

Chapter 16:

Exempt and Complying Development

Document History

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CHAPTER 16 – EXEMPT AND COMPLYING DEVELOPMENT

Certified copy pursuant to clause 21 of the Environmental Planning and Assessment Regulation 2000 as resolved by Council at its Ordinary Meeting of 10 June 2010.

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Introduction

This plan implements the Environmental Planning and Assessment Act 1979, in relation to exempt and complying development.

Exempt development is minor development having minimal environmental impact, which landowners will have the right to carry out without the need for development consent.

Complying development is development which complies with predetermined criteria and can be certified either by Council or by accredited (or 'private') certifiers.

Citation

This plan which may be cited as "Byron Shire Development Control Plan 2010 Chapter 16 - Exempt and Complying Development" constitutes a development control plan as provided for by section 74C of the Environmental Planning and Assessment Act, 1979.

Commencement Date

This plan first became effective on 1 January 2000.

History of Amendments

This Development Control Plan was first adopted on 23 November 1999.

Amended by Council resolution of 18 December 2001.

Amended by Council Resolution (10-389) on 10 June 2010.

Amended by Council Resolution (10-696) on 14 October 2010.

Application

This plan applies to the whole of Byron Shire.

Other legislation

This chapter of Byron Shire DCP 2010 exempts certain development from the need for approval under the Environmental Planning and Assessment Act. This does not exempt the need for compliance with other legislation. For example, many minor developments require approval under Section 68 of the Local Government Act, and works in road reserves require approval under Section 138 of the Roads Act. Contact Council for advice on how these approvals may be obtained.

Definitions

This chapter of Byron Shire DCP 2010 adopts definitions adopted under Byron Local Environmental Plan 1988, Byron Shire Development Control Plan 2010 Chapter 1 and the Building Code of Australia.

Expressions used in this chapter which are defined in the dictionary at the end of the Local Government Act 1993 (the "Act Dictionary") have the meanings set out in the Act Dictionary unless a provision of Byron Local Environmental Plan 1988 or any chapter of Byron Shire DCP 2010 specifically indicates to the contrary.

In the event of any inconsistency between the above documents in relation to definitions, development standards, planning controls, specifications or other provisions, the Byron Local

Environmental Plan 1988 shall prevail over this Development Control Plan, and this Development Control Plan shall prevail over the Building Code of Australia.

The following terms are defined under Byron Local Environmental Plan 1988 and Chapter 1 of Byron Shire DCP 2010 and appear in *italic* print in this chapter:

- *flood liable land*
- *floor plan area*
- *floor space ratio*
- *gross floor area*
- *industry*
- *items of the environmental heritage*
- *light industry*
- *offensive or hazardous industry*
- *refreshment room*
- *storey*

Should Byron Local Environmental Plan 1988 or Chapter 1 of Byron Shire DCP 2010 be amended with regard to the abovementioned definitions, the provisions of the LEP and Chapter 1 of Byron Shire DCP 2010 with regard to those definitions shall prevail.

For the purposes of this chapter the following terms, which are not defined in the LEP or Chapter 1 of Byron Shire DCP 2010, and appearing in *italic* print in this chapter, are defined as follows:

- “*building setback*” means the area between the building and the boundary of the property fronting the street or road or, where stated in this chapter, to side or rear boundaries.
- “*domestic use*” or “*domestic purposes*” means uses and purposes ordinarily undertaken in relation to occupation of a residence, not for commercial gain.
- “*educational use*” means located on land used by approved schools (whether government or non-government).
- “*fire hazard area*” means land identified by Council as being subject to medium or high fire danger.
- “*one per property*” means one structure or type of development per property since the date of adoption of the Local Approvals Policy by Byron Shire Council on 22 August 1995.
- “*rear yard*” means that area of land behind an existing dwelling or other structures such as garages, which may conceal minor development from the street.
- “*structural adequacy*” means the ability of the design of the building or structure including its material and components to resist loads determined in accordance with AS 1170-loading codes parts 1 to 4, and the materials and forms of construction complies with Australian Standards identified in Clause B1.3 of the Building Code of Australia.

Special Provisions - Bangalow

The following special provisions apply to exempt and complying development in that part of Bangalow delineated on the Special Provisions – Bangalow map in this chapter. If the prescribed materials, colours and finishes are not going to be used a Development Application is to be submitted to Byron Shire Council for assessment.

Materials

Wall Cladding

Timber wall cladding must be horizontal chamferboard or weatherboard profile.

Bricks must resemble older smooth face brick buildings for colour (red), size and texture with a federation style mortar (examples are found in the National Australia Bank, Old Westpac Bank, Anglican and Catholic churches and No. 55 Granuaille Road). Rendering of brick and block is permissible, surface texture is to range between smooth and slightly sponged finish.

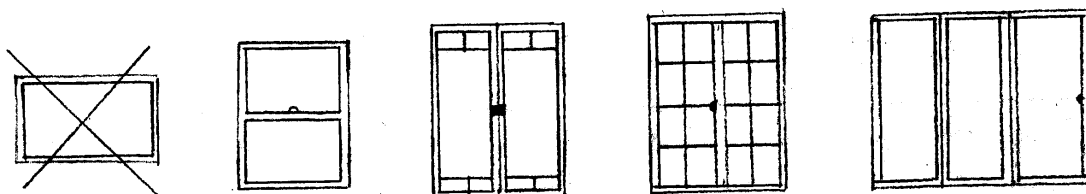
Note: The following are not permissible as complying development: split block, modular (thin) blocks, multi-coloured bricks, blonde, white or cream bricks, textured or calsil bricks.

Roofs

Roofs of new buildings must be constructed of corrugated, pre-painted sheet metal (such as Colorbond™ or Zinalume™). Roof tiles, other than re-roofing of existing approved development, are not permitted as exempt or complying development in new residential development areas. Roof pitch shall be in the range of 30 to 45 degrees.

Windows

Material to be timber or coloured aluminium with preference to be given to double hung windows to the street elevation. Windows to have a vertical dimension greater than horizontal (diagram). Older style windows within Bangalow traditionally have a predominantly vertical proportion.



Colour

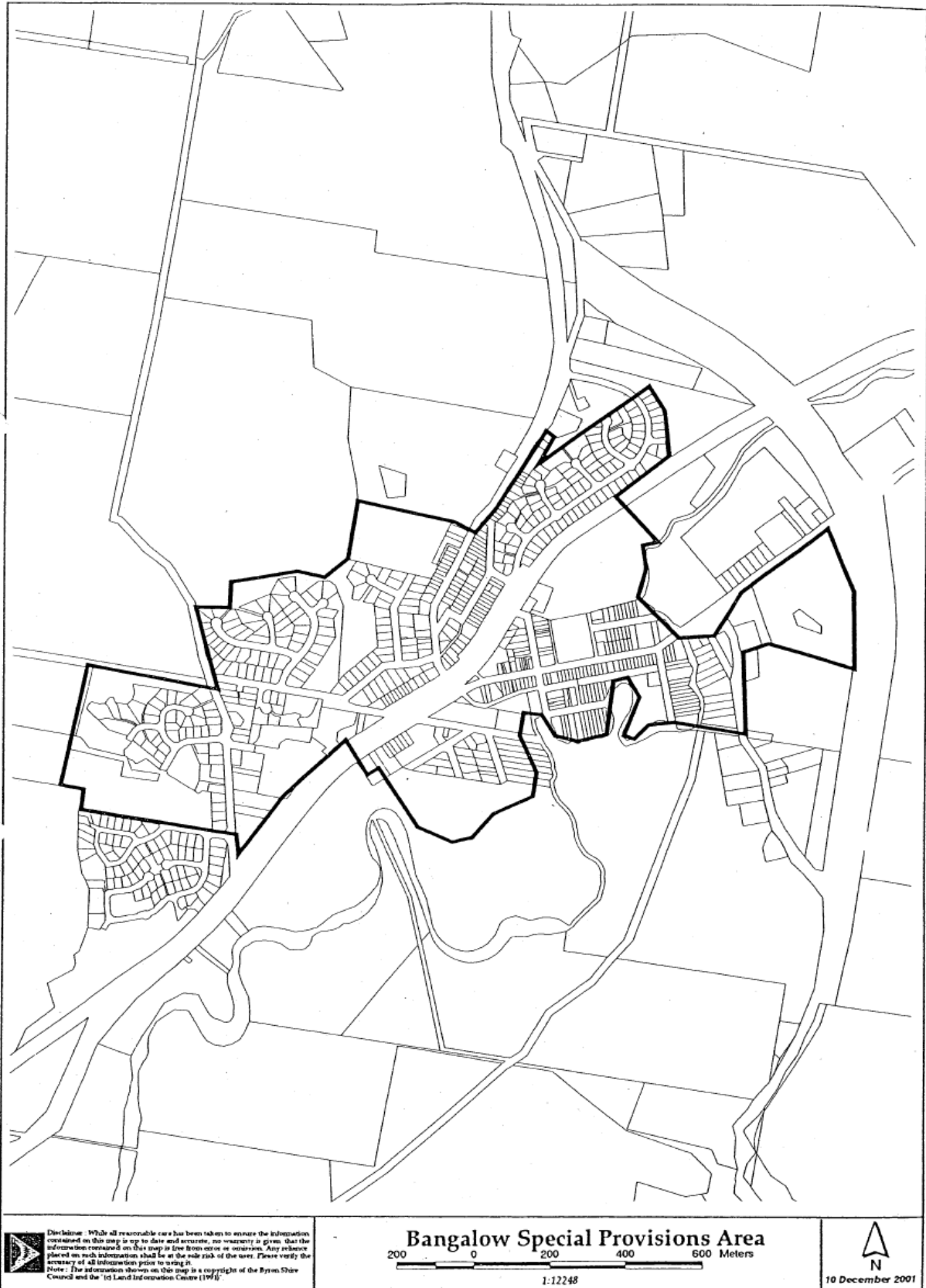
There is no restriction on the use of colour but strong contrast in colours shall be avoided in preference to colour schemes based on a reference to existing traditional Bangalow heritage colour schemes.

Fencing

Street fencing shall be picket, slat, hedge or brick pillar with timber or wrought iron inserts. The following are not permissible as exempt or complying development for street boundary fencing: galvanised weld-mesh, fibre-cement sheet, profiled metal sheet or brick fences over 1.2m high.

Signs

Commercial signage within the Bangalow heritage precinct (as defined under Byron Local Environmental Plan 1988) must conform to National Trust & Heritage Council guidelines as to location, size, lettering style and colour.

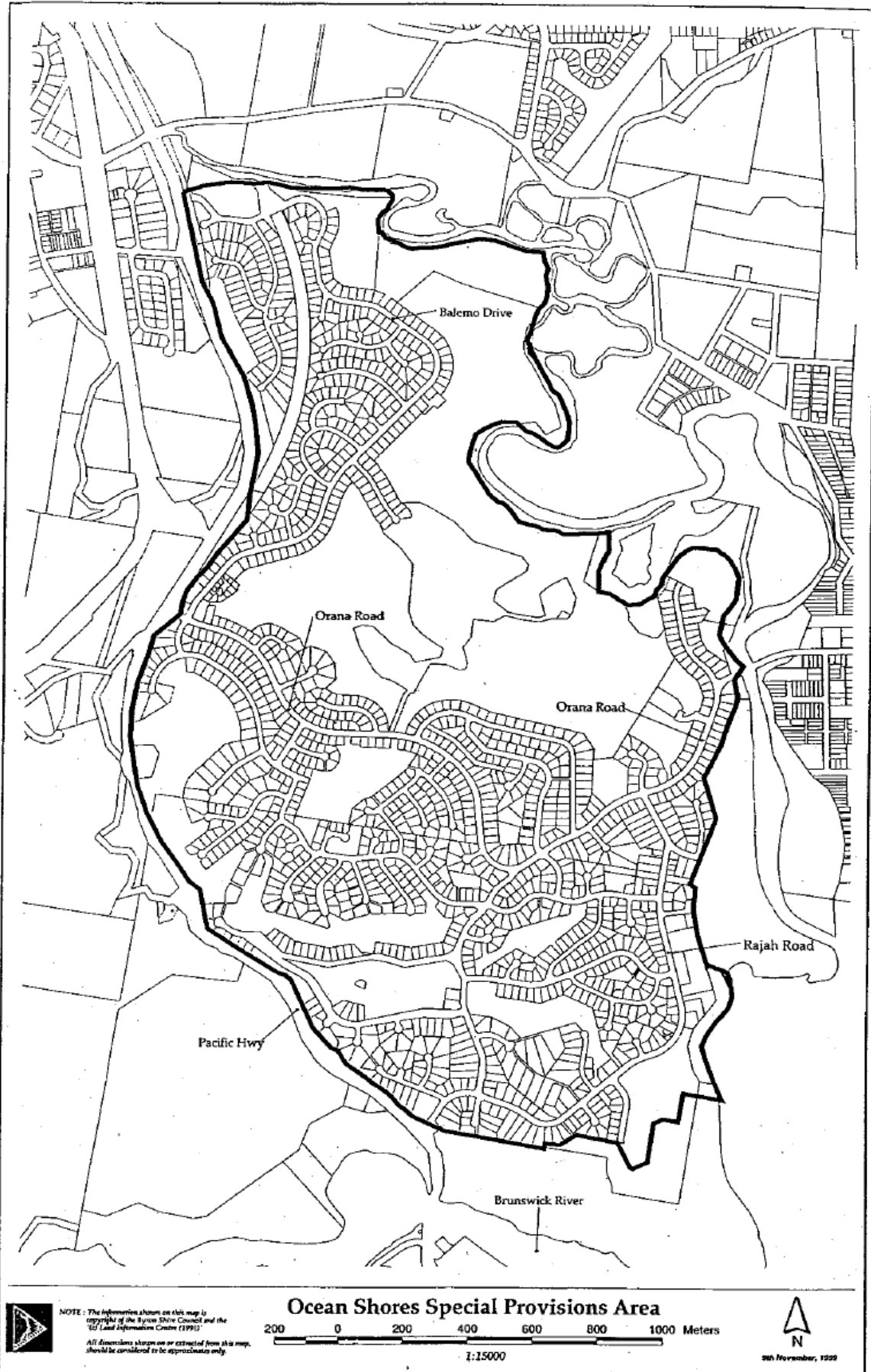


Special Provisions - Ocean Shores

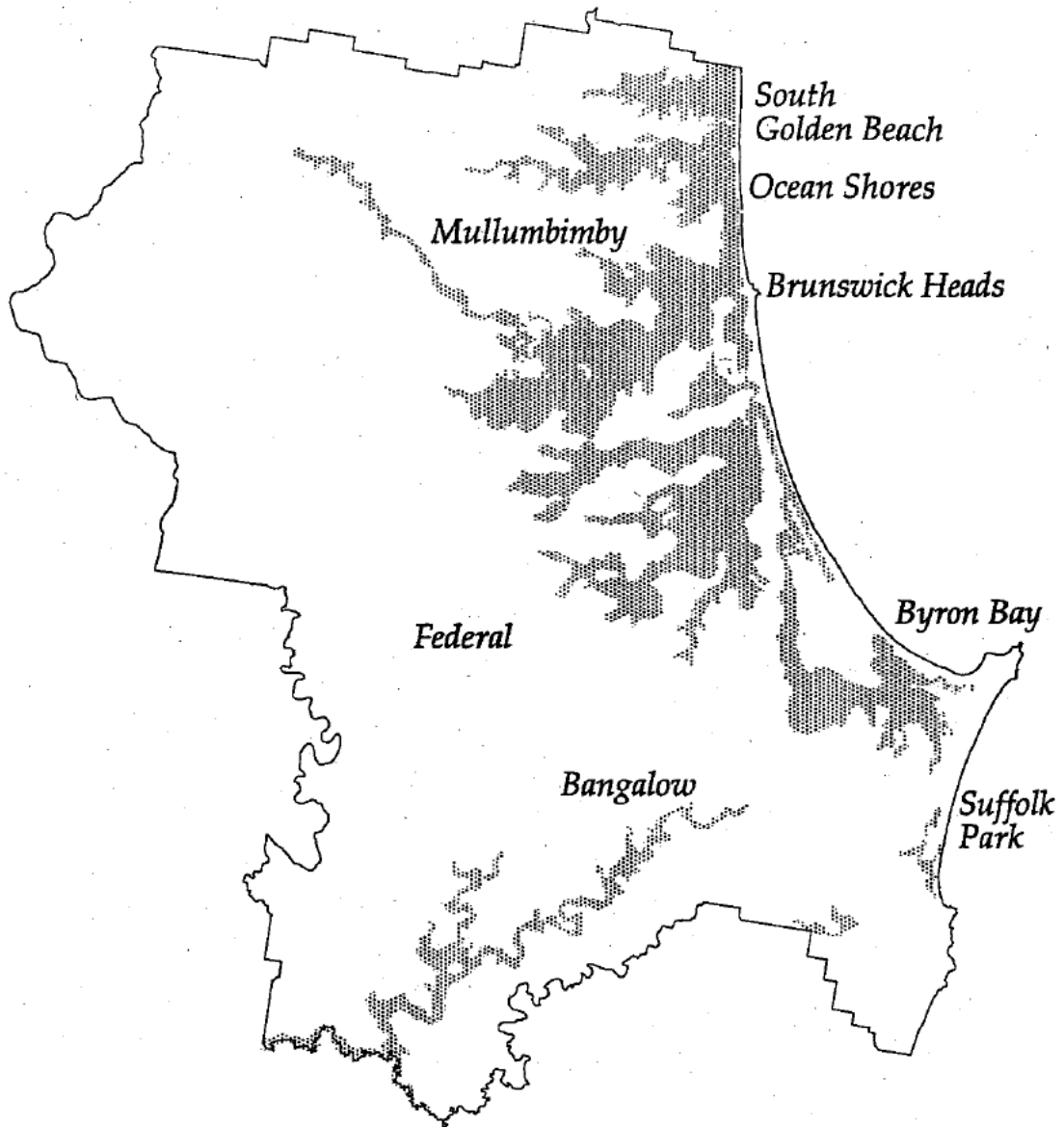
The following special provisions apply to exempt and complying development in Ocean Shores. If the prescribed materials, colours and finishes are not going to be used a Development Application is to be submitted to Byron Shire Council.

Fences along street frontage of allotments or along any side boundary extending from the front allotment boundary to the front alignment of a dwelling-house are not exempt development.

Dwellings shall not be constructed with flat sheet external walls. All roofing materials should be non-reflective. Plain zincalume and white or off-white colours are not to be used.



NOTE: This map provides general information only, detailed assessment is required at the property level to determine exact boundaries.



Flood Prone Land - Byron Shire

NOTE: The information shown on this map is copyright of the Byron Shire Council and the 'G' Land Information Centre (1991)

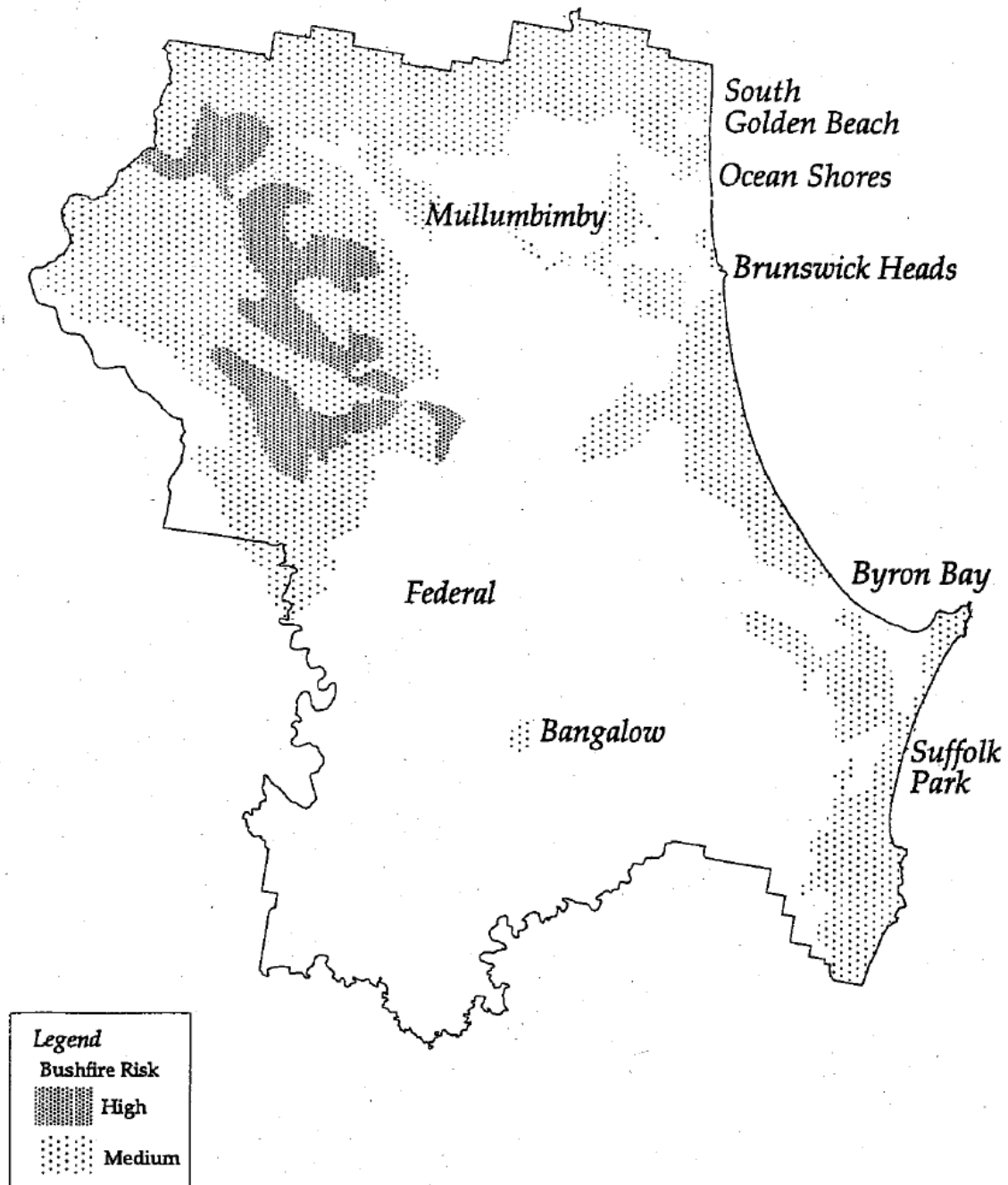
All dimensions shown are as extracted from this map, should be considered to be approximates only.

2 0 2 4 6 Kilometers

N

December, 1999

NOTE: This map provides general information only, detailed assessment is required at the property level to determine exact boundaries.



NOTE: The information shown on this map is copyright of the Byron Shire Council and the '61 Land Information Centre (1992)'

All dimensions shown on or extracted from this map, should be considered to be approximate only.

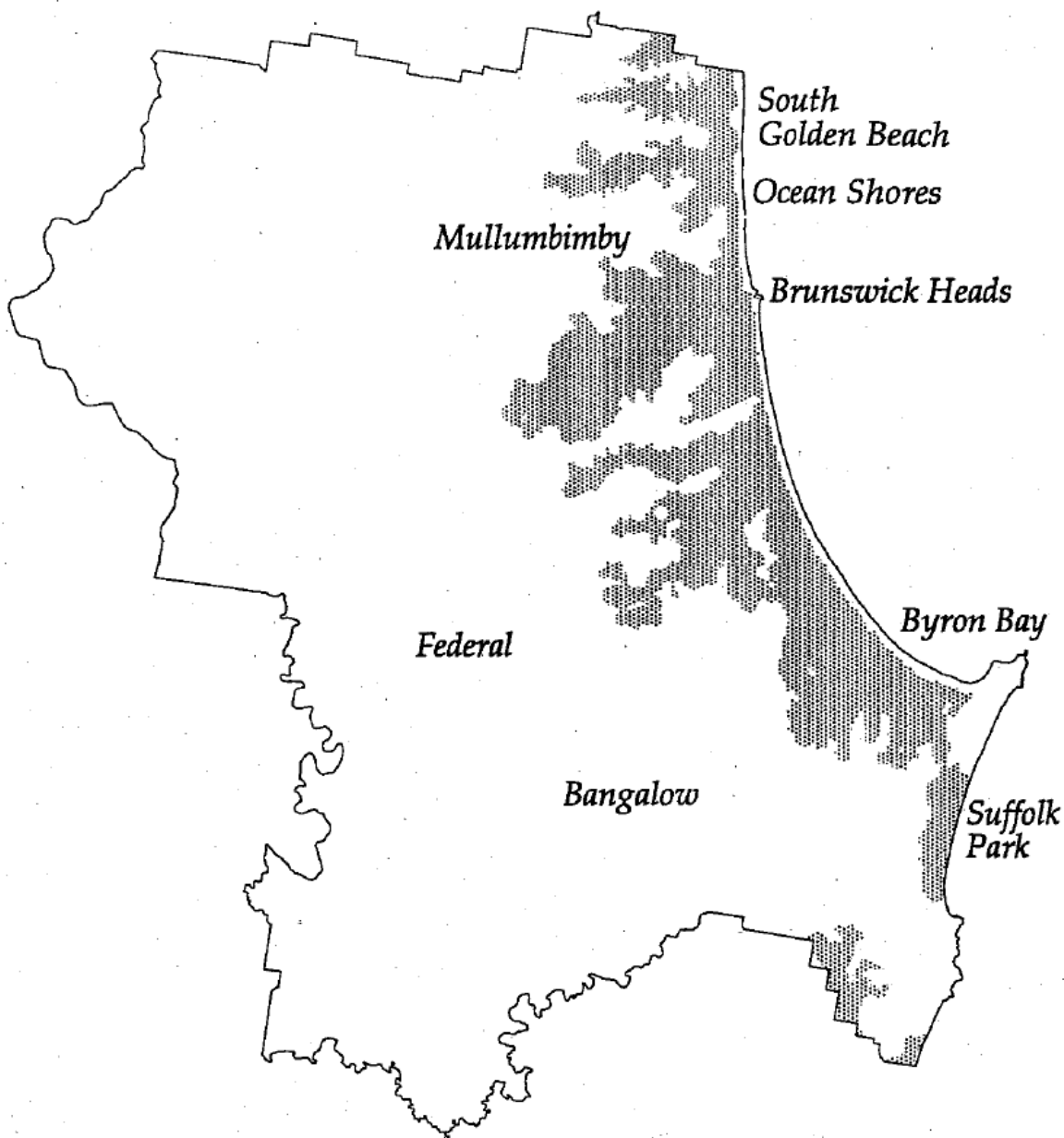
Fire Hazard - Byron Shire

2 0 2 4 6 Kilometers



December, 1999

NOTE: This map provides general information only, detailed assessment is required at the property level to determine exact boundaries.



NOTE: The information shown on this map is copyright of the Byron Shire Council and the '© Land Information Centre (1991)'

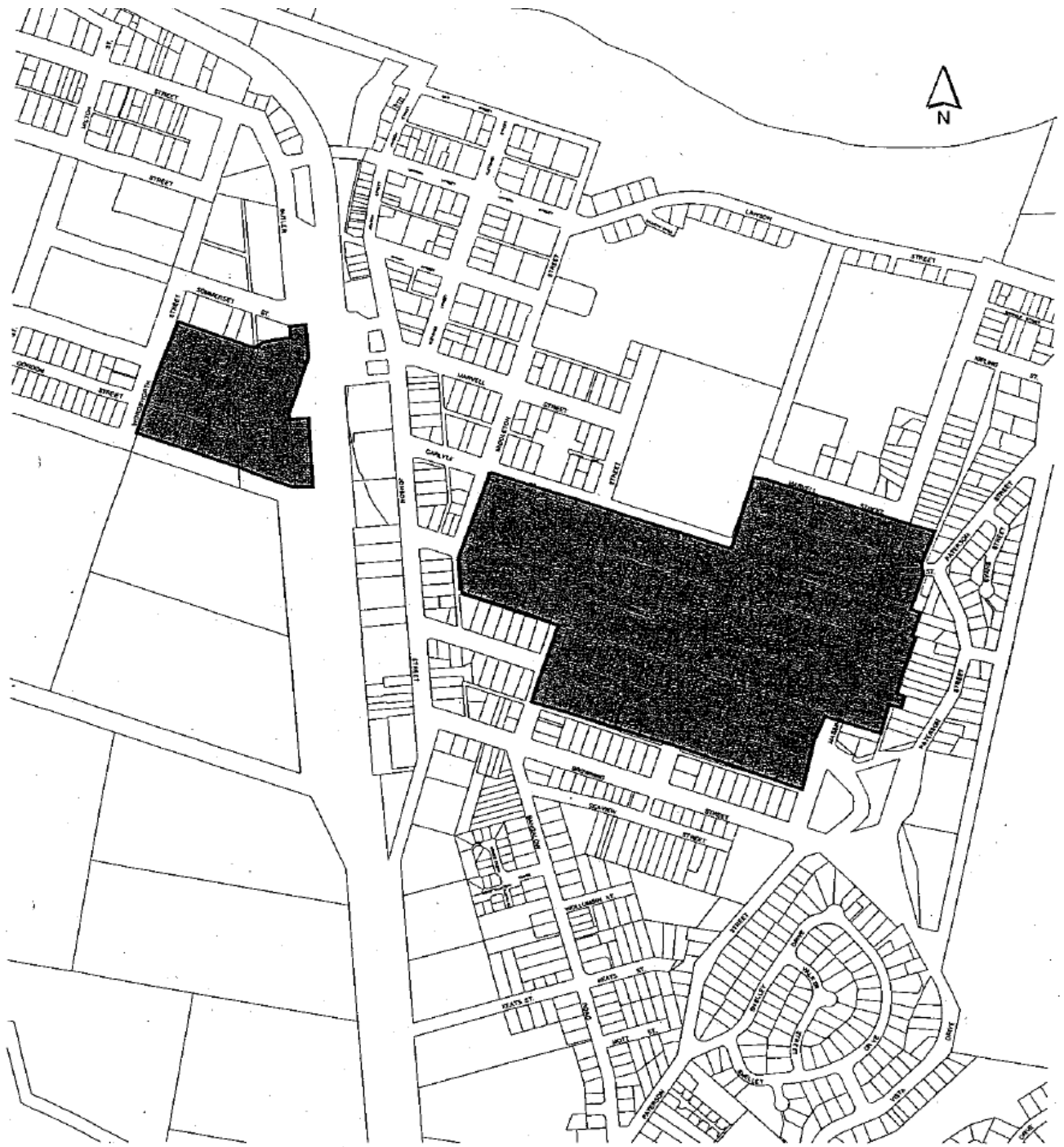
All dimensions shown on or extracted from this map, should be considered to be approximate only.

Potential Acid/Sulfate Soils - Byron Shire

2 0 2 4 6 Kilometers



December, 1999



LEGEND

	Cadastre
	Character Areas



None. All information shown on this map is derived from the cadastral plan and is not subject to any warranty. The information is provided for information only and does not constitute any advice or recommendation. See the Information for Users of the Plan for more details.

<p>Character Areas</p>



March, 2007

PART A – EXEMPT DEVELOPMENT

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Objectives

The objective of this part is to provide criteria and guidelines for categorising exempt development in accordance with the provisions of Byron Local Environmental Plan 1988.

Advertising and notification

There shall be no requirement of either Council, landowner or the proponent to advertise or notify any person of the intention to undertake exempt development.

General provisions

This part sets out criteria which must be met for development to be categorised as exempt development as prescribed by Byron Local Environmental Plan 1988. If the criteria are not met, the development is not exempt and requires development consent. This may be obtained under complying development provisions or, if there are no relevant complying development criteria, as local development requiring development consent from Council.

The exemptions under this part do not negate the need for approvals or consents required under other legislation such as the Local Government Act 1993, Roads Act 1993, and the Protection of the Environment Operations Act 1997.

If there is any doubt as to whether a development requires approval, Council should be consulted prior to work commencing.

In relation to the siting of all activities that Council has exempted from the need for approval, consideration should be given to the following:

- a) the amenity of neighbours;
- b) the possibility of the structure harbouring vermin;
- c) any potential fire risks;
- d) the location of easements, sewer lines, etc; and
- e) adequate drainage provision.

Approval will be required for developments exceeding the dimensions stipulated in this Plan. For example if a 20m² deck has already been built, any extension to that deck would require approval.

Notes in the text are explanatory notes provided to assist understanding, and are not provisions of this chapter.

Development is not exempt if it is carried out on land that is:

- a) the site of an item of environmental heritage under the Byron Local Environmental Plan 1988 (refer to Schedule 2 of the LEP); or
- b) in Zone No. 7(f1) (Coastal Land Zone), apart from land owned by or having management vested in Byron Shire Council or other public authorities.
- c) an Aboriginal Place under the National Parks and Wildlife Act 1974; or
- d) reserved or dedicated under the Crown Lands Act 1989 for the preservation of flora, fauna or geological formations or for other environmental protection purposes; or
- e) land to which State Environmental Planning Policy No 14 - Coastal Wetlands applies; or
- f) land to which State Environmental Planning Policy No 26 - Littoral Rainforests applies; or
- g) an aquatic reserve declared under the Fisheries Management Act 1994.

Development is exempt development only if it:

- a) complies with the provisions of Byron Local Environmental Plan 1988 and the conditions of any development consent applying to the land, including approved plans;
- b) complies with the deemed-to-satisfy provisions of the Building Code of Australia and does not cause any existing building to contravene the Building Code of Australia;
- c) is wholly located on the property, in the case of residential development;
- d) does not obstruct drainage of the site;
- e) does not occur on land used for on-site sewage management;
- f) is constructed in accordance with Byron Council policy 4.20 (Building over Pipelines and Other Underground Structures) if it is within the zone of influence of a sewer or water pipe;
- g) does not restrict any vehicular or pedestrian access to or from the site;
- h) does not encroach on any easement;
- i) does not require a tree to be removed, other than tree removal which is exempt under the provisions of this Development Control Plan, and is not within the dripline of a tree;
- j) is behind the *building setback*, if in a heritage conservation area or associated with an item of the environmental heritage as identified in Byron Local Environmental Plan 1988 or Byron Shire DCP 2010;
- k) in the case of buildings, complies with setbacks as per the following table:

from the street frontage:

i.	along classified or arterial roads in a 2(a)(Residential Zone)	10m
ii.	elsewhere in 2(a)(Residential Zone) except Ocean Shores	6.5m
iii.	Ocean Shores 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

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Note: corner lots - on local or secondary roads, setbacks of up to 50% less than the required setback will be permitted on one frontage.

<u>side and rear boundary setback</u> - urban	0.9m
<u>side and rear boundary setback</u> - rural	15m

Exempt Development Table

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
<p>Access ramps for people with access disabilities</p>	<p>Maximum height 1m Maximum grade 1:14 and otherwise in compliance with AS 1428.1</p> <p>Ramps to comply with requirements of Building Code of Australia and not to hinder required egress provisions.</p>	<p>If on land identified as bush fire prone ramps must be of fire retardant construction.</p>
<p>Aerials/antennae/microwave antennae (not including satellite dishes – dealt with separately below)</p>	<p>For <i>domestic use</i> only, to a maximum height of 6m above the roof line.</p>	<p>Care should be taken to ensure the positioning of antennae does not obstruct views from adjoining neighbours.</p>
<p>Air conditioning units for dwellings (attached to external wall or ground mounted)</p>	<p>Located a minimum of 3m off any property boundary.</p> <p>The building work must not reduce the <i>structural adequacy</i> of the building.</p> <p>Any opening created is to be adequately weatherproofed.</p>	<p>The installation of air conditioning units has the potential to cause offensive noise nuisances to neighbours; care should therefore be taken in positioning such units to ensure the amenity of residents. The units should also be the subject of a routine maintenance program to ensure their proper functions.</p>
<p>Air conditioning units for commercial, industrial</p>	<p>Maintain Fire Resistant Level. No drainage to public footways. Building works must not reduce the <i>structural adequacy</i> of the building. Any opening created is to be adequately weatherproofed and is to be <i>structurally adequate</i>. Minimum 2.6m above any footpath. Excluding regulated systems (water cooling and warm water</p>	

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	systems under Public Health Act, 1991).	
<p>Alterations to completed buildings or works</p>	<p>Non-structural alterations to the exterior of a building, such as painting, plastering, cement rendering, cladding, attaching fittings and decorative work.</p> <p>Interior alterations which do not affect a load-bearing or structural component of a building.</p> <p>Non-structural work only such as:</p> <ul style="list-style-type: none"> * replacement of doors; wall, ceiling or floor linings; or deteriorated frame members with equivalent or improved quality materials; * renovation of dwellings, such as bathrooms, kitchens (but not including any new installation of “insinkerators”), inclusion of built-in fixtures such as vanities cupboards and wardrobes. <p>Work not to include changes to the configuration of rooms whether by removal of existing walls, partitions or by other means, or so as to increase the number of bedrooms.</p> <p>Works shall not cause reduced window arrangements for light and ventilation needs, reduced doorways for egress purposes or involve enclosure of open areas.</p> <p>Works shall not create a separate or new room.</p> <p>Works shall not impair path of</p>	<p>Works must maintain compliance with the conditions of any relevant development consent including approved plans.</p> <p>Works involving plumbing and works involving commercial kitchens need approval under Section 68 of the Local Government Act 1993.</p> <p>Council has banned the installation of “insinkerators” (pursuant to Council resolution no. 00/231 of 11 April 2000). Alterations should not affect the <i>structural adequacy</i> of a building. For example, external walls are often strengthened and stabilised by internal walls that resist loads such as wind forces. The removal of internal walls without considering overall strength and stability may result in the failure of external walls.</p> <p>Any work involving asbestos cement should comply with the WorkCover Authority’s “Guidelines for Practices Involving Asbestos Cement in Buildings”.</p> <p>Any work involving lead paint removal must not cause lead contamination of air or ground.</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>egress from a building.</p> <p>Work affecting access arrangements to commercial buildings is to comply with the requirements of the Disability Discrimination Act 1992.</p>	
<p>Ancillary or incidental development</p>	<p>Development on land for a purpose that is ancillary or incidental for which the land may be used, being development for the purpose of parking, loading facilities, drainage, workers' amenities, pollution control, security or for other similar purposes.</p> <p>Works for drainage and pollution control must not disturb potential acid sulfate soils.</p>	<p>Works must maintain compliance with the conditions of consent applying to the development including approved plans.</p> <p>A map of potential acid sulfate soils is included in this DCP chapter. Contact Byron Shire Council for more information.</p>
<p>Ancillary sporting structures such as goal posts, sight screens on sporting/ playing fields for use in the playing/ performance of sporting events, excluding grandstands, dressing sheds, lighting and other structures).</p>	<p>Constructed and installed in accordance with design loading code AS 1170 parts 1 to 4.</p>	<p>Any of these items erected on private land require prior approval of Council.</p>
<p>Assembly building (BCA Class 9b) used for a public meeting</p>	<p>Use of an assembly building, including trade workshop, laboratory or the like in a primary or secondary school for a public meeting.</p>	<p>Does not authorise use for a "place of assembly" as defined under Byron Local Environmental Plan 1988.</p>
<p>Awnings and shade structures on or associated with dwellings</p>	<p>Maximum area 10m²</p> <p>Located wholly within property boundaries.</p> <p>Positioned and designed to satisfy requirements of the relevant development control</p>	

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	plan provisions.	
Barbecues	All heating methods. Wood fired barbecues to be located a minimum of 5m from residential building/s. Maximum area - 2m ² Maximum height - 2m <i>Rear yard</i> only in urban areas <i>One per property</i>	Care should be taken in locating wood fired barbecues to take account of prevailing wind conditions, so as not to cause a nuisance to neighbours.
Bushfire Hazard Reduction	Must be in accordance with Council's Bushfire Hazard Management Plan Must be consistent with the Rural Fires Act 1997	
Bird aviaries, cabanas/gazebos, green houses	Maximum area 20m ² Maximum height 2.4m Positioned and designed to satisfy the requirements of the relevant development control plan provisions. <i>Rear yard</i> only in urban areas One of each type per property <i>Domestic purpose</i> only.	Adequate anchorage of the structure is necessary to resist wind and movement forces.
Change to a similar use	Change from: <ul style="list-style-type: none"> • one type of social or sporting club to another type of social or sporting club. • one type of shop to another kind of shop, or • from one type of commercial premises to another type of commercial premises, or • from one type of <i>light industry</i> to another type of 	This provision does not authorise a change of use where: <p>(a) the current use is permissible only under the existing use rights provisions of the Environmental Planning and Assessment Act, 1979,</p> <p>(b) restricted publications, within the meaning of the Indecent Articles and</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p><i>light industry, or</i></p> <ul style="list-style-type: none"> • from an <i>industry</i> to a type of <i>light industry</i>, <p>where:</p> <p>a) the premises is already lawfully used for, or has development consent for use as, a shop, commercial premises, <i>industry</i> or <i>light industry</i>;</p> <p>b) the new use is not prohibited on the land;</p> <p>c) the new use is not actually or potentially a <i>hazardous or offensive industry</i>, or will provide a storage facility for such <i>industry</i>, and</p> <p>d) there are no outstanding Notices or Orders applying to the premises.</p> <p>e) no expansion outside the hours of operation stated on the development consent which permits the use.</p> <p>f) the new use does not involve premises regulated under the Public Health Act (such as hairdressing or skin penetration) or the Food Act.</p> <p>g) the new use is not for commencing, increasing or intensifying the preparation, sale, or consumption of food. It does not authorise development for a <i>refreshment room</i></p>	<p>Classified Publications Act 1975 are shown, exhibited, displayed, sold, or otherwise rendered accessible or available to the public,</p> <p>(c) a business to which section 10 of the abovementioned Act applies is conducted, or</p> <p>(d) a business is conducted, an object of which is the display or exhibition of any article, within the meaning of the abovementioned Act, that is primarily concerned with sexual behaviour, but is not printed matter.</p> <p>Where a building is used for the purposes of a shop or commercial premises in pursuance of this clause:</p> <p>(a) the curtilage of the shop or commercial premises shall not be used for storage or display purposes, and</p> <p>(b) the hours of operation of the shop or commercial premises shall not, in the case of a building used for the purposes of a shop or commercial premises immediately before the commencement of the use authorised by this clause, extend outside the hours during which the shop or commercial premises were so used at that time.</p> <p>Where, immediately before the commencement of a use of a building authorised by this clause, a condition relating to:</p> <p>(a) the maintenance of</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
		<p>landscaping,</p> <p>(b) the parking of vehicles, or</p> <p>(c) the provision of space for the loading or unloading of goods or vehicles, was imposed upon the use of the building or the use of the land upon which the building was erected, that condition applies to and in respect of the use of the building so authorised or the use of the land upon which it is erected in the same way as it applies to and in respect of that former use.</p> <p>These provisions do not authorise the use for the purposes of a <i>light industry</i> of any of the floor space of a building, if:</p> <p>(a) the total of the floor space which, in the absence of this paragraph, would be authorised to be so used in that case exceeds 500 square metres, or</p> <p>(b) the building does not have rear service access or access to off-street loading facilities.</p> <p>Where a building is used for the purposes of a <i>light industry</i> in pursuance of this clause:</p> <p>(a) the curtilage of the building shall not be used for storage or display purposes, and</p> <p>(b) the hours of operation of the <i>light industry</i> shall not:</p> <p>(i) in the case of a building</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
		<p>used for the purposes of an <i>industry</i> immediately before the commencement of the use authorised by this clause, extend outside the hours during which the building was so used at that time, and</p> <p>(ii) in any other case, extend outside the hours between 6am and 6pm</p> <p>Where, immediately before the commencement of a use of a building authorised by this clause, a condition relating to:</p> <p>(a) the maintenance of landscaping,</p> <p>(b) the parking of vehicles, or</p> <p>(c) the provision of space for the loading or unloading of goods or vehicles, was imposed upon the use of the building or the use of the land upon which the building was erected.</p>
<p>Clothes hoists/Lines</p>	<p>Installed to manufacturer's specifications.</p> <p><i>Rear yard</i> only.</p>	
<p>Council works: emergency and routine works by or on behalf of Council or other public authorities</p>	<p>Repairing or replacing works damaged by natural disaster, accident, acts of vandalism or similar occurrence, including work or measures preventing or limiting further damage.</p> <p>Repairing or replacing works not functioning including measures to prevent further malfunction.</p> <p>Periodic inspection, cleaning,</p>	<p>The Roads Act exempts Council from the provisions of the Environmental Planning and Assessment Act in relation to tree removal for the purpose of carrying out road work or removing a traffic hazard.</p>

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>repair and replacing works but not including development that would increase the designed capacity of works.</p> <p>Ancillary development in connection with the abovementioned emergency or maintenance work.</p> <p>Tree removal in accordance with the Tree Preservation Order.</p>	
<p>Council works: minor structures park and street furniture, seats, bins, bottle banks, picnic tables, minor shelters (including bus shelters), footpaths and cycleways, fences, gates, footbridges, stairways and the like</p>	<p>Constructed by or for Council and designed, fabricated and installed in accordance with relevant standards.</p> <p>Located on land under ownership or management of Council or other public authorities.</p> <p>Playground equipment</p>	
<p>Council works: playground equipment On land classified as community land.</p>	<p>Constructed by or for Council and designed, fabricated and installed in accordance with AS1924, AS2155 and DR94007 - DR94010.</p>	<p>“Community land” is a classification under the Local Government Act 1993.</p>
<p>Cubby houses and playground equipment</p>	<p>Maximum height 2.4m</p> <p>Maximum area 10m²</p> <p>Setback in accordance with Byron Shire DCP 2010 Chapter 1.</p>	
<p>Decks (unroofed and attached, or ancillary, to single dwelling-houses)</p>	<p>Finished surface level not greater than 1m above existing ground level.</p> <p>Maximum area 20m²</p> <p>Required boundary setbacks in accordance with Byron Shire DCP 2010 Chapter 1 to be</p>	<p>Roofing of a deck requires either development consent or a Complying Development Certificate. Refer to complying development provisions.</p> <p>In medium or high bush fire hazard areas decks must be of fire retardant construction.</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	maintained.	
Demolition	<p>Demolition of:</p> <ul style="list-style-type: none"> • Any development being exempt development or complying development under this Development Control Plan, or • Any building classified as Class 1 or Class 10 under the Building Code of Australia, or • Any structure up to 30 square metres in area, <p>- except where asbestos removal is involved.</p> <p>Demolition required by an order under section 121B of the Environmental Planning and Assessment Act, 1979.</p> <p>NOT INCLUDING demolition of any structure within the heritage precinct of Bangalow (as described in Byron Local Environmental Plan 1988).</p> <p>NOT INCLUDING demolition of any structure having a floor area over 30 m² located within the character precincts of Byron Bay as identified on the map contained within this chapter.</p>	<p>Any works involving asbestos cement must comply with the WorkCover Authority's "Guidelines for Practices Involving Asbestos in Buildings."</p> <p>Class 1 buildings are generally dwellings. Class 10 buildings are generally sheds. Contact Council for further information.</p> <p>Demolition is to be carried out to Australian Standard AS2601 - 1991 Demolition Code.</p> <p>Any work involving lead paint removal must not cause lead contamination of air or ground.</p> <p>A minimum of 24 hours prior notice shall be given to disposal of waste at Council facilities.</p>
Driveways ancillary to dwelling-houses	<p><i>Structurally adequate</i> and stable construction with adequate reinforcement.</p> <p>Not elevated or supported above natural ground level.</p> <p>Surface water not to be redirected to adjoining property.</p>	<p>Approval is required under Section 138 of the Roads Act for works in a road reserve.</p> <p>Consult with utility providers regarding underground infrastructure and easements.</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	In accordance with Council's access standards.	
<p>Earthworks cut or fill associated with dwelling-houses</p>	<p>Not on flood prone land.</p> <p>Not within the dripline of any tree.</p> <p>Not on potential Acid Sulfate Soils</p> <p>Maximum depth 600mm above or below natural ground level.</p> <p>Area of disturbance no more than 600 m²</p> <p>Surface water not to be directed onto adjoining property.</p> <p>Erosion controls in place.</p> <p>Bare earth is to be turfed or seeded immediately on completion of works.</p> <p>In accordance with Council's sedimentation control standards.</p>	
<p>Electricity service pole/post (private)</p>	Complying with specifications of the electricity distributor.	
<p>Fences Other than fences covered by the Swimming Pools Act 1992.</p>	All fences are to be constructed so that they do not impede the natural flow of stormwater drainage.	<p>These requirements do not set aside the provisions of the Dividing Fences Act 1991. You are advised to talk to your neighbour at an early stage and consult the Dividing Fences Act. Development consent is required for tree removal for the purpose of establishing a fence.</p>
<p><u>Fences in residential zones</u></p>	Fences must comply with the provisions of area specific chapters of Byron Shire DCP	

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
<p>Boundary fences (in the building setback and street or any other public place)</p> <p>Side and rear boundary fences (between the building setback and the rear boundary)</p> <p>Masonry or brick fences</p>	<p>2010 such as Chapter 12 Bangalow and Chapter 14 Ocean Shores.</p> <p>Maximum height 1.2m if constructed of timber, metal or light weight materials. Fences are not permitted in the front setback in Ocean Shores (refer to Chapter 14).</p> <p>Maximum height 1.8m if constructed of timber, metal or light weight materials.</p> <p>Maximum height 600mm.</p>	<p>Refer to Complying Development section for masonry fences over 0.6m.</p>
<p>Stock fences in rural zones</p>	<p>Ancillary to agriculture.</p>	
<p>Fences in the industrial zone</p>	<p>Located behind landscaping.</p> <p>Plain steel mesh and barbed wire are not to be used.</p>	
<p>Flagpoles</p>	<p>Maximum height 6m above ground level.</p> <p>Maximum of 3 per property.</p> <p>Must be <i>structurally adequate</i>.</p>	<p>If flagpoles are to project over a public road they must comply with Clause 109 of the Approvals Regulation or relevant requirements.</p>
<p>Garden sheds</p>	<p>Maximum floor area 10m².</p> <p>Maximum wall height 2.4m.</p> <p>Non-reflective materials.</p> <p>Positioned and designed to satisfy the requirements of relevant area-specific chapters of Byron Shire DCP 2010.</p> <p>Located behind the existing</p>	

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	dwelling or a minimum of 6m rearwards of the building setback of the existing dwelling.	
Hoardings	<p>Appropriate signage in place.</p> <p><i>Structurally adequate.</i></p> <p>Not less than 2.4m above footpath or thoroughfare.</p>	Approval under the Roads Act is required for hoardings in a road reserve.
Home occupations	<p>"Home occupation" means an occupation carried on in a dwelling-house or in a dwelling in a residential flat building by the permanent residents of the dwelling-house or dwelling which does <u>not</u> involve:</p> <p>(a) <i>repealed</i></p> <p>(b) the employment of persons other than those residents;</p> <p>(c) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products or grit, oil or otherwise;</p> <p>(d) the display of goods, whether in a window or otherwise;</p> <p>(e) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling-house or dwelling to indicate the name and occupation of the resident); or</p> <p>(f) the sale of items (whether goods or materials) or the exposure or offer for sale of</p>	

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	items, by retail.	
<p>Letter box Free standing or in 'banks'</p>	<p>Maximum height of 1.2m above ground level.</p> <p>Sufficient boxes to provide one for each dwelling.</p> <p>Appropriate numbering for each and visible from street alignment.</p> <p>Structurally stable with adequate footings.</p>	<p>Approval under the Roads Act is required for letter boxes in a road reserve.</p>
<p>Mobile sawmill</p>	<p>In rural zones.</p> <p>No more than 2 weeks operations in any 12 month period on any one property.</p> <p>Operated in accordance with the Protection of the Environment Operations Act 1997 (POEO Act).</p>	
<p>Pergola or patio (no walls)</p>	<p>Maximum area 20m²</p> <p>Maximum height 2.4m</p> <p>Maximum 1m above natural ground level.</p>	<p>Enclosure of pergolas is an increase in <i>gross floor area</i> and requires approval.</p>
<p>Photovoltaic Cells</p>	<p>Installed to manufacturer's specifications and requirements. Located such that structural members are adequate to support the intended structure.</p>	
<p>Portable or transportable classrooms and school buildings</p>	<p>Located on land on which a government school or a non-government school is located.</p> <p>Where the land is serviced by reticulated sewer.</p>	<p>Where a new portable building is proposed to be connected to the sewer, this exemption is conditional on approval under section 68 of the Local Government Act to connect to a sewer of the</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p><i>Structurally adequate.</i></p> <p>Structure is connected to a rainwater disposal system.</p> <p>One <i>storey</i> only.</p> <p>Installation under exemption provisions is only permitted for up to 5 years.</p>	<p>Council.</p>
<p>Rainwater Tanks</p>	<p>(1) For a rainwater tank to be exempt development, it must comply with the following requirements:</p> <p>(a) the capacity of the tank, or the combined capacity of tanks, on a lot must not exceed 10,000 litres,</p> <p>(b) the tank must be designed to capture and store roof water from gutters or downpipes on a building,</p> <p>(c) the tank must not collect water from a source other than gutters or downpipes on a building or a water supply service pipe,</p> <p>(d) the tank must be fitted with a first-flush device, being a device that causes the initial run-off of any rain to bypass the tank to reduce pollutants entering the tank,</p> <p>(e) the tank must be structurally sound,</p> <p>(f) the tank must be prefabricated, or be constructed from prefabricated elements that were designed and manufactured for the purpose of the construction of a rainwater tank,</p> <p>(g) the tank must be assembled</p>	

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>and installed in accordance with the instructions of the manufacturer or designer of the tank,</p> <p>(h) the tank, and any stand for the tank, must be installed and maintained in accordance with any requirements of the public authority that has responsibility for the supply of water to the premises on which the tank is installed,</p> <p>(i) the installation of the tank must not involve the excavation of more than 1 metre from the existing ground level, or the filling of more than 1 metre above the existing ground level,</p> <p>(j) the tank must not be installed over or immediately adjacent to a water main or a sewer main, unless it is installed in accordance with any requirements of the public authority that has responsibility for the main,</p> <p>(k) the tank must not be installed over any structure or fittings used by a public authority to maintain a water or sewer main,</p> <p>(l) no part of the tank or any stand for the tank may rest on a footing of any building or other structure, including a retaining wall,</p> <p>(m) the tank must be located behind the front alignment to the street of the building to which the tank is connected (or, in the case of a building on a corner block, the tank must be located behind both the street front and street side alignments of the building),</p>	

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>(n) the tank must not exceed 2.4 metres in height above ground level, including any stand for the tank,</p> <p>(o) the tank must be located at least 450 millimetres from any property boundary,</p> <p>(p) a sign must be affixed to the tank clearly stating that the water in the tank is rainwater,</p> <p>Note. If water in rainwater tanks is intended for human consumption, the tank should be maintained to ensure that the water is fit for human consumption—see the Rainwater Tanks brochure produced by NSW Health and the publication titled Guidance on the use of rainwater tanks, Water Series No 3, 1998, published by the National Environmental Health Forum.</p> <p>(q) any overflow from the tank must be directed into an existing stormwater system,</p> <p>(r) the tank must be enclosed, and any inlet to the tank must be screened or filtered, to prevent the entry of foreign matter or creatures,</p> <p>(s) the tank must be maintained at all times so as not to cause a nuisance with respect to mosquito breeding or overland flow of water,</p> <p>(t) any plumbing work undertaken on or for the tank that affects a water supply service pipe or a water main must be undertaken:</p> <p>(i) with the consent of the public authority that has responsibility</p>	

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>for the water supply service pipe or water main, and</p> <p>(ii) in accordance with any requirements by the public authority for the plumbing work, and</p> <p>(iii) by a licensed plumber in accordance with the <i>New South Wales Code of Practice—Plumbing and Drainage</i> produced by the Committee on Uniformity of Plumbing and Drainage Regulations in New South Wales,</p> <p>(u) any motorised or electric pump used to draw water from the tank or to transfer water between tanks:</p> <p>(i) must not create an offensive noise, and</p> <p>(ii) in the case of a permanent electric pump, must be installed by a licensed electrician.</p> <p>(2) Despite subclause (1) (a), a rainwater tank with a capacity exceeding 10,000 litres may be exempt development if another environmental planning instrument applying to the land concerned provides for such a rainwater tank to be exempt development.</p> <p>(3) This clause does not apply to land that is a lot within the meaning of the <i>Strata Schemes (Freehold Development) Act 1973</i> or the <i>Strata Schemes (Leasehold Development) Act 1986</i>.</p>	
<p>Re-cladding of roofs or walls.</p>	<p>Replace existing materials with similar materials.</p>	<p>Any work involving asbestos cement should comply with the WorkCover Authority's</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>Re-cladding is not to involve structural alterations.</p>	<p>“Guidelines for Practices Involving Asbestos Cement in Buildings.”</p> <p>Any work involving lead paint removal must not cause lead contamination of air or ground.</p>
<p>Retaining Walls</p>	<p>Maximum Height:</p> <ul style="list-style-type: none"> • 0.6m where within 1.5m of any structure. • 0.6m where within 1m of a property boundary. • 1m elsewhere. <p>Masonry walls to comply with: AS3700 - Masonry Code AS3600 - Concrete Structures AS1170 - Loading Code</p> <p>Timber walls to comply with: AS1720 - Timber Structures AS1170 - Loading Code</p> <p>All retaining walls are to be backfilled with free draining materials, and constructed so that they do not prevent the natural flow of storm water drainage/run off.</p>	
<p>Satellite dishes</p>	<p>Maximum diameter of 900mm.</p> <p>Located below ridge line.</p> <p>Coloured to match existing roof, installed to manufacturers specification.</p>	
<p>Scaffolding</p>	<p>Sufficient structural strength to withstand and be impenetrable to the impact of falling rubble.</p> <p>Must enclose work area.</p> <p>Comply with AS1576</p>	

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	To be removed immediately after the purpose for which it was erected has concluded and no safety problem will result from removal.	
Shade houses	<p>Ancillary to an existing dwelling-house.</p> <p>Maximum area 20 m²</p> <p>Maximum height 2.4m</p> <p>Maintain required boundary setbacks.</p> <p><i>One per property.</i></p>	Not to be used as, or ancillary to, a “plant nursery” or any other purpose requiring development consent under Byron Local Environmental Plan 1988, unless such consent is obtained.
Signs	<p><u>General requirements</u></p> <p>In addition to the particular requirements listed below for the different types of signs:</p> <p>(i) The erection of signs must comply with all of the requirements of the BCA, including Section B1(“Structural Provisions”);</p> <p>(ii) Signs must not cover mechanical ventilation inlets or outlet vents;</p> <p>(iii) Signs over a public road to be at least 600mm from kerb/roadway edge;</p> <p>(iv) A maximum of three (3) signs (other than real estate signs) only are permitted per premises without the consent of the Council.</p> <p>Flashing, neon, roof and pole signs require development consent.</p> <p>Signs are to be of a professional standard of construction and finish.</p>	Development consent is required for signs, other than those which do not meet the exemption requirements set out in this DCP chapter.

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>Signs and means of fixing and support are to be kept clean and maintained in good structural condition at all times.</p> <p>Renewal or change of wording of an existing approved sign is exempt development, where the sign is located on the land to which it refers or relates and the new sign complies with the requirements of Byron Shire DCP 2010 Chapter 1 Part L (Signs Policy).</p>	
<p>1.Business identification signs in residential areas*</p>	<p><u>Home Occupation Sign</u></p> <ul style="list-style-type: none"> (i) One sign per premises; (ii) Signs not exceeding 0.3m² in area; (iii) Bears only the name of the occupant and their occupation; (iv) Must not be located over a public road. <p><u>Real Estate Sign</u></p> <ul style="list-style-type: none"> (i) One sign per agent; (ii) Signs not exceeding 0.75m² in area; and (iii) Sign must be located on or attached to the land, building or structure (not being a tree), indicating that such land, building or structure is for sale, rent, auction or disposal by other means. 	
<p>2.Business identification signs in commercial areas*</p>	<p><u>Chalk Board</u></p> <ul style="list-style-type: none"> (i) a board not greater than 1.5 m² in area; (ii) must be located on the private property, to which the display relates; (iii) a chalk board must contain a signwritten heading indicating 	<p>Signs are to be of a professional standard of construction and finish.</p> <p>Signs and means of fixing and support are to be kept clean and maintained in good structural condition at all times.</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>the premises to which it refers; and</p> <p>(iv) one sign per premises.</p> <p><u>Fascia Sign</u></p> <p>(i) Must be located on the fascia of awnings in lettering a maximum of 450 mm in height, providing that the height of lettering does not exceed the background dimensions of the fascia</p> <p><u>Flush wall signs</u></p> <p>(i) One sign per premises (ii) Not exceeding 2.5m² in area (iii) Securely fixed by metal supports</p> <p><u>Real Estate Sign</u></p> <p>(i) One sign per agent (ii) Signs not exceeding 2.5m² in area (iii) Sign must be located on or attached to the land, building or structure (not being a tree), indicating that such land, building or structure is for sale, rent, auction or disposal by other means</p> <p><u>Temporary Sign</u></p> <p>(i) Any sign which is erected or displayed to advertise community or civic projects, major construction projects or other special events on a temporary basis, for a period not exceeding 2 calendar months (ii) Advertising area is not to exceed 6 m²</p> <p><u>Wall Sign</u></p> <p>(i) Means any sign which is</p>	<p>Temporary Roads Act consent is required for temporary signs over public roads.</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>Painted directly onto an exterior wall of a building or other structure</p> <p>(ii) The area of this sign does not exceed 6 m² and does not cover more than 25% of the area of such wall</p> <p><u>Window signs</u></p> <p>(i) Means any sign painted or displayed on a shop window or any glazed area of a building;</p> <p>(ii) Total advertising area not exceeding 6 m².</p>	
<p>3. Business identification signs in industrial areas*</p>	<p><u>Chalk Board</u></p> <p>(i) a movable board not greater than 1.5 m² in area;</p> <p>(ii) must be located on the private property to which the display relates;</p> <p>(iii) a chalk board must contain a signwritten heading indicating the premises to which it refers;</p> <p>(iv) one sign per premises.</p> <p><u>Fascia Sign</u></p> <p>(i) Must be located on the fascia of awnings in lettering a maximum of 450 mm in height, providing that the height of lettering does not exceed the background dimensions of the fascia.</p> <p><u>Flush wall signs</u></p> <p>(i) One sign per premises;</p> <p>(ii) Not exceeding 2.5m² in area;</p> <p>(iii) Securely fixed by metal supports.</p> <p><u>Real Estate Sign</u></p> <p>(i) One sign per agent;</p> <p>(ii) Signs not exceeding 3.5m² in area;</p>	<p>Signs are to be of a professional standard of construction and finish.</p> <p>Signs and means of fixing and support are to be kept clean and maintained in good structural condition at all times.</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>(iii) Sign must be located on or attached to the land, building or structure (not being a tree), indicating that such land, building or structure is for sale, rent, auction or disposal by other means.</p> <p><u>Wall Sign</u></p> <p>(i) Means any sign that is painted directly onto an exterior wall of a building or other structure;</p> <p>(ii) The area of this sign does not exceed 6 m² and does not cover more than 25% of the area of such wall.</p> <p><u>Window signs</u></p> <p>(i) Means any sign painted or displayed on a shop window or any glazed area of a building;</p> <p>(ii) Total advertising area not exceeding 6m².</p>	
<p>Skylight (including solartube or similar type installations)</p>	<p>Maximum area of skylight not to exceed 1m²</p> <p>Located not less than 900mm from a property boundary and not less than 900mm from a wall separating attached dwellings.</p> <p>The building work must not reduce the <i>structural adequacy</i> of the building or involve structural alterations.</p> <p>Any opening created by the installation to be adequately weatherproofed.</p> <p>Installation to manufacturer's instructions.</p>	
<p>Solar water heaters</p>	<p>Installed to manufacturer's specifications and requirements.</p>	

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>Installed by a licensed person.</p> <p>The building work must not reduce the <i>structural adequacy</i> of the building or involve structural alterations.</p> <p>Any opening created by the installation to be adequately weatherproofed.</p>	
<p>Stockyards and stock shelters</p>	<p>In rural zones. Ancillary to existing agriculture.</p> <p>Maximum roof area 20 m²</p> <p>Minimum 100m to any waterway.</p> <p>Minimum 50m from any dwelling on adjoining land.</p>	<p>Not for feedlots or “<i>animal establishments</i>”</p> <p>Building “setbacks” do not apply.</p> <p>Approval under Section 68 of the Local Government Act is required for connection to reticulated (town) water.</p>
<p>Street signs Comprising name plates, directional signs and advance traffic warning signs</p>	<p>Constructed by or for Council or the Roads and Traffic Authority.</p> <p><i>Structurally adequate.</i></p> <p>Designed, fabricated and installed in accordance with relevant SAA standards.</p>	
<p>Subdivision</p>	<ul style="list-style-type: none"> • Strata subdivision of development located in: <ul style="list-style-type: none"> ➤ Zone No. 2(a) (Residential Zone) ➤ Zone No. 3(a) (Business Zone) ➤ Zone No. 4(a) (Industrial Zone) ➤ Zone No. 7(f2) (Urban Coastal Land Zone) <p>In the following circumstances:</p> <p>a) Evidence is provided that the development</p>	<p>Submit to Council seven (7) copies of a survey plan of subdivision.</p> <p>The location of all buildings and/or other permanent improvements including fences must be indicated on 1 of the copies.</p>

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
	<p>complies with all conditions of relevant development consent/s;</p> <p>b) Each proposed allotment is serviced by water, sewer, electricity, telecommunications.</p> <ul style="list-style-type: none"> • Rectifying an encroachment upon an allotment. • Excise an allotment land which is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other rescue service purposes or public conveniences. <p>Road realignment and/or widening for and on behalf of Council or the Roads and Traffic Authority.</p>	<p>Landowners should enquire with Council about the effect these types of subdivision may have on dwelling entitlements.</p>
<p>Temporary structures Builders sheds, portable toilets and the like.</p>	<p>Ancillary to an approved development.</p> <p>To be removed after construction and prior to occupation of the approved development.</p>	<p>Does not apply to habitable buildings.</p>
<p>Tree removal</p>	<p>Tree removal in accordance with Council's Tree Preservation Order is exempt development.</p>	
<p>Use of public road reserves</p>		

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
<p>1. Footpath dining (Adjacent to approved Restaurants Only)</p>	<p>Approval under Section 125 of the <i>Roads Act 1993</i> is required to be obtained from Byron Shire Council and all conditions of such approval are complied with prior to commencement.</p> <p>The footpath dining is to be limited to the area adjacent to an approved restaurant and in accordance with Council’s Policy No. 5.54 – “Footpath Dining”.</p>	<p>Any approval under Section 125 of the <i>Roads Act 1993</i> is to be for a maximum period of 7 years</p> <p>Any approval under Section 125 is subject to an advertising period for submissions 28 days.</p> <p>An approval under Section 68 of the Local Government Act 1993 is required where the activity is not exempt</p>
<p>2. Goods and chattels</p>	<p>Approval under the <i>Roads Act 1993</i> is required to be obtained from Byron Shire Council and all conditions of such approval are complied with prior to commencement.</p>	<p>An approval under Section 68 of the Local Government Act 1993 is required where the activity is not exempt</p>
<p>3. Street Stalls</p>	<p>Stalls are to be in accordance with Council’s Policy No. 5.36 – “Fund Raising – Community Organisation.”</p>	<p>An approval under Section 68 of the Local Government Act 1993 is required where the activity is not exempt.</p>
<p>4. Entertainment and Events on Public Roads</p>	<p>Approval is required under the <i>Roads Act 1993</i> from Byron Shire Council and all conditions of such approval are complied with prior to commencement.</p>	<p>Approval is required under the <i>Roads Act 1993</i> from Byron Shire Council</p> <p>An approval under Section 68 of the Local Government Act 1993 is required where the activity is not exempt</p>
<p>5. Busking</p>	<p>Busking is to be undertaken in accordance with Council’s Policy No. 5.57 – “Busking Policy”.</p>	<p>An approval under Section 68 of the Local Government Act 1993 is required where the activity is not exempt under a Local Approvals Policy.</p> <p>Maximum one year approval.</p>

Exempt Development

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

Type of Activity	Exemption Circumstances/ Requirements	Advisory Note
Water heaters (excluding solar systems)	Replacement or new installations. Work must not reduce the <i>structural adequacy</i> of the building or involve structural alterations. Installation to be carried out by a licensed person. Temperature control device/s to be fitted in accordance with AS3500 Part 4 Hot Water Systems 1994.	Approval may be required for water supply works – check with Council.

Chapter 16 - Exempt and Complying Development - INSERT

State Environmental Planning Policy No. 4 (Development without Consent and Miscellaneous Complying Development) ("SEPP 4") has been amended to provide for the installation of certain types of rainwater tanks to be exempt development. SEPP 4 applies to the whole state and overrules the provisions of Byron Shire DCP 2010 Chapter 16 (Exempt and Complying Development). The provisions of SEPP 4 regarding water tanks are:

16 When rainwater tanks are exempt development

- (1) For a rainwater tank to be exempt development, it must comply with the following requirements:
 - (a) the capacity of the tank, or the combined capacity of tanks, on a lot must not exceed 10,000 litres,
 - (b) the tank must be designed to capture and store roof water from gutters or downpipes on a building,
 - (c) the tank must not collect water from a source other than gutters or downpipes on a building or a water supply service pipe,
 - (d) the tank must be fitted with a first-flush device, being a device that causes the initial run-off of any rain to bypass the tank to reduce pollutants entering the tank,
 - (e) the tank must be structurally sound,
 - (f) the tank must be prefabricated, or be constructed from prefabricated elements that were designed and manufactured for the purpose of the construction of a rainwater tank,
 - (g) the tank must be assembled and installed in accordance with the instructions of the manufacturer or designer of the tank,
 - (h) the tank, and any stand for the tank, must be installed and maintained in accordance with any requirements of the public authority that has responsibility for the supply of water to the premises on which the tank is installed,
 - (i) the installation of the tank must not involve the excavation of more than 1 metre from the existing ground level, or the filling of more than 1 metre above the existing ground level,
 - (j) the tank must not be installed over or immediately adjacent to a water main or a sewer main, unless it is installed in accordance with any requirements of the public authority that has responsibility for the main,
 - (k) the tank must not be installed over any structure or fittings used by a public authority to maintain a water or sewer main,
 - (l) no part of the tank or any stand for the tank may rest on a footing of any building or other structure, including a retaining wall,
 - (m) the tank must be located behind the front alignment to the street of the building to which the tank is connected (or, in the case of a

building on a corner block, the tank must be located behind both the street front and street side alignments of the building),

- (n) the tank must not exceed 2.4 metres in height above ground level, including any stand for the tank,
- (o) the tank must be located at least 450 millimetres from any property boundary,
- (p) a sign must be affixed to the tank clearly stating that the water in the tank is rainwater,

Note. If water in rainwater tanks is intended for human consumption, the tank should be maintained to ensure that the water is fit for human consumption—see the *Rainwater Tanks* brochure produced by NSW Health and the publication titled *Guidance on the use of rainwater tanks*, Water Series No 3, 1998, published by the National Environmental Health Forum.

- (q) any overflow from the tank must be directed into an existing stormwater system,
 - (r) the tank must be enclosed, and any inlet to the tank must be screened or filtered, to prevent the entry of foreign matter or creatures,
 - (s) the tank must be maintained at all times so as not to cause a nuisance with respect to mosquito breeding or overland flow of water,
 - (t) any plumbing work undertaken on or for the tank that affects a water supply service pipe or a water main must be undertaken:
 - (i) with the consent of the public authority that has responsibility for the water supply service pipe or water main, and
 - (ii) in accordance with any requirements by the public authority for the plumbing work, and
 - (iii) by a licensed plumber in accordance with the *New South Wales Code of Practice—Plumbing and Drainage* produced by the Committee on Uniformity of Plumbing and Drainage Regulations in New South Wales,
 - (u) any motorised or electric pump used to draw water from the tank or to transfer water between tanks:
 - (i) must not create an offensive noise, and
 - (ii) in the case of a permanent electric pump, must be installed by a licensed electrician.
- (2) Despite subclause (1) (a), a rainwater tank with a capacity exceeding 10,000 litres may be exempt development if another environmental planning instrument applying to the land concerned provides for such a rainwater tank to be exempt development.

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

- (3) This clause does not apply to land that is a lot within the meaning of the [Strata Schemes \(Freehold Development\) Act 1973](#) or the [Strata Schemes \(Leasehold Development\) Act 1986](#).

The above text is an extract from SEPP 4 and was correct at the time of printing (March 2003). Persons seeking accuracy for legal or any other reasons should refer to the gazetted SEPP.

<p>Water tanks at or above ground level</p>	<p>Ancillary to an existing approved building.</p> <p>Tank not to exceed 3m diameter or 3m in height.</p> <p>Located behind the building setback.</p> <p>Supported in accordance with manufacturer’s recommendations and/or with <i>structurally adequate</i> support.</p>	<p>This exemption does not apply to below ground tanks or on land that requires excavation.</p>
<p>Windmills Rural zones only</p>	<p>Maximum height 10m.</p> <p>Providing water for agricultural or domestic purposes.</p>	
<p>Windows, glazed areas and external doors (excluding windows in heritage buildings as defined in s142 of the Local Government Act 1993).</p>	<p>Replacement in residential premises with materials that comply with:</p> <p>a) AS1288 Glass in Buildings Selection and installation;</p> <p>b) AS2208 Safety Glazing Materials for Use in Buildings (Human Impact Considerations). No reduction in the area provided for light and ventilation is permitted and structural support members in the wall concerned cannot be removed.</p>	<p>Consult a structural engineer, architect or building surveyor to ensure alterations will comply with the BCA and structural support will not be affected. In particular consult one of those professionals or a recognised glazier to ensure the appropriate quality of glazing is selected for the window or doorway concerned, especially as to whether safety glass is required and installed.</p> <p>Any works involving asbestos cement must comply with the WorkCover Authority’s “Guidelines for Practices Involving Asbestos in Buildings.”</p> <p>Any work involving lead paint removal must not cause lead contamination of air or ground.</p>

refer to the general provisions at the start of this chapter as well as the general requirements for exempt development on pages 13 -15

<p>Waste storage container in a public place</p>	<p>Maximum container length 3m.</p> <p>Single container only.</p> <p>Waste containers to be located and designed strictly in accordance with the requirements and guidelines of the Roads and Traffic Authority.</p> <p>Maximum duration of the activity being a total of fourteen days from the date of the placement of the container in the public place to removal date.</p> <p>The supplier of the waste container must ensure that there is a minimum of \$10 million public liability/ risk insurance cover for the placement of the waste container in a public place.</p> <p>The container being of a light colour with the name and address of the owner/proprietor clearly displayed.</p> <p>The waste container is used in association with works approved by Council.</p>	<p>Subject to compliance with the provisions of any state acts or regulations.</p> <p>The Council may order the removal of the container if there is a failure to comply with the terms and conditions of the exemption or if the placement of the container results in a nuisance or danger to the public.</p> <p>Transporting of waste over or under a public place requires an approval under S68 of the Local Government Act 1993.</p> <p>Council approval is required for the placement of containers for a period greater than that shown in column 2.</p>
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refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

PART B – COMPLYING DEVELOPMENT

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** these types of development may also subject to exemption provisions. Refer to Exempt Development part of this DCP for details.*

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

Objectives

The objectives of this part are:

- a) to provide criteria for Complying Development;
- b) to prescribe general conditions to be attached to all Complying Development Certificates, and
- c) to prescribe conditions for each type of Complying Development.

Note: if the specifications listed under the general specifications or under each type of development are not met, the development is not complying development. In such circumstances, development consent may be sought by submission of a Development Application to Council.

Advertising and Notification

There shall be no requirement of either Council, the landowner or the proponent to advertise or notify any person of the lodgement of an application for a Complying Development Certificate.

Approved Complying Development Certificates must be advertised within 14 days of being issued. The details to be included in advertising shall be:

- a) Complying Development Certificate number (if issued by Council).
- b) Legal land description (Lot and Deposited Plan number) and location (street address or rural address including rural road numbering).
- c) Type of complying development, as described in this chapter.
- d) Certifier's name and telephone number.
- e) Landowner's name.
- f) A statement that the determination of the application for a Complying Development Certificate is available for public inspection, free of charge, during ordinary office hours at Council's offices.

Advertisements shall be headed in bold, "Complying Development Certificate/s issued". Any number of Complying Development Certificates may be advertised in any one advertisement.

Complying Development Certificates issued by accredited certifiers shall be advertised in the Public Notices section of a newspaper circulating at least weekly in Byron Shire. Alternatively, accredited certifiers may, for a fee set by Council, have their Complying Development Certificates included in Council's advertising.

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;

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- 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 or 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 Council's Tree Preservation Order.
- 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 products

and 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 following table and it involves works described in column 2 of the table:

Class 1	Any works
Class 2	Works below natural ground surface Works by which the watertable is likely to be lowered.
Class 3	Works beyond 1 metre below natural ground surface Works by which the
Class 4	Works beyond 2 metres below natural ground surface. Works by which the watertable is likely to be lowered beyond 2 metres below the natural ground surface
Class 5	Works within 500 metres of adjacent Class 1, 2, 3 or 4 land below 5 metres AHD likely to lower the watertable below 1 metre AHD on the adjacent Class 1, 2, 3 or 4 land

unless an assessment of the proposed works has been done in accordance with the "Acid Sulfate Soils Assessment Guidelines" and Council has written to the proponent advising a management plan is not required.

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

“works” means any landform alteration that may result in the disturbance of more than one (1) tonne of soil including the carrying out of agriculture, land levelling, construction of drains (and the maintenance, widening, deepening or extension of existing drains), extractive industries, dredging, or artificial waterbodies (including canals, dams or detention basins), foundations, flood mitigation works, and any other works that may lower ground water levels 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 Shire DCP 2010;
- b) It will not prevent or restrict the use of land which is used for:
 - (i) entering or existing from the land, or
 - (ii) loading, unloading, manoeuvring or parking vehicles, or
 - (iii) landscaping required to be carried out or maintained by any development consent condition
- c) 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

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- | | | |
|------|--|------|
| | 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 |
| | elsewhere in rural zones | 15m |
| v) | 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:

- | | | |
|----|--|------|
| | residential areas except Ocean Shores | 0.9m |
| | Ocean Shores | 3.0m |
| | rural areas | 15m |
| | side and rear setback from rural property boundaries on land identified by Council as being subject to high or medium fire danger | 20m |
| g) | Alterations and additions, sheds, swimming pools and water tanks must comply with the setbacks described in sub-clause g) above except rural and rural residential zones a minimum side and rear setback of 5 metres may be applied. | |

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.
- c) For all residential building work:
 - A A Complying Development Certificate for building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be approved unless the principal certifying authority for the development to which the work relates:
 - i in the case of work to be done by a licensee under that Act:
 - ii has been informed in writing of the licensee's name and contractor licence number, and

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- iii is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
- b in the case of work to be done by any other person:
 - i has been informed in writing of the person's name and owner-builder permit number, or
 - ii has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of that Act, and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs. Note: The amount referred to in paragraph (b) (ii) is prescribed by regulations under the Home Building Act 1989.

Has a certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

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.

General Conditions

Hours of work

Any building work must be carried out between 7.00am and 6.00pm, Monday to Friday and 8.00am to 5.00pm Saturdays, excluding public holidays.

Building near pipes

Where development is within the zone of influence of a sewer or water pipe, the location of which is to be defined by a suitably qualified surveyor or engineer, the development must be constructed in accordance with Byron Council policy 4.20 (Building over Pipelines and Other Underground Structures) (refer to diagram on following pages).

Excavations and backfilling

- a All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- b All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

Retaining walls and drainage

If the soil conditions require it:

- a retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- b adequate provision must be made for drainage.

Protection of public places

- a If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place a hoarding or fence must be erected between the work site and the public place.
- b If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- c The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- d Any such hoarding, fence or awning is to be removed when the work has been completed.

Note: Should it be desired to erect any hoarding or fence on Council footpaths or road reserves, a specific application is to be made to Council and the appropriate fees paid.

Notes

The development is to be conducted in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 and Environmental Planning and Assessment Regulation 2000.

If the Environmental Planning and Assessment Act stipulates that an Occupation Certificate is required, the building shall not be occupied or used until an Occupation Certificate is issued either by Council or an accredited certifier.

The Complying Development Certificate shall be issued in the name of the Council or the accredited certifier with an accreditation number.

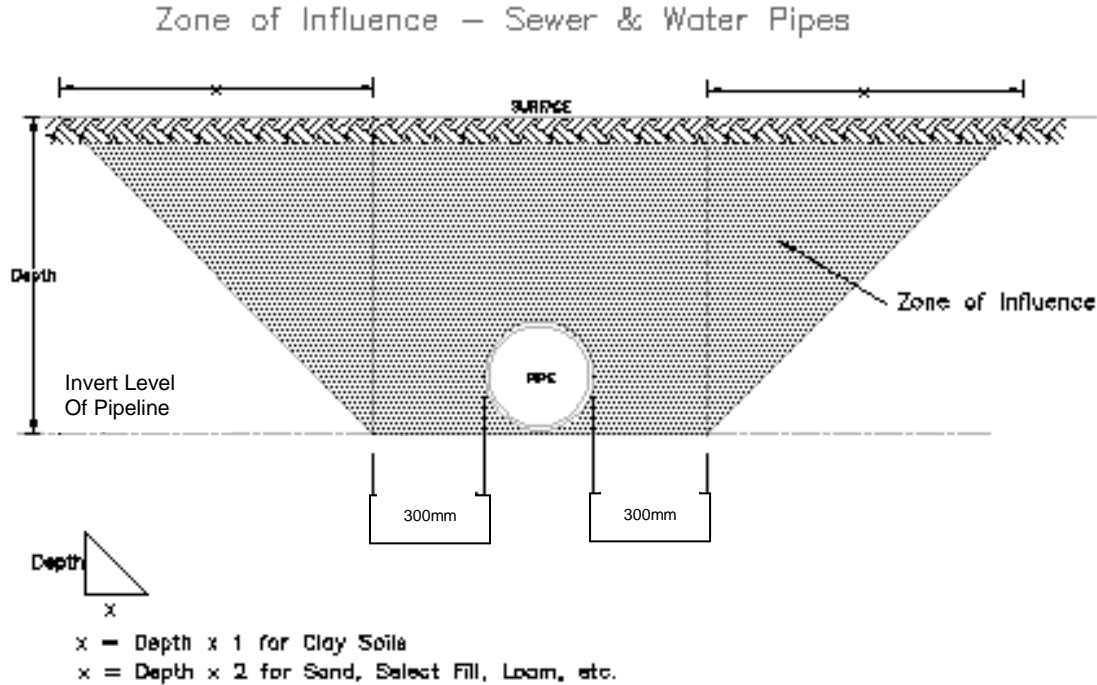
Types of Complying Development and conditions applying to each type

Reference to complying development includes reference to extensions, modifications or alterations to complying development where such extensions, modifications or alterations do not alter the definition of the development under this Plan, and the development so extended, modified or altered complies with the provisions of this Development Control Plan.

Several types of development (marked * in the Contents of this Part and in the following sections) are also subject to exemption provisions. Refer to the Exempt Development part of this chapter for details.

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

Zone of Influence as referred to under General Condition for “Building near pipes”



Alterations and additions to buildings or works (structural or load bearing) *

Note: Notwithstanding the General Exclusions, this form of complying development may be undertaken on existing development in the following zones:

- Zone No. 7(c) (Water Catchment Zone)
- Zone No. 7(d) (Scenic/Escarpment Zone), except 2 storey development

Structural alterations and additions involving load bearing components of buildings must comply with the following criteria to be considered as complying development:

- a) where the existing building has development consent or was approved by a Complying Development Certificate;
- b) where, apart from dwelling-houses, the work will not increase the *gross floor area* or the height of the development;
- c) in rural and rural residential areas, additions and alterations do not increase the *height* of the building;
- d) Not requiring excavation or filling in excess of 1 metre in depth.
- e) in the case of dwelling-houses on unsewered land, approval is to be obtained under section 68 of the Local Government Act for the sewage management requirements of the alterations, OR written advice is to be obtained from Council that section 68 approval is not required.

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- f) In the case of restumping of an existing dwelling-houses having a pier sub-floor, there is no change to the location or orientation of the dwelling on the land.

Alterations to building or works (load bearing) - prescribed conditions

General:

1. The land surrounding any structure must be graded to divert surface water to the street, and clear of existing and proposed structures and adjoining premises.
2. Where the water falls to the rear of the property, it must be collected and drained via a gravity system to a Council stormwater line or disposed of in a manner which does not cause erosion, siltation and surface flooding to adjoining neighbours.
3. Removal or disturbance of vegetation and top soil, other than preparation for landscaping or turfing, must be confined to within 3 metres of the approved building area.
4. Support for neighbouring buildings
 - a If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - i must preserve and protect the building from damage, and
 - ii if necessary, must underpin and support the building in an approved manner, and
 - iii must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - b The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
 - c In this clause, allotment of land includes a public road and any other public place.
5. Signs to be erected on building and demolition sites
 - a A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i stating that unauthorised entry to the work site is prohibited, and
 - ii showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
 - b Any such sign is to be removed when the work has been completed.
 - c This clause does not apply to:
 - i building work carried out inside an existing building, or
 - ii building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

Before work commences:

1. Bonds shall be paid to Byron Shire Council for damage to footpaths and driveway crossovers in accordance with adopted fees and charges.
Advisory Note: Council's 2000/2001 Management Plan sets the bond for damage to footpaths and driveway crossovers at \$150. This information is provided as an indication of costs; it is the responsibility of the proponent to ascertain current fees and charges. Eligibility for refund of the bond will be assessed upon issue of a Compliance Certificate for completion of the development.
2. Before any site works, building or demolition is started, the applicant or builder must:
 - a) Erect a sign at the front of the property with the builder's name, licence number, site address and consent number.
 - b) Provide temporary toilet facilities for workers unless existing facilities are available for use on the site.
 - c) Protect and support any neighbouring buildings.
3. Approval is required under Section 138 of the Roads Act for works and structures in road reserves (driveways, stormwater outlets etc.). Application for approval may be made to Byron Shire Council by submission of an engineering plan at scale 1:50 showing works within the road reserve, and payment of application and inspection fees.
4. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
 - a) Divert uncontaminated run-off around cleared or disturbed areas;
 - b) Erect a silt fence to prevent debris escaping into drainage systems or waterways;
 - c) Prevent tracking of sediment by vehicles onto roads;
 - d) Stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.

During construction:

1. Driveways and access are to be constructed in accordance with Council's design policy. New driveway crossovers to be constructed in accordance with Byron Council standard drawings 749 (urban) or 909 (rural) and Australian Standard 2890, with transition zones in accordance with guidelines adopted by Council.
2. Where kerb and gutter is provided, driveways are to be a minimum of 500 mm clear of all drainage structures on the kerb and gutter and are not to interfere with the existing public utility infrastructure, including Council drainage structures, unless prior approval is obtained from the relevant authority.
3. Driveways are to be a minimum of 6 metres from the boundary line of a road intersection.
4. Compliance Certificates are required for the following:
 - a) **Site Control / Floor Level:** Upon completion of the following works, and prior to commencement of the subsequent stages, a Compliance Certificate is to be submitted indicating:
 - i) All site management measures are in place;
 - ii) Footings have been constructed in accordance with the approved plans and relevant Australian Standards.

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- b) Concrete slabs have been constructed in accordance with the approved plans and relevant Australian Standards. The Certificate is to state that the building is correctly sited on the site.
- c) Structural Framing: including wet area sealing, wind bracing, and tie downs prior to covering.
- d) Completion: Upon completion of the remaining relevant key inspections and prior to occupation, a Compliance Certificate is to be issued indicating the buildings compliance with the relevant terms of the Approval and/or Standards of Construction detailed in the Building Code of Australia.

For all alterations except to Class 1 and Class 10 buildings:

1. Fire Safety Certificates to be issued in accordance with the requirements of the Environmental Planning and Assessment Act, 1979 and Environmental Planning and Assessment Regulation.
2. Access to be provided in accordance with BCA requirements for people with access disabilities.

RESTUMPING: The following conditions apply to Complying Development Certificates for the restumping of existing dwelling-houses:

Prior to works commencing:

1. Before any site works, building or demolition is started, the applicant or builder must:
 - a) Erect a sign at the front of the property with the builder's name, licence number, site address and consent number;
 - b) Provide temporary toilet facilities for workers unless existing facilities are available for use on the site;
 - c) Protect and support any neighbouring buildings.

During construction:

1. Any plumbing and drainage work is to be installed by a suitably licensed person. The requirements of the NSW Code of Practice and AS/NZS 3500 must be adhered to. Plumbing and drainage inspections can ONLY BE UNDERTAKEN by Council.
2. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
 - a) divert uncontaminated run-off around cleared or disturbed areas;
 - b) erect a silt fence to prevent debris escaping into drainage systems or waterways;
 - c) prevent tracking of sediment by vehicles onto roads;
 - d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.
3. Removal or disturbance of vegetation and top soil, other than preparation for landscaping or turfing, must be confined to within 3 metres of the approved building area.

4. The land surrounding any structure must be graded to divert surface water to the street, and clear of existing and proposed structures and adjoining premises.
5. Where surface water cannot be disposed of to the street drainage system, it must be collected and drained via a gravity system to a Council stormwater line or disposed of in a manner which does not cause erosion, siltation and surface flooding to adjoining neighbours.
6. Compliance Certificates are required for :
 - a) Completion: Upon completion of the remaining relevant key inspections and prior to occupation, a Compliance Certificate is to be issued indicating the buildings compliance with the relevant terms of the Approval and/or Standards of Construction detailed in the Building Code of Australia.
7. Driveways and access are to be constructed in accordance with Council's design policy. New driveway crossovers to be constructed in accordance with Byron Council standard drawings 749 (urban) or 909 (rural) and Australian Standard 2890, with transition zones in accordance with guidelines adopted by Council.
8. Where kerb and gutter is provided, driveways are to be a minimum of 500 mm clear of all drainage structures on the kerb and gutter and are not to interfere with the existing public utility infrastructure, including Council drainage structures, unless prior approval is obtained from the relevant authority.
9. Driveways are to be a minimum of 6 metres from the boundary line of a road intersection.
- 10.

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 chapter 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 chapter, 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

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- 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 Shire DCP 2010 Chapter 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.

Bed and breakfast establishment - prescribed conditions:

Prior To Commencement:

1. Kitchen is to be fitted out in accordance with the Food Act 1989 and Council's food code.
2. Smoke alarms to comply with Part 3.7.2.4 of the Building Code of Australia.
3. A system of lighting must be installed in accordance with Part 3.7.2.5 of the Building Code of Australia to assist evacuation of occupants in the event of a fire.
4. Car parking (including a parking space for people with access disabilities) to be constructed providing 3 spaces with an all weather surface, one of which is to be covered.
5. Access is to be provided for people with disabilities from the carpark to, and throughout, all common areas. Access and sanitary facilities are to be provided to at least one guest room in accordance with AS1428 (Design for Access and Mobility).

At All Times:

1. The owner and/or operator are to be permanent residents of the dwelling-house.
2. The establishment is not be 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.
3. The establishment must offer at least breakfast for guests.
4. No facilities (eg. kitchen, sink and the like) are to be provided in rooms for the preparation of food and beverages by guests.
5. A minimum of three (3) on-site car spaces are to be maintained, one of which is to be covered.

Dwelling-house

Construction of new dwelling-houses must comply with the following criteria to be considered as complying development:

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- a) Satisfying the objectives, guidelines, requirements and provisions of any area-specific chapter of Byron Shire DCP 2010, including:
 - Chapter 11 (Mullumbimby);
 - Chapter 12 (Bangalow);
 - Chapter 14 (South Ocean Shores);
- b) Single *storey* with floor levels no greater than 1.5m above natural ground level at any point.
- c) The land on which the development is to be erected is connected to reticulated sewer.
- d) Not requiring excavation or filling in excess of 1 metre in depth.
- e) Having a *floor space ratio* no greater than 0.5:1.
- f) Approval for a connection to Council’s reticulated water supply system, including the supply of water meters and the installation of a property service. Approval must be obtained through an application to Council or Rous County Council (as appropriate) under Section 68 of the Local Government Act.
- g) Documentary evidence is provided of an approval for a connection to Council’s reticulated sewerage system. Approval must be obtained through an application to Council under Section 68 of the Local Government Act.
- h) Slope of natural ground level within the dwelling envelope not exceeding 20%.
- i) The dwelling-house must not have two rooms which are capable of being used as kitchens.
- j) All habitable floor levels must be connected by an internal staircase.
 - Stairwells shall be constructed in a manner that will prevent the sealing off of the staircase at a future time.
- k) Providing car parking at the rate of:
 - apart from expanded dwellings - one space capable of being covered for up to four bedrooms, plus one space for each additional two bedrooms or part thereof:

total bedrooms	coverable spaces	total spaces
1 - 4	1	1
5 - 6	1	2

 - for each expanded dwelling-house: one space, capable of being covered, for up to four bedrooms, plus one space for each additional bedroom.
- l) A certificate by a professional Geotechnical Engineer is to be provided certifying that the site is stable and will not be affected by landslide or subsidence at, above or below the site when the building is erected. The certificate shall be prepared in accordance with AS 1726 and Council Policy No. 5.18 (Geotechnical Reports).
- m) Approval has been obtained under Section 138 of the Roads Act for works or structures in the road reserve. Application for approval may be made to Byron Shire Council by submission of an engineering plan showing works within the road reserve, and payment of application and inspection fees. Note: Council’s standard requirement is for provision of a dished kerb crossing and full width driveway crossing over the footpath in accordance with Council Standard Drawing 749/1-3.

n)

Dwelling-house - prescribed conditions:

The following conditions shall apply to Complying Development Certificates for new dwelling-houses and to relocated dwelling-houses:

Prior to Works Commencing:

1. Before any site works, building or demolition is started, the applicant or builder must:
 - a) erect a sign at the front of the property with the builder's name, licence number, site address and consent number
 - b) temporary toilet facilities are to be provided for workers unless existing facilities are available for use on the site;
 - c) protect and support any neighbouring buildings.
2. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
 - a) divert uncontaminated run-off around cleared or disturbed areas;
 - b) erect a silt fence to prevent debris escaping into drainage systems or waterways;
 - c) prevent tracking of sediment by vehicles onto roads;
 - d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.

Note: It is an offence under the provisions of the Protection of the Environment Operations Act to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

3. Removal or disturbance of vegetation and top soil, other than preparation for landscaping or turfing, must be confined to within 3 metres of the approved building area.
4. The land surrounding any structure must be graded to divert surface water to the street, and clear of existing and proposed structures and adjoining premises. Where the water falls to the rear of the property, it must be collected and drained via a gravity system to a Council stormwater line or disposed of in a manner which does not cause erosion, siltation and surface flooding to adjoining neighbours.
5. Approval is required under Section 138 of the Roads Act for works and structures in road reserves (driveways, stormwater outlets etc.). Application for approval may be made to Byron Shire Council by submission of an engineering plan at scale 1:50 showing works within the road reserve, and payment of application and inspection fees.
6. Driveways and access are to be constructed in accordance with Council's design policy. New driveway crossovers to be constructed in accordance with Byron Council standard drawings 749 (urban) or 909 (rural) and Australian Standard 2890, with transition zones in accordance with guidelines adopted by Council.
7. Where kerb and gutter is provided, driveways are to be a minimum of 500 mm clear of all drainage structures on the kerb and gutter and are not to interfere with the existing public utility infrastructure, including Council drainage structures, unless prior approval is obtained from the relevant authority.

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

8. Driveways are to be a minimum of 6 metres from the boundary line of a road intersection.
9. Bonds shall be paid to Byron Shire Council for damage to footpaths and driveway crossovers in accordance with adopted fees and charges.

Advisory Note: Council's 2000/2001 Management Plan sets the bond for damage to footpaths and driveway crossovers at \$600 for a new dwelling-house and \$2000 for a relocated dwelling. This information is provided as an indication of costs; it is the responsibility of the proponent to ascertain current fees and charges. Eligibility for refund of the bond will be assessed upon issue of a Compliance Certificate for completion of the development:

10. Signs to be erected on building and demolition sites
 - a A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i stating that unauthorised entry to the work site is prohibited, and
 - ii showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
 - b Any such sign is to be removed when the work has been completed.
 - c This clause does not apply to:
 - i building work carried out inside an existing building, or
 - ii building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

During Construction:

1. Support for neighbouring buildings
 - a If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - i must preserve and protect the building from damage, and
 - ii if necessary, must underpin and support the building in an approved manner, and
 - iii must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - b The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
 - c In this clause, allotment of land includes a public road and any other public place.
2. The following inspections can ONLY BE UNDERTAKEN by Council:

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- a) plumbing & drainage:
 - i) internal drainage
 - ii) external drainage
 - iii) stack
 - iv) water
 - v) final
- b) work in road reserves

Council must be contacted 48 hours prior to any inspection.

3. All plumbing and drainage work is to be installed by a suitably licensed person. The requirements of the NSW Code of Practice and AS/NZS 3500 must be adhered to.
4. Overflow Relief Gullies shall be positioned as far upstream as possible, at a minimum of 75mm above the surrounding ground level and a minimum of 150mm below the lowest fixture connected to the drain.
5. Trapped floor wastes are to be fitted.
6. The building is to be designed and constructed such that all floor levels have sufficient height to enable the house drainage lines to fall at a permissible grade to the point of connection to the sewer main.
7. The top of the floor surface is to be a minimum of 300mm above finished ground level (including all floor wastes).
8. Prior to any water being drawn from the site a water meter and backflow prevention device must be fixed in position. Where a testable backflow prevention device is fitted, a test report shall be submitted within five (5) working days of installation.
9. All surplus water shall be conveyed to the street drains or approved interallotment drainage where applicable by means of approved piping. Where adverse fall does not permit, disposal is to comply with the specific requirements of the geotechnical assessment of the allotment. Disposal should be directed to avoid adjoining properties and effluent disposal areas. Disposal to water tanks should include a first flush system.
10. Sealed driveway and access to be constructed from the edge of the road formation to the property boundary in accordance with the Roads Act approval.
11. Compliance Certificates are required for the following:
 - a) Site Control / Floor Level: Upon completion of the following works, and prior to commencement of the subsequent stages, a compliance certificate is to be submitted indicating:
 - i) All site management measures are in place;
 - ii) Footings have been constructed in accordance with the approved plans and relevant Australian Standards.
 - iii) Concrete slabs have been constructed in accordance with the approved plans and relevant Australian Standards. The certificate is to state that the building is sited in accordance with the approved plan .
 - b) Structural Framing: including wet area sealing, wind bracing, and tie downs prior to covering.
 - c) Storm water infiltration pit (if installed): constructed in accordance with plan/s approved by Council.
 - d) Completion: Upon completion of the remaining relevant key inspections and prior to occupation, a Compliance Certificate is to be issued indicating the buildings

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

compliance with the relevant terms of the Approval and/or Standards of Construction detailed in the Building Code of Australia.

Additional condition for Ocean Shores:

In the Ocean Shores urban area, elevated buildings shall be provided with either dwarf walls or sufficient infill panels to effectively screen the understorey from view.

Additional conditions for relocated dwellings:

1. Prior to the building being relocated a report is to be submitted to the PCA from a Practising Building Surveyor identifying capability of compliance with the Building Code of Australia.
2. External finishes (such as painting of cladding) must be completed within 6 months of relocation.

Note: The applicant is advised to contact Rous County Council to determine that all proposed structures are sited clear of any easements or water mains or proposed water mains.

Fence (masonry)*

Masonry fences must comply with the following criteria to be considered as complying development :

- a) Not categorised as exempt development under this DCP chapter.
- b) Masonry construction to a maximum height of 1.2m between the *building setback* and the street, or 1.8m between the *building setback* and the rear boundary.
- c) Documentary evidence provided that the design of masonry structures complies with AS 3700.

Masonry fence - prescribed conditions:

1. Support for neighbouring buildings
 - a If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - i must preserve and protect the building from damage, and
 - ii if necessary, must underpin and support the building in an approved manner, and
 - iii must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- b The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
 - c In this clause, allotment of land includes a public road and any other public place.
2. Signs to be erected on building and demolition sites
- a A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i stating that unauthorised entry to the work site is prohibited, and
 - ii showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
 - b Any such sign is to be removed when the work has been completed.
 - c This clause does not apply to:
 - i building work carried out inside an existing building, or
 - ii building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
3. The fence shall be constructed in accordance with Australian Standard 3700.
4. Before any site works, building or demolition is started, the applicant or builder must:
- a) erect a sign at the front of the property with the builder's name, licence number, site address and consent number
 - b) temporary toilet facilities are to be provided for workers unless existing facilities are available for use on the site;
 - c) protect and support any neighbouring buildings;
5. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
- a) divert uncontaminated run-off around cleared or disturbed areas;
 - b) erect a silt fence to prevent debris escaping into drainage systems or waterways;
 - c) prevent tracking of sediment by vehicles onto roads;
 - d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.
6. Removal or disturbance of vegetation and top soil, other than preparation for landscaping or turfing, must be confined to within 3 metres of the approved building area.
7. The land surrounding any structure must be graded to divert surface water to the street, and clear of existing and proposed structures and adjoining premises.
8. Where the water falls to the rear of the property, it must be collected and drained via a gravity system to a Council stormwater line or disposed of in a manner which does not cause erosion, siltation and surface flooding to adjoining neighbours.
9. Notify either the Council or an accredited certifier in advance (48 hours in writing or 24 hours by phone) to inspect the following:
- a) erosion controls, site works and site set out, before building starts;
 - b) placement of piers or foundation before placing footings;

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- c) steel reinforcing before pouring concrete.
10. A Compliance Certificate is required at the completion of the development. The Compliance Certificate is to indicate that the development complies with the relevant terms of the Approval and/or Standards of Construction detailed in the Building Code of Australia.

Mechanical ventilation

Installation, including renovation or refitting, of mechanical ventilation, including:

1. Car parks at basement level or otherwise enclosed;
2. Spray painting booths;
3. Commercial kitchens;

or any other manufacturing processes requiring exhaust ventilation in accordance with AS1668.

Mechanical ventilation – prescribed conditions:

Assessment of compliance with AS 1668 must be undertaken by a qualified person, such as a building surveyor or mechanical engineer.

Roofing over existing pergola, patio or deck or balcony*

Notwithstanding the General Exclusions, this form of complying development may be undertaken on existing development in the following zones:

- Zone No. 7(c) (Water Catchment Zone)
- Zone No. 7(d) (Scenic/Escarpment Zone)
- Zone No. 7(f2) (Urban Coastal Land Zone)

Refer to the Exempt Development part of this DCP chapter in relation to the erection of pergolas and patios. Erection of framing and/or roof sheeting or covering over existing development by solid materials (such as sheet metal, tiling, polycarbonate roofing) requires assessment under the Building Code of Australia and must comply with the following criteria to be considered as complying development :

- a) Not categorised as exempt development under this DCP chapter.
- b) Ancillary to an existing approved residential dwelling.
- c) Having no enclosing walls other than the outer enclosing walls of the dwelling.

pergola/patio/deck roofing - prescribed conditions:

1. The development must comply with Timber Framing Code and other applicable Australian Standards.
2. Before any site works, building or demolition is started, the applicant or builder must:
 - a) erect a sign at the front of the property with the builder's name, licence number, site address and consent number
 - b) temporary toilet facilities are to be provided for workers unless existing facilities are available for use on the site;

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- c) protect and support any neighbouring buildings;
3. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
 - a) divert uncontaminated run-off around cleared or disturbed areas;
 - b) erect a silt fence to prevent debris escaping into drainage systems or waterways;
 - c) prevent tracking of sediment by vehicles onto roads;
 - d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.
4. Removal or disturbance of vegetation and top soil, other than preparation for landscaping or turfing, must be confined to within 3 metres of the approved building area.
5. The land surrounding any structure must be graded to divert surface water to the street, and clear of existing and proposed structures and adjoining premises.
6. Where the water falls to the rear of the property, it must be collected and drained via a gravity system to a Council stormwater line or disposed of in a manner which does not cause erosion, siltation and surface flooding to adjoining neighbours.
7. Upon completion of the work, a Compliance Certificate is to be issued indicating compliance with the relevant terms of the Approval and/or Standards of Construction detailed in the Building Code of Australia.

Shed (including garage) *

Buildings must comply with the following criteria to be considered as complying development:

- a) Not categorised as exempt development under this DCP chapter.
- b) Classified as Class 10a under the Building Code of Australia.
- c) Ancillary to an existing use which is either approved or does not require development consent or a Complying Development Certificate.
- d) Materials to be non-reflective and in earth tone colours. Plain zincalume and white or off-white colours are not to be used.
- e) Is no more than 3.6 metres in height above natural ground level at the highest point of the building.
- f) Maximum *gross floor area* in rural areas of 60 m². Maximum gross floor area in urban areas of 42 m².
- g) Approval has been obtained under Section 68 of the Local Government Act 1993 for wastewater disposal if the building is fitted with facilities that require such approval.
- h) Not requiring excavation or filling in excess of 1 metre in depth.
- i) *One per property* in the following zones:
 - Zone No. 1(c1) (Small Holdings Zone)
 - Zone No. 1(c2) (Small Holdings Zone)
 - Zone No. 2(a) (Residential Zone)
 - Zone No. 2(v) (Village Zone)

Sheds - prescribed conditions:

1. Support for neighbouring buildings
 - a If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - i must preserve and protect the building from damage, and
 - ii if necessary, must underpin and support the building in an approved manner, and
 - iii must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - b The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
 - c In this clause, allotment of land includes a public road and any other public place.
2. Signs to be erected on building and demolition sites
 - a A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i stating that unauthorised entry to the work site is prohibited, and
 - ii showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
 - b Any such sign is to be removed when the work has been completed.
 - c This clause does not apply to:
 - i building work carried out inside an existing building, or
 - ii building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
3. Before any site works, building or demolition is started, the applicant or builder must:
 - a) erect a sign at the front of the property with the builder's name, licence number, site address and consent number
 - b) temporary toilet facilities are to be provided for workers unless existing facilities are available for use on the site;
 - c) protect and support any neighbouring buildings;
4. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
 - a) divert uncontaminated run-off around cleared or disturbed areas;
 - b) erect a silt fence to prevent debris escaping into drainage systems or waterways;
 - c) prevent tracking of sediment by vehicles onto roads;

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.
5. Removal or disturbance of vegetation and top soil, other than preparation for landscaping or turfing, must be confined to within 3 metres of the approved building area.
6. The land surrounding any structure must be graded to divert surface water to the street, and clear of existing and proposed structures and adjoining premises.
7. Where the water falls to the rear of the property, it must be collected and drained via a gravity system to a Council stormwater line or disposed of in a manner which does not cause erosion, siltation and surface flooding to adjoining neighbours.
8. The building is not to be used for habitable purposes without Council approval.
9. The building is to be provided with stormwater drainage so that the *structural adequacy* of footings or other structural components of the building or any other building in the locality are not adversely affected.
10. Compliance Certificates are required for footings, slab and completion of the development. Compliance Certificates are to indicate that the development complies with the relevant terms of the Approval and/or Standards of Construction detailed in the Building Code of Australia.

Additional condition for sheds and garages involving driveway construction:

1. Approval is required under Section 138 of the Roads Act for works and structures in road reserves (driveways, stormwater outlets etc.). Application for approval may be made to Byron Shire Council by submission of an engineering plan at scale 1:50 showing works within the road reserve, and payment of application and inspection fees.
2. Driveways and access are to be constructed in accordance with Council's design policy. New driveway crossovers to be constructed in accordance with Byron Council standard drawings 749 (urban) or 909 (rural) and Australian Standard 2890, with transition zones in accordance with guidelines adopted by Council.
3. Where kerb and gutter is provided, driveways are to be a minimum of 500 mm clear of all drainage structures on the kerb and gutter and are not to interfere with the existing public utility infrastructure, including Council drainage structures, unless prior approval is obtained from the relevant authority.
4. Driveways are to be a minimum of 6 metres from the boundary line of a road intersection.

Signs *

Signs must comply with the following criteria to be considered as complying development :

- a) Not categorised as exempt development under this DCP chapter.
- b) Applicable to development in Zone No. 3(a) (Business Zone) and Zone No. 4(a) (Industrial Zone) only.
- c) A maximum of three (3) signs are permitted per premises without development consent from Byron Council, either as exempt or complying development.
- d) Signs are permitted to advertise approved uses only, or uses for which development consent is not required, or exempt development.
- e) Only the following types of signs are complying development:

Above awning sign:

Means a sign located on top of an awning or verandah with no part of the sign projecting above the roof, parapet or ridge line or beyond the awning edge, which has an area not exceeding 2.2 m².

Below awning sign:

Means a sign fixed below an awning and located not less than 2.6 m above the footpath, which has an area not greater than 1.5 m², a depth not greater than 0.5m and is not located closer than three (3) metres to any other below-awning sign.

Multiple identification sign:

Means any sign containing a list of businesses occupying a shared tenancy or the same premises, which has a total advertising area not exceeding 4m².

Projecting wall sign (vertical):

Means a sign which is attached to a building where the height of the sign is not less than its width, and having a maximum allowable projection of 0.8 m up to a height of 3.7 m, or 0.9 m - height 4.6 m, or 1.2 m - height 5.5 m. Any such sign must be a minimum of 2.6 m above the footpath and have no parts of the sign projecting above the roof, parapet or ridgeline, nor obscuring any architectural feature of the building. Where such signs have more than 2 faces and the sign does not rotate, one face of the sign must be parallel to the building alignment. No part of the sign may be located within 0.6 m of the vertical projection of the kerb alignment.

Projecting wall sign (horizontal):

Means a sign which is attached to a building where the width of the sign is not less than its height. Any such sign must be a minimum of 2.6 m above the footpath and have no parts of the sign projecting above the roof, parapet or ridgeline, nor obscuring any architectural feature of the building. Where a horizontal wall sign is located between minimum 2.6 m and 3.7 m above ground, its maximum depth shall be 0.5 m; or if between 3.7 m and 6.0 m, maximum depth may be 1.2 m. Such signs may extend over the footpath to a maximum distance of 2.4 m, or to within 0.6 m of the edge of the kerb, whichever is the lesser.

Sandwich board:

Means a movable sign not greater than 1m² in area, and having a maximum width of 0.75 m, which must be self supporting and which is located on private property. A sandwich board must contain a signwritten heading indicating the premises to which it refers. Note: Sandwich boards located upon public land, eg. Council's road reserve or footpath, requires development consent.

Temporary sign:

Means any sign which is erected or displayed to advertise community or civic projects, major construction projects or other special events on a temporary basis, for a period not exceeding 2 calendar months, and having a maximum advertising area of 6 m².

Flush wall or wall sign:

Means any sign which is fixed or painted directly onto an exterior wall of a building or other structure, where the area of such sign does not exceed 6 m². The sign must be either parallel to the wall on which it is fixed, or painted, and its area may not exceed 25% of the area of such wall.

signs - prescribed conditions:

The type of sign is to be nominated on the Complying Development Certificate.

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

1. The sign is to be of a professional standard of construction, appearance and finish and maintained in good condition.
2. *Structural adequacy* of the sign and means of fixing and support is to be maintained at all times.
3. Signs located within 1km of the seafront are to be fixed using corrosion protected materials.
4. Any lighting associated with signs be so located or shielded so that no additional light is cast on adjoining land or that it will distract traffic.
5. Display lighting, other than that required for reasonable security, shall not be used between the hours of 9.00 pm and 6.00 am on any day.
6. Materials nominated for advertising structures must be non-reflective and in earth-tone colours, and suitably integrated to compliment the buildings of the area. There is no generally no restriction on the use of colour but strong contrasts in colours shall be avoided in preference to colour schemes based on a reference to existing traditional colour schemes for the area. Backgrounds incorporating very strong colours or strong contrasts in colour should be avoided.

Additional conditions for sign structures having footings:

Notify either the Council or an accredited certifier in advance (48 hours in writing or 24 hours by phone) to inspect the following:

- a) placement of piers or foundation before placing footings;
- b) steel reinforcing before pouring concrete.
- c) Upon completion of the work, a Compliance Certificate is to be issued indicating compliance with the relevant terms of the Approval and/or Standards of Construction detailed in the Building Code of Australia.

Swimming pool

Swimming pools must comply with the following criteria to be considered as complying development :

- a) Ancillary to an approved dwelling-house.
- b) Complying with the Swimming Pools Act and AS 1926 - Fencing for swimming pools.
- c) For concrete pools: documentary evidence to be submitted to the PCA that the pool has been designed and will be constructed in accordance with AS 2783-1985 "SAA Concrete Swimming Pool Code" or any other applicable standard.
- d) Documentary evidence of approval from Council's Water and Sewer Department under Section 68 of the Local Government Act - 1993 (where premises are connected to Council's sewer system).
- e) *One per property.*

swimming pool - prescribed conditions:**Prior To Works Commencing:**

1. Before any site works, building or demolition is started, the applicant or builder must:

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- a) erect a sign at the front of the property with the builder's name, licence number, site address and consent number
 - b) temporary toilet facilities are to be provided for workers unless existing facilities are available for use on the site;
 - c) protect and support any neighbouring buildings.
2. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
- a) divert uncontaminated run-off around cleared or disturbed areas;
 - b) erect a silt fence to prevent debris escaping into drainage systems or waterways;
 - c) prevent tracking of sediment by vehicles onto roads;
 - d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.
3. No work involving water or drainage shall commence until an appropriately qualified person holding a current NSW Licence has obtained a work permit from Council's Water & Sewerage Services Department.

Upon final completion of the remaining relevant key inspections and prior to the issue of a Final Occupation Certificate, a Compliance Certificate is to be issued indicating the pool and all associated works comply with the relevant terms of the Approval and that all key inspections have been undertaken by an accredited person.

General Conditions for Swimming Pools:

1. Removal or disturbance of vegetation and top soil, other than preparation for landscaping or turfing, must be confined to within 3 metres of the approved building area.
2. The land surrounding any structure must be graded to divert surface water to the street, and clear of existing and proposed structures and adjoining premises.
3. Where the water falls to the rear of the property, it must be collected and drained via a gravity system to a Council stormwater line or disposed of in a manner which does not cause erosion, siltation and surface flooding to adjoining neighbours.
4. The pool is to be constructed in accordance with AS 2783-1985 "SAA Concrete Swimming Pool Code" or any other applicable standard.
5. Swimming Pool Fences are required to be constructed around the pool in accordance with the Swimming Pool Act, 1992 and Australian Standards AS 1926. *(Note: A child resistant fence is required around the pool. The owner can determine the exact location of the fence, however there must be a separate fence between the house and the pool. The pool must also be fenced from adjoining properties. For larger properties in excess of two hectares or on water front properties, the applicant may choose as an alternative to omit the perimeter fencing. In this case approved child-safe window and doors are required to be installed around the entire dwelling).*
6. Pool water disposal and backwash is to be directed to:
 - a) **Sewered Areas** - Council's sewer system with connection to yard gully incorporating 100mm air gap. *(Note: It is the responsibility of the applicant to inform the owners of the pool that, should it be necessary to pump water from the pool, this water is to be discharged to the sewer system. It may be an offence under the Protection of the Environment Operations Act to discharge pool water to the stormwater system or any other waterway).*

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

- b) **Unsewered Areas** - soakage trench, minimum 3 metres in length located as to not cause any nuisance to adjoining properties or damage to any structures on the subject land or on adjoining land.
7. All drainage piping is to be installed well clear of the proposed swimming pool.
8. Swimming Pools discharge for waste water is to be in accordance with AS/NZS 3500.2.2 Section 10.9 & Figure 10.2.
9. Filter Pump Noise: The filter pump is to be located such that noise from its operations does not cause a nuisance to adjoining property owners. If necessary an acoustic enclosure will be required to be provided to the pump.
10. The swimming pool shall not be used until a final inspection has been undertaken and written consent to use the pool has been obtained.
11. The occupier of any premises in or on which a swimming pool is situated must ensure that there is at all times maintained, in a prominent position in the immediate vicinity of the pool, a sign in accordance with the Regulations, bearing the words **“Young Children Should Be Supervised When Using This Swimming Pool”**.

Water tank *

Water tanks must comply with the following criteria to be considered as complying development :

- a) Not categorised as exempt development under this DCP chapter.
- b) In rural zones only.
- c) Maximum height (including tank) 7.5m.
- d) Maximum capacity 60,000 litres.

Water tank - prescribed conditions:

1. Before any site works, building or demolition is started, the applicant or builder must:
 - a) erect a sign at the front of the property with the builder's name, licence number, site address and consent number;
 - b) temporary toilet facilities are to be provided for workers unless existing facilities are available for use on the site;
 - c) protect and support any neighbouring buildings.
2. Install run-off and erosion controls to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:
 - a) divert uncontaminated run-off around cleared or disturbed areas;
 - b) erect a silt fence to prevent debris escaping into drainage systems or waterways;
 - c) prevent tracking of sediment by vehicles onto roads;
 - d) stockpile topsoil, excavated material, construction and landscaping supplies and debris within the site.
3. Removal or disturbance of vegetation and top soil, other than preparation for landscaping or turfing, must be confined to within 3 metres of the approved building area.
4. The land surrounding any structure must be graded to divert surface water clear of existing and proposed structures and adjoining premises.

refer to the general provisions at the start of this chapter as well as the general requirements for complying development on pages 47 to 50.

5. Where surface water flows to the rear of the property, it must be collected and drained via a gravity system to a Council stormwater line or interallotment drainage or disposed of in a manner which does not cause erosion, siltation and surface flooding to adjoining neighbours.