

D2.5 Element - Setback From Street

Element Objective

To provide for setbacks which complement the streetscape and character of the centre.

Performance Criteria

Setbacks from the street are encouraged in commercial development:

- to give a softer, more open feeling to the streetscapes of town areas;
- to encourage a relaxed atmosphere;
- to enable street furniture and landscaping to become an integral part of the town's commercial precinct;
- to ensure development is conducive to effective pedestrian movement and access.

Prescriptive Measures

While no general setback applies to the erection of commercial buildings, the following specific requirements apply:

- (a) Where car parking or goods loading areas are adjacent to a street frontage, excepting a service lane, a minimum setback of 3 metres must be provided to allow for effective landscaping.
- (b) A setback of up to 5 metres may be required for reasons of traffic safety, amenity or streetscape improvements. In such case, development will not be permitted within the setback area, other than the use of the land for landscaping, public access, outdoor seating, utility installations, roadways for access, or the erection of a sign identifying the occupants of the site^(D).
- (c) Upper storey^(D) additions will be required to be set back an appropriate distance to enable the provision of a balcony^(D) or private open space. Council will require appropriate provision of landscaping at street level or a monetary contribution in lieu, for upgrading and beautification of adjacent public places. An appropriate sketch must be included with any such application.

Underground car parking spaces may only be permitted within setback areas provided the underground structure is located a minimum of 2m below ground level to permit substantial landscaping.

D2.6 Element - Signs

Element Objective

To ensure that signs are compatible with the character and function of business precincts and surrounding areas.

Performance Criteria

Signs must reflect the role and function of business premises.

The number and size of signs must be limited to ensure equity for land uses and a pleasant visual environment.

Signs must be included as part of the overall design strategy for the development.

Prescriptive Measures

The erection of signs will be subject to the detailed requirements of DCP 16 Exempt and Complying Development and Part L – Signs of this DCP.

D2.7 Element - Access and Facilities for People with Disabilities

Element Objective

To maintain safe and equitable access for persons with access disabilities.

Performance Criteria

There are no performance criteria for this Element.

Prescriptive Measures

The Building Code of Australia specifies certain minimum standards for the provision of access and facilities for people with access disabilities to various types of development.

The following provisions supplement the requirements of the Building Code of Australia and ensure that people with access disabilities have appropriate access at least at ground level to commercial buildings, irrespective of the floor area of the building or of the height^(D) of the ground floor above or below street level.

- (a) All new development comprising shops, offices, restaurants, public buildings, tourist facilities and the like must provide disabled access from the finished level of the footpath or road reserve to that floor of the building closest to ground level, irrespective of the height^(D) of that floor above or below the footpath or road level or the floor area of the particular premises.
- (b) All ramps, landings, doorways, circulation space and handrails forming part of the required disabled access must comply with the requirements of the Building Code of Australia.

In addition to the above, applicants must make themselves aware of the provisions of the Disability Discrimination Act.

Any ground floor shop, refreshment room or commercial premises needs to be fully accessible through the principal entrance, aisles between merchandise displays must display clear widths and passing spaces. At least one checkout in each group must be accessible.

One level of every counter for use by the general public must be at a height which enables access by a person in a wheelchair (This can be achieved by making a split-level counter.)

Where there are writing places provided, at least one place must be accessible to a person in a wheelchair.

First and second floor shops, refreshment rooms or commercial premises must be fully accessible where the floor area of either level 100m² or more. Shops, refreshment rooms or commercial premises with floor level less than 100m² provision must be made for a stairwell where a chairlift can be installed in accordance with the relevant Australian Standard.

Council may consider exemptions for change of use.

D2.8 Element - Arcades

Element Objective

To facilitate the provision of arcades which have provide high degree of user amenity and are designed to suit the climate of Byron Shire.

Performance Criteria

Arcades, especially those incorporating outdoor seating and landscaping, provide a proven economic advantage for adjacent commercial development and therefore Council encourages their use, particularly considering the local climate.

All arcades must be designed so that natural light is available to the arcade by inclusion and appropriate placement of light wells, courtyard openings, etc, to avoid dark, poorly lit areas.

Prescriptive Measures

There are no prescriptive measures for this element.

D2.9 Element - Outdoor Dining

Element Objective

- *To encourage an out-door lifestyle by promoting the benefits of Outdoor Dining which include increasing street vitality, promoting social interaction and contributing to urban regeneration.*
- *Where the outdoor dining is located on the public footpath, to ensure:*
 - *an appropriate rent and deposit are levied in acknowledgement of the use of public land for commercial purposes.*
 - *the safe movement of pedestrians and convenience to surrounding residents and businesses.*
- *To maintain safe and equitable access for persons with access disabilities.*

Performance Criteria

The ground surface must be sufficiently level to support an orderly layout and safe use of the required furniture.

Pedestrians must be able to clearly and easily negotiate the footway when table and chairs are in place. The prime consideration of Council is to maintain a constant pedestrian corridor along the footpath.

The holder of the approval is to indemnify Council in writing against any action taken against it by persons injured or suffering loss by the use of the footpath. Council will not accept liability for damage to or loss of furniture or personal property from the approved area.

Footpath furniture must make a positive contribution to the street environment. A furniture style that is practical and elegant and integrates well with the surroundings is encouraged.

Whenever possible, a footpath dining area must visually relate to, and be physically aligned with, existing features and permanent elements of the streetscape and landscape such as, trees, bollards, etc.

Footpath dining areas must enrich the pedestrian experience and public life. It is important that they present an open, inviting image and are easily accessible.

Prescriptive Measures

Private arcades and courtyards

Access aisles and clearances must be maintained at all times as follows:

- (a) Major pedestrian access aisle - minimum width 2 metres; or

- (b) Minor pedestrian access aisle (where a major aisle through the courtyard or arcade area also exists nearby) - minimum 900 mm;

On public footpaths

Licence Approvals

An application for a licence, hereafter referred to as an "approval", to use a footway for dining purposes is made under Section 125 of the Roads Act, 1993. The concurrence of the Roads and Traffic Authority is required if the dining area is located on a classified road. These are the Pacific Highway, Main Road No. 65 (Bangalow/Lismore Road), Main Road No.545 (Ewingsdale/ Jonson/ Broken Head Road) and Main Road No.306 (Mullumbimby Road/ Argyle Street/ Burringbar/ Daley Street).

Use of part of a footway for dining purposes can only be considered where that use is adjacent to an approved Refreshment Room. A Refreshment Room means a "restaurant, cafe, tea room, eating house or the like" as per Byron Local Environmental Plan 1988. Each application must be made in conjunction with a development application, or in accordance with the existing development consent.

Approvals, where provided, will be subject to all relevant Act and Regulations, including in particular, the Food (General) Regulations Act, Dog Act and Occupational Health and Safety Act.

The Council will provide a notice outlining the terms of the approval including specification of the maximum number of chairs able to be provided within the approval. This notice must be displayed at all times in the front window of the premises, or so that it can be clearly read from the footpath, by passing pedestrians.

Approvals will be granted for a maximum period of two (2) years.

If the approval is granted to a corporation or unincorporated association then the principal of the organisation may be required to give personal guarantees and/or provide a bank guarantee to the satisfaction of the Council to secure payment of approval fees.

Insurance

The holder of the approval is to indemnify Council in writing against any action taken against it by persons injured or suffering loss by the use of the footpath. Council will not accept liability for damage to or loss of furniture of personal property from the approved area.

Public risk insurance to a minimum value of ten (10) million dollars must be taken out by the applicant/ holder of the approval. The insurance must note the interests of Byron Shire Council as co-insured.

The applicant/ holder of the approval must lodge a copy of the insurance policy with Council prior to the issue of an approval. A certificate of currency needs to be furnished at the expiration of insurance and with each renewal application.

Layout, Circulation, Safety and Convenience

A maximum of one chair per square metre is permitted.

In all locations, a clear distance of at least 2.0 metres must be maintained adjacent to the licensed area for pedestrian circulation. For town centres, excluding Byron Bay, the minimum distance specified may be reduced, at Council's absolute discretion, to a minimum of 1.8 metres. This can only occur where the applicant can demonstrate to the satisfaction of Council that there will be no increased impact on pedestrian access when the tables and chairs are in place.

The pedestrian corridor must be continuous with the frontage of the property and/ or contiguous with the adjoining properties, within a reasonably distinctive section, or portion, of the street/ lane.

Visually impaired persons normally use the continuous line of the shop frontages for direction with their guidance sticks. Where the building frontage is not continuous, tactile directional tiles for the visually impaired must be provided, at the applicant's cost. The tiles must be placed on the property boundary/ frontage and also on the edge of the dining areas. Pavement hazard markings must be provided at the ends of dining areas to provide delineation to the dining areas for the visually impaired and to assist in defining the leased area.

The available depth of a footpath dining area depends on the width of the footpath. The minimum practical depth for a footpath dining area is 1 metre, which will allow for two chairs per table. Where the proposed footway restaurant area extends outside the confines of the associated refreshment room, concurrence of the adjoining shop owner is required, and details are to be supplied indicating that normal trading of the adjoining premises will not be adversely affected, addressing such matters as ie, advertising, display areas and public access.

At street intersections, a setback of at least 10.0 metres from the kerb in the opposing street applies. The dining area will only be approved where the defined seating area is more than 10.0 metres from the approach side and more than 5 metres from the exit side of a pedestrian crossing.

Safety for kerbside diners from vehicle impacts must be provided by the use of bollards set into the footpath pavement or other methods to achieve the same level of safety. Bollard spacing is not to exceed 1200mm, and they must be located 600mm clear of the kerb and gutter (900 mm where there is angle parking) to allow sufficient space for people to alight from parked vehicles.

Diners must be clear of the bollards such that deflections in the bollards, as a result of vehicle collisions, would not impact on the people seated adjacent. A minimum clearance of 200mm must be provided between diners and bollards (essentially equating to 800mm –adjacent to parallel parking or 1100mm – adjacent to angle parking setback from the kerb for actual diners.)

Where a dining area is located adjacent to the kerb a walk through area must be provided for motorists that may park adjacent to this area and wish to access the footpath. Walk through areas must be provided at minimum spacings of 6.0 metres (average vehicle length 5-6m), such that on average a person alighting from a vehicle only need travel a distance of 3.0 metres before an accessway through the seating area is available.

Where existing street furniture, planter boxes, utility poles etc restrict pedestrian traffic adjacent to the building the pedestrian corridor is to be located away from the building/ property alignment.

The use of the footpath is not to inhibit access to public utilities such as fire hydrants, access holes, inspection chambers, telephone and electricity underground cables, water service pipes and the like.

Style, Materials and Colours

The style, layout, and orientation of furniture must be chosen according to the extent and shape of the available space so as not to tempt patrons to move furniture beyond the boundaries of the licensed area.

The use of bulky single piece moulded plastic / resin furniture is not permitted. All furniture items will be subject to the Council's approval. A furniture style guide is shown in the following diagram.

If safety rails, bollards or similar permanent elements are required, their location, selection and design will be subject to the Council's approval.

Applicants are encouraged to select furniture that is compatible with the design and quality of the style range included in the following diagram. Favourable consideration may also be given to well designed, creative and individual alternatives, provided that they are consistent with the contents of this policy.

Tables, chairs, and umbrellas may be powder coated, or polished aluminium, brushed, or stainless steel, natural or painted timber, or canvas. Suitable colours include natural, camel, terra cotta, Brunswick green, blue or black. Surfaces such as tabletops must minimise reflective glare.

Planters are recommended in terra cotta, concrete, or reconstituted stone in natural, sandstone or terra cotta colour, or powder-coated, brushed, or stainless steel or timber in natural earth colours.

Enclosure

Subject to the Council's approval, planters may be used to physically define the perimeters of a footpath dining area to prevent pedestrian conflict and ensure the patrons' safety. Enclosure must be kept to a minimum, and barricade fencing with planters is not permitted.

Retractable awnings will be considered subject to a minimum clearance distance of 2.6 metres from the pavement. Drop blinds are not permitted.

Umbrellas are permitted to provide for shade and shelter in exposed locations. Umbrellas and other shade structures must be adequately secured against the effects of wind.

Umbrellas must not project beyond the table and seated area if less than 2.6 metres above the footpath.

Structure

The furniture must be strong, durable, waterproof and weather resistant, designed for commercial outdoor use. The design must not contain parts that are likely to cause damage to the pavement.

Public safety and comfort must be considered. Particular care must be taken with any sharp edges, and hinges or other moving parts to ensure that they do not present a potential hazard to their users. Any umbrellas must have mechanisms to ensure that they are at all times securely fixed to withstand wind and they must be removed or closed in extremely windy conditions.

Management - Furniture and Planting

The applicant is responsible for the provision of all required furniture to the Council's satisfaction.

All furniture and planting of a footpath dining area must at all times be maintained in a physically sound and aesthetically acceptable condition to the Council's satisfaction, and all of the licensed area must present a clean, well maintained image as specified in the conditions of the licence and approval.

All outdoor furniture not permanently fastened to the footpath is to be removed from the approved area upon the completion of each day of trading. It should be noted that no outdoor furniture, barrier or structure is to be permanently fastened to the footpath without the prior approval of Council. Any holes made in the pavement, as approved by Council, must be stoppered when not in use.

Unless the approval is renewed the holder of the approval must restore the area of the approval to its condition immediately before the grant of the approval and not later than on month after the expiration of the approval.

Health Considerations, Table Service and Alcohol

All food must be stored and prepared within the approved food preparation area of the approved refreshment room.

All outdoor furniture, other facilities and the pavement must be kept clean at all times. The approval holder is to steam clean the footpath at his/her expense when deemed necessary by Council.

Table service is mandatory.

Where a footpath dining area is approved in association with licensed premises, liquor may not be supplied or consumed in the open air without approval from the licensing Court and Council. Where it is intended to serve alcohol and the area requiring approval forms part of an Alcohol Free zone, an adjustment to the Alcohol Free zone is required through a formal procedure including public advertising and an additional fee for service will be charged.

Toilet Facilities

It is a requirement that toilet facilities be made available to patrons in accordance with the Building Code of Australia.

Advertising and Signs

Only the name or logo of the footpath dining area may be placed on any item of furniture. It must appear only once on each item and be a minor element of the furniture design, to the Council's satisfaction. No other advertising on any outdoor furniture or the licensed area is permitted without specific approval by Council.

Delineation of Dining Areas

The boundaries of the footpath dining area as approved, are to be marked. In most cases corner markers will suffice. In complex locations, it may be necessary to use additional markers along the boundary alignment.

In paved areas, pavement markers, e.g. self adhesive tactile tiles, metal studs or stone inserts installed flush with the paved surface can be used. Where it is necessary to consider people with visual impairment the delineation of boundaries must be by the use of self adhesive tactile tiles.

In areas with a grass, gravel or similar surface, pavement markers are not feasible, and existing or new landscape elements such as trees, light poles, bollards, etc. can be used instead.

The markers must remain in place throughout the duration of the license, and all furniture, including umbrellas, planters and plants must be kept strictly within the boundaries of the licensed area.

Lighting

Any footpath dining area licensed to operate outside daylight hours must provide adequate lighting, to the Council's satisfaction, to ensure the safety and amenity of patrons and the general public.

Purpose Built Dining Areas

In some cases the applicant may wish to undertake streetscape works to accommodate a footpath dining area. Such works may include footpath widening, paving, street tree planting, pedestrian lighting, etc. Any such works require a specific development approval

by the Council. Any car parking spaces lost must be compensated for by the payment of Section 94 contributions.

Exclusions Outside Town Centres

Council may approve picnic style tables, and or benches, located outside general stores not within a town centre, where Council is of the opinion that the facility will provide a genuine community benefit. No licence agreement or fee will be payable, however this approval is at the absolute discretion of council and subject to the proprietor of the general store providing written agreement to maintain the furniture. Any such approval is not an approval within the meaning of Section 125 of the Roads Act and does not give the proprietor of the store any rights to exclusive use of such furniture as it is located on a public road.

Fee Structure

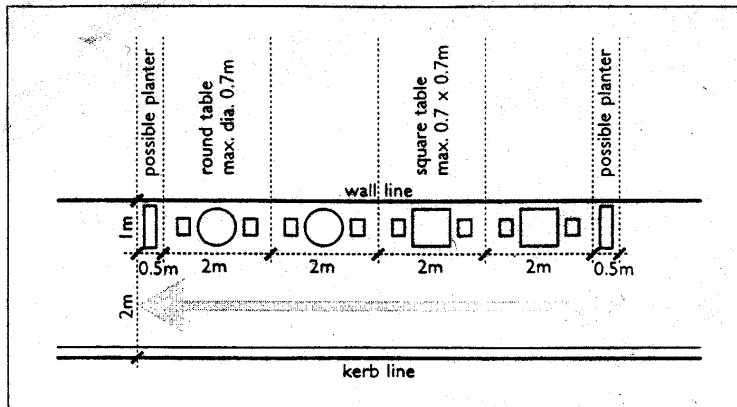
Fees are determined on an annual basis in conjunction with Council's Management Plan and budget. The fees set by Council are based on a number of factors, including;

- Market rental assessments;
- Pedestrian traffic;
- Affordability; and
- Social impact.

Fees are to be paid quarterly, or annually in advance.

Any approvals granted would be subject to any requirements of the Retail Leases Act and no occupation or use of the area of the approval will be permitted until those requirements, if any, are satisfied.

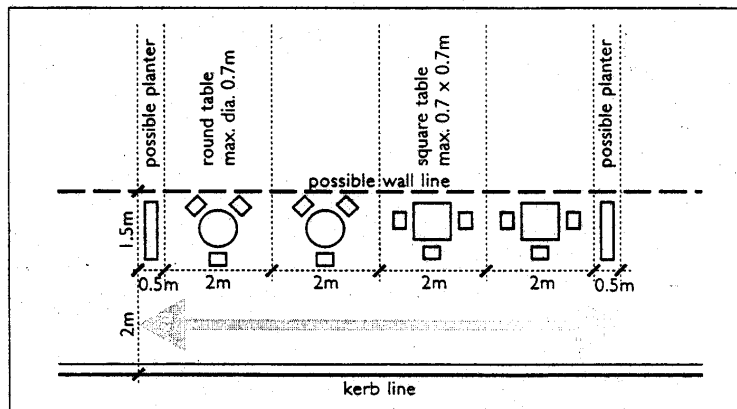
Diagram 1



Footpath cafe adjacent to the respective indoor premises

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 2 chairs per table

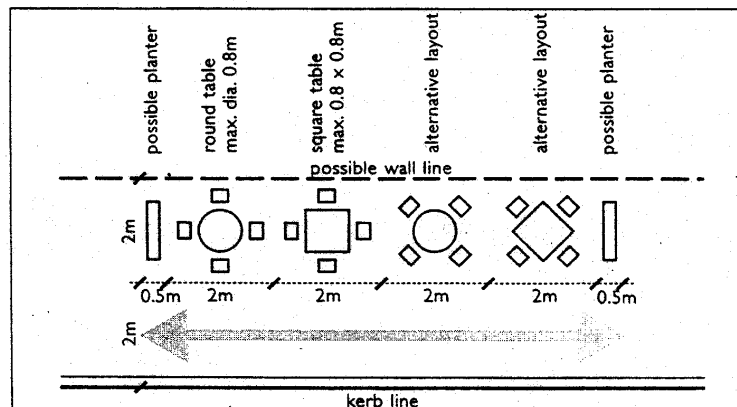
Diagram 2



Footpath cafe adjacent to the respective indoor premises (square table only) or freestanding (square or round table)

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 3 chairs per table

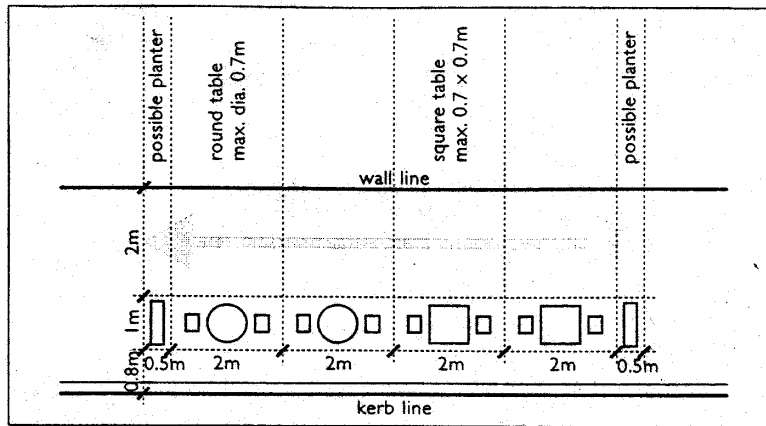
Diagram 3



Footpath cafe adjacent to the respective indoor premises or freestanding

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 4 chairs per table

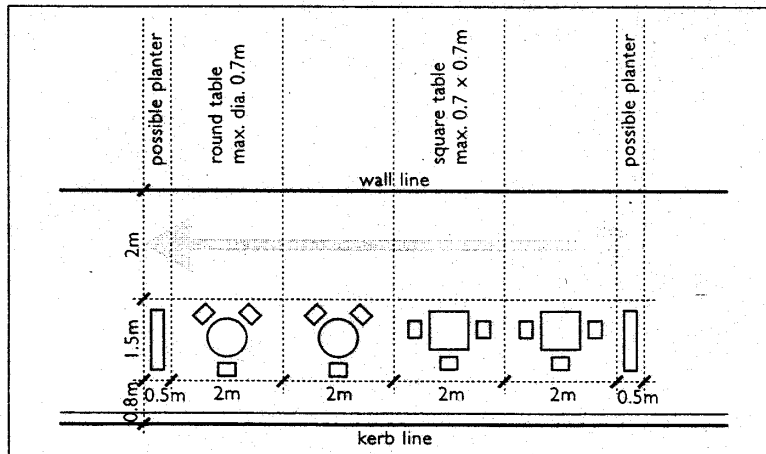
Diagram 4



Footpath cafe adjacent to the respective indoor premises

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 2 chairs per table

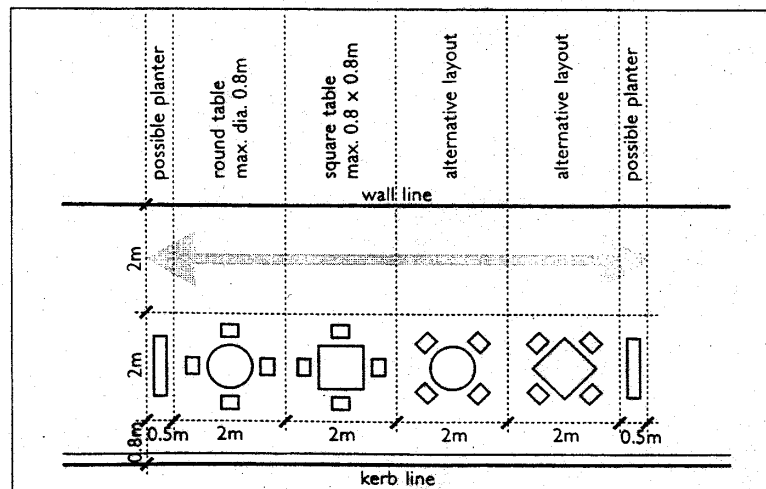
Diagram 5



Footpath cafe adjacent to the respective indoor premises (square table only) or freestanding (square or round table)

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 3 chairs per table

Diagram 6

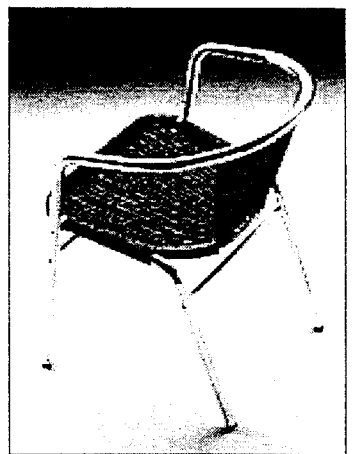
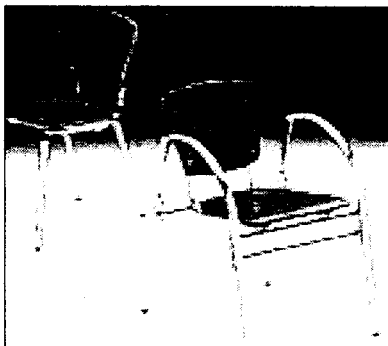
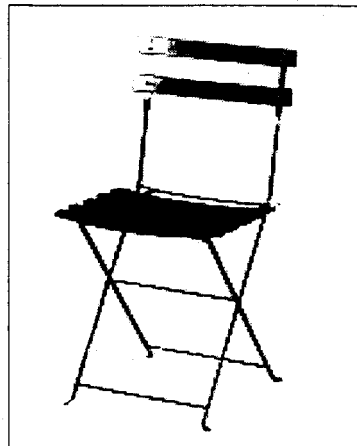
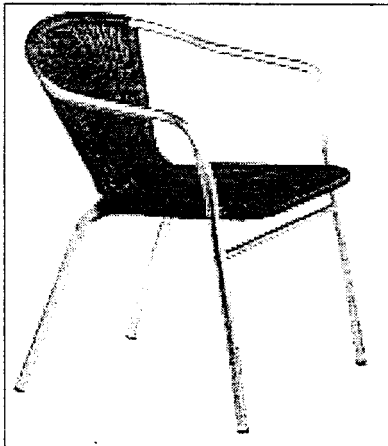
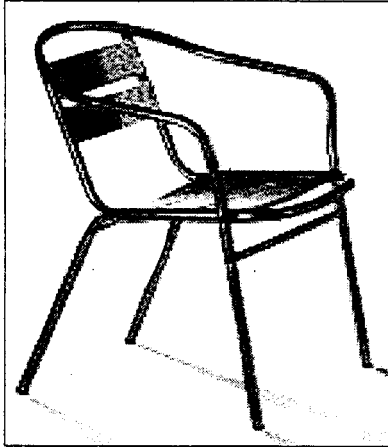


Footpath cafe adjacent to the respective indoor premises or freestanding

- alignment and minimum clearance for pedestrian traffic
- nominal dimensions for furniture layout with 4 chairs per table

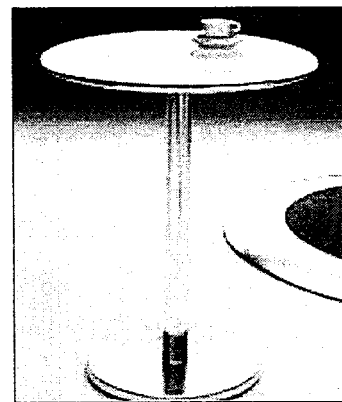
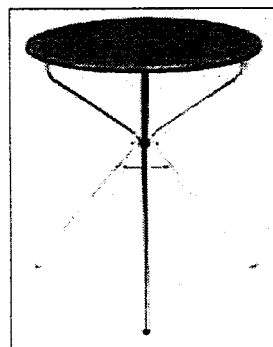
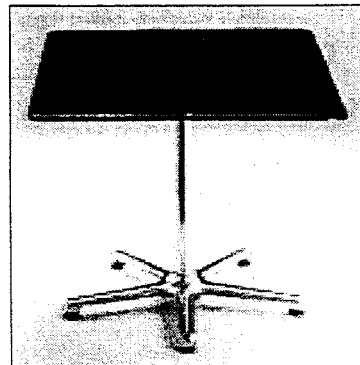
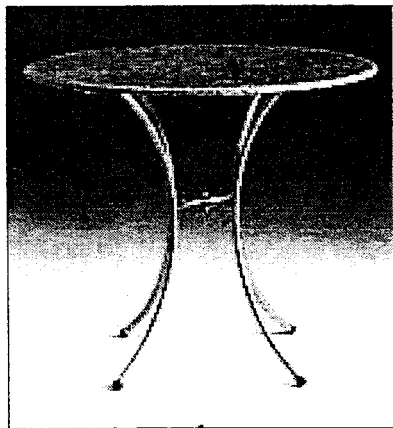
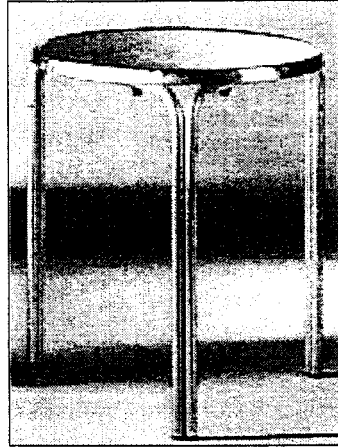
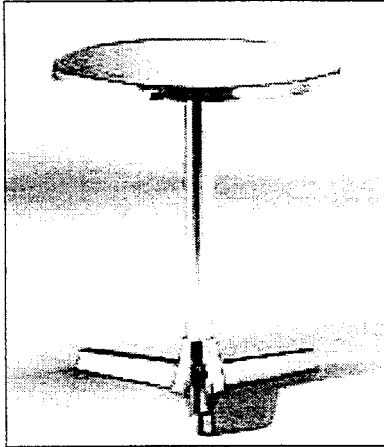
Furniture Style Guide

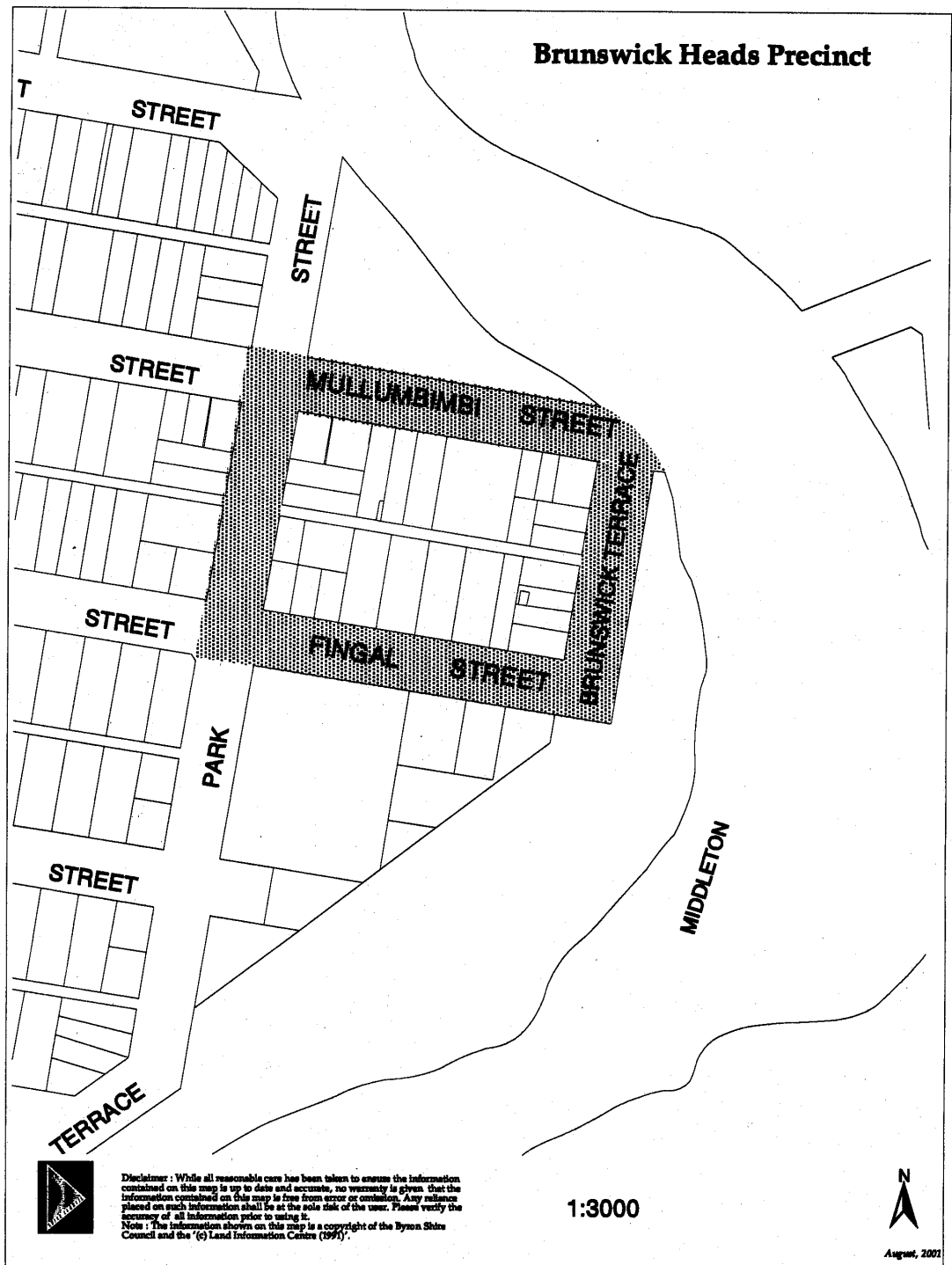
Chairs (illustrative only)

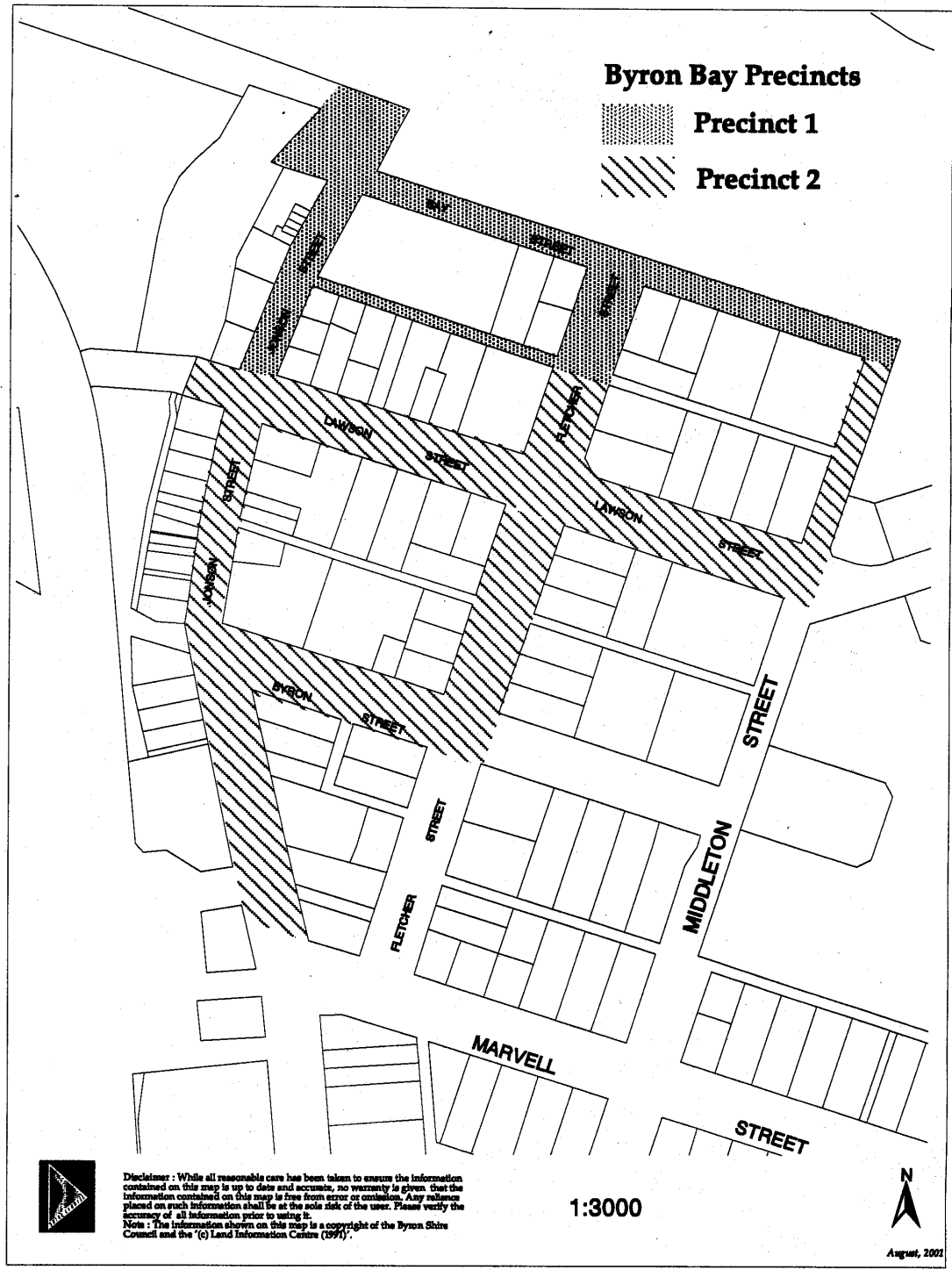


Furniture Style Guide

Tables (illustrative only)







D2.10 Element - Other Commercial Use of Public Footpaths

Element Objective

To maintain the safe movement of pedestrians and the convenience to surrounding residents and businesses.

To maintain safe and equitable access for persons with access disabilities.

Performance Criteria

The display of goods on the footpath may be approved by Council provided the ground surface is sufficiently level to support an orderly layout and safe use of the required displays of goods.

Pedestrians must be able to clearly and easily negotiate the footway when the goods are displayed. The prime consideration of Council is to maintain a constant pedestrian corridor along the footpath.

The holder of the approval is to indemnify Council in writing against any action taken against it by persons aggrieved by the use of the footpath. Council will not accept liability for damage to or loss of goods or personal property from the approved area.

The provisions of this section apply to moveable signs.

Prescriptive Measures

Approval may be granted for shops to place items on the footpath. Items must be purchased within the shop, not on the footpath, with the exception of Market Days/ Special Events. Merchandise must be removed from footpath when the shop is closed or unattended. Items for purchase must be in keeping with the character of goods on sale within premises. Fresh food other than whole fruit and vegetables will not be permitted unless in hermetically sealed containers. Display of alcoholic or intoxicating liquor, tobacco, inflammable goods, medicines or drugs of any kind will not be permitted on the footpath.

Approvals will be granted for a maximum period of two (2) years.

If the approval is granted to a corporation or unincorporated association then the principal of the organisation may be required to give personal guarantees and/or provide a bank guarantee to the satisfaction of the Council to secure payment of approval fees.

Stock items placed directly on the footpath pavement will generally not be permitted. Fresh food must be kept at least 750mm above the footpath. Display units must be structurally sound and adequately anchored to ensure no movement (eg. lockable casters, attached to building etc.)

The Council will provide a notice outlining the terms of the approval. This notice must be displayed at all times in the front window of the premises, or so that it can be clearly read from the footpath, by passing pedestrians.

Public risk insurance to a minimum value of ten (10) million dollars must be taken out by the applicant/ holder of the approval. The insurance must note the interests of Byron Shire Council as co-insured.

The applicant/ holder of the approval must lodge a copy of the insurance policy with Council prior to the issue of an approval. A certificate of currency needs to be furnished at the expiration of insurance and with each renewal application.

The holder of the approval is to indemnify Council in writing against any action taken against it by persons injured or suffering loss by the use of the footpath. Council will not accept liability for damage to or loss of goods from the approved area.

In all locations, a clear footpath distance of at least 2.0 metres must be maintained adjacent to the licensed area for pedestrian circulation. For town centres, excluding precincts one and two in Byron Bay (see map), the minimum distance specified may be reduced, at Council's absolute discretion, to a minimum of 1.8 metres. This can only occur where the applicant can demonstrate to the satisfaction of Council that there will be no increased impact on pedestrian access when the goods are displayed. Precincts one and two in Byron Bay have been excluded due to high traffic pedestrian volumes.

The pedestrian corridor must be continuous with the frontage of the property and/ or contiguous with the adjoining properties, within a reasonably distinctive section, or portion, of the street/ lane.

Visually impaired people normally use the continuous line of the shop frontages for direction with their guidance sticks. Where the building frontage is not continuous, tactile directional tiles for the visually impaired must be provided, at the applicant's cost. The tiles must be placed on the property boundary 1 frontage and also on the edge of the display areas. Pavement hazard markings must be provided at the ends of display areas to provide delineation to the display areas for the visually impaired and to assist in defining the leased area.

The display of goods is limited to a depth of 1.2 metres across the footpath.

Where the proposed display area extends outside the confines of the associated shop, concurrence of the adjoining shop owner is required, and details are to be supplied indicating that normal trading of the adjoining premises will not be adversely affected, ie, advertising, display areas and public access.

At street intersections, a setback of at least 10.0 metres from the kerb in the opposing street applies. The display area will only be approved where the defined display area is more than 10.0 metres from the approach side and more than 5 metres from the exit side of a pedestrian crossing.

Where a display area is located adjacent to the kerb a walk through area must be provided for motorists that may park adjacent to this area and wish to access the footpath. Walk through areas must be provided at minimum spacings of 6.0 metres (average vehicle length 5-6m), such that on average a person alighting from a vehicle only need travel a distance of 3.0 metres before an accessway through the seating area is available.

Where existing street furniture, planter boxes, utility poles etc. restrict pedestrian traffic adjacent to the building, the pedestrian corridor is to be located away from the building property alignment.

The use of the footpath is not to inhibit access to public utilities such as fire hydrants, access holes, inspection chambers, telephone and electricity underground cables, water service pipes and the like.

Any approvals granted would be subject to any requirements of the Retail Leases Act and no occupation or use of the area of the approval will be permitted until those requirements, if any, are satisfied.

D2.11. Element - Plumbing

Element Objective

To ensure that adequate provision is made for plumbing for water supply and sewer services to commercial development.

Performance Criteria

There are no performance criteria specified for this Element.

Prescriptive Measures

All plumbing including the water service, sanitary drainage system and Liquid Trade Waste Pre-Treatment System require approval under Section 68 of the Local Government Act 1993 or under Section 78A of the Environmental Planning & Assessment Act.

The installation of Liquid Trade Waste Pre-Treatment Systems carries an on-going requirement for maintenance and administration for both the owner and the Council.

Council charges an annual fee to the owner of all land parcels with Liquid Trade Waste Pre-Treatment Systems to cover administration costs. Liquid Trade Waste Pre-Treatment Systems are designed to remove pollutants from the effluent stream and therefore require regular cleaning. Highly polluted effluent removed from Liquid Trade Waste Pre-Treatment Systems, as part of the cleaning process must be delivered to a site^(D) as directed by Council.

Council charges a fee for delivering effluent to a site^(D) as directed by Council

Application fees, Annual Fees & Effluent Storage and Treatment Fees are set out in Council's annually adopted Fees and Charges.

All plumbing works and liquid trade waste pre-treatment systems must be installed in accordance with the Local Government (Water Services) Regulation 1999 the NSW Code of Practice Plumbing and Drainage Edition No 2 and the Australian Standard 3500 Parts 1-5, with consideration to Council's Plumbing, Drainage and Trade Waste Policies and generally in accordance with the Department of Land and Water Conservation Guidelines for the On-Site Pre-Treatment Of Trade Waste Discharges To Sewer.

D2.12 Element - Waste Management

Element Objective

- *To provide for an efficient and environmentally responsible means of storage, disposal and collection of waste and recyclable products.*

Performance Criteria

The capacity, size, construction and placement of both trade waste and recyclables storage facilities must be determined according to estimated amounts of wastes and recyclables generated, safe means of collection, cleanliness and unobtrusive effects on the building and neighbourhood.

Development must incorporate convenient access for waste collection.

Waste disposal collection points must not compromise the amenity of adjacent properties in terms of noise, odour or aesthetic impact.

Excavated material, demolition and builder's waste is to be disposed of on landfill sites approved by the Environment Protection Authority and acceptable to Council.

Prescriptive Measures

Commercial Waste - Garbage, trade waste and recyclables storage facilities must meet the following criteria:

Capacity - In accordance with estimated amounts of waste and recyclable material generated.

Size - Capable of accommodating trade waste recyclables arising on the premises together with associated handling equipment and providing sufficient space for loading and unloading, but not harmful to the aesthetics of this and other properties, particularly in terms of bulk.

Construction - Concrete floors or the like must be graded and drained and connected to the sewer where appropriate. Solid walls are to be rendered and smooth, with or without roof covering. Doors, electric lighting, ventilation and water supply must be provided.

Placement - To enable safe and easy access by collectors and collection vehicles within close proximity to street frontages, and screened with landscaping and vegetation.

Access - The roadway curves, where to be negotiated by waste collection vehicle, must be a minimum radius of 11 metres.

D3. MIXED COMMERCIAL/ RESIDENTIAL DEVELOPMENT WITHIN ZONE No. 3(a)- (BUSINESS ZONE)

Element Objective

To provide affordable and mixed residential accommodation close to transport, employment and services.

Performance Criteria

Density of development is to be in keeping with the character of the surrounding area and provide a mix of dwelling^(D) sizes to accommodate different family profiles.

Every dwelling^(D) is to be provided with an area of private open space for the sole use by the occupants of that dwelling^(D). The area of private open space is to be located to provide a sense of territory and safety for residents.

The commercial viability of the centre must not be affected in the short or long term by the provision of a residential rather than a commercial component in the development

Residents must be able to be provided with a full range of services and facilities. Private open space areas are to be located to optimise solar access.

Development must be designed to minimise the possibility of noise to the occupants of the dwellings^(D) both from within the development and adjoining developments.

Necessary site^(D) facilities are to be provided such as garbage bin areas/ enclosures, mailboxes, service meters, external storage areas and, where appropriate communal, clothes drying areas.

Site^(D) facilities are to be designed so that they are physically convenient and visually attractive and integrated with the overall development and the streetscape.

Prescriptive Measures

General

The development must not have a density greater than one (1) dwelling^(D) per 150 square metres of site^(D) area and a minimum of 25% of the floor space of any development, not including carparking, must be set aside for commercial/ retail purposes. All ground floor space fronting the street must be devoted to commercial/retail development.

Each dwelling^(D) must have direct access from the main street frontage of the premises (or side street where located on a corner). This may be by means of a separate isolated passage or stairway from such unit to the street frontage, which would allow unrestricted access to the unit without the need to pass through any associated shop or commercial premises. Alternatively, such an access passage may be shared with adjoining development with a similar residential component, providing suitable arrangements are made to ensure legal access is available.

Private Open Space

Every dwelling^(D) unit is to be provided with private open space for the sole use by the occupants of that dwelling^(D). Where the private open space cannot be provided at ground level the dwelling^(D) unit is to be provided with a balcony^(D) or roof terrace

The private open space, whether at ground level or not, is to have a minimum area of 15 sq metres and a minimum width of 2.5 metres. Part of this private open space is to be a minimum of 10 square metres and directly accessible from a living area.

The private open space must have solar access to 50% of its area for at least 3 hours per day. Enclosure of balconies, which provide private open space to a dwelling^(D) unit, will not be permitted.

The private open space area is to be located so to maximise privacy for residents. If necessary the area must be screened by vegetation, a wall or fence, to ensure that the area is private.

The private open space is to be located to ensure that residents are provided with an outlook to public areas rather than over-looking directly onto adjoining buildings.

Amenity of Residents

Noise tolerable areas must be located towards the noise source and noise sensitive areas located further from the noise source (e.g. kitchens, laundries etc toward major front frontages with living and sleeping areas away from road frontages, garbage collection, accessways and parking areas).

Walls or ceilings of attached dwellings^(D) are to have a sound transmission class (STC) of not less than that required by Part F(5) of the Building Code of Australia.

Minimise noise between dwellings^(D) by not locating living areas or garages adjacent to bedrooms of other dwellings^(D).

Adequate lighting is to be provided for all pedestrian paths, parking areas and building entries.

Site Facilities

Site^(D) facility structures, such as garbage bin enclosures, mail boxes and external storage facilities are to be provided. The facilities are to be constructed from waterproof and rot-resistant materials. Facilities are to include facilities to encourage recycling materials on site^(D).

If a central garbage bin enclosure area is provided, it must be conveniently located for the residents and for collection by garbage trucks.

Garbage bin enclosures must not affect the amenity with regard to odour, noise or appearance.

Mailboxes are to be located to enable convenient access for residents and Australia Post. Where a body corporate has been created, an additional mailbox is to be provided for body corporate correspondence. All mailboxes are to be clearly identified with a unit number, with the street number also identified.

All dwellings^(D) must be wholly independent of the commercial portion of the building in respect of such amenities and facilities as toilets, laundries, kitchens, bathrooms etc.

One common television antenna and/or satellite dish is to be provided for each block of units.

Where clothes drying facilities are provided, the area is to be screened from view from the street and is to have access to sunlight.

Dwellings^(D) without private open space at ground level must provide internal laundry facilities in each unit and provide a clothes drying area on site^(D) or a space for a clothes dryer in each unit.

A lockable storage area of 8 cubic metres for each dwelling^(D) is to be provided. This may form part of a carport or garage.

A car washing area is to be provided having dimensions of 7.6m x 3m. This may be part of a visitor car space, driveway or turning area where it can shown that it will not cause undue conflict of use. This area must have water and electricity available and is to be

drained by on site^(D) disposal. Where there are separate internal driveway systems within a site^(D), each must have a car washing area.

A separate water meter must be provided for each dwelling^(D).