

Council DA reference number	Lot No.	DP No.	Unit No.	Street No.	Street name	Suburb/ Town	Post code	Category of development	Environmental planning instrument	Zoning of land	Development standard to be varied	Justification of variation	Extent of variation	Concurring authority	Date DA determined dd/mm/yyyy
July - September 2019															
10.2019.28.1	2	629528		119	Lawlers Lane	Bangalow	2479	3. Residential New Second occupancy	Byron LEP 2014	RU1 Primary Production	4.2D Erection of dual occupancies (detached) and secondary dwellings in Zones RU1 and RU2	That compliance with the development standard is unreasonable or unnecessary in the circumstance of the case. That there are sufficient environmental planning grounds to justify contravening the development standard. The dwelling site was chosen to minimise earthworks and also to reduce the potential of land use conflict.	9% (9 metres above the 100m distance)	Director-delegate of Council under assumed concurrence	9/08/2019
10.2018.529.3	4	713515		657b	Broken Head Road	Broken Head	2481	1. Residential - Alterations and additions - Modification to ancillary garage and studio	Byron LEP 1988	7 (k) Habitat zone	7 (k) Habitat zone	The main justification for the variation is that it is unreasonable and unnecessary in this case. This matter was assessed under the original development application 10.2018.529.1. The development does not raise any matter of significance for State and regional planning, and the public benefit of maintaining the planning controls adopted by the environmental planning instrument. The 100 mm modification to the upper floor raises no issues that have not been previously assessed.	7.77% (0.35 metres over 4.5 metres)	Director-delegate of Council under assumed concurrence	14/08/2019
10.2019.129.1	LOT 3, LOT 4	DP 579176, DP 579176		480, 544	Coolamon Scenic Drive	Coorabell	2479	13. Subdivision only	Byron LEP 1988, Byron LEP 2014	7(d) - Scenic/Escarpment, RU1 - Primary Production	Proposed lot less than minimum Lot size (c.11 - Byron LEP 1988, C 4.1 - Byron LEP 2014/2014)	Objectives of development standard and relevant zones are met.	Increase size of Lot 3 by 93.3%, by reducing size of Lot 4 by 1.3%	Secretary of Department of Planning & Environment issued concurrence	15/08/2019
10.2019.245.1	LOT 23, LOT 21	DP 1239353 DP 877915		1859	Hinterland Way	Ewingsdale	2481	13. subdivision only	Byron LEP 1988, Byron LEP 2014	7(d) - Scenic Escarpment, RU1 Primary Production	Proposed lot less than minimum Lot size (c.4.1 - Byron LEP 2014)	Objectives of development standard and relevant zones are met	reduce size of lot 101 by 1.725% of 40ha	Director-delegate of Council under assumed concurrence	30/08/2019

October - December 2019

10.2019.469.1	1	246414		134	Lighthouse Road	Byron Bay	2481	1. Residential Alteration or addition to existing residential development. - Demolition and replacement that does not involve the creation of additional dwellings.	Byron LEP 2014	R2 Low Density Residential	Height of buildings	Council can be satisfied that the proposed development is consistent with the objectives of the R2 zone and height of building development standard; to ensure the height of buildings, complements the streetscape and character of the area in which the buildings are located, and to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development. It is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, because it is minor and as a result of the existing extent of excavation and floor levels on the site whilst the 10 cm breach of the height will be imperceptible from the surrounds when compared to the existing building to be demolished on the site. Most of the proposed building is below the maximum height of building. The proposed development will not result in loss of privacy, loss of solar access, increased visual impacts or loss of views. No submissions were received.	1.11% (0.1m variation to 9m maximum height)	Director-delegate of Council under assumed concurrence	24/10/2019
10.2019.60.1	2 / 23	871477 / 858323		148, 178	Woodford Lane	Ewingsdale	2481	Subdivision - boundary adjustment	Byron LEP 1988	1(a) General Rural Zone	minimum lot size	compliance with the development standard is unreasonable and unnecessary because the underlying objectives of the development standard are achieved for the following reasons: (a) No additional lots will be created, (b) Further opportunities for additional dwellings will not be created, (c) No additional dwelling entitlements will be created, and (d) The current lots are under the minimum lot size, with no change proposed to this scenario.	reduce size of Lot 2 from 4.75 to 1.69 ha and increase size of lot 23 from 24.66 to 27.72 ha. >10% variation to minimum lot size	Secretary of Department of Planning & Environment issued concurrence	17/10/2019
10.2019.432.1	4	248367		49	Paterson Street	Byron Bay	2481	Alterations and Additions to Existing Dwelling House	Byron LEP 2014	R2 Low Density Residential	Height of building	The proposed development is consistent with the objectives of the building height standard in that: The roof area of the proposed upper floor is less than 50% of the current dwelling roof area and only part of the proposed upper floor protrudes beyond the building height limit, • That maximum protrusion beyond the building height limit of the proposed upper floor is ~900mm (i.e., the protrusion is limited to the roof only); The proposed development would comply with the building height limit if the site was undeveloped; • The proposed development will have a minimal impact on streetscape and character as the subject property is entirely located below street level, the proposed upper floor is significantly smaller in area than the current first floor and the dwelling immediately to the south has a relatively large and imposing upper floor (see photos); and • The proposed development will have a minimal visual impact and impact on views, privacy and solar access as the subject property is entirely located below street level, the proposed upper floor is significantly smaller in area than the current first floor, is further setback from the southern boundary than the current first floor and addresses privacy impacts through considered window/opening locations.	9.9n (10% variation)	Director-delegate of Council under assumed concurrence	20/12/2019

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10.2019.275.1	Lot 1 Lot 9	DP 1231141, DP 259415		45-105	Monet Drive	Montecollum		2482 13 Subdivision Only	SEPP 1 (Byron LEP 1988) and Byron LEP 2014	RU2 Rural Landscape / PART DM Deferred Matter (1A Hatched General Rural Zone	Minimum Lot Size	The proposal does not result in additional lots or opportunities for additional dwellings. The areas of the existing lots are already significantly less than the 40 hectare minimum lot size development standard and otherwise do not compromise the use or management of the land for rural or environmental purposes.	Areas of existing lots already less than 40ha	Secretary of Department of Planning & Environment issued concurrence	20/02/2020
10.2019.564.1	LOT: 5, LOT: 5	DP: 612814, DP: 800445		196 220	Friday Hut Road	Possum Creek		2479 13 Subdivision Only	SEPP 1 (Byron LEP 1988)	RU2 Rural Landscape (LEP 2014) / 1(a) General Rural Zone LEP 1988	Minimum Lot Size for land in Zone 1(a) General Rural Zone	The proposal does not result in additional lots or opportunities for additional dwellings. The proposal is not likely to affect the rural character, environmental heritage or scenic quality of the land. Both existing lots are significantly less than the 40 hectare minimum lot size; and there is no public benefit in maintaining the development standard in this instance.	Areas of existing lots already less than 40ha	Secretary of Department of Planning & Environment issued concurrence	19/03/2020
10.2018.534.1		7	248668		44 Brownell Drive	Byron Bay		2481 6: Residential - Other (Dual Occupancy - Detached)	Byron LEP 2014	R2 Low Density Residential	Height of Buildings	<p>The proposal provides an opportunity for a dual occupancy (Detached) in an area that is identified as appropriate through zoning provisions.</p> <p>The proposal is compatible with the bulk and scale of development within the areas and environmental capabilities of the land.</p> <p>The proposal is consistent with the objectives of the development standard of the zone.</p> <p>The proposal will not create and undesirable precedent in the circumstances given the significant slope constraints of the site and the existing disturbed vegetation areas of the site. The Site has a slope of 28% with each dwelling being designed with a reduced footprint and stepped down the site to reduce the impact of the development on the site.</p> <p>The proposed development is not significantly contrary to the public interest because it will not adversely affect the welfare and wellbeing of the broader public. The proposed development would provide a better planning outcome than one that strictly complies with the development standard because requiring strict compliance would result in greater areas of vegetation to be removed as a result of additional cut and fill in order to accommodate such a development onsite. The circumstances of the case warrant a more flexible approach to application of the height of buildings developments standard.</p>	7% (0.724m variation to 9m maximum height)	Director-delegate of Council under assumed concurrence	6/03/2020
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April - June 2020															
10.2019.517.1	1 & 12		271110		2 Gallagher St	Byron Bay		2481 Mixed Use	LEP2014	B4 Mixed Use	4.3 Maximum Height of Buildings	The proposed buildings are similar in scale and height to buildings in this precinct. Development will not result in any overshadowing, overlooking, loss of privacy or amenity impacts in the locality.	11% (max)	Council under assumed concurrence	21/05/2020
10.2019.616.1	Lot 21	DP247289		137-139	Jonson St	Byron Bay		2481 Mixed Use	LEP2014	B2 Local Centre	4.3 Maximum Height of Buildings	The proposed buildings is consistent in scale to nearby buildings and establishes the desired future character of the locality consistent with the Byron Bay Town Centre Master Plan	9%	Council under assumed concurrence	21/05/2020

	Lot 5	DP758207		3 Browning St	Byron Bay	2481				4.4 FSR	The proposed buildings is consistent in scale to nearby buildings. The additional floor area does not contribuet substantially to the bulk or scale of the building	9.60%	Council under assumed concurrence	
	Lots 60 & 61	DP1256365												
10.2019.630.1	4 & 5	DP112343	7 & 9	Brownell Drive	Byron Bay	2481 Dual Occupancy (Attached)	LEP 2014	R2 Low density	4.3 Maximum Height of Buildings	The development standard is exceeded by small segments of the roofline as a product of the 'step' in the existing ground level from previous earthworks. The remainder of the building complies with the development standard. Conversely, the proposed roofline adheres to the development standard. Conversely, the proposed roofline adheres to the devlopment standard when juxtaposed with the estimated (currounding) natural ground level, which is the objective of the standard; to assimilate with surrounding environment and character.	9.88%	Council under assumed concurrence	25/05/2020	

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July - September 2020															
10.2020.189.1		9	58355	9	124 Lighthouse Road	Byron Bay	2481	1. Residential Alteration or addition to existing residential development. - Demolition and replacement that does not involve the creation of additional dwellings.	LEP 2014	R3 Medium Density Residential	4.4 fsr	Upon review of the applicant's written request it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, because it is minor and imperceptible from the surrounds when compared to the existing approved building on the site.	1%	Director-delegate of Council under assumed concurrence	7/07/2020
10.2020.179.1		244	31166		10 Elizabeth Avenue	South Golden Beach	2483	Dual Occupancy (attached)	LEP 2014	R2 Low Density residential	4.1E - Minimum lot size for dual occupancies	Continued use of the site as a Dual occupancy. Compliance with the standard is unreasonable and unnecessary.	7.89%	Council under assumed concurrence	7/07/2020
10.2020.88.1	12 Section 8		11632		114 Alcorn Street	Suffolk Park	2481	Dual Occupancy (attached)	LEP 2014	R2 Low Density residential	4.1E - Minimum lot size for dual occupancies	Continued use of the site as a Dual occupancy. Compliance with the standard is unreasonable and unnecessary.	11.16%	Director-delegate of Council under assumed concurrence	5/08/2020
10.2020.177.1	15 Section 50		758207		39 Browning Street	Byron Bay	2481	Dwelling house & Secondary dwelling	LEP 2014	R2 Low Density residential	4.3 Maximum Height of Buildings	Upon review of the applicant's written request it is considered that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, because it is minor and imperceptible from the surrounds when compared to the existing approved building on the site.	3.42%	Director-delegate of Council under assumed concurrence	8/09/2020
10.2020.125.1		4	607892		136 Coolamon Scenic Drive	EWINGS DALE	2481	Studio	LEP 1988	7(d) Scenic/Esca rment	Variation to clause 27 requiring 55m setback from arterial road	The objectives of the zone and the development standard are achieved notwithstanding non-compliance with the standard. Council should not enforce strict compliance to the standard given the number of dwellings in the locality which are within this 55m setback.	30m / 63.6%	Manager	3/09/2020

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October - December 2020															
10.2020.274.1	1	878972		590	Booyong Road	Booyong	2480	Residential - new second occupancy	Byron Local Environmental Plan 2014	RU2 Rural Landscape	Clause 4.2D - Distance between dwellings >100m	The cleared and level nature of the site, the objectives of the RU2 Zone, and not likely to impact on surrounding properties.	24%	N/A	19/11/2020
10.2020.296.1	5	747075		665	Coopers Shoot Road	Coopers Shoot	2479	Residential - new second occupancy	Byron Local Environmental Plan 2014	RU2 Rural Landscape	Clause 4.2D - Distance between dwellings >100m and additional driveway	Compliance would locate the dwelling closer to a watercourse. Other sites within 100m radius would offer less privacy for all occupants, reduced protection from prevailing weather conditions and increase the potential for visual; amenity impacts to arise on more elevated land. The alternative access reduces the general impact of the driveway as it avoids the need for a creek crossing.	13% to distance standard, 100% to driveway standard	N/A	19/11/2020
10.2020.30.1	12	527314		20	Prince Street	Mullumbimby	2482	3 - Residential - new second occupancy	Byron Local Environmental Plan 2014	RU2 Rural Landscape and R2 Low Density Residential	4.1E - Minimum lot size for dual occupancies	The site is partially within the R2 Zone and RU2 Zone (also identified under the Residential Strategy as Investigation Area). The existing dwelling is located in the R2 zone; the proposed dwelling (shed) is located in RU2 zone. This creates a conflict of development standard. As such, a request for a variation under clause 4.6 of the LEP has been submitted by the applicant. The R2 zone requires a minimum lot size of 800m2 and the RU2 Zone requires a minimum of 4,000m2. • The site has an area of 2,384m2 which already limits any agricultural or rural industry potential given the split zoning and adjoining land uses. The development will not change this. • Retaining the existing dwelling house within the streetscape – no significant change to streetscape or character of Prince Street and locality. Strict compliance with the minimum lot size is considered unreasonable and unnecessary in the circumstances	40% to RU2 minimum lot size for dual occupancy	NA	20/11/2020
10.2020.145.1	Lot 7 Sec.2 & Lot 8 Sec.2	4721		35A and 35 B	Argyle Street	Mullumbimby	2842	13 - Subdivision Only	Byron Local Environmental Plan 2014	R2 Low density Residential	Less than minimum lot size	The proposal does not result in additional lots or opportunities for additional dwellings. The areas of the existing lots are already significantly less than the 600m2 minimum lot size development standard and will resolve an existing boundary encroachment.	24.5% and 17.1% below the minimum lot size	NA	20/11/2020
10.2020.132.1	24 Section 1 & 25 Section 1	4358		19	Campbell Street	Bangalow	2479	alterations and additions to existing dwelling house and subdivision	LEP 2014	R2 Low density Residential	4.1 Minimum lot size	The proposal does not result in additional lots being created, but will allow an additional opportunity for additional dwellings. the area of both lots are already significantly less than the 600m2 minimum lot size standard and will resolve an existing boundary encroachment	23.30%	Council under assumed concurrence	19/11/2020
10.2020.306.1	2	261219	-	212	Fowlers Lane	Bangalow	2479	Dual Occupancy (detached)	LEP 2014	RU1	Clause 4.2D(2)(b)	The driveway already exists and although an alternative path from the driveway serving the primary dwelling exists, this will require an existing OSMS to be relocated, removal of established vegetation, and potentially relocate Essential Energy overhead infrastructure to achieve the same end. Having regards to the above, strict compliance with the single vehicle access development standard is considered unreasonable and unnecessary in the circumstances.	100%		19/11/2020

10.2020.272.1	100	1209712		530	Lismore Road	Binna Burra	4211	Dual Occupancy (detached)	LEP 2014	RU1	Clause 4.2D(2)(c)	<p>The proposed dwelling already exists (approved as a shed); there is no need for additional vegetation clearing, excavation/fill and installation of infrastructure (OSMS, driveway, stormwater etc.). The two dwellings will be located on the same lot.</p> <p>The ongoing use of the shed as a dwelling is not inconsistent with the objectives of the RU2 Zone or the objectives of Clause 4.2D of the BLEP2014.</p> <p>This scenario would be inconsistent with the compliance and enforcement principles under the Enforcement Policy. In particular proportionality: ensuring the level of enforcement action is proportionate to the level of risk and seriousness of the breach; making cost-effective decisions about enforcement action; taking action to address harm and deter future unauthorised activity.</p> <p>Strict compliance with the 100m development standard is considered unreasonable and unnecessary in the circumstances.</p>	73%		16/10/2020
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