



New South Wales

## **Byron Local Environmental Plan 1988 (Amendment No 103)**

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (G02/00139/S69)

DIANE BEAMER, M.P.,

Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

## 2003 No 842

Clause 1 Byron Local Environmental Plan 1988 (Amendment No 103)

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# Byron Local Environmental Plan 1988 (Amendment No 103)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of plan

This plan is *Byron Local Environmental Plan 1988 (Amendment No 103)*.

### 2 Aims of plan

This plan aims to make administrative changes to *Byron Local Environmental Plan 1988 (the 1988 plan)* to assist in its effective operation and public understanding and, in particular:

- (a) to include or remove certain definitions in the Dictionary, and
- (b) to include bushfire hazard reduction as a land use permissible without development consent on land within the Business Zone under the 1988 plan, and
- (c) to include a maximum floor space ratio for dwelling-houses in certain urban zones, and
- (d) to insert objectives relating to the height of buildings and to clarify the maximum height permissible from existing ground level to the topmost part of any building, and
- (e) to clarify that road works undertaken by Byron Council or other public authorities do not require development consent, and
- (f) to include in the 1988 plan objectives for outdoor advertising, to include definitions of signs and to provide controls that clarify where signage is permissible without development consent, permissible with development consent or prohibited.

### 3 Land to which plan applies

This plan applies to all land within the local government area of Byron under *Byron Local Environmental Plan 1988*.

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**4 Amendment of Byron Local Environmental Plan 1988**

*Byron Local Environmental Plan 1988* is amended as set out in Schedule 1.

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Schedule 1 Amendments

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### Schedule 1 Amendments

(Clause 4)

**[1] Clause 9 Zone objectives and development control table**

Insert “food shops;” in alphabetical order in item 4 of the matter relating to Zone Nos 1 (b1), 1 (c1) and 7 (c) in the Table to the clause.

**[2] Clause 9, Table**

Omit “advertising structures;” wherever occurring in item 4 of the matter relating to Zone Nos 1 (c1), 2 (a), 7 (c) and 7 (f2).

**[3] Clause 9, Table**

Omit “Advertising structures; bed” from item 3 of the matter relating to Zone No 1 (d).

Insert instead “Bed”.

**[4] Clause 9, Table**

Omit “Advertising structures; agriculture” from item 3 of the matter relating to Zone No 2 (t).

Insert instead “Agriculture”.

**[5] Clause 9, Table**

Omit “Nil.” from item 2 of the matter relating to Zone No 3 (a).

Insert instead “Bushfire hazard reduction.”.

**[6] Clause 9, Table**

Omit “refreshment rooms” wherever occurring in item 3 of the matter relating to Zone Nos 6 (a), 6 (b) and 7 (d).

Insert instead “restaurants”.

**[7] Clause 14 Residential areas and rural villages**

Insert after clause 14 (6):

- (7) The council may consent to the erection of a dwelling-house on land to which this clause applies only if its floor space ratio does not exceed 0.5:1.

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**[8] Clause 17 Dual occupancy**

Omit clause 17 (9).

**[9] Clause 40**

Omit the clause. Insert instead:

**40 Height**

- (1) The objectives of this clause are as follows:
  - (a) to achieve building design that does not exceed a specified maximum height from its existing ground level to finished roof or parapet,
  - (b) to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.
- (2) The council must not consent to the erection of any building:
  - (a) on land within Zone No 3 (a), if:
    - (i) the floor of the topmost floor level of the building exceeds 7.5 metres above the existing ground level, or
    - (ii) the vertical distance between the topmost part of the building and the existing ground level below exceeds 11.5 metres, or
  - (b) on land within any other zone, if:
    - (i) the floor of the topmost floor level of the building exceeds 4.5 metres above the existing ground level, or
    - (ii) the vertical distance between the topmost part of the building and the existing ground level below exceeds 9 metres.

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### [10] Clause 64

Insert in appropriate order:

#### 64 Signage

- (1) The objectives of this clause are as follows:
  - (a) to preserve the character of the natural and built environment by encouraging signage that respects the architecture, streetscape and visual character of the area,
  - (b) to ensure signage relates appropriately to its surroundings and does not reduce the safety of any road, pedestrian path or navigable waterway,
  - (c) to promote a high standard of advertising quality, design and finish, and to prevent excessive advertising and visual clutter,
  - (d) to ensure that signage is sympathetic to the character of villages and areas of historical significance,
  - (e) to ensure that signage does not detract from the scenic beauty and amenity of the local government area of Byron,
  - (f) to enable occupiers of land to identify themselves and their businesses clearly and fairly,
  - (g) to assist visitors to locate and enjoy the attractions of the local government area of Byron,
  - (h) to ensure signage does not adversely affect the locality in terms of appearance, size, illumination or overshadowing or in any other way,
  - (i) to ensure signage is implemented, where relevant, in accordance with the council's development control plans.
- (2) A person must not erect signage on land to which this plan applies, except as provided by this clause.
- (3) Any signage listed in *Development Control Plan No 16—Exempt and Complying Development* (as adopted by the council on 20 December 2001) is permitted without the consent of the council.
- (4) Any signage other than that referred to in subclauses (3) and (6) requires the consent of the council.

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- (5) Despite subclauses (3) and (4), any signage relating to items of environmental heritage listed in Schedule 2 requires the consent of the council.
- (6) The following are prohibited in all zones:
- (a) signage other than signage erected on the land to which it relates, except for:
    - (i) signage erected by a public authority for public use, or
    - (ii) signage erected within a road reserve notifying a public event for a period not exceeding one month prior to the event, or
    - (iii) the erection on behalf of the council of group signage for the purpose of providing space for display of general signs, or
    - (iv) sandwich board signs on a council road reserve or footpath,
  - (b) signage located so that it:
    - (i) interferes with the effectiveness of, or adversely affects, a traffic control device, or
    - (ii) obscures a driver's view of a road hazard, or
    - (iii) attempts to imitate a traffic control device, or
    - (iv) is a dangerous obstruction,
  - (c) animated signs,
  - (d) neon signs,
  - (e) signage on trees or electricity or telephone poles,
  - (f) roof or sky advertisements,
  - (g) bunting,
  - (h) signage mounted on or attached to stationary cars or trailers which direct attention to a nearby business,
  - (i) billboard signs,
  - (j) signage on waste bins, unless for community-related purposes approved by the council,
  - (k) any free-standing signage exceeding 6 metres in height,
  - (l) any signage located over the footpath which is lower than 2.6 metres above the footpath,
  - (m) signage on bridges,
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- (n) signage (except signs which are exempt development under the provisions of *Development Control Plan No 16—Exempt and Complying Development* as adopted by the council on 20 December 2001) on land within Zone No 2 (a), 6 (a), 7 (a), 7 (b), 7 (c), 7 (d), 7 (f1), 7 (j), 7 (k) or 8 (a).

- (7) In this clause:

***animated sign*** means signage with movement, or that flashes or changes colour due to the use of electrical or manufactured sources of power.

***billboard sign*** means a board with an advertising display area of over 6 square metres.

***building identification sign*** means signage that identifies or names a building, and that may include the name of a business or building, the street number of a building, the nature of the business and a logo or other symbol that identifies the business, but does not include general advertising of products, goods or services.

***bunting*** means signage consisting of a continuous string of lightweight coloured material secured so as to allow movement.

***business identification sign*** means signage:

- (a) that indicates the name of the person or the business carried on by the person (or both the name and the business) at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but does not include any advertising relating to a person who does not carry on business at the premises or place.

***free-standing advertisement*** means signage that is displayed on an advertising structure that is mounted on the ground on one or more supports.

***neon sign*** means illuminated signage constructed from neon tubing.

***roof or sky advertisement*** means signage that is displayed on, or erected on or above, the parapet or eaves of a building.



*sandwich board sign* means any portable sign or device, including an A-frame, having a maximum area of 1 square metre and a maximum width of 0.75 metre, which must be self-supporting and be restricted to one sign per premises and which may be located either within the property on which the associated business is conducted or on the road reserve directly adjacent to the business.

*signage* means all signs, notices, devices, representations and advertisements that advertise or promote any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display or signage and includes:

- (a) building identification signs, and
- (b) business identification signs.

**[11] Schedule 3 Shops referred to in clause 9—Zone 2 (a) (Residential Zone)**

Insert after “Fish and chip shops”:

Food shops

**[12] Schedule 3**

Omit “Smallgoods and sandwich shops”.

**[13] Schedule 4 Purposes referred to in clause 9—Zone 2 (t) (Tourist Area Zone)**

Insert before “Heliports” and “Sports requisite shops”, respectively:

Food shops

Restaurants

**[14] Schedule 4**

Omit “Refreshment rooms”.

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**[15] Schedule 5**

Omit the Schedule. Insert instead:

**Schedule 5 Purposes referred to in clause 9—  
Zone 4 (a) (Industrial land)**

(Clause 9)

**Shops (including ancillary storage, display and sales areas)  
occupying an area of at least 1 000 square metres**

Air-conditioning and refrigeration equipment and parts  
Automotive equipment parts and sales  
Boat and marine supplies and equipment  
Building material supplies  
Camping equipment sales  
Concrete product sales  
Furniture and floor coverings  
Hardware  
Home decorating fixtures  
Industrial and agricultural equipment and machinery  
Landscaping supplies  
Medical and surgical supplies and equipment  
Mobile home caravan and trailer sales  
Office equipment and supplies  
Produce stores  
Swimming pools and outdoor recreation equipment  
Any other purpose which closely resembles a purpose identified  
above

**Shops servicing workers (maximum area of 500 square  
metres)**

Accounting and computer facilities  
Banking facilities

Food shops

Newsagencies

Restaurants

Any other purpose which closely resembles a purpose identified above

**[16] Schedule 12 Development by public authorities**

Omit clause 8. Insert instead:

**8 Roads**

The carrying out of any development by a council or other public authority required in connection with:

- (a) the construction, reconstruction, improvement, maintenance or repair of any road, or
- (b) the widening, realignment or relocation of any road, except on land within Zone No 7 (a), 7 (b), 7 (c), 7 (d), 7 (f1), 7 (f2), 7 (j), 7 (k) or 8 (a).

**[17] Dictionary**

Insert in alphabetical order:

*balcony* means a raised platform, commonly referred to as a deck or verandah, having a floor level more than 1 metre above an adjacent lower level, or any deck or verandah covered by a roof.

*existing ground level* means the ground level, or any lawfully lowered or raised ground level, at the date the development application is lodged with the council.

*floor plan area* means the area contained within the outer face of the external enclosing walls of a storey, including the area of balconies, but excluding:

- (a) columns, fin walls, sun control devices and any elements outside the general line of the outer face of the external wall, and
- (b) lift towers, cooling towers, machinery and plant rooms and ancillary storage spaces, and vertical air-conditioning ducts, and

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(c) car parking needed to meet any requirements of the council and any internal access to the car park, and

(d) space for the loading and unloading of goods.

***floor space ratio*** in relation to a building, means the ratio of the gross floor area of the building to the site area of the land on which the building is or is proposed to be erected.

***food shop*** means premises used for the purpose of selling, exposing or offering for sale by retail, food or beverages (or both) for consumption other than on the premises (not including food or beverages (or both) which has or have been pre-packaged on another premises), but (in the Table to clause 9) does not include:

(a) a building or place elsewhere specifically defined in this Dictionary, or

(b) a building or place used for a purpose elsewhere specifically defined in this Dictionary.

***gross floor area*** means the sum of the floor plan areas of all floors of a building.

***restaurant*** means premises in which food or beverages (or both) are supplied for sale to the public for consumption on the premises.

**[18] Dictionary, definition of “drive-in take-away food shop”**

Omit “refreshment room”. Insert instead “restaurant”.

**[19] Dictionary, definition of “hospital”**

Omit “refreshment rooms” from paragraph (a).

Insert instead “restaurants”.

**[20] Dictionary, definition of “refreshment room”**

Omit the definition.

**[21] Dictionary, definition of “rural tourist facility”**

Omit “refreshment room”. Insert instead “restaurant”.

**[22] Dictionary, definition of “site area”**

Omit the definition. Insert instead:

*site area* means the area within the title boundaries of the site or the site area of the land to which a development application relates, but does not include any land where development to which the application relates is not permitted under any environmental planning instrument applying to the land or any access handle to a hatchet-shaped allotment.

**[23] Dictionary, definition of “tourist facilities”**

Omit “refreshment room”. Insert instead “restaurant”.