

SEPP 1 Variations 2016/17

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
SEPTEMBER 2016															
No SEPP 1 variations															
DECEMBER 2016															
10.2016.357.1	5	703416		20	Kamala Court	Coopers Shoot	2479	Residential - Additions	2014 LEP	RU2 Rural Landscape / PART DM Deferred Matter	Clause 4.2D 2(c)	The strict adherence to the 100m separation distance is considered unreasonable and unnecessary in this instance for the reasons outlined above and summarised below. <ul style="list-style-type: none"> Requiring demolition of the existing dwelling and reconstruction generally in the location of the proposed dual occupancy (detached) dwelling is unreasonable; Requiring the upgrade of the existing driveway will be both cost prohibitive and have significant detrimental impact on the existing vegetation onsite. The cleared areas within 100m of the existing dwelling onsite are located within the buffer distances to the Broken Head Quarry and identified as BPL which are restrictive on the development of a future dwelling within 100m of the existing dwelling onsite. The proposed location of the dual occupancy (detached) is located adjacent to an existing R5 Zone and the development of an additional dwelling at the site entrance will compliment the existing development proximate to the site. 	450m apart from each other. The extent of the variation to the 100m development standard is therefore 350%.	Council	11/10/2016
10.2016.217.1	1	708815		14	Jonson Street	Byron Bay	2481	Commercial - Additions	2014 Byron LEP	B2 Local Centre	Clause 4.4: Floor space ratio	The proposed alterations and additions (20.1m2 of GFA) are an acceptable planning outcome for the site and provide sufficient justification for contravening FSR requirement within clause 4.4 of the Byron LEP 2014 for the following reasons. <ul style="list-style-type: none"> Small addition will provide a clear definition of public and private lands; The proposal will incorporate an awning to protect pedestrians The site is located at the entrance to the Byron Bay Town Centre and as such is an entrance statement to the town centre; The existing building is similar in terms of bulk and scale with surrounding commercial buildings and given the proposed additions will not significantly increase the bulk of the building that it is considered that the additions will complement the surrounding commercial precinct. The proposed alterations and additions comply with the Outcomes for the B2 Local Centre Zone. The additional retail space available within the Byron Bay Town Centre will encourage further use of walking and cycling. 	The site area of the subject Lot is 423.6m2. The existing floor space ratio (FSR) is 1.56:1. The proposal intends to increase the floor area by 20.1m2. This will result in a total floor area of 680.3m2 and new FSR of 1.61:1. This is a FSR increase of 0.05:1	Council	20/10/2016
10.2016.752.1	8	790185		34	Mafeking Road	Goonengerry	2480	Dual Occupancy	2014 Byron LEP	RU2 Rural Landscape	Clause 4.2 D2(c)	The requirement of this Clause is that any dwellings are to be situated within 100 metres of each other, the proposal has its dwelling's located some 115 metres apart. This is due to the proposal involving utilising existing structures for the purpose of a detached dual occupancy. The application provides an objection and seeks variation of this clause under SEPP 1 & Clause 4.6 - Exceptions to development standards of LEP 2014. The variation is sought based on <ul style="list-style-type: none"> It being a relatively minor variation to the requirement – that is a 15% variation; The proposal seeks to formalise a use for an existing structure that cannot be readily relocated; <ul style="list-style-type: none"> The current location has less impact on existing agricultural uses than a compliant location; such a relocation would conflict with other clauses and objectives of LEP 2014; The character of the development would not be altered and the locality would not benefit from the development being compliant; The proposal is compliant with the objectives of Clause 4.2D <p>Given these factors it is a reasonable request to vary the requirement and based on the justification provided and the circumstances of the proposal, the variation sought is supported.</p> <ul style="list-style-type: none"> The proposal seeks to formalise a use for an existing structure that cannot be readily relocated; The current location has less impact on existing agricultural uses than a compliant location; such a relocation would conflict with other clauses and objectives of LEP 2014; The character of the development would not be altered and the locality would not benefit from the development being compliant; The proposal is compliant with the objectives of Clause 4.2D. Given these factors it is a reasonable request to vary the requirement and based on the justification provided and the circumstances of the proposal, the variation sought is supported. 	>10%	Council	23/12/2016

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10.2016.487.1	13	248363		361	Goremans Road	Eurkea	2480	Dual Occupancy	2014 Byron LEP	RU1 Primary Production	Clause 4.2D (2)(b)	Standard varied was Clause 4.2D (2)(b) requiring each dwelling to use the same vehicular access to the road. Justification was that the existing dwelling had its own access while the second dwelling involved a change of use from a restaurant which already had its own separate access. Requiring both dwellings to share the same access was unpractical and unreasonable in this instance.	>10%	Council	20/10/2016
10.2016.55.1	3	758207		17-23	Shirley Street	Byron Bay	2481	Residential	2014 Byron LEP	R3 Medium Density Residential Zone	Clause 4.3 Height of Building	It is considered the proposed height of the building satisfies the objectives of Clause 4.3. The proposed building height is not considered to be excessive in the immediate streetscape and should not detract from the character of the area. The proposed development is considered to be generally consistent with the objectives of the R3 Medium Density Residential Zone as these objectives do not refer to built form. The proposed portion of Building No 1 exceeding the height limit should not result in any unacceptable overshadowing of neighbouring properties. Subject to conditions relating to privacy screens the proposed development should not result in any unacceptable loss of privacy to any neighbouring property	The proposed Building exceeds the 9.0m height limit by 0.55 metres	Council	15/12/2016

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10.2016.113.1	44	1214537		93	St Helena Road	McLeods Shoot	2479	subdivision	1988 Byron Local	7(d) Scenic Escarpment	Clause 11 (1) Minimum lot size of 40 has	No additional lots or dwelling entitlements will be created within the 7(d) zone; the proposal is not inconsistent with the objectives of the 7(d) zone; The proposal raises no issues of state or regional planning significance; and there is considered to be no public benefit in maintaining the development standard in this instance	17%	Department of Planning	15/02/2017
10.2015.795.1	100	1070724		35	Bayside Way	Brunswick Heads	2483	staged consent for subdivision of land	1989 Byron Local Environmental Plan	7(b) Coastal Habitat	Clause 11(1) Minimum lot size of 40 ha	The proposal is not inconsistent with the objectives of the 7(b) zone; The area of 7(b) zoned land is already significantly less than the minimum lot size and the area of this land containing coastal habitat vegetation is not being further fragmented; The proposal raises no issues of state or regional planning significance; and there is considered to be no public benefit in maintaining the development standard in this instance	95%	Department of Planning	23/02/2017

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10.2016.806.1	5	789988		32	Alcorn Street	Suffolk Park	2481	Alterations and Additions to Existing Dual Occupancy Dwelling	1988 Byron Local Environmental Plan	DM Deferred Matter - 7(f 2) Urban Coastal Zone (f2) Zone under Byron LEP 1988.	Clause 40 (2) (b) (i) of LEP 1988	The proposed additions and alterations to the dual occupancy are not permissible under the Byron Local Environmental Plan 1988 as they exceed an established development standard of that instrument. However, the application is lodged under the provisions of Section 106 of the Environmental Planning and Assessment Act 1979 – indicating that “Existing Use Rights” prevail for the proposed development. On this basis the application includes a SEPP 1 objection. The SEPP 1 is submitted as the proposal exceeds 4.5 metres above the existing ground level – this is the maximum height to topmost floor level of the building above ground level as established in Clause 40 (2) (b) (i) of LEP 1988. The dual occupancy additions and alterations have been designed to reflect the integrate with the existing dual occupancy	The SEPP 1 for the proposal marginally exceeds the 4.5 metres above the existing ground level (by less than 10%) – this is the maximum height to topmost floor level of the building above ground level as established in Clause 40 (2) (b) (i) of LEP 1988.	Council	21/06/2017
10.2016.273.1	3	1220608		21	Ballina Road	Bangalow	2479	subdivision of land and construction of multi dwelling housing	Byron Local Environmental Plan 1988 and Byron Local Environmental Plan 2014	R3 Medium Density Residential & DM (1(a) General Rural under BLEP 1988)	BLEP1988 - cl.11(1) Minimum lot size of 40ha; BLEP2014 - cl.4.3 9m height of buildings	BLEP1988 - The proposal is not inconsistent with the objectives of the 1(a) zone; The area of 1(a) zoned land is already significantly less than the minimum lot size and that area is not being further fragmented; The proposal raises no issues of state or regional planning significance; and There is considered to be no public benefit in maintaining the development standard in this instance. BLEP2014 - non-compliance arises due to topographic constraints; Height exceedance is minor - for a short length of roof line; will not result in overshadowing/ overlooking or privacy impacts as there is vacant rural land adjoining.	BLEP1988 - 95%; BLEP2014 - 5%	Department of Planning	20/04/2017
10.2016.794.1	10	622728		2 to 6	Keats Street	Byron Bay	2481	2 lot subdivision	Byron Local Environmental Plan 1988 Byron Local Environmental Plan 2014	R2 Low Density Residential/PART DM Deferred Matter; 7(a) Wetlands Zone	Clause 11 LEP 1988 - 7(a) Wetlands - minimum lot size (40 hectares) for subdivision for the part of the land zoned 7(a) Wetlands.	The application is subject to a SEPP 1 Objection to Development Standards based on the proposed subdivision not according with the minimum lot size for subdivision for the part of the land zoned 7(a) Wetlands under LEP 1988. The NSW Planning and Environment has issued their concurrence for the SEPP 1 application. Concurrence was granted in this instance for the following reasons: The proposal is not inconsistent with the objectives of the 7(a) zone; The proposal raises no issues of state or regional planning significance; and; There is considered to be no public benefit in maintaining the development standard in this instance.	The variation is to effectively separate the subject land into two allotments along the alignment of the deferred matter line (zone boundary).	Department of Planning	15/06/2017