



BYRON SHIRE COUNCIL

DRAFT POLICY 13/001

LOCAL APPROVALS

**FOR ACTIVITIES UNDER SECTION 68
LOCAL GOVERNMENT ACT, 1993**

E2016/83973E2013/12134

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INFORMATION ABOUT THIS DOCUMENT

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E2013/12131	14/4/2014	Director General's Approval S2014/4363 Section 162 Consent
E2016/83973	5/07/2017	Reviewed and amended for Council report to Ordinary Meeting of 4 August 2017.

Further Document Information and Relationships

Related Legislation*	Section 68 Local Government Act 1993 Local Government Act, 1993 - particularly Chapter 7 Local Government (General) Regulation 2005 Local Government (Water Services) Regulations 1999 The Environmental Planning and Assessment Act, 1979 The Environmental Planning and Assessment Regulation 2000 Planning for Bushfire Protection 2006 Building Code of Australia Byron Shire Council Local Environmental Plan.
Related Policies	Byron Shire Council Policies (various, as adopted by Council)
Related Procedures/ Protocols, Statements, documents	Note: - These exemptions have been granted consent (Consent No.93) by the Chief Executive of the Division of Local Government Department of Premier and Cabinet on the 12 August 2010 24/1/2013 #S2013/5808 Department Premier & Cabinet Division of Local Government Consent No. 97 22/1/2014 #S2014/4363 Department of Planning and Infrastructure Consent Section 162

Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.

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POLICY TITLE LOCAL APPROVALS

PRELIMINARY

1. TITLE

This Policy (“The Policy”) is called the “Byron Shire Council - Local Approvals Policy”.

2. STATUS AND PURPOSE OF THE POLICY

The Policy is a Local Approvals Policy prepared and adopted under Chapter 7, Part 3 of the Local Government Act, 1993 (“the Act”).

The purpose of the Policy is to supplement provisions of the Act and the Local Government (Approvals) Regulation by:

- Part 1: Specifying the circumstances in which a person is not required to obtain a particular approval from the Council;
- Part 2: Specifying the criteria which the Council must consider when determining whether or not to grant approval to a particular activity;
- Part 3: Specifying other matters relating to approvals not dealt with by the Act or Regulations.

3. GENERAL AIMS OF THE POLICY

- 3.1. To provide an integrated framework for dealing with applications for approval with clear guidelines.
- 3.2. To apply common and consistent requirements and procedures for the relevant types of approvals.
- 3.3. To ensure consistency and fairness in the manner in which the Council deals with applications for approval.
- 3.4. To make the Council’s policies and requirements for approvals readily accessible and understandable to the community.
- 3.5. To assist the Council in the carrying out of its responsibilities under Chapter 8 of the Act.

4. COMMENCEMENT OF THE POLICY

The Policy was reported to Council on ~~6 December 2012 Res 12-939~~ **to be advised** and commences on ~~14 April 2014~~ **to be advised**.

5. AMENDMENT OF THE POLICY

The Policy incorporates the amendments listed in the Note to this Clause.

Amendment No.	Date	Nature of Amendment	Date Commenced	Notified in Local Paper
1	14/4/2014	Section 68 Part D 4 on page 11, the columns 'Exemption Circumstances/ Requirements' and Advisory Note.	14/4/2014	8/1/2013 to 19/2/2013

6. REVOCATION OF THE POLICY

The Policy will be automatically revoked at the expiration of 12 months after the declaration of the poll for the next general election, unless the Council revokes it sooner.

Note: Automatic revocation of the Policy is provided for by Section 165(4) of the Act.

7. LAND TO WHICH THE POLICY APPLIES

The Policy applies to all land within The Byron Shire Council Local Government area.

8. APPROVALS TO WHICH THE POLICY APPLIES

The Policy applies to the regulatory function of the Council to grant approvals under Section 68 of the Local Government Act, as reproduced in the table that follows.

Under Section 68, approval by Council is required for the following activities:

Part A: Buildings, temporary structures or moveable dwellings

1. Install a manufactured home, moveable dwelling or associated structure on land
2. (Repealed)
3. (Repealed)

Part B: Water Supply, sewerage and stormwater drainage work

1. Carry out water supply work
2. Draw water from a Council water supply or a standpipe or sell water so drawn
3. Install, alter, disconnect or remove a meter connected to a service pipe
4. Carry out sewerage work
5. Carry out stormwater drainage work
6. Connect a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer, which connects with such a public drain, or sewer

Part C: Management of waste

1. For fee or reward, transport waste over or under a public place
2. Place waste in a public place
3. Place a waste storage container in a public place
4. Dispose of waste into a sewer of the Council
5. Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility
6. Operate a system of sewage management (within the meaning of section 68A)

Part D: Community Land

1. Engage in a trade or business
2. Direct or procure a theatrical, musical or other entertainment for the public
3. Construct a temporary enclosure for the purpose of entertainment
4. For fee or reward, play a musical instrument or sing
5. Set up, operate or use a loudspeaker or sound amplifying device
6. Deliver a public address or hold a religious service or public meeting

Part E: Public roads

1. Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
2. Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road

Part F: Other Activities

1. Operate a public car park
2. Operate a caravan park or camping ground
3. Operate a manufactured home estate
4. Install a domestic oil or solid fuel heating appliance, other than a portable appliance
5. Install or operate amusement devices (within the meaning of the Construction Safety Act 1912)
6. (Repealed)
7. Use a standing vehicle or any article for the purpose of selling any article in a public place
8. (Repealed)
9. (Repealed)
10. Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations

9. DEFINITIONS

~~9.6~~ **9.1** Words or expressions used in the policy have the following meaning:

Acceptable public liability insurance means a current policy acceptable to Council and having the minimum cover as set by Council and varied from time to time.

Commercial premises means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in Council's planning Instruments.

Install means to place in position for service or use.

Refreshment room means a building or place, such as, a restaurant, café, tea room, eating house or the like, the purpose of which is to provide food for consumption on the premises.

Shop means a building or place used for the purpose of selling, exposing or offering for sale by retail or hire, goods, merchandise or material, but does not include a building or place elsewhere specifically defined in Council's Planning Instruments or a building or place used for a purpose elsewhere specifically defined.

Take-away food outlet means a shop for the sale of prepared food to the public.

Temporary structure includes a tent, marquee, stage and street stall.

Waste storage container in this policy relates to mini-skips and the like up to 4 m³ in size.

~~9.7~~ **9.2** Expressions used in the Policy not specifically defined above and which are defined in the dictionary at the end of the Act (the "Act Dictionary") have the meaning set out in the Act Dictionary.

10. NOTES IN THE TEXT

Notes in the text are explanatory notes, and do not form part of the Policy. They are provided to assist understanding.

11. RELATED DOCUMENTS

The following documents are related, either directly or indirectly, to the Policy:

- Local Government Act, 1993 - particularly Chapter 7
- Local Government (General) Regulation 2005
- Local Government (Water Services) Regulations 1999

- The Environmental Planning and Assessment Act, 1979
- The Environmental Planning and Assessment Regulation 2000
- Planning for Bushfire Protection 2006
- Building Code of Australia
- Byron Shire Council Local Environmental Plan.
- Byron Shire Council Policies (various, as adopted by Council)

Note: Section 163 of the Act requires that the Policy is void to the extent that it is inconsistent with the Act or the regulations.

Section 164 of the Act requires that the policy cannot impose a more onerous criterion than does the Act or regulations in relation to a specified aspect of an activity.

PART 1 - EXEMPTIONS FROM THE NECESSITY TO OBTAIN APPROVAL TO INSTALL CERTAIN STRUCTURES OR CARRY OUT CERTAIN ACTIVITIES

12. EXEMPTIONS UNDER THIS LOCAL APPROVALS POLICY

- 12.1. A person is exempt from the necessity to obtain a particular approval of the Council under the Local Government Act in the circumstances specified in this Part and set out in Table 1.
- 12.2. It is a condition of any exemption provided in Column 1 of the Exemptions Table that the carrying out of an activity for which an exemption is provided must observe and comply with:
- a) the relevant exemption circumstances or requirements listed in the Exemptions Table; and
 - b) the relevant performance standards prescribed in the Local Government Act 1993, the Regulations and the Building Code of Australia (“BCA.”).
- 12.3. This Part does not exempt a person from the need to obtain approval to carry out an activity as described in Section 68 of the Local Government Act, 1993 (as reproduced on page 3) unless that activity is listed in Table 1 or the activity is one that the Council is taken to have granted by virtue of the issue of Development Consent under the Environmental Planning and Assessment Act.

13. EXEMPTED ACTIVITIES

- 13.1. Even though an activity may be exempted by this policy from the need to obtain approval under the Local Government Act, it may still require development consent under the Environmental Planning and Assessment Act. Some activities under the Environmental Planning and Assessment Act are also exempt and these are detailed in “**DCP16 – ISEPP – Exempt & Complying Development Codes – 2008** ~~Exempt and Complying Development~~”.
- 13.2. Exempted activities must comply with the Local Government Act and Regulations, the Building Code of Australia (where relevant), and any Council Plans and Policies. In relation to exempted activities a person must give due consideration to the following:
- a) The amenity of adjoining or neighbouring property
 - b) The provision of adequate drainage
 - c) Any potential fire risk
 - d) Structural stability
 - e) External finishes
 - f) Avoid creating a harbourage for vermin
 - g) Avoid creating an obstruction or risk to public safety
 - h) Not create a nuisance
 - i) Public health

14. LIMIT OF ACTIVITIES CARRIED OUT BY EXEMPTION

If subsequent activities involve an increase over and above the stated exemption conditions then approval will be required for the further activity.

15. AREAS IN WHICH EXEMPTIONS APPLY

Options listed in the following Table under Part 1 apply to all land within the jurisdiction of the Byron Shire Council Local Government area.

TABLE 1 - SCHEDULE OF EXEMPTIONS TO APPROVAL

(Note: To be read in conjunction with the preceding Clauses 12 to 15 of Part 1)

SECTION 158(3) - Local Government Act, 1993

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
<p>SECTION 68 PART A1 INSTALL A MANUFACTURED HOME, MOVEABLE DWELLING OR ASSOCIATED STRUCTURE ON LAND</p>		
<p>Install a manufactured home, moveable dwelling or associated structure on land.</p> <p>(Item A1 of Table to Section 68)</p>	<ul style="list-style-type: none"> i) The installation of a relocatable home or associated structure is on a dwelling site within a caravan park as long as it is designed, constructed and installed in accordance with the relevant requirements of Division 4 of the Regulation. ii) A caravan, tent or annexe is installed on a dwelling site within a caravan park in accordance with the requirements of Division 5 of the Regulation. iii) A campervan is installed on a dwelling site within a caravan park or camp site within a camping ground. iv) The installation of not more than 2 caravans, campervans or tents on any land not occupied for more than 2 days at a time and not more than 60 days (in total) in any single 12 month period. v) The installation of not more than 1 caravan or campervan on land occupied by the owner in connection with the owner’s dwelling-house if it is used for habitation only by the owner or the owner’s household and is maintained in a safe and healthy condition. vi) The installation of a caravan or campervan on pastoral or agricultural land occupied seasonally by persons employed in pastoral or agricultural operations on the land. vii) The installation of a caravan, campervan or tent on Crown Reserves or on land that is reserved or dedicated under the <i>Forestry Act, 1916</i>. 	<p>Exemptions are permitted by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.</p> <p>Section 68 of the Local Government Act 1993 prohibits a person from installing a moveable dwelling or associated structure on land without prior approval of Council, except in so far as the Regulations (and any other instruments) allow the moveable dwelling or associated structure to be installed without that approval.</p>

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
<p>SECTION 68 PART B1 CARRY OUT WATER SUPPLY WORK</p>		
<p>Carry out water supply work. (Item B1 of Table to Section 68)</p>	<p>i) Any water supply work undertaken by Council or an agent of Council at the specific request of Council</p> <p>ii) Minor extension or alteration of existing residential or rural water supply service, that does not include additional fixtures and is not associated with a Home Business, Home Occupation or Home Industry. The works are isolated from any public water supply and fire services, comprising such works as relocation of taps, installation of water storage tanks not requiring the consent of Council, residential garden irrigation works and rural irrigation works utilising a private water supply.</p> <p>iii) The repair or replacement of damaged / leaking plumbing in an emergency.</p> <p>iv) Water supply work is to comply with the Deem to Satisfy Provisions of the Plumbing Code of Australia and Council requirements.</p> <p>v) Any drinking water supply to meet Australian National Health and Medical Research Council's Guidelines for Drinking Water.</p> <p>ii) Minor extension of existing residential or rural water supply service, that is isolated from any public water supply and fire services, comprising such works as relocation of taps, installation of water storage tanks not requiring the consent of Council, residential garden irrigation works and rural irrigation works utilising a private water supply.</p> <p>iv) Water supply work is to comply with the Plumbing and Drainage Code of Practice.</p>	<p>Any water supply drawn from a river, creek, bore or the like may require separate approval from the Department of Natural Resources prior to the carrying out of water supply works.</p> <p>NOTE: Water drawn from a river, creek, bore or other natural waters are unlikely to comply with the safe drinking water standards set down by the Australian National Health and Medical Research Council's Guidelines for Drinking Water, unless appropriate treatment and management processes are in place.</p> <p>A Certificate of Commencement of plumbing works and Certificate of Completion of plumbing works are required.</p>
<p>SECTION 68 PART B2 DRAW WATER FROM A COUNCIL WATER SUPPLY OR A STANDPIPE OR SELL WATER SO DRAWN</p>		
<p>Draw water from a Council water supply or a standpipe (Item B2 of Table to Section 68)</p>	<p>An employee of Council acting in the course of his or her employment may draw water from a water supply system or standpipe without prior approval of the Council</p>	<p>The Local Government (General) Regulation 2005 Division 3 Subdivision 3 provides for this exemption</p>
<p>SECTION 68 PART B4 CARRY OUT SEWERAGE WORK</p>		

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
<p>Carry out sewerage work (Item B4 of Table to Section 68)</p>	<ul style="list-style-type: none"> i) Any sewerage work undertaken by Council or an agent of Council at the specific request of Council ii) Extension or alteration of existing residential sanitary plumbing and drainage system, that is not associated with a Home Business, Home Occupation or Home Industry. The works are not to include additional fixtures, comprising such works as relocation of fixtures within an approved room iii) The repair or replacement of damaged / leaking plumbing in an emergency. iv) Sewerage work is to comply with the Deem to Satisfy Provisions of the Plumbing Code of Australia and Council requirements. v) The connection of swimming pool water and backwash where connected to the existing yard gully incorporating a 100mm air gap with all plumbing works to comply with AS 3500.2 – National Plumbing and Drainage Code. (Section 10.9 & figure 10.2) vi) Pool filter cartridge systems that do not require back washing are exempt 	<p>A certificate of commencement of plumbing works, Sewer Service Diagram and Certificate of Completion of plumbing works are required.</p> <p>Exemption is limited to connections to an existing yard gully.</p>

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
<p>SECTION 68 PART B5 CARRY OUT STORMWATER DRAINAGE WORK</p>		
<p>Carry out stormwater drainage work. (Item B5 of Table to Section 68)</p>	<ul style="list-style-type: none"> i) Relates to residential construction for single dwellings and associated structures only. ii) Relates to the repair or replacement of existing stormwater drainage lines including guttering and downpipes. iii) New stormwater drainage works servicing a maximum roof area of 300 m² where: <ul style="list-style-type: none"> — Drainage lines are to be connected to the street drainage system where the fall permits. Connection to the street drainage is to be via Council approved stormwater connectors. iv) Absorption trenches shall be a minimum 1 m³ in volume for every 50 m² of roof area or part thereof. Absorption trenches shall be located parallel to the ground contours at least 3 metres from any building or property boundary. v) Drainage work to comply with AS/NZS 3500.3.2 Stormwater Drainage – 2003, and work must comply with the performance criteria of Council’s Development Control Plan for Stormwater Management. (Note:– Downpipes are to be spaced at no greater than 9 metre centres). vi) Repair or replacement of existing stormwater drainage lines including guttering and downpipes. vii) New stormwater drainage works complying with conditions of a development consent and the plans and/or specifications attached to a Construction Certificate (except in relation to a Construction Certificate for Subdivision Works not issued by Byron Shire Council), or Complying Development Certificate, or the activity is in conjunction with exempt development under the provisions of the Environmental Planning and Assessment Act. viii) Drainage work to comply with AS/NZS 3500.3:2015 Plumbing and drainage Stormwater drainage, the prescriptive measures of Council’s Development Control Plan relating to Stormwater Management, and the requirements of Council’s Guidelines for Stormwater Management. ix) All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Public liability insurance cover, for a minimum amount as specified by council, is to be obtained and maintained for the duration of the construction of the works. Council is not held responsible for any negligence caused by the undertaking of the works. 	<p>Separate approval will be required under Council's Tree Preservation Order prior to the removal of any trees required as a result of drainage works.</p> <p>Separate approval may be required prior to the removal, lopping or pruning of any trees required as a result of stormwater drainage works (refer Council’s Development Control Plan for Preservation of Trees and Other Vegetation).</p> <p>Separate approval will be required under Section 138 of the Roads Act 1993 for works and structures on a public road.</p> <p>Separate approval will be required under Section 68 of the Local Government Act 1993 for the connection of stormwater drainage to a stormwater channel or pipeline under the control of Council (refer Item B6 of Table to Section 68 and below).</p>

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
<p>SECTION 68 PART B6 CONNECT A PRIVATE DRAIN OR SEWER WITH A PUBLIC DRAIN OR SEWER UNDER THE CONTROL OF A COUNCIL OR WITH A DRAIN OR SEWER WHICH CONNECTS WITH SUCH A PUBLIC DRAIN OR SEWER</p>		
<p>Connect a private drain or sewer with a public drain or sewer under the control of a council or with a drain or sewer which connects with such a public drain or sewer</p> <p>(Item B6 of Table to Section 68)</p>	<ul style="list-style-type: none"> i) Relates to stormwater drainage work only that connects to a kerb or channel under the care and control of Council. ii) Drainage work to comply with AS/NZS 3500.3:2015 Plumbing and drainage Stormwater drainage, the prescriptive measures of Council's Development Control Plan relating to Stormwater Management, and the requirements of Council's Guidelines for Stormwater Management. iii) All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Public liability insurance cover, for a minimum amount as specified by council, is to be obtained and maintained for the duration of the construction of the works. Council is not held responsible for any negligence caused by the undertaking of the works. 	<p>Separate approval may be required prior to the removal, lopping or pruning of any trees required as a result of stormwater drainage works (refer Council's Development Control Plan for Preservation of Trees and Other Vegetation).</p> <p>Separate approval will be required under Section 138 of the Roads Act 1993 for works and structures on a public road.</p>
<p>SECTION 68 PART C1 FOR FEE OR REWARD, TRANSPORT WASTE OVER OR UNDER A PUBLIC PLACE</p>		
<p>Approval to transport waste, for fee or reward, over or under a public place</p> <p>(Item C1 of Table to Section 68)</p>	<p>The transporting of waste over or under a public place for fee or reward is exempt if;</p> <ul style="list-style-type: none"> i) the activity is licensed under the Protection of the Environment Operations Act 1997, or ii) the waste is being transported through the area of the council and is not being collected or deposited in that area. 	<p>The Local Government (General) Regulation 2005 Division 4 Subdivision 8 provides for this exemption</p>

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
SECTION 68 PART C3 PLACE A WASTE STORAGE CONTAINER IN A PUBLIC PLACE		
<p>Place a waste storage container in a public place (e.g. road reserve)</p> <p>(Item C3 of Table to Section 68)</p>	<p>The waste storage container is associated with a single dwelling on a single residential premises;</p> <ul style="list-style-type: none"> i) Only 1 container per property; ii) The container is to have a maximum capacity of 4m³; iii) Maximum period of 2 weeks; iv) Located so as to not interfere with vehicular or pedestrian traffic; v) Appropriate barricades, guards, lighting between sunset and sunrise, and reflectors shall be provided where necessary to prevent the container being a traffic hazard; vi) Waste shall be secured to prevent being dislodged by wind and other forces including animals; vii) Not to be used for the disposal of hazardous or noxious material. 	<p>This relates to the use of mini skips and not the normal weekly collection service.</p> <p>Commercial premises require a separate approval from Council.</p> <p>Council may require the relocation of a container where it is or is likely to pose a hazard.</p> <p>Many chemicals and materials such as asbestos cement sheeting pose a threat to public health and safety and separate arrangements are to be made for their disposal.</p>
SECTION 68 PART C4 DISPOSE OF WASTE INTO A SEWER OF THE COUNCIL		
<p>Approval to dispose of waste into a Council sewer</p> <p>(Item C4 of Table to Section 68)</p>	<p>Residential properties are exempt from the requirement to obtain approval for the disposal of waste into a Council sewer provided;</p> <ul style="list-style-type: none"> i) the activity is approved, and ii) any building or work associated or carried out in connection with the activity complies with any applicable standards established by any Regulation in force under the Act or the Environmental Planning and Assessment Act 1979. <p>The repair or replacement of damaged / leaking plumbing in an emergency.</p> <p>Permit the installation of NSW Health accredited grey water diversion devices that;</p> <ul style="list-style-type: none"> i) do not store or retain wastewater, and only divert wastewaters from the laundry, shower and bathroom fixtures (but not toilet or kitchen fixtures), and, ii) are carried out in accordance with the Plumbing and Drainage Code of Practise, and, iii) a sewage management facility is not installed on the premises concerned, and, iv) achieves the following performance standards: <ul style="list-style-type: none"> (a) prevents the spread of disease by microorganisms, (b) prevents the spread of foul odours, (c) prevents contamination of water, (d) prevents degradation of soil and 	<p>The Local Government (General) Regulation 2005 Division 4 Subdivision 3 provides for this exemption</p>

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
	<p>vegetation,</p> <p>(e) discourages insects and vermin,</p> <p>(f) ensures that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,</p> <p>(g) minimises any adverse impacts upon amenity of the premises and surrounding lands,</p> <p>(i) if appropriate, provides for the re-use of resources (including nutrients, organic matter and water). Dispose of the grey water by subsurface means for the reuse of grey water.</p>	
<p>SECTION 68 PART C6 OPERATE A SYSTEM OF SEWAGE MANAGEMENT (WITHIN THE MEANING OF SECTION 68A)</p>		
<p>Approval to operate a System of Sewage Management</p> <p>(Item C6 of Table to Section 68)</p>	<p>Systems serving a single allotment of land involving pumping directly into a Byron Shire Council reticulated sewerage system, (such as pump out effluent systems servicing private residences such as those used in New Brighton and Billinudgel) where;</p> <p>i) Approval has been obtained from Byron Shire Council for the connection to the council sewer, and,</p> <p>ii) (Any system of sewage management must be operated in a manner that achieves the following performance standards:</p> <p>(a) prevents the spread of disease by microorganisms,</p> <p>(b) prevents the spread of foul odours,</p> <p>(c) prevents contamination of water,</p> <p>(d) prevents degradation of soil and vegetation,</p> <p>(e) discourages insects and vermin,</p> <p>(f) ensures that persons do not come into contact with untreated sewage or effluent (whether treated or not) in their ordinary activities on the premises concerned,</p> <p>(g) minimises any adverse impacts upon amenity of the premises and surrounding lands,</p> <p>(h) if appropriate, provides for the re-use of resources (including nutrients, organic matter and water).</p>	<p>On-site sewage management systems (OSMS) are otherwise required to obtain approval to operate under Subdivision 6 of the Local Government (General) Regulation 2005</p>

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
SECTION 68 PART D4 FOR FEE OR REWARD, PLAY A MUSICAL INSTRUMENT OR SING		
Busking or street theatre. (Item D4 of Table to Section 68)	<p>Approval to undertake busking (as defined in Policy 5.57-Busking) other than busking involving Dangerous and Circle Acts is not required HOWEVER all buskers must apply to Council for a busking permit (see Clause 4.2.1 of Policy 5.57-Busking).</p> <p>All busking must be in accordance with Policy 5.57-Busking.</p> <p>Dangerous and Circle Acts (as defined in Policy 5.57-Busking) are not exempted from requiring an approval.</p>	<p>For further details refer to Council's Busking Policy.</p> <p>Council and the Police have the power to remove people if they are causing a nuisance to the public (including shop owners).</p>
SECTION 68 PART E2 EXPOSE OR ALLOW TO BE EXPOSED (WHETHER FOR SALE OR OTHERWISE) ANY ARTICLE IN OR ON OR SO AS TO OVERHANG ANY PART OF THE ROAD OR OUTSIDE A SHOP WINDOW OR DOORWAY ABUTTING THE ROAD, OR HANG AN ARTICLE BENEATH AN AWNING OVER THE ROAD		
Placement of Pay-Telephones on footpaths. (Item E2 of Table to Section 68)	<p>Acceptable public liability insurance in accordance with Council's policy must be obtained.</p> <p>Not more than one telephone per premises.</p> <p>Located outside commercial premises, refreshment rooms, shops or take-away outlets within a defined town or village centres.</p>	<p>Pay telephones shall not be located where security or safety of persons may be at risk.</p>
Display of potted plants (Item E2 of Table to Section 68)	<ul style="list-style-type: none"> i) Acceptable public liability insurance in accordance with Council's policy must be obtained; ii) Plants are to be displayed for decorative purposes and not for sale; iii) A maximum of two (2) plants per premises; iv) Plants are not be dangerous to the public; v) Pots must be at least 450 mm x 450 mm and securely fixed to prevent vandalism and expected wind forces; vi) Located immediately adjacent to and extending no further than 700mm from the front of the shop or business; vii) A minimum of 2.5 metres of unobstructed footpath to be maintained between the pots and the kerb; viii) A minimum of 2 metres of unobstructed width to be maintained in arcades. ix) Located outside commercial premises, refreshment rooms, shop or take-away outlet within a defined village centre. 	<p>Some plants present a problem for the public and are not recommended. These include thorny plants such as roses and some citrus species.</p>

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
<p>SECTION 68 PART E2 EXPOSE OR ALLOW TO BE EXPOSED (WHETHER FOR SALE OR OTHERWISE) ANY ARTICLE IN OR ON OR SO AS TO OVERHANG ANY PART OF THE ROAD OR OUTSIDE A SHOP WINDOW OR DOORWAY ABUTTING THE ROAD, OR HANG AN ARTICLE BENEATH AN AWNING OVER THE ROAD</p>		
<p>Installation of roll-up under awning blinds (Item E2 of Table to Section 68)</p>	<ul style="list-style-type: none"> i) Not attached to premises listed as a Heritage Item or located within a Heritage Conservation Area without Development Consent. ii) The material of the blinds shall comply with the provisions of the BCA with respect to combustibility and smoke hazard indices. iii) Awnings shall be structurally adequate to support loads. iv) Blinds shall be parallel to the kerb. v) Outside edge of the blind is to be minimum 600 mm clear of the kerb line and minimum 2400 mm clear of the footpath. vi) No advertising shall be displayed on the blind. vii) The colour of the blind shall complement the colour scheme of the building. 	
<p>SECTION 68 PART F4. INSTALL A DOMESTIC OIL OR SOLID FUEL HEATING APPLIANCE</p>		
<p>Installation of solid fuel or oil heaters by qualified Contractors only. (Item F4 of Table to Section 68)</p>	<ul style="list-style-type: none"> i) Installation by a contractor accredited by Council. ii) Council is notified in writing of the installation along with the accredited contractor's details, after the installation. iii) Installation to be in accordance with the Building Code of Australia, AS 2918 – Domestic solid fuel burning appliances and the Department of Environment and Conservation. 	<p>Existing legislation enables Council to take appropriate action to overcome any nuisance, which may arise from the installation of solid fuel heating appliances.</p>
<p>SECTION 68 PART F5. Install or operate amusement devices (within the meaning of the Construction Safety Act 1912)</p>		

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
<p>Install or operate a small amusement device/s anywhere within Byron Shire Council LGA.</p> <p>(item F5 of Table to Section 68)</p>	<p>i) Small amusement device means an amusement device that is designed primarily for the use of children 12 years of age or under and includes such amusement devices as jumping castles (and the like), mini-Ferris wheels, battery operated cars and miniature railways but, in the case of rotating amusement devices, includes only those devices that have a maximum rotation of 14 revolutions per minute.</p> <p>ii) A small amusement device may be installed or operated without the prior approval of the Council if:</p> <p>(a) the land owner has consented to the installation and operation of the amusement device.</p> <p>(b) the amusement device/s is operated for the period of the event and is removed within 2 days of completion of the event.</p> <p>(c) the ground or other surface on which the device is to be or has been erected does not involve the removal of any vegetation and is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason, and</p> <p>(d) the device is registered under the Occupational Health and Safety Regulation 2001, and</p> <p>(e) the device:</p> <p>(i) is to be or has been erected, and</p> <p>(ii) it to be or is being operated,</p> <p>in accordance with all conditions (if any) relating to its erection or operation set out in the current certificate of registration issued for the device under that Regulation, and</p> <p>(f) there exists for the device a current log book within the meaning of Chapter 5 of that Regulation, and</p> <p>(g) in the case of a device that is to be or is installed in a building, fire egress is not obstructed, and</p> <p>(h) there is in force a contract of insurance or indemnity for the device that complies with clause 74 of the LG Regs 2005 (\$10,000,000 minimum indemnity).</p>	<p>Council has the ability to regulate noise generating activities under the Under Protection of Environmental Operations Act 1997 and the Environmental Planning and Assessment Act 1979.</p> <p>Any inflatable devices that involve water storage/ swimming areas must consult with Council in relation to approvals/ requirements to maintain water quality and or fencing requirements.</p>

Type of Activity	Exemption Circumstances / Requirements	Advisory Note
SECTION 68 PART F7 USE A STANDING VEHICLE OR ANY ARTICLE FOR THE PURPOSE OF SELLING ANY ARTICLE IN A PUBLIC PLACE		
<p>Street Collections (including Badge/Pin days), information and promotional displays.</p> <p>(Item F7 of Table to Section 68)</p>	<p>i) Not to occur:</p> <ul style="list-style-type: none"> • Within 20 metres of a bus stop, pedestrian crossings, taxi stand or intersections. • Any area adjacent to a residential premises, educational establishments or place of public worship. • Any park or reserve. <p>ii) Minimum 2.5 metres of footpath shall be available for public movement.</p> <p>iii) The activity shall not cause offence or obstruction.</p> <p>iv) Not to include a public address system or the like.</p> <p>v) Collectors to clearly display identification of the charitable organisation/s or business/s that the activity benefits.</p> <p>vi) Surrounding area is to be maintained in a clean and tidy condition and free of hazard and rubbish.</p>	<p>Further detail in relation to other activities, including street stalls, etc can be obtained from Council's Policy on Activities in Public Places.</p> <p>Approvals are not required for Local, State or Federal Elections.</p>

PART 2 - CRITERIA COUNCIL MUST CONSIDER WHEN DETERMINING APPLICATIONS

16. GENERAL MATTERS FOR CONSIDERATION

The matters that Council **must** consider in determining whether to approve an application is:

- 16.1. The matters prescribed in Section 89 of the Local Government Act, 1993 and the regulations to the Local Government Act.
- 16.2. Any relevant adopted Council Policy or performance standard, including those listed in Clause 17 hereunder.
- 16.3. The principles of ecologically sustainable development.

17. COUNCIL'S DEVELOPMENT CONTROL PLANS AND POLICIES

Council's Development Control Plans and Policies listed hereunder are included as criteria for the assessment of applications where relevant, unless the activity is exempted under Part 1 of this Policy.

17.1. Development Control Plans

- Development Control Plans as adopted by Council.

17.2. Council Policies

- All relevant Council policies, as formally adopted by Council.

<p>Note: Any policy, which is not consistent with or is more onerous than the Act or Regulations, is void in respect of that inconsistency or more onerous provision (LGA S.163 and S.164).</p>
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PART 3 - OTHER MATTERS RELATING TO APPROVALS

18. APPLICATION OF THE POLICY

This Local Approvals Policy applies to those activities requiring approval under the provisions of Chapter 7 Part 3 of the Local Government Act, 1993.

Approvals/consents may be required for certain other activities under the provision of separate legislation, particularly in regard to the erection of other buildings which is controlled by the provisions of the Environmental Planning and Assessment Act 1979.