

**Register of Development Applications Approved with a  
Variation to a Development Standard  
January – December 2016**

<b>Development Application No:</b>	2016/240
<b>Applicant's Name &amp; Address:</b>	Ardill Payne & Partners
	PO Box 20
	BALLINA NSW 2478
<b>Determined by:</b>  (under Delegated Authority – s.378 of LG Act 1993 /DAP/Council/JRPP/NSW DoPE)	Delegated Authority
<b>Subject Land:</b>	Lot 457 DP 1220590, Deadmans Creek Road CUMBALUM
<b>Description of Proposed Development:</b>	To Undertake a Torrens Title Subdivision in Two Stages, Comprising 26 Residential Lots and One Residue Lot, Earthworks, Road Construction, Infrastructure Provision and Associated Works
<b>Does the Proposal involve a variation to a Development Standard?</b>	Yes
<b>Category of Development</b>	13 Subdivision Only
<b>Environmental Planning Instrument</b>	Ballina Local Environmental Plan 1987
<b>Zoning of Land</b>	7(l) – Environmental Protection (Habitat) zone
<b>Development Standard to be Varied</b>	40ha minimum lot size
<b>Justification of Variation</b>	The residue lot contains a portion of 7(l) zoned land, which is already below the 40ha minimum lot size. The total area of 7(l) zoned land (830m <sup>2</sup> ) will not change as a result of the proposed subdivision.
<b>Extent of Variation</b>	99%
<b>Concurring Authority</b>	Director General Department of Planning and Environment
<b>Date DA determined</b>	25 October 2016

<b>Development Application No:</b>	2016/123
<b>Applicant's Name &amp; Address:</b>	B & P Surveys
	10 Nerang Street
	NERANG QLD 4211
<b>Determined by:</b>  (under Delegated Authority – s.378 of LG Act 1993 /DAP/Council/JRPP/NSW DoP)	Delegated Authority
<b>Subject Land:</b>	Lot 265 DP 1212348, Lot 1 DP 1184436, Lot 1 DP 184117, The Coast Road SKENNARS HEAD, 305 The Coast Road SKENNARS HEAD
<b>Description of Proposed Development:</b>	Boundary adjustment subdivision of three existing lots to create 1 x 48ha, 1 x 33ha and 1 x 18ha allotments
<b>Does the Proposal involve a variation to a Development Standard?</b>	Yes
<b>Category of Development</b>	13: Subdivision Only
<b>Environmental Planning Instrument</b>	Ballina Local Environmental Plan 1987
<b>Zoning of Land under LEP 1987</b>	<p>Proposed Lot 5:</p> <ul style="list-style-type: none"> <li>• 7(a) Environmental Protection (Wetlands)</li> <li>• 1(b) Rural (Secondary Agricultural Land)</li> <li>• 1(d) Rural (Urban Investigation)</li> </ul> <p>Proposed Lot 6:</p> <ul style="list-style-type: none"> <li>• 7(d) Environmental Protection (Scenic/Escarpment)</li> </ul> <p>Proposed Lot 7:</p> <ul style="list-style-type: none"> <li>• 7(d) Environmental Protection (Scenic/Escarpment)</li> <li>• 7(f) Environmental Protection (Coastal Lands)</li> </ul>
<b>Development Standard to be Varied</b>	Clause 11(2)(b) - minimum lot size 40ha
<b>Justification of Variation</b>	<ul style="list-style-type: none"> <li>• The proposal does not create additional lots or additional opportunities for dwellings</li> <li>• The proposal does not further fragment rural land</li> <li>• There is no public benefit in maintaining the development standard in this instance as to do so would prevent the rationalisation of the lot configuration and may affect the future development of the residential zoned land.</li> </ul>

<b>Extent of Variation</b>	<p>Proposed Lot 5:</p> <ul style="list-style-type: none"> <li>• 7(a) Environmental Protection (Wetlands) = 14%</li> <li>• 1(b) Rural (Secondary Agricultural Land) = 95%</li> <li>• 1(d) Rural (Urban Investigation) = 94%</li> </ul> <p>Proposed Lot 6:</p> <ul style="list-style-type: none"> <li>• 7(d) Environmental Protection (Scenic/Escarpment) = 86%.</li> </ul> <p>Proposed Lot 7:</p> <ul style="list-style-type: none"> <li>• 7(d) Environmental Protection (Scenic/Escarpment) = 94%</li> <li>• 7(f) Environmental Protection (Coastal Lands) = 83%</li> </ul>
<b>Concurring Authority</b>	<p>Concurrence was issued for the proposed SEPP 1 variation by the Department of Planning and Environment on 12 August 2016.</p>
<b>Date DA determined</b>	<p>6 September 2016</p>

<b>Development Application No:</b>	2002/566
<b>Modification Type</b> i.e. 96(1), 96(1A), 96(2) or 96AA	96(1A)
<b>Modification No.</b> (e.g. Modification No. 1, 2, or 3 etc..)	7
<b>Applicant's Name &amp; Address:</b>	Ardill Payne & Partners
	PO Box 20
	BALLINA NSW 2478
<b>Determined by:</b> (under Delegated Authority – s.378 of LG Act 1993 /DAP)	Delegated Authority
<b>Subject Land:</b>	Lot 14 DP 1156992, 71 Tamarind Drive BALLINA
<b>Description of Approved Development:</b>	To carry out an urban subdivision creating a residential estate including associated open space areas.
<b>Description of Proposed Modification:</b>	Alter lot layout, road configuration (six additional lots) and method of stormwater disposal.
<b>Does the Proposal involve a variation to a Development Standard?</b>	Yes
<b>Category of Development</b>	13: Subdivision Only
<b>Environmental Planning Instrument</b>	Ballina LEP 2012
<b>Zoning of Land</b>	R3 Medium Density Residential
<b>Development Standard to be Varied</b>	Clause 4.1 - 600m <sup>2</sup> minimum lot size.
<b>Justification of Variation</b>	The proposed modification reduces the number of non-compliant allotments from 22 to 13.
<b>Extent of Variation</b>	13 of the proposed allotments have an area of less than 600m <sup>2</sup> . The extent of variation is 1-10%.
<b>Concurring Authority</b>	Council (under assumed concurrence of the Director General of the Department of Planning and Environment)
<b>Date DA determined</b>	18 July 2016

<b>Development Application No:</b>	2015/468
<b>Applicant's Name &amp; Address:</b>	Ardill Payne & Partners
	PO Box 20
	BALLINA NSW 2478
<b>Determined by:</b>  (under Delegated Authority – s.378 of LG Act 1993 /DAP/Council/JRPP/NSW DoP)	Delegated Authority
<b>Subject Land:</b>	Lot 425 DP1219233, Ballina Heights Drive, CUMBALUM  Lot 409 DP 1202454, Deadmans Creek Road, CUMBALUM
<b>Description of Proposed Development:</b>	To undertake a Torrens Title Subdivision to create 179 Residential Lots, Two Residue Lots and associated Infrastructure Works
<b>Does the Proposal involve a variation to a Development Standard?</b>	Yes
<b>Category of Development</b>	13 – Subdivision Only
<b>Environmental Planning Instrument</b>	Ballina Local Environmental Plan 1987
<b>Zoning of Land</b>	7(l) – Environmental Protection (Habitat) zone
<b>Development Standard to be Varied</b>	40ha minimum lot size
<b>Justification of Variation</b>	The residue lots each contain a portion of 7(l) zoned land, both of which are already below the 40ha minimum lot size. The total area of 7(l) zoned land (approx. 5.4ha – proposed Lot 180 contains 830m <sup>2</sup> and proposed Lot 181 contains 5.32ha) will not change as a result of the proposed subdivision.
<b>Extent of Variation</b>	Approximately 86.5%
<b>Concurring Authority</b>	Director General Department of Planning and Environment
<b>Date DA determined</b>	24 June 2016

<b>Development Application No:</b>	2016/93
<b>Applicant's Name &amp; Address:</b>	Planners North
	PO Box 538
	LENNOX HEAD NSW 2478
<b>Determined by:</b>  (under Delegated Authority – s.378 of LG Act 1993 /DAP/Council/JRPP/NSW DoP)	Council Approved
<b>Subject Land:</b>	Lot 11 DP 1011575, 565-589 River Street, Ballina
<b>Description of Proposed Development:</b>	To change the layout and built form of the approved highway service centre (DA 2010/962) and associated civil infrastructure.
<b>Does the Proposal involve a variation to a Development Standard?</b>	Yes
<b>Category of Development</b>	8 – Commercial Premises
<b>Environmental Planning Instrument</b>	Ballina Local Environmental Plan 2012
<b>Zoning of Land</b>	RU2 – Rural Landscape BLEP 2012 2(a) Living Area
<b>Development Standard to be Varied</b>	Height
<b>Justification of Variation</b>	<p>The proponent has stated that for Building A the roof above the top plate is subject to the provisions of Clause 5.6 of BLEP12. Council is empowered to approve the architectural roof features above the conforming top plate level because the Building A roof form:</p> <ul style="list-style-type: none"> <li>• is a deliberate architecture roof feature</li> <li>• comprise decorative elements on the upper portion of the building</li> <li>• is not advertising structures</li> <li>• does not contain floor space which is reasonable capable of modification to include additional floor space</li> <li>• will not cause overshadowing impacts on adjoining property owners or adversely affect amenity</li> <li>• signage, plant and equipment is fully integrated into the Building A roof feature.</li> </ul> <p>In consideration of Clause 5.6 of BLEP 2012, the architectural roof feature which projects above the maximum height control is supported.</p>

<b>Extent of Variation</b>	25%
<b>Concurring Authority</b>	Council (under assumed concurrence of the Director General of the Department of Planning and Environment)
<b>Date DA determined</b>	26 May 2016

<b>Development Application No:</b>	2015/351
<b>Applicant's Name &amp; Address:</b>	Newton Denny Chapelle
	PO Box 1138
	LISMORE NSW 2480
<b>Determined by:</b>  (under Delegated Authority – s.378 of LG Act 1993 /DAP/Council/JRPP/NSW DoP)	Delegated Authority
<b>Subject Land:</b>	Lot: 6 DP: 1161720, Lot: 98 DP: 1197735, Lot: 16 DP: 1204621, 93 Rifle Range Road WOLLONGBAR, Plateau Drive WOLLONGBAR
<b>Description of Proposed Development:</b>	To undertake a Torrens Title Subdivision comprising 22 x Residential Lots, Two x Drainage Lots, Two x Residue Lots, associated Infrastructure Works, Earthworks and Vegetation Management Works
<b>Does the Proposal involve a variation to a Development Standard?</b>	Yes
<b>Category of Development</b>	13 – Subdivision only
<b>Environmental Planning Instrument</b>	BLEP 1987
<b>Zoning of Land</b>	7(d) – Environmental Protection (Scenic/Escarpment) Zone
<b>Development Standard to be Varied</b>	40ha minimum lot size
<b>Justification of Variation</b>	7(d) zoned land within subject allotment is already below the minimum lot size. The area of 7(d) zoned land will not change as a result of the proposal.
<b>Extent of Variation</b>	85% variation
<b>Concurring Authority</b>	Department of Planning and Environment
<b>Date DA determined</b>	18 March 2016



<b>Development Application No.:</b>	2015/098
<b>Applicant's Name &amp; Address:</b>	Ardill Payne & Partners PO Box 20 BALLINA NSW 2478
<b>Determined by:</b> <small>(under Delegated Authority – s.378 of LG Act 1993 /DAP/Council/JRPP/NSW DoP)</small>	Delegated Authority
<b>Subject Land:</b>	Lot: 5 DP: 38190, 17 Hill Street EAST BALLINA
<b>Proposed Development</b>	Proposed dwelling as depicted in plans prepared by Arthur Colledge Project RVT 3908 dated 25.2.2015
<b>Does the Proposal involve a variation to a Development Standard?</b>	<p>Yes –</p> <p>Applicant requests an exception to BLEP Clause 4.3 relating to building height and 4.4 relating to floor space ratio.</p> <p>Note – this development standard variation was approved by Council at it's Ordinary Meeting of 28.1.2016</p> <p>Clause 4.3 Height of Buildings</p> <p>Highest part of proposed dwelling is 12.98 metres above ground level being 31.916m AHD however the dwelling is generally compliant with Council's maximum height of 8.5m. Part of the roof and walls are point encroachments.</p> <p>Clause 4.6 of the Ballina Local Environmental Plan 2012 allows Exceptions to Development Standards, and the applicant has requested Exception to the 8.5m Height requirements of Clause 4.3.</p> <p>Objectives of the Height requirement are:</p> <ol style="list-style-type: none"> <li>1. Ensure that the height of the building is compatible with the bulk, scale and character of the locality;</li> <li>2. Minimise adverse impacts on existing future amenity of adjoining properties and the scenic or landscape quality of the area;</li> <li>3. Protect significant views from public places.</li> </ol> <p>This side of Hill street is a particularly problematic area for building dwellings due to the severe slope of the ground as it falls away towards Shaws Bay. Typical building design is the appearance of a single storey at the street</p>

level with other storeys below as the land falls away.

The spectacular views and value of the land attract persons wishing to construct substantial buildings on modest sized blocks (600 sq metres). The applicant has stepped the building down the hill and in some parts it is three storeys in height which contravenes the prescriptive controls of DCP 4. These will be addressed later in the assessment.

Further to the objectives of Clause 4.3 for the height requirement, the proposed building, while being greater in bulk and scale than some of the modest older adjoining buildings, will be compatible with the bulk, scale and character of the locality as other buildings are of a similar design and this has a single storey fronting Hill Street.

The scenic or landscape quality of the area will not be affected as these are the final two vacant blocks and any redevelopment of other blocks would be expected to be of similar scale. The scenic quality of the area has already been determined by the existing buildings.

Significant views from public places will be protected as per reasonable expectation as the building is being kept to single storey at the street level.

The development is permissible within the R2 zone and the 8.5m height limit is not considered practical for such steep sloping blocks. It is noted that other buildings are over 8.5 metres in height and have a rise of three storeys.

Neighbour notification resulted in one objection which will be the subject of a DAP Report. It is of course noted that the owner of the adjoining vacant block at No.15 has a DA for a similar building before Council.

In conclusion the Height requirement of Clause 4.3 is not appropriate for this terrain and the proposal will be typical of development along Hill Street (see attached photos)

Clause 4.4 Floor Space Ratio

	<p>Objectives of this Clause are the same as Objectives 1 and 2 under the Height of Buildings Clause.</p> <p>Note: This variation to the Development Standard was approved by Council at it's Ordinary Meeting of 28.1.2016</p> <p>The floor is 47 square metres over the required floor area of 300 square metres. The utilisation of the lower level as a craft room being 54 square metres pushes the building over the compliant area. On such a steep block with no useable yard area it is understandable to maximise available areas and a subfloor area with habitable floor to ceiling dimensions lends itself to such use.</p> <p>The Objectives 1 and 2 are still achieved by the extra floor area.</p>
<b>Category of Development</b>	Dwelling
<b>Environmental Planning Instrument</b>	BLEP 2012
<b>Zoning of land under the BLEP 2012</b>	R2 Low Density Residential
<b>Development Standard varied</b>	<p>Clause 4.3 – Height of Buildings</p> <p>Clause 4.4 – Floor Space Ratio</p>
<b>Justification of the variation</b>	See above
<b>Extent of the variation</b>	<p>Height of Buildings - Part encroachment to a maximum height of 12.98 metres</p> <p>Floor Space Ratio – Encroachment of 47 square metres over the allowable 300 square metres. (0.57:1 instead of 0.5:1)</p>
<b>Concurring Authority</b>	Council under assumed Concurrence
<b>Date DA determined</b>	7 March 2016

<b>Development Application No:</b>	2015/211
<b>Applicant's Name &amp; Address:</b>	Northern Rivers Surveying Pty Ltd
	76 Tamar Street
	BALLINA NSW 2478
<b>Determined by:</b>  (under Delegated Authority – s.378 of LG Act 1993 /DAP/Council/JRPP/NSW DoP)	Delegated Authority
<b>Subject Land:</b>	Lot 3 DP 587200, Lot 2 DP 622859, No.'s 94 and 98 Rishworths Lane BROOKLET
<b>Description of Proposed Development:</b>	To undertake a staged development comprising:  1. A subdivision by way of a boundary adjustment to create 1 x 58.88ha allotment (Proposed Lot 1) and 1 x 41.29ha allotment (Proposed Lot 2); and 2. The subsequent Three Lot Rural Subdivision of Proposed Lot 1 to create 1 x 18.88ha allotment (Proposed Lot 101) and 2 x 20ha allotments (Proposed Lots 102 and 103) and a change of use of the existing rural workers dwelling on existing Lot 2 DP 622859 to a dwelling house for Proposed Lot 102.
<b>Does the Proposal involve a variation to a Development Standard?</b>	Yes
<b>Category of Development</b>	13 – Subdivision only
<b>Environmental Planning Instrument</b>	Ballina Local Environmental Plan 2012
<b>Zoning of Land</b>	RU1 – Primary Production
<b>Development Standard to be Varied</b>	20ha minimum lot size
<b>Justification of Variation</b>	The one allotment that is below the 20ha minimum lot size is still agriculturally viable, with an area of 18.88ha.
<b>Extent of Variation</b>	5.6%
<b>Concurring Authority</b>	Council under assumed concurrence
<b>Date DA determined</b>	19 February 2016

<b>Development Application No.</b>	2014/373
<b>Applicant's Name &amp; Address</b>	C Longergan PO Box 2585 BYRON BAY NSW 2481
<b>Determined by:</b>  (under Delegated Authority – s.378 of LG Act 1993 /DAP/Council/JRPP/NSW DoP)	Delegated Authority
<b>Subject Land:</b>	Lot: 4 DP: 38190, 15 Hill Street EAST BALLINA
<b>Proposed Development</b>	Proposed new principal dwelling and secondary dwelling as depicted in plans prepared by design revolutions dated 20 October 2015
<b>Does the Proposal involve a variation to a Development Standard:</b>	<p>Yes – Development Standard was varied by Council Resolution from Ordinary Meeting of 28.1.2016.</p> <p>Below is a summary of height variation.</p> <p>Highest part of proposed dwelling is 11 metres above ground level being 29.08 AHD, however the main part of the dwelling is compliant with Council's maximum height of 8.5m. Part of the roof, walls and a privacy screen are point encroachments to 11 metres but only for a total length of 2.5 metres.</p> <p>Clause 4.6 of the Ballina Local Environmental Plan 2012 allows Exceptions to Development Standards, and the applicant has requested Exception to the 8.5m Height requirements of Clause 4.3.</p> <p>Objectives of the Height requirement are:</p> <ol style="list-style-type: none"> <li>1. Ensure that the height of the building is compatible with the bulk, scale and character of the locality;</li> <li>2. Minimise adverse impacts on existing future amenity of adjoining properties and the scenic or landscape quality of the area;</li> <li>3. Protect significant views from public places.</li> </ol> <p>This side of Hill street is a particularly problematic area for building dwellings due to the severe slope of the ground as it falls away towards Shaws Bay. Typical building design is the appearance of a single storey at the street level with other storeys below as the land falls away.</p> <p>The spectacular views and value of the land attract persons wishing to construct substantial buildings. The</p>

	<p>applicant has stepped the building down the hill and in some parts it is three storeys in height which contravenes the prescriptive controls of DCP 4. These will be addressed later in the assessment.</p> <p>Further to the objectives of Clause 4.3 for the height requirement, the proposed building, while being greater in bulk and scale than some of the modest older adjoining buildings, will be compatible with the bulk, scale and character of the locality.</p> <p>The scenic or landscape quality of the area will not be affected as these are the final two vacant blocks and any redevelopment of other blocks would be expected to be of similar scale. The scenic quality of the area has already been determined by the existing buildings.</p> <p>Significant views from public places will be protected as per reasonable expectation as the building is being kept to single storey at the street level.</p> <p>The development is permissible within the R2 zone and the 8.5m height limit is not considered practical for such steep sloping blocks. It is noted that other buildings are over 8.5 metres in height and have a rise of three storeys.</p> <p>Neighbour notification did not result in any objections. It is of course noted that the owner of the adjoining vacant block at No.17 has a DA for a similar building before Council.</p> <p>In conclusion the Height requirement of Clause 4.3 is not appropriate for this terrain and the proposal will be typical of development along Hill Street (see attached photos)</p>
<b>Category of Development</b>	Dwelling with a secondary dwelling
<b>Environmental Planning Instrument</b>	BLEP 2012
<b>Zoning of land under the</b>	R2 Low Density Residential

<b>BLEP 2012</b>	
<b>Development Standard to be varied</b>	Clause 4.3 – Height of Buildings
<b>Justification of the variation</b>	See above
<b>Extent of the variation</b>	Part encroachment to a maximum height of 11 metres
<b>Concurring Authority</b>	Council under assumed concurrence
<b>Date DA determined</b>	12 February 2016

<b>Development Application No:</b>	2015/211
<b>Applicant's Name &amp; Address:</b>	Northern Rivers Surveying Pty Ltd
	76 Tamar Street
	BALLINA NSW 2478
<b>Determined by:</b>  (under Delegated Authority – s.378 of LG Act 1993 /DAP/Council/JRPP/NSW DoP)	Delegated Authority
<b>Subject Land:</b>	Lot 3 DP 587200, Lot 2 DP 622859, No.'s 94 and 98 Rishworths Lane BROOKLET
<b>Description of Proposed Development:</b>	To undertake a staged development comprising:  3. A subdivision by way of a boundary adjustment to create 1 x 58.88ha allotment (Proposed Lot 1) and 1 x 41.29ha allotment (Proposed Lot 2); and 4. The subsequent Three Lot Rural Subdivision of Proposed Lot 1 to create 1 x 18.88ha allotment (Proposed Lot 101) and 2 x 20ha allotments (Proposed Lots 102 and 103) and a change of use of the existing rural workers dwelling on existing Lot 2 DP 622859 to a dwelling house for Proposed Lot 102.
<b>Does the Proposal involve a variation to a Development Standard?</b>	Yes
<b>Category of Development</b>	13 – Subdivision only
<b>Environmental Planning Instrument</b>	Ballina Local Environmental Plan 2012
<b>Zoning of Land</b>	RU1 – Primary Production
<b>Development Standard to be Varied</b>	20ha minimum lot size
<b>Justification of Variation</b>	The one allotment that is below the 20ha minimum lot size is still agriculturally viable, with an area of 18.88ha.
<b>Extent of Variation</b>	5.6%
<b>Concurring Authority</b>	Council under assumed concurrence
<b>Date DA determined</b>	19 February 2016