

Byron Shire Council
SEPP 1 Register - 2012/13

Council DA reference number	Lot number	DP number	Apartment number	Street name	Suburb/Town	Postcode	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 2012														
10.2012.191.1	LOT: 4 DP: 632110	632110		85 Armstrong LN	BROKEN HEAD	2481	Subdivision Only	Byron LEP	1(b1)- Agricultural Protection Zone/1(c1) - Small	Clause 11 (Minimum lot size) Byron LEP	<ul style="list-style-type: none"> The proposed creation of the 63 hectare allotment is to facilitate the ongoing operation of a productive agricultural farm which includes only a small proportion of 1(c1) zoned land. The existing farm contains the following: <ul style="list-style-type: none"> cattle yards approx. 7500 macadamia trees approx. 30 head of cattle (grazing) The proposed position and configuration of the small holding allotments takes into account the topography and usability of the land with the more level prime agricultural areas being maintained within the larger agricultural allotment; The proposal involves the yield of 3 small holding lots which is consistent with the achievable yield under Clause 11; Clause 11(1) provides that Council shall not consent to the subdivision of land zoned 1(c1) unless each lot has a minimum area of 0.4ha (4000m²). The application involves the creation of 1 x 0.9ha, 2 x 0.8ha and 1 x 63ha lots. The proposed 3 small holding lots are more than double the minimum lot size required, and Clause 11(2)(a) will prevent the further subdivision of the 1(c1) zoned land. 	>10%	COUNCIL	09/08/2012
10.2011.232.1	LOT: 12 DP: 703880	703880		655 Main Arm RD	MAIN ARM	2482	Subdivision Only	Byron LEP	1(a) - General Rural Zone	Clause 11 (Minimum lot size) Byron LEP	<p>Strict compliance with the 40 hectare standard is not warranted in the circumstances of the case. As there will be no reduction in viable agricultural land and no additional dwelling entitlements will be created. The current land use for the lots, both located within Zone 1(a), is agriculture. The proposal will maintain the agricultural land uses and will not decrease the agricultural viability. The existing dwellings remain on individual lots and retain their existing accesses.</p>	>10%	COUNCIL	09/08/2012
10.2011.474.1	LOT: 22 DP: 1070522	1070522		Ballina RD	BANGALOW	2479	Subdivision Only	Byron LEP	2(a) - Residential Zone	Clause 11 (Minimum lot size) Byron LEP	<p>The majority of the lots are zoned 2(a) Residential and is clearly intended for residential purposes; The rural land is unable to maintain large scale agriculture activities due to limited area of 1(a) land.</p>	>10%	DOP	09/08/2012
10.2010.644.1	LOT: 6 DP: 249851	249851		12 Palm Valley DRV	BYRON BAY	2481	Residential - Single new dwelling	Byron LEP	2(a) - Residential Zone	Clause 40 (Floor Space Ratio) Byron LEP	<p>The steepness of the site results in a narrow plane within which to build. There are components of the building where the floor levels exceed the 4.5m height limit set by clause 40. It is to be noted that the building complies with the 9m overall height limit. A SEPP 1 objection has also been lodged for the 0.5:1 floor space ratio development standard set out in clause 14 (7) if the LEP.</p>	>10%	COUNCIL	30/08/2012
10.2012.173.1	LOT: 20 DP: 1169302	1169302		972 Coolamon Scenic DRV	COORABELL	2479	Subdivision Only	Byron LEP	7(d) - Scenic Escarpment Zone	Clause 11 (Minimum lot size) Byron LEP	<ul style="list-style-type: none"> Lot 20 has an area of 10.23 hectares and Lot 10 has an area of 27.51 hectares, both allotments are already less than the minimum Lot size; the proposal involves the reallocation of a 1.2 hectare portion of land for the purposes of improving the access arrangements for both allotments; the proposal does not involve a reduction in the area of viable agricultural land and it is considered the proposed reconfiguration of the lots will improve the usability and legal access arrangements for both allotments; no additional dwelling entitlements are to be created. 	>10%	COUNCIL	30/08/2012
10.2012.173.1	LOT: 2 DP: 1086364	1086364		17 Ballina RD	BANGALOW	2479	Subdivision Only	Byron LEP	1(a) - General Rural Zone/2(a) - Residential Zone	Clause 11 (Minimum Lot Size) Byron LEP	<ul style="list-style-type: none"> the area of the existing allotment Lot 2 DP 108634 has a total area of approximately 1.77 hectares within the 1(a) General Rural Zone. The allotment is already less than the 40 hectare minimum; the objection has planning merit by facilitating the subdivision of land within the 2(a) Zone to create 7 residential allotments which satisfy or exceed the minimum residential Lot size; Proposed Lot 4 has an area of 2.142 hectares and is predominantly located within the 1(a) General Rural Zone is: <ul style="list-style-type: none"> to be used for the purposes of a public park (recreation area); a recreation area is a permissible use within the 1(a) General Rural Zone; the subject land to be dedicated to Council to be maintained as public park; land will act as a buffer between rural and residential landuses. The majority of the western boundary portion of proposed Lot 4 which is located within the 1(a) General Rural Zone contains a degraded creek which will be subject to the implementation of a riparian buffer in accordance with a Controlled Activity Approval required under the Water Management Act 2000, and with Byron DCP2010 Chapter 22. 	>10%	DOP	30/08/2012
10.2012.274.1	LOT: 17 DP: 258780	258780		25 Paterson ST	BYRON BAY	2481	Residential - Single new dwelling	Byron LEP	2(a) - Residential Zone	Clause 40 (Height of Buildings) Byron LEP	<ul style="list-style-type: none"> The information provided demonstrates that the variation to the height of the topmost floor will have no significant impact on the amenity of the residents on the site and on adjoining land. The proposed building design is compatible with the predominantly double storey theme of development on both this site and the adjoining site. This report concludes that Council may be satisfied that the objection is well founded and that the granting of consent to this development application is consistent with the aims of this Policy. As the uppermost floor is to be constructed over an existing storey below strict compliance with this development standard is not possible without a reduction in the ceiling height below, therefore strict compliance with the standard would inhibit the development. 	<10%	COUNCIL	31/08/2012

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10.2012.337.1	LOT: 22 DP: 617306	116970	164	Lighthouse RD	BYRON BAY	2481	Residential - Additions	Byron LEP	2(a) - Residential Zone	Clause 14 - Floor Space Ratio	<ul style="list-style-type: none"> The proposal reduces the extent of non-compliance with the floor space ratio development standard without significant environmental, amenity or visual impact in the locality. The proposal improves the functionality of the existing dwelling-house in an ecologically sustainable manner. The proposal increases the availability of parking on the site, thereby reducing the need to find parking on the street in an area where on-street parking is not available, thus improving traffic safety and potential for conflict. The proposal does not require the removal of any significant trees, only one golden cane palm, and the site complies with the requirement that at least 25% is to be landscaped. 	11.60%	COUNCIL	4/07/2012
December 2012														
10.2012.324.1	LOT: 2	1135516	345	St Helena Road	MCLEODS SHOOT	2481	Subdivision Only	Byron LEP	1(a) - General Rural Zone/7(d) - Scenic Escarpment	Clause 11 (Minimum lot size) Byron LEP	<ul style="list-style-type: none"> The variation is justified as the resulting subdivision provides for the underlying objectives to be met whereas strict application of the standard would result in the objectives being undermined. Strict compliance with the standard is considered unreasonable, unnecessary and not practical in the circumstances of the site. The application does not raise any matter of significance for state or regional planning. No public benefit is likely to result from maintaining the numerical development standard in the circumstances of the particular case. The objection is sought, not to depart from sound planning, but to provide a reasonable solution to the circumstances of the situation. The proposal is consistent with the objectives of the applicable zones. The resulting pattern of settlement is consistent with that of the surrounding locality of the site. 	>10%	DOP	8/11/2012
10.2012.410.1	LOT: 380	720451	170	Tandys Lane	BRUNSWICK HEADS	2483	Subdivision Only	Byron LEP	1(a) - General Rural Zone/7(a) - Wetlands Zone	Clause 11 (Minimum lot size) Byron LEP	<ul style="list-style-type: none"> There will be no reduction in viable agricultural land and no additional dwelling entitlements will be created. The current land use for both lots is rural residential. The proposal will maintain that land use and will not decrease the agricultural viability. The existing dwellings will continue to be located on separate lots. 	>10%	COUNCIL	8/11/2012
10.2012.445.1	LOT: 108	1038243	37	Leslie Street	BANGALOW	2479	Residential - Additions	Byron LEP	2(a) - Residential Zone	Clause 14 - Floor Space Ratio	<ul style="list-style-type: none"> Optimisation of the space within the structure enables the development to achieve a more economically viable development, without changing the built form of the building, and thus without changing the residential character of the area. A positive environmental outcome flows from the variation. The only variation occurs beneath and within the outer confines of the existing dwelling, thus not altering approved site cover or landscaped areas. The variation sought cannot be considered as a component of the design which would detract from the general streetscape of the area, or detract from the amenity of any adjoining development. The proposed visually isolated internal floor area which causes this breach is compensated for by the retention of approved site cover and landscaped area, and is located beneath a dwelling which has considerable architectural merit. The breach cannot be seen as resulting in a development which would detract from the visual integrity of the area. The changes are internal, and will not impede views from adjacent properties, will not alter the built streetscape, will not detract from solar access to adjoining buildings, and in no way detracts from the visual character of the area. The breach results from a desire to better utilise existing subfloor space, is a positive environmental outcome as it achieves sensible and permissible use of an existing building, and preserves the existing residential character of the area. The proposal is a responsible and efficient use of land resources and occurs without detracting from the visual or environmental amenity of the area, and assists in preserving the residential character of the site, particularly as the use of the existing subfloor achieves ecologically sustainable development by using existing site cover to achieve an additional bedroom, thus minimising site works and environmental impact. The departure will result in the more orderly economic use of this land. The development cannot be considered as placing undue load beyond the capacity of the local utility services within the area. The FSR does not increase the density of development, and the use of existing subfloor does not increase site cover or reduce landscaped area about this approved single dwelling. 	11%	COUNCIL	20/12/2012

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10.2012.407.1	LOT: 7	1060988	45-47	Lawson Street	BYRON BAY	2481	Commercial	North Coast REP and Byron LEP	7(f2) - Urban Coastal Lands Zone	Clause 32 - North Coast REP Clause 40 - Height of buildings	<p>Clause 32:</p> <ul style="list-style-type: none"> The existing site development and approved/commenced approvals impact on the portion of the reserve to the east of the site in terms of overshadowing; The proposed increase in overshadowing is not considered to be significant given the area involved is adjacent to Lawson Street, acts as an entry point to the greater reserve and is not directly adjacent to the beach; The area is presently shaded by existing vegetation within the reserve; The area of the reserve affected is minor in the context of the reserve of as a whole; The overshadowing resulting from the proposal occurs in midsummer which is a less critical time than midwinter in terms of the provision of solar access; <p>The proposed building design is superior to the approved/commenced scheme and the building will make a positive contribution to the existing streetscape and locality in general.</p> <p>Clause 40</p> <ul style="list-style-type: none"> The maximum overall building height is significantly less than that of the existing approved and commenced scheme for the site; The variation to the maximum overall building height is minor in numeric terms, with 50% of the proposed building exceeding the height limit by less than 600mm and 98% of the building exceeding the height limit by less than 800mm; The proposed floor to ceiling heights are the minimum prescribed in the Residential Flat Design Code which Council is required to consider in determining the application in accordance with the provisions of SEPP 65; The proposed building is consistent with existing surrounding development in the locality in terms of height, bulk, scale, form and design; The design of the proposed development is architecturally superior to the approved and commenced scheme and will result in a building which contributes to the existing streetscape and character of the locality; 	>10%	COUNCIL	20/12/2012
10.2012.447.1	PT: 2 LOT	1166459, 801442, 556714	11	Granuaille Road	BANGALOW	2479	Subdivision Only	Byron LEP	1(a) - General Rural Zone / PART 1(b1) - Agricultural Protection Zone / PART 2(a) - Residential Zone	Clause 11 (Minimum Lot Size) Byron LEP	Shape and size of the allotments and due to no additional lots being created	>10%	COUNCIL	6/12/2012
10.2013.30.1	LOT: 536	DP: 238451	7	Bulgoon Court	OCEAN SHORES	2483	Residential - Single new dwelling	Byron LEP	2(a) - Residential Zone	Clause 40(2)(ii) - Height Clause 40(2)(ii)(iii) - Topmost part of the building	<ul style="list-style-type: none"> The height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land. The building design achieves an appropriate height above the existing ground level having regard to the characteristics of the site and surrounding context. 			
March 2013														
10.2012.552.1	LOT: 3	952096		The Tunnell Road	BILLINUDGEL	2483	Residential - Additions	Byron LEP	Zone No. 1(a) - General Rural Zone	Clause 40 - Height of Buildings	<ul style="list-style-type: none"> The non-compliance involves an intrusion of the roof above the 9m overall height limit which occurs due to the need to raise the building to comply with Council's flood planning levels. The average overall height of the building is 9.6m; with the maximum height being 9.89 metres. Amending the roof shape to comply with the height limit is not an option in this case as the building is proposed as a heritage item in Council's Draft LEP 2012. The proposal involves the re-use of an existing building with local heritage value and represents a sustainable use of existing resources and assets. The proposal complies with all other applicable planning provisions, including the building height plane. 	10%	COUNCIL	30/01/2013
10.2012.523.1	LOT: 7	9281	92	Lawson Street	BYRON BAY	2481	Residential - Single New Dwelling	Byron LEP	Zone No. 2(a) - Residential Zone	Clause 14 - Floor Space Ratio	<ul style="list-style-type: none"> The proposal reduces the extent of non-compliance with the floor space ratio development standard without significant environmental, amenity or visual impact in the locality. The proposal improves the functionality of the dwelling-house in an ecologically sustainable manner. The proposal does not require the removal of any significant trees other than some Golden Cane Palms, and the site complies with the requirement that at least 25% is to be landscaped. 	8%	COUNCIL	7/02/2013
10.2012.319.1	LOT: 8	DP: 6441	74	Paterson Street	BYRON BAY	2481	Residential - Single new dwelling	Byron LEP	Zone No. 2(a) - Residential Zone	Clause 40 - Height of Buildings	<ul style="list-style-type: none"> The information provided demonstrates that compliance with the development standard is unreasonable in the circumstances. The proposal to make alterations and additions to an existing building represents a sustainable use of existing resources and assets. The bulk and scale of this building will not be out of character with the development in this area. The breach of the upper limit applies to a small section of the floor and does not indicate a building that is intrinsically large. The development is aesthetically pleasing, compatible with the rest of the development, and provides the home owner with a useable development that meets their needs. The matters listed in Clauses 7 & 8 have been considered and are supported by this report. The report demonstrates that Council may be satisfied that the objection is well founded and that the granting consent to this development application is consistent with the aims of this Policy. 	>10%	COUNCIL	14/03/2013

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10.2013.30.1	LOT: 536	DP: 238451		7 Bulgood Crescent	OCEAN SHORES	2483	Residential - Single New Dwelling	Byron LEP	Zone No. 2(a) - Residential Zone	Clause 40 - Height of Buildings	<ul style="list-style-type: none"> The location of the dwelling-house is characterised by steeply sloping land beyond the area of the levelled part. The eastern side of the dwelling-house is at or near the ground level whereas the western side of the dwelling-house, where the land slopes steeply underneath the building (at a gradient of approximately 30%) is significantly raised above ground level as a result. Part of the first floor level is the cause of the breach of the development standard, however it is limited in area, is remote from boundaries and does not result in a building height or scale which is out of character in the area. Surrounding development is characterised by one and two storey dwelling-houses. The position of the proposed dwelling-house is set down below the level of the land at the eastern side of the site ensuring that the building will not protrude above the skyline when viewed from areas to the west. The floor area of the part of the building which is above the height development standard is only a main bedroom with ensuite and small verandah. The outlook of the bedroom and verandah is towards the rear of the site, the proposal will not cause significant overlooking impacts to the rear neighbouring properties which are over 35m away and there is significant intervening vegetative screening along common boundaries. The main bedroom and verandah are set well back from all boundaries and do not overlook sensitive side boundary areas. The height and scale of the 	>10%	COUNCIL	14/03/2013
June 2013														
10.2012.494.1	LOT: 3	DP: 605779		291 Middle Pocket Road	MIDDLE POCKET	2483	Residential - Single New Dwelling	Byron LEP	1(a) - General Rural Zone	Clause 15 - Dwelling-houses	<ul style="list-style-type: none"> Variation maintains historic development levels; achieves positive environmental outcomes through responsible landuse improvement of onsite effluent treatment and disposal systems increased native landscaping permissible use preserves the existing rural density and character of the area, 	>10%	COUNCIL	2/04/2013
10.2013.63.1	LOT: 8	DP: 249231		26 Brownell Drive	BYRON BAY	2481	Residential - Single New Dwelling	Byron LEP	2(a) - Residential Zone	Clause 40(2)(ii)	The building complies with the 9.0m overall height limit. The height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.	>10%	COUNCIL	27/05/2013
10.2013.71.1	LOT: 2	DP: 1173905		207 Eureka Road	EUREKA	2480	Subdivision Only	Byron LEP	1(b2)- Agricultural Protection Zone	Clause 11 - Minimum lot size	<ul style="list-style-type: none"> The proposal is unlikely to create a precedent and is consistent with the underlying purpose of the development standard and the objectives of the 1(a) General Rural zone; and There is no public benefit from maintaining the development standard in this case. 	>10%	COUNCIL	17/04/2013
10.2011.306.1	LOT: 2	DP: 1131866		139 Broken Head Road	BROKEN HEAD	2481	Tourist	Byron LEP	2(t) - Tourist Zone, 7(a) - Wetlands Zone, 7(b) - Coastal Habitat Zone, 7(d) - Scenic Escarpment Zone, 7(f1) - Coastal Lands Zone	Clause 11 - Minimum lot size	<ul style="list-style-type: none"> the area of the existing allotment (Lot 2 DP 1131866) is 21.64 hectares. The allotment is already less than the 40 hectare minimum; a dwelling already exists on proposed Lot 1 and the subdivision will not result in an intensification of use of this residue lot, and the objection has planning merit by facilitating the excision of the 1.39 hectares of 2(t) Tourist Area Land from land zoned for Environmental Protection purposes. 	>10%	DOP	27/06/2013
10.2011.193.1	LOT: 282	DP: 1018663		Bottlebrush Crescent	SUFFOLK PARK	2481	Subdivision Only	Byron LEP	2(a) - Residential Zone/7(d) - Scenic Escarpment Zone	Clause 11 - Minimum lot size	<ul style="list-style-type: none"> existing Lot 282 has an area of approximately 7.4 hectares and is already significantly less than the minimum lot size for the 7(d) and 7(k) zones; the proposal does not fragment the land within the 7(d) and 7(k) zones with that land to be within a single Neighbourhood Lot which should allow for improved environmental protection and management of these areas; the proposal seeks to subdivide land within the 2(a) Residential Zone in accordance with the minimum lot size requirements of Council's DCP 2010; the proposal incorporates adequate buffer areas between environmental protection zones and the residential land uses, and the proposal is considered to be consistent with the relevant objectives of Byron LEP 1988. 	>10%	COUNCIL	27/05/2013
10.2013.34.1	LOT: 6 / PT	DP: 860179 / DP: 568162		821-823 Broken Head Road	BROKEN HEAD	2481	Subdivision Only	Byron LEP	2(a) - Residential Zone/7(d) - Scenic Escarpment Zone/ 7(k) Habitat Zone	Clause 11 - Minimum lot size	Existing allotments are already below this standard; The objection is well-founded and is consistent with the aims of SEPP 1	>10	COUNCIL	27/03/2013
10.2012.577.1	Lot 474	DP: 238451		140 Orana Road	OCEAN SHORES	2483	Residential - New	Byron LEP	2(a) - Residential Zone	Clause 40 - Height of buildings	<ul style="list-style-type: none"> Non compliant building is setback from the street to the rear of the lot and lower down the slope. The proposed house will be lower than the building adjacent double storey building to the west and will not impact on the views to Brunswick River & Cape Byron from that dwelling. The proposed dwelling will not result in excessive overshadowing of adjacent dwellings (shadow diagrams provided). The proposal is compliant, with regard to height, under the Draft BLEP2012. 	>10%	COUNCIL	27/03/2013
10.2013.43.1	Lot 1 / Lot 2	DP 1168642 / DP 1168642		45/813 Myocum Ridge Road / Myocum Road	MYOCUM	2483	Subdivision Only	Byron LEP	1(b1) Agricultural Protection Zone and 7(d) Scenic Escarpment Zone	Clause 11 - Minimum lot size.	Existing allotments are already below this standard; The objection is well-founded and is consistent with the aims of SEPP 1	>10%	COUNCIL	27/03/2013
10.2012.484.1	Lot 112	DP: 1071573		17 Player Parade	OCEAN SHORES	2483	Residential - New second occupancy	Byron LEP	2(a) - Residential Zone	Clause 40 - Height of buildings	<ul style="list-style-type: none"> The location of the existing dwelling-house is characterised by steeply sloping land in the order of approximately 30%. Surrounding development is characterised by one and two storey dwelling-houses. The land slopes steeply down to the rear boundary. The height and scale of development is appropriate to its location, surrounding development, environmental characteristics of the land and the design of the existing building. 	>10%	COUNCIL	27/03/2013

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10.2013.507.1	Lot 13	DP: 1094341		Coolamon Scenic Drive	OCEAN SHORES	2483	Subdivision Only	Byron LEP	7(d) - Scenic Escarpment Zone	Clause 11 - Minimum lot size	<ul style="list-style-type: none"> No additional dwelling entitlements created; Number of lots will reduce from 6 to four with the consolidation of closed road parcels. 	>10%	DOP	3/05/2013