



Byron Shire Development Control Plan 2014

Chapter D4 Commercial and Retail Development



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Chapter D4 – Commercial and Retail Development

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D4.1 Introduction

D4.1.1 Purpose of this Chapter

This purpose of this Chapter is to specify the controls that apply to development applications seeking consent for development for business, commercial, retail and associated purposes, other than certain development excluded in Section D4.1.3 below.

D4.1.2 Aims of this Chapter

1. To ensure that the bulk, scale, character and operation of business, commercial, retail and associated development are compatible with the character and amenity of development in the locality and in the Shire.
2. To encourage safe, diverse, multi-functional centres that promote a compatible range of commercial, recreational and community activities appropriate to the Shire's climate, environment, social fabric and scenic character.
3. To ensure that establishment and operation of business, commercial, retail and associated development does not adversely affect the social and economic robustness, diversity and vitality of retail, business and other urban areas and precincts.
4. To encourage commercial development that will enhance the appearance and functions of commercial and retail areas within the Shire, and reinforce a natural, subtropical tourist image.
5. To provide a high standard of innovative architectural and landscape design consistent with and sensitive to the context of the surrounding locality, including adjoining residential, community or open space areas.
6. To encourage the creation of effective and attractive malls, arcades, outdoor dining and pedestrian areas.
7. To promote reduction in motor vehicle trips, and to encourage pedestrian and bicycle access, usage and mobility.
8. To encourage compatible and sustainable economic development and the creation of employment opportunities.

D4.1.3 Development Controlled by this Chapter

The types of development to which this Section applies includes:

1. **Amusement centres**
2. **Commercial premises**
3. **Entertainment facilities**
4. **Function centres**
5. **Health service facilities**



6. **Registered clubs**
7. **Restricted premises**
8. **Service stations**
9. **Vehicle sales or hire premises**
10. **Veterinary hospitals**
11. **Warehouses or distribution centres**
12. Other development used or intended to be used, primarily for business, commercial or retail purposes, other than development addressed specifically by other Chapters of this DCP.

This Chapter does not apply to development for **residential accommodation**, **tourist accommodation**, **industry** or **sex services premises** – those forms of development are addressed in Chapters D1 Residential Development in Urban and Special Purpose Zones, D2 Residential Accommodation and Ancillary Development in Rural Zones, D3 Tourist Accommodation, D5 Industrial Development and D7 Sex Services Premises respectively.

D4.1.4 Relevant Byron LEP 2014 Provisions

The Land-Use Table within Byron LEP 2014 specifies certain types of business, commercial and retail development that is permissible without consent, permissible with consent and prohibited in various zones across the Shire, and also stipulates certain exempt and complying development under Schedule 2 and 3.

The definitions of various terms used and certain types of business, commercial and retail development are contained in the Byron LEP 2014 Dictionary, or in the Dictionary to this DCP. The provisions in this Chapter supplement those provisions of Byron LEP 2014 that apply to business, commercial and retail development.

D4.2 Development Controls

D4.2.1 Design and Character of Retail and Business Areas

Objectives

1. *To promote pedestrian and cycle usage, together with reduced vehicle dependency in the Shire's business, commercial and retail areas.*
2. *To encourage safety, accessibility and human scale in the Shire's business, commercial and retail areas.*
3. *To encourage diverse, multi-functional business, commercial and retail centres that provide a compatible range of commercial, recreational and community activities appropriate to the Shire's climate, environment, social fabric and scenic character.*
4. *To ensure that development reinforces the role of centres within the Shire's commercial centres hierarchy.*

5. *To ensure that establishment and operation of new development contributes to and does not detract from the social and economic robustness, diversity and vitality of retail, business and community areas and precincts.*

Performance Criteria

1. Business, commercial and retail development must be designed to promote and encourage safe, convenient pedestrian and cycle access to and from the development itself and the surrounding precinct. Development must be designed to integrate well with the locality's pedestrian and cycle network and to contribute to the aesthetics, landscape design and usage of adjoining streets.
2. The design of development must be compatible with the diversity and multi-functional character of its locality. In retail areas development must be designed to promote visual interest, to maximise shopfront window access, and to minimise blank walls along street frontages.
3. Design of development must respect the Shire's subtropical climatic conditions and must make provision for winter sunlight, summer shade and weather protection in adjoining streets and pedestrian areas.
4. Development must be compatible with and reinforce the role of the centre in the commercial centres hierarchy. Development within coastal centres must reflect a low-scale, tourist-beach image. Development in rural centres or localities must be compatible with the atmosphere and character of the centre or locality.
5. Pedestrian areas, community spaces, vehicle parking and manoeuvring areas must be paved, furnished and landscaped in accordance with the provisions of Chapter B9 Landscaping, and with any landscape and streetscape themes adopted by Council for the locality.
6. Development applications must demonstrate that the establishment and operation of the proposed development will not adversely affect:
 - a) The social and economic robustness, diversity and vitality of retail, business and community areas and precincts.
 - b) The social amenity of the precinct in which it is located.
7. Development applications must demonstrate that the proposed development will be consistent with the requirements of this DCP, including (but not limited to) Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access, B8 Waste Minimisation and Management, B10 Signage and B11 Planning for Crime Prevention.

Prescriptive Measures

There are no Prescriptive Measures.

D4.2.2 Design Detail and Appearance

Objectives

1. *To ensure that development is compatible with the design and amenity of development in the locality.*

Performance Criteria

1. The design of new buildings must reflect and enhance the existing character of the precinct. The design, scale, bulk, design and operation of business, commercial and



retail development must be compatible with the streetscape and with the aesthetics, function and amenity of development in the locality.

2. Building design, roof profile, detailing, colours, materials and the like that are visible from the street and from adjoining properties must be compatible with any dominant design themes in the surrounding locality.
3. The pattern of windows in retail areas must provide visual interest and variation and must relate to those of adjacent buildings. Building materials must relate to the context of buildings within the area to achieve continuity and harmony. Contrasting materials may be used to provide diversity, however materials and colour must not be used so that they dominate the streetscape.
4. Special emphasis must be given to the design of corner buildings, including consideration of:
 - a) How the building addresses neighbouring buildings, its dual frontage and its turning of the corner.
 - b) Stepping up at the corner and creating a perceived height greater than neighbouring buildings.
 - c) Incorporation of distinctive features to enhance the streetscape, e.g. stepped parapet, turrets, towers, clocks or the like.
 - d) Creating a splayed or recessed treatment of the corner in a way that gives form to the intersection and provides more circulation space for pedestrians.

Prescriptive Measures

There are no Prescriptive Measures.

D4.2.3 Vehicle Access and Parking

Objectives

1. *To provide for safe and effective vehicle access, manoeuvring and parking in association with business, commercial and retail development.*

Performance Criteria

1. Vehicular driveways, parking and loading areas must be designed to minimise disturbances to the free flow of pedestrians on or adjoining the site, while providing convenience and safety to customers, staff and service vehicles.
2. Where vehicular access is proposed across pedestrian areas or footpaths, the design must give priority to pedestrian amenity, accessibility and safety whilst ensuring that contemporary vehicle and traffic safety criteria are achieved.
3. Underground **car parks** must be designed to exclude the entry of stormwater and/or **groundwater** to the basement in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

Prescriptive Measures

Vehicle access and parking arrangements must be consistent with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access.

D4.2.4 Loading Docks

Objectives

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

Performance Criteria

Loading docks, bays and service areas (e.g. garbage and bin storage areas) must not be visible from any public place and must be screened from adjacent properties. Screening may be achieved by locating such areas behind the buildings, by fencing, landscaping, mounding or a combination of these, or by other means that demonstrate compliance with the Objective.

Prescriptive Measures

Loading docks to comply with the relevant provisions of Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access and Chapter B8 Waste Minimisation and Management.

D4.2.5 Street Setbacks

Objectives

1. *To provide for **setbacks** that complement and enhance the streetscape and the character of the centre.*

Performance Criteria

1. Street **setbacks** are not usually appropriate in retail shopping areas unless they maintain visual and physical continuity of interest and diversity along the street, and provide public facilities such as seating, recreation areas or outdoor dining areas.
2. Street **setbacks** are encouraged for other commercial development in circumstances where the provision of **setbacks** would improve the amenity, interest and visual appeal of the precinct by:
 - a) Providing a softer, more open feeling to the streetscape of town areas;
 - b) Encouraging interest, diversity and a relaxed atmosphere;
 - c) Enabling street furniture and landscaping to become an integral part of the town's commercial precinct;
 - d) Ensuring that development is conducive to effective pedestrian movement and access;
 - e) Providing for alfresco dining in the front setback rather than on the public footpath to minimise pedestrian conflicts.
3. Commercial/ retail type premises in the RU5 and R2, R3 and R5 Zones to have regards to the setbacks of adjoining and surrounding development.

Prescriptive Measures

While no general **setback** applies to the erection of commercial buildings in the traditional central business districts of Byron Bay, Mullumbimby, Bangalow or Brunswick Heads, the following specific requirements apply:



- a) Where car parking or goods loading areas are adjacent to a street frontage other than a service lane, a minimum setback of 3 metres must be provided to allow for effective landscaping.
- b) A **setback** up to 5 metres may be required for reasons of traffic safety, amenity or streetscape improvements. In such cases, development will not be permitted within a **setback** area, other than the use of the land for landscaping, public access, outdoor seating and alfresco dining, utility installations, roadways for access, or the erection of signage identifying the occupants of the site.
- c) Upper **storey** levels to be set back from the street frontage to achieve a degree of vertical articulation. Any upper **storey setback** can be utilised for **balcony**/ open space purposes.
- d) Underground/ basement car parking spaces need to have regard to the provisions relating to landscaping under Chapter B9 Landscaping, and may need to be set back from boundaries to achieve suitable soil depth for planting purposes,
- e) Variable **setbacks** are prescribed for the South Jonson Street Precinct as delineated by the thick black line on Map D4.1. For details see Section D4.2.11 below.
- f) **Bulky goods premises, warehouses or distribution centres** and other commercial/retail type uses proposed for the B7 Business Park Zone and the Industrial Zones (IN1, IN2) to comply with the **setback** provisions contained in Chapter D5 Industrial Development.

D4.2.6 Plumbing

Objectives

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

Performance Criteria

There are no Performance Criteria.

Prescriptive Measures

1. Development to comply with Chapter B3 Services in relation to necessary services. Certain developments (normally businesses such as restaurants, cafes and other operators that generate liquid waste) will require the installation of a **liquid trade waste** pre treatment system. Such systems will require an approval under section 68 of the *Local Government Act 1993*. Applicants are encouraged to contact Council prior to lodging the development application to ascertain specific requirements.
2. All plumbing works and **liquid trade waste** pre-treatment systems must be installed in accordance the relevant Local Government Regulations, AS3500, current Codes of Practice for Plumbing and drainage and any other best practice guidelines.

D4.2.7 Arcades

Objectives

1. *To facilitate the provision of arcades that provide a high degree of user amenity and that are designed to suit the climate of Byron Shire.*



Performance Criteria

1. Arcades, particularly those incorporating outdoor seating and landscaping that contribute to the amenity of the precinct, can provide an economic advantage for adjacent commercial development as well as contributing to the diversity, interest and utility of the commercial area. Development applications must demonstrate that the proposed arcade will enhance the amenity, interest and visual appeal of the precinct.
2. Arcades must be designed to suit the areas subtropical climate. The design must make provision for adequate natural light, solar access and weather protection.

Prescriptive Measures

There are no Prescriptive Measures.

D4.2.8 Development within the Road Reserve

Objectives

1. *To ensure that the public domain remains available primarily for the public benefit and public purposes.*
2. *To facilitate certain development on or over a road reserve only where this would promote the public interest.*
3. *To ensure that any development undertaken on public land provides a commercial return to the community.*
4. *To minimise conflict with pedestrian traffic, commercial use of the footpath is not to dominate the streetscape.*

Performance Criteria

There are no Performance Criteria.

Prescriptive Measures

1. Footpath Dining must be adjacent to and used in conjunction with an existing premise for which consent has been granted.
2. The footpath dining area to comply with Councils Footpath Dining Policy 5.54. Occupation on both sides of the footpath not permitted, however Council will consider variations in areas determined to have low pedestrian activity levels (existing and future) provided the minimum 2m wide pedestrian thoroughfare can be maintained.
3. Other business or retail uses of the public footpath to comply with the Exempt and Complying Development provisions of Byron LEP 2014 or another applicable Environmental Planning Instrument.
4. Awnings over footpaths adjoining development to which this Section applies require prior development consent unless otherwise permissible in accordance with the Exempt and Complying Development provisions of Byron LEP 2014 or another applicable Environmental Planning Instrument. Where consent is required development applications must demonstrate that the proposed awning will provide direct public benefit, including but not necessarily limited to providing weather protection for pedestrians, maintaining shopfront design continuity and/ or achieving improved urban design outcomes.
5. Upper **storey balconies** and decks extending over a public road or public footpath will be permitted, where it can be demonstrated that the **balcony** or deck will enhance the streetscape, will not detract from the public use of the road or footpath, and will not

adversely affect parking or traffic movement in the road reserve. Applicants to discuss such proposals with Council prior to lodging the development application and to obtain owners consent to enable the development application to be lawfully submitted.

6. Where the property benefiting from development in the road reserve is a **heritage item** or within a **Heritage Conservation Area**, the development application shall also include a **heritage impact statement** consistent with Chapter C1 Non-Indigenous Heritage that demonstrates as a minimum that the proposed **balcony** or deck will be an integral component of a **heritage Item** or a building located in a **Heritage Conservation Area**, and will be consistent with and enhance the heritage character of the **heritage item** or **Heritage Conservation Area** and its surrounds;
7. Any proposal for commercial use of a public road will require approval under the *Roads Act, 1993* and will be subject to contractual requirements relating to the payment of commercial rent to Council.

D4.2.9 Restaurants/ Cafes in Rural Areas

Objectives

1. To enable **restaurant or café** development that preserves the rural amenity, character and environment of the locality;
2. To mitigate and manage any land use conflicts;
3. To limit the impacts of a **restaurant or café** on the broader environment; and
4. To provide an avenue for supplementary income on rural holdings.

Performance Criteria

1. Development for the purpose of a **restaurant or café** must be designed and located to be compatible with the surrounding rural & natural landscape. Where new buildings are proposed to be constructed for the purpose of a **restaurant or café**, such buildings are to be clustered and located in proximity to farm sheds and or the primary farm **dwelling house** on the lot.
2. The development is to be low scale and able to be generally managed and operated by the principle owners(s)/ manager living on the property.
3. The **restaurant or café** shall be complementary to the principal agricultural or environmental activities on the land in the RU1 or RU2 Zone and where possible, value add to produce either harvested or manufactured on the property or from the local region to reduce food miles and to limit the carbon footprint of the development.

Prescriptive Measures

A restaurant in a rural area refers to a **restaurant or café** that is permissible with consent in the RU1, RU2 and RU5 Zones. **Restaurants or cafes** in rural areas shall only be approved provided they can demonstrate the following:

- a) The **restaurant or café** to have a seating capacity for a maximum of 60 patrons including any outdoor garden seating. Where proposals incorporate food production, and harvesting onsite for use in the restaurant, combined with other specialised activities to value add to rural produce sold locally, including exhibition of farming activities for patrons, (e.g. cheese making, coffee roasting, dairying, farm tours etc), Council will consider a larger seating capacity, provided adequate arrangements can be made for parking and **on-site sewage management**. Details to be submitted with the development application.

- b) The development to be located so that it may benefit from existing road and physical infrastructure. (Note. **Restaurants or cafes** on no through roads have an increased potential to generate undesirable traffic noise which could disrupt the local amenity. Such roads if unsealed or narrow may need to be upgraded if increased traffic volumes generated by the development creates a nexus for such works to be carried out at the applicants expense);
- c) The development should be designed and located where possible to take advantage of views of the surrounding hinterland, rural landscapes, the Pacific Ocean, or other natural features;
- d) Applications that propose to open during the evening hours (6 pm onwards) to be accompanied by a detailed noise assessment report prepared by a suitably qualified and experienced acoustic engineer. The report shall assess whether the proposed development is capable of complying with the requirements of the NSW Industrial Noise Policy (NSW Environment Protection Authority, 2000). The generation of 'offensive noise' as defined under the *Protection of the Environment Operations Act 1997* is prohibited.
- e) All weather car-parking should be provided on site in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access. Council may consider some on-street parking in lieu of on-site parking in the RU5 Village Zone and in other suitable rural areas where it can be demonstrated:
- that there is or will be adequate car parking in the public domain;
 - the parking will not disrupt the amenity of the neighbourhood; and
 - the parking within the public domain or street will not impact on the capacity of the local road network to operate safely and efficiently.

Where an applicant is proposing to utilise on-street parking, Council may require an upgrade to the road including road widening, and or reconfiguration of parking from parallel to nose in to enable the above matters to be suitably addressed. Applicants are requested to contact Council to discuss requirements prior to lodgement of development applications proposing on-street parking.

- f) A landscape plan to be submitted with the application in accordance with Chapter B9 Landscaping. The plan to primarily provide adequate landscaping and screen plantings when viewed from a public road or a **dwelling** on other land in the locality.
- g) Details are to be submitted with the development application as to how liquid trade waste will be managed and how effluent will be disposed of via an **on-site sewage management system**. Such systems need to be designed to cater for increased water usage associated with the restaurant including multiple sittings throughout the day and peak loads and may require a separate Liquid Trade Waste approval pursuant to Section 68 of the *Local Government Act, 1993*.

D4.2.10 Restaurants, Cafes, Small bars, Pubs Registered Clubs, Function Centres and other Licensed Premises in the Urban Areas of Byron Shire

Byron Shire is known for its vibrant restaurants, cafes and nightlife catering for not only residents but also visitors to the region. The following controls are aimed at allowing such



development to proceed in a manner that respects the rights of landowners, residents and applicants while not creating deleterious amenity impacts.

Objectives

1. To ensure **restaurants or cafes, pubs, small bars, registered clubs, function centres** and other licensed premises or venues (e.g. **entertainment facility**,) operating in the urban areas of Byron Shire do not adversely impact upon the amenity of the area.
2. To ensure venues operate in a manner that does not generate offensive noise or create anti social behaviour.
3. To prevent the proliferation of poorly managed late night premises.

Performance Criteria

1. The hours of operation of **restaurants or cafes, small bars, pubs, registered clubs and function centres** and other licensed premises or venues are not to affect the amenity of the neighbourhood or surrounding properties.
2. **Restaurants or cafes, small bars, pubs, registered clubs and function centres** and other licensed premises or venues are to be suitably located in relation to residential properties, **shop top housing** and other development that may be sensitive to offensive noise.
3. Development applications are to be submitted with sufficient information detailing how the development will be managed in relation to noise, patron behaviour, staffing, crime prevention measures and other operational requirements.

Prescriptive Measures

1. Hours of operation

Hours of operation are to be nominated within the Statement of Environmental Effects and submitted with the development application.

The maximum hours of operation for licensed premises are as follows:

Friday and Saturday	10 am to 2 am the following morning
Sunday (and public holidays)	10 am to 12 midnight
Good Friday and ANZAC Day	12 noon to 12 midnight
New Years Eve	10 am to 3 am the following morning
Any other day	10 am to 1 am the following morning

Premises proposing to operate without a liquor license or outside of the liquor license (when alcohol is not available for sale) are able to propose earlier opening times to cater for breakfast or morning functions (e.g. **restaurants or cafés**).

Note: Council may vary or limit hours of operation, or issues consents on a trial period;

- When impacts on the amenity of the neighbourhood cannot be adequately managed;
- Where there other concerns in relation to safety, security and antisocial behaviour cant be appropriately mitigated; and or
- Where there are major objections or issues raised by Emergency Service Providers and the NSW Police Service that have not been suitably addressed.

2. Noise Reports

Premises (licensed and unlicensed) that are proposed to open during the evening hours (6 pm onwards) will need to be accompanied by a detailed noise assessment report prepared by a suitably qualified and experienced acoustic engineer. The report shall assess whether the proposed development is capable of complying with the requirements of the NSW Industrial Noise Policy (NSW Environment Protection Authority, 2000), having regard to any live or recorded entertainment provided, noise from guests entering and leaving the premises and the hours of operation proposed. No 'offensive noise', as defined under the *Protection of the Environment Operations Act 1997*, is permitted to be generated.

3. Liquor License

Applicants are required to nominate whether the premises will be licensed for the sale of alcohol. Licensed premises are to be sited generally in accordance with the BSC Liquor Licensing and Approval Policy. Such proposals are to address the Planning for Crime Prevention measures under Chapter B11 Planning for Crime Prevention.

4. Management Plan

Where premises are proposed to be open past 10.00 pm, applications are to include a Management Plan addressing the following matters as a minimum:

- a) Detail how complaints can be made to the premises by the general public, neighbouring landowners and surrounding residents about the operation of the premises (e.g. A complaints register and phone number, email address etc for such complaints by the general public to be made);
- b) Detail how complaints will be dealt with and action to be taken in relation to offensive noise, anti social behaviour and alcohol related violence and any other complaint about the operation of the premises. (e.g. consultations with residents, discussions with Council Officers, liaison with Police, public access to Plans of Management, review of existing Plan of Management etc).
- c) Describe measures that will be taken to minimise internal and external noise impacts on adjoining properties and how such measures will be implemented upon receipt of any complaint;
- d) Provide details of type and number of staff that will be employed on the premises at any one time;
- e) Security Management – describe any arrangements that have been made for on-site security (if relevant). This is to include specific information on the number of licensed security staff including details of any electronic surveillance systems within the premises;
- f) Describe any methods for controlling and managing crowds within and outside the premises; describe measures will be taken to manage large groups of people during peak trading periods or managing patrons outside so that they are not congregating on the footpath waiting to get into premises or loitering after closing hours;
- g) Responsible Service of Alcohol - Provide a copy of the proposed house policy that describes the measures to minimise harm associated with alcohol consumption to ensure the responsible service of alcohol;
- h) Describe any methods for the transport of patrons to and from the premises;

- i) Describe any steps that will be taken to manage patron behaviour when leaving the premises late at night;
- j) Describe the measures for monitoring of intoxicated patrons when evicted from premises to ensure they are not placed at serious risk of harm or injury;
- k) State the maximum capacity of the premises and the maximum number of patrons that will be standing and/or sitting at any one time;
- l) State the operating and/or trading hours of the premises;
- m) State whether the premises are proposing to enter into a liquor accord and the details of that accord;
- n) Outline the procedures for minimising and managing waste that is generated on site and how and when waste will be collected (e.g. disposal of bottles, waste removal etc – collection of bins with glass bottles early in the morning may generate offensive or undesirable noise). Outline procedures and time frames for deliveries of stock and equipment
- o) Describe when and how the site will be cleaned and generally serviced.

D4.2.11 Building forms (south eastern end of Jonson Street only, refer to Map D4.1)

Objectives

1. *To provide a low scale business area that creates a suitable transition from Commercial to residential land uses.*

Performance Criteria

Building forms on land delineated by the thick black line in Map D4.1 should:

- a) ensure new development is limited in height to reflect transition from Commercial to Residential zones;
- b) relate well to the sub tropical climatic conditions of the area;
- c) make a positive contribution to the streetscape;
- d) be compatible with local heritage values;
- e) ensure front **setbacks** and road frontages provide for a shady attractive environment having regard to the South Jonson Street Precinct's general orientation to the west;
- f) incorporate frontages that are suitably articulated and in larger developments where lots are consolidated, incorporate a number of visually integrated but separate building elements to break up the massing of development.

Prescriptive Measures

The following provisions relate to setbacks and building forms for development on land identified in Map D4.1. (For further details see figures D4.1 and D4.2 below)

1. **Setbacks** are as follows
 - a) A general **setback** of two and half (2.5) metres to the road frontage to apply;

- b) **Setbacks** down to a zero building line will be considered for a maximum of 60% of the street frontage where by the remainder of the development to be set back a minimum of four and half (4.5) metres from the street boundary
 - c) Upper levels to be set back a minimum of four and half (4.5) metres from the road frontage to assist with vertically articulating the development.
 - d) Alfresco/ outdoor dining permissible within the front **setback**, but footpath dining on the road reserve will not be approved.
 - e) Where buildings are set back from the road frontage, the **setback** areas to be appropriately landscaped with **locally indigenous** plants including grasses and groundcovers to the area. Plans for development to include a landscape plan prepared in accordance with Chapter B9 Landscaping showing how the area set back from the street will be appropriately landscaped.
2. Where upper levels are set back from the road frontage, the roof over any ground floor can be used as a deck/ **balcony** outdoor areas. Such decks or **balconies** to incorporate landscape bays by way of suitable planter boxes to support a mixture of shrubs, ground covers, vines or other suitable plants. The planter box is to be designed to support the appropriate soil depth and plant section. As a minimum the following will be required:
 - a) For ground covers the planter box to have a minimum depth of 300 – 450 mm and a minimum width of 500 mm.
 - b) For shrubs the planter box to have a minimum depth of 500 – 600 mm and a minimum width of 500 mm.
 3. Where buildings have a zero line **setback** awnings over the footpath will be considered. The awnings shall not project further than the outer edge of the formed footpath to allow suitable area for tree planting and landscaping in the front verge. Where a number of properties are consolidated to form a large commercial holding, large monolithic buildings with unrelieved street frontages that fail to interact with the public domain and pedestrian traffic are not appropriate. In this instance, the street frontage to be broken up into a number of individual shop, restaurant or office frontages.

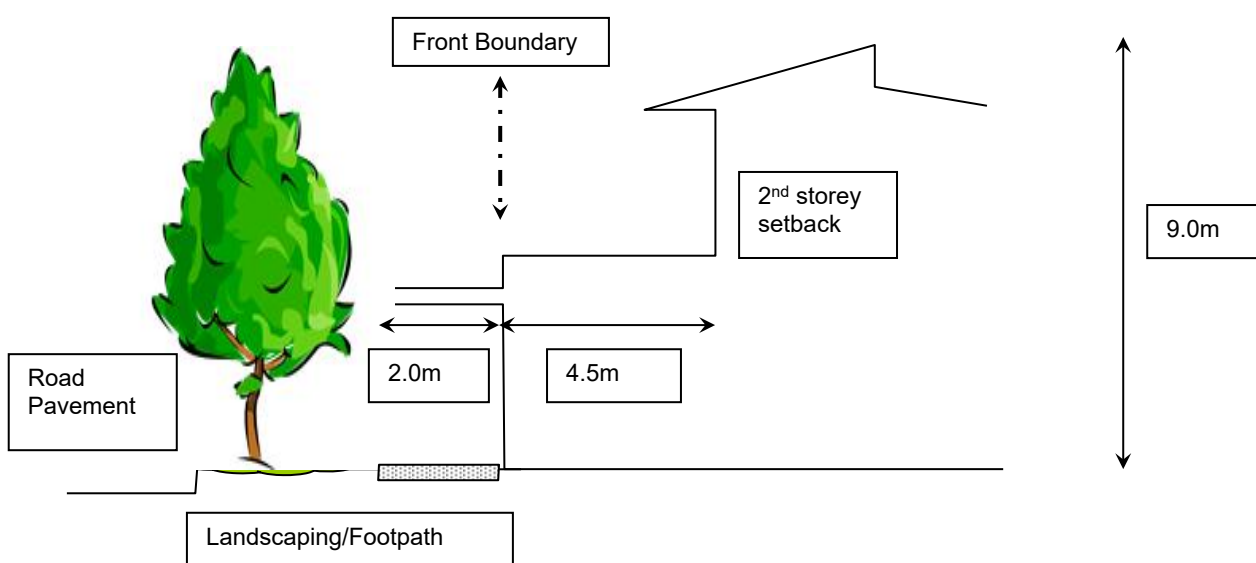


Figure D4.1 - South Jonson Street – Setbacks relating to Building Forms
(Not to Scale)

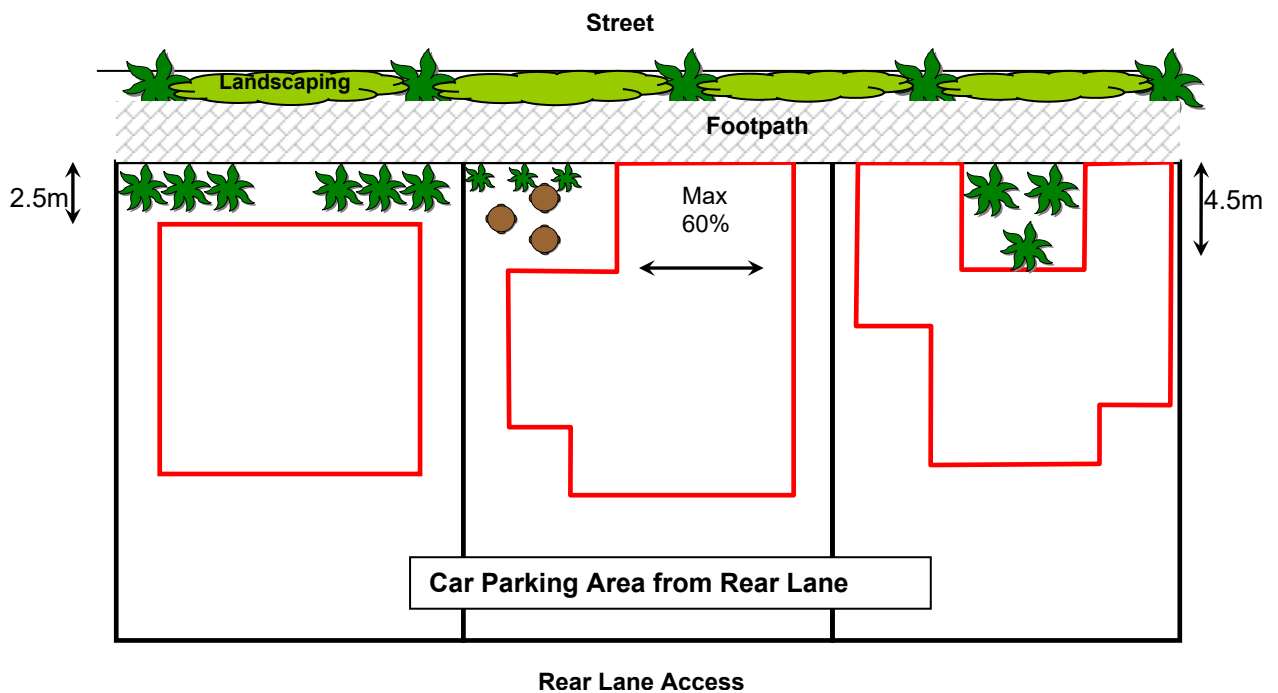


Figure D4.2 - South Jonson Street – Setbacks to Street Frontage
(Not to Scale)

D4.2.12 Street Trees (south eastern end of Jonson Street only, refer to Map D4.1)

Objectives

1. To provide shade and contribute to the amenity of the streetscape.

Performance Criteria

1. Development for the purpose of commercial land use in land delineated by the thick black line in Map D4.1 is to incorporate appropriate street tree planting. The plantings are to provide shade for pedestrians, serve as urban habitat trees and enhance the amenity of the streetscape.
2. Developers are to have regard to the location of any overhead power lines, sight distances, Chapter B9 Landscaping and Council Policy 4.16 Planting and Landscaping of Footpaths and Nature Strips within Road Reserves and Drainage Easements.

Prescriptive Measures

A minimum of one tree is to be planted in the road reserve for each 8 metres of street frontage in association with commercial development on land delineated by the thick black line in Map D1. Species selected are to be in accordance with Chapter B9 Landscaping and Council Policy 4.16 Planting and Landscaping of Footpaths and Nature Strips within Road Reserves and Drainage Easements. Proposals are to have regard to any overhead power lines, underground services and vehicle sight distances. Suitable species include (but are not limited to):

- Eumundi quandong *Elaeocarpus eumundi*
- Blueberry Ash *Elaeocarpus reticulatus*
- Water Gum *Tristaniopsis laurina*

- Weeping Lilly Pilly *Waterhousia floribunda*
- Firewheel *Stenocarpus sinuatus*
- Hollywood *Pittosporum rhombifolium*
- Coolamon *Syzygium moorei*
- Tuckeroo *Cupaniopsis anacardioides*

For further detail on species see Chapter B9 Landscaping.

D4.2.13 Footpath Construction (Byron CBD)

Objectives

1. *To encourage walking and cycling by providing safe and convenient movement networks to points of attraction within and beyond the development.*

Performance Criteria

Footpaths are to be designed and constructed, at the developers cost, of appropriate width, longitudinal gradient and sight distance to cater for the number of projected pedestrians and cyclists and other users (e.g. the aged, the very young, people with prams and people with disabilities). The footpath is to provide a stable surface for projected users which is easily maintained and enhances the streetscape.

Prescriptive Measures

1. At the southeastern end of Jonson Street (Map D4.1), the width of the footpath, the materials used, laybacks and tactile indicators are to be in accordance with AS 1428.4. The minimum footpath width is to be 2.0m, located adjacent to the property boundary and parallel to the kerb. The linear area between the kerb and footpath is to be deep soil generally covered by turf and used for street tree plantings. For details refer to Figures D4.1 and D4.2 above.
2. For remainder of Byron Bay CBD the width of the footpath, the materials used, laybacks and tactile indicators are to be in accordance with AS 1428.4.
3. Footpaths are to be designed and constructed at the developer's cost. The wave patterned exposed aggregate is to be used in accordance with Council drawing Footpath Construction Type Byron Bay CBD (see Appendix D4.1).

Map D4.1 - South eastern end of Jonson Street Byron Bay



Appendix D4.1

Footpath Construction Type Byron Bay CBD



1. BYRON CBD – WAVE PATTERN SPECIFICATION

1.1 Description

This specification covers the requirements for the construction of footpath pavements including all subsurface treatment and finishes, to the alignment, dimensions, cross sections and levels shown on the drawings or as directed by Council.

1.2 Inspection

The Contractor is to give 3 days notice to the Council so that they may inspect the following stages of work:

- Set-out & excavation complete
- Base course and formwork installed
- Work Completed.

1.3 Qualification

All work shall be carried out by an approved specialist company employing skilled tradespeople under the direction of experienced foreman or supervisors.

1.4 Conformity with Drawings

All surfaces shall be finished in conformity with the lines, grades, thicknesses and cross sections shown on the drawings or specified or directed by the Council within the following limits:

- a) The deviation of the finished work from line or level shall not exceed 20mm in 10m or 5mm between adjacent blocks. Except on curves or in shaped areas, the deviation of the finished work from a 3m straightedge shall not exceed 15mm at any point.
- b) Footpaths and surfacing shall be shaped to match existing features egg pit covers, edgings and driveways, within 5 mm.
- c) Alignment of the paving shall not differ from the specified line by more than ± 50 mm, provided that the minimum pavement width is achieved at all points throughout the construction.
- d) Unless otherwise specified or directed finished surfaces shall be shaped to shed surface water from the entire area in the direction of natural slope or towards constructed surface drains.

1.5 Road and Footpath Closure

The applicant is required to obtain approval from Council under the Roads Act 1993 for closure of any part of the road or footpath. Application forms and details of fees are available from Council offices.

Plans and specifications of the proposed work need to include:

- a) Traffic Management Plan for pedestrian and vehicular traffic (bicycles) in accordance with RTA guidelines.
- b) Public Safety Management Plan with provision for barriers and hoardings to allow access to existing business.
- c) Compliance with Council requirements.

1.6 Occupational Health and Safety

The principal contractor is responsible for all aspects of Occupational Health & Safety and is to advise Council of any issues relevant to Council staff working in the Byron CBD.

2. BYRON CBD – WAVE PATTERN CONSTRUCTION

2.1 Excavation And Bedding Preparation

All soft, wet or unsuitable material shall be removed to a depth of not less than 75 mm below the design level of the underside of the bedding and the resulting space filled with bedding material, moistened and compacted to form a stable foundation.

A minimum 50 mm compacted thickness of bedding material consisting of 20 mm class 2 fine crushed rock shall be provided under the full width of the paving and And compacted with a vibrating footpath roller of equivalent weight to four (4) tonnes or other by suitable mechanical equipment to the satisfaction of the Council.

2.2 Footpath Construction

Footpaths and driveways shall be constructed to the following specifications;

- a) Footpaths – Concrete 20Mpa, 100mm thick with F62 mesh.
- b) Driveway (light) – Concrete 20Mpa, 125mm thick F72 mesh
- c) Driveway (Heavy) – Concrete 20Mpa, 150mm thick, F82 mesh

2.3 Exposed Gravel Specifications

The following gravels shall be exposed in the surface finish of the slab in alternating sections.

- a) Belongil white
- b) Woody Head Brown (Coomera)

2.4 Pattern Design Specifications

The wave pattern design shall be achieved by forming opposing arcs in a wave pattern as shown in the attached drawings and photographs.

The wave pattern shall be formed to provide a symmetrical pattern dependant upon footpath width and length. See Figures 1 & 2.

2.5 Grades And Levels

The requirements of AS 1428 Access and Facilities for disabled persons shall generally apply. Access ramps to commercial premises shall be constructed within private property.

The slope at any point on the footpath surface shall be not less than 1% and not exceeding 2.5%.

For Kerbs, ramps and driveway design see Standard Drawings R-04 & R-05.

2.6 Sealing

Council requires an initial seal with two coats of pure Tung Oil. To protect the surface subsequent coats should be carried out at 12 month intervals.

Attention to requirements of the Tung Oil material safety data sheet is required.



2.7 Slip Resistance

In-situ testing of the nominated aggregates has not been undertaken; generally clean aggregate finishes provide the highest level of slip protection (CCA).

3. ENVIRONMENTAL PROTECTION

3.1 Penalties For Pollution

Under no circumstances should soil, materials or other chemical be placed in a position where it is likely to enter any drainage system or natural waterway.

Substantial penalties apply for individuals and companies where appropriate “on the spot fines” will be issued.

3.2 Washing To Expose Aggregate

The process of exposing the aggregate in fresh concrete can generate wash-off water that has a high cement content.

All wash water must be recovered and disposed of in an environmentally responsible manner.

3.3 Sediment Control

Erosion and sediment control needs to be considered early in the development planning process.

- a) Minimise site disturbance and thereby minimise erosion and sediment pollution.
- b) Install erosion and sediment control measures to protect all stormwater drains.
- c) Ensure construction activities and sediment control are jointly planned and implemented

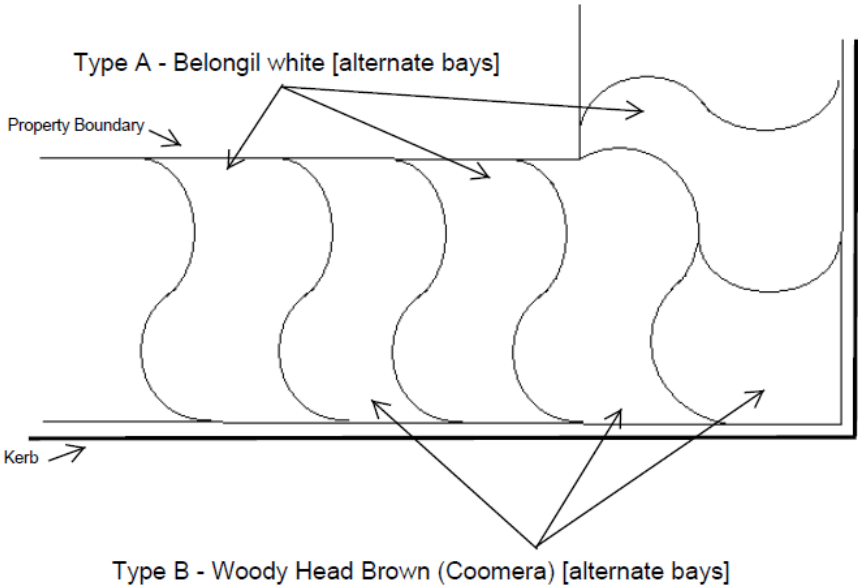
3.4 Sealers

Sealers such as Tung Oil are poisonous to aquatic life and must not be allowed to wash off into adjoining waterways.

All requirements of the material safety data sheet should be implemented.

FIGURE 1

WAVE PATTERN FOOTPATH

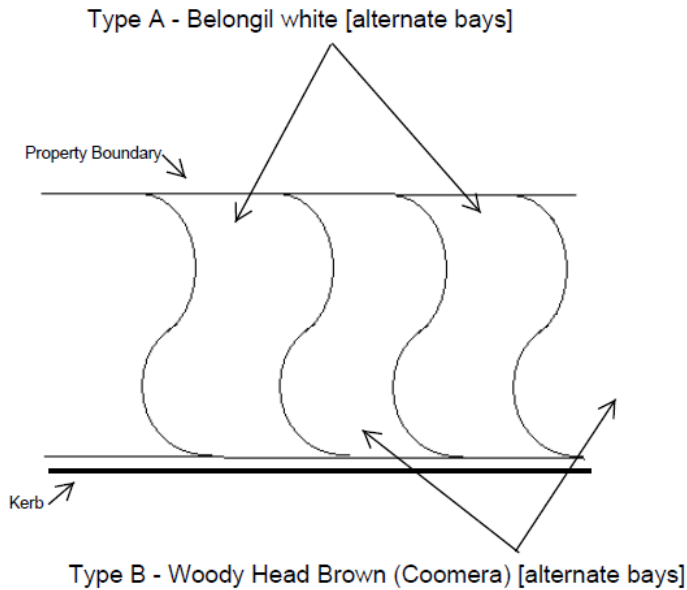


CORNER TREATMENT - TYPICAL



FIGURE 2

WAVE PATTERN FOOTPATH



STANDARD TREATMENT - TYPICAL

BIBLIOGRAPHY

Cement and Concrete Association of Australia, Briefing Note “Exposed-Aggregate Finishes for Flatwork” June 2007.

Cement and Concrete Association of Australia, Data Sheet “Residential Concrete Driveways and Paths” July 2006.

Cement and Concrete Association of Australia, Data Sheet “Sealers for Concrete Flatwork” April 2010.

Cement and Concrete Association of Australia, Data Sheet “Slip Resistance of Polished Concrete Surfaces” November 2006.

Cement and Concrete Association of Australia, Data Sheet “Slip Resistance of Residential Paving Surfaces”, July 2003.

Cement and Concrete Association of Australia, Data Sheet “Tolerances for Concrete Surfaces” September 2005.