

The General Manager  
MidCoast Council  
PO Box 482  
Taree NSW 2430

Dear Sir,

**SUBJECT: STATEMENT OF ENVIRONMENTAL EFFECTS**  
**PROJECT: PROPOSED DETACHED DUAL OCCUPANCY**  
**200 WATSONS ROAD, WANG WAUK (LOT 163 DP 753156)**

## 1. Introduction

This Statement of Environmental Effects (SEE) has been prepared to accompany a Development Application for a proposed Detached Dual Occupancy at 200 Watsons Road, Wang Wauk (Lot 163 DP 753156). The site of the proposed development is shown in **Figure 1**.

### Figure 1 – Site Location

Source: MidCoast Council Online Mapping  
North ^



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This SEE provides an assessment of the impacts of the proposed development.

The decision-making process for the proposed development of land falls under Part 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act). The Council, in deciding whether consent should be granted, must examine and consider relevant matters for consideration. This report is intended to assist in this decision-making process and to provide information that satisfies the requirements of Section 4.15 of the EP&A Act.

The proposed development is not an integrated development.

## 2. The Proposed Development

200 Watsons Road is a rural property located at Wang Wauk. 200 Watsons Road, or otherwise known as Sanctuary Hill Retreat, is located at the end of Watsons Road off Bunyah Road, 35 minutes' drive from Foster/Tuncurry. The gentle slopes of the farm provide distant views of the mountains, rolling hills and sea views to the east from many locations and will entice afternoon walks. Local dining and shop access is only 20 minutes' drive to Nambucca for hotel entertainment, quality restaurants, cafes and shops.

The property holding has a total area of 43 hectares and is used for cattle farming. The land has an existing approved managers residence located thereon that is being used as short-term accommodation, and other farm buildings and infrastructure.

The proposed development includes the erection of a new dwelling being a detached dual occupancy.

Plans of the proposed development are attached to the Development Application.

## 3. Greater Taree Local Environmental Plan 2010

### Zoning

The land is zoned RU1 under the provisions of Greater Taree Local Environmental Plan 2010 (LEP 2010). The objectives of the RU1 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To permit small scale rural tourism uses associated with primary production and environmental conservation with minimal impact on primary production and the scenic amenity of the area.*

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- *To maintain the rural landscape character of the land.*
- *To protect and enhance the native flora, fauna and biodiversity links.*
- *To secure a future for agriculture in the area by minimising the fragmentation of rural land and loss of potential agricultural productivity.*

It is submitted that the proposed development is wholly consistent with, and will meet, the above-mentioned objectives of the RU1 zone.

### Dual Occupancy Provisions

Clause 4.2C of LEP 2010 outlines the provisions for the erection of dual occupancies in the RU1 zone.

*(1) The objective of this clause is to ensure that development is compatible with the primary production potential, rural character and environmental capabilities of the land.*

*(2) Development consent must not be granted to development for the purpose of a dual occupancy on land in Zone RU1 Primary Production unless the consent authority is satisfied that—*

*(a) the development will not impair the use of the land for agriculture or rural industries, and*

*(b) any dwellings will be situated within 100 metres of each other, and*

*(c) the land is physically suitable for the development, and*

*(d) the land is capable of accommodating the on-site disposal and management of sewage for the development, and*

*(e) each dwelling will use the same vehicular access to and from a public road and share a common fire break, and*

*(f) the dwellings will not have an adverse impact on the scenic amenity or character of the rural environment, and*

*(g) the development will not have an adverse impact on any riparian areas or on the supply of water to adjoining land.*

The land is physically suitable for the development. The residence is however located greater than 100m (274m) from the existing residence on the land and therefore does not comply with Clause 4.2C (b). A request for variation to this development standard is therefore submitted with this development application.

It is submitted that the proposed dual occupancy:

- will not impair the use of the land for agriculture or rural industries;
- will utilise the existing approved effluent disposal system for the Camping Ground which has adequate capacity to cater for the increased dwelling size;

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- will have the same vehicular access as the existing dwelling;
- will not have an adverse impact on the scenic amenity or character of the rural environment; and
- will not have an adverse impact on any riparian areas or on the supply of water to adjoining land.

### Clause 4.3 Height of buildings

*(1) The objectives of this clause are as follows—*

*(a) to ensure that the scale of proposed buildings is compatible with the existing environmental character and the desired future urban character of the locality,*

*(b) to encourage residential development that is consistent with AS 4299–1995, Adaptable housing.*

*(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The proposed development does not exceed the maximum height of 8.5 metres as indicated on the Height of Buildings Map.

### Clause 7.5 Stormwater Management

*(1) The objective of this clause is to minimise the impacts of stormwater on land to which this clause applies and on adjoining properties, native bushland, groundwater, wetlands and receiving waters.*

*(2) Development consent must not be granted to development on any land unless the consent authority is satisfied that the development—*

*(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*

*(b) is designed to minimise the use of impervious surfaces on the land, directing run off to piped drainage systems and waterways, and*

*(c) is designed to integrate water sensitive design measures, including stormwater, groundwater and waste water management, to minimise environmental degradation and to improve the aesthetic and recreational appeal of the development, and*

*(d) incorporates an appropriately managed and maintained stormwater management system that will maintain or improve the quality of stormwater discharged from the land, and*

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*(e) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*

*(f) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland, groundwater, wetlands and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

The proposed development includes measures for the appropriate control and management of stormwater that will ensure no adverse impacts on adjoining or nearby properties.

### Clause 4.6 Variation Request

As stated above the proposed development does not comply with the requirements of Clause 4.2C(b) of LEP 2010 given that the dual occupancy would be located greater than 100m from the existing dwelling on the land.

A request for variation to the 100m development standard is therefore provided below.

The objectives of Clause 4.6 of LEP 2010 are:

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

This part of the SEE forms the submission seeking an exception to a development standard in accordance with the provisions of Clause 4.6 of the LEP and *Varying development standards: A Guide*. NSW Planning and Infrastructure. August 2011. The development standard to be varied is the 100m separation requirement for dual occupancies under Clause 4.2C(b) of Greater Taree LEP 2010.

The relevant parts of Clause 4.6 which relate to the proposed development are:

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

**The 100m separation development standard is not expressly excluded from the operation of this clause.**

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*



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*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

**Compliance with the development standard is unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the 100m separation development standard.**

**Justification for the variation to the development standard is submitted on the basis that the 100m separation development standard is unnecessary on the following grounds.**

### **No Impact of Proposal**

There is an existing Manager's Residence associated with an approved tourist facility on the land. The existing dwelling is located on the northern extent of the property and is adjacent to significant farm infrastructure and sloping land. There is no suitable location within 100m of the existing dwelling to site a second dwelling. The proposed development meets all of the other requirements of Clause 4.2C. The development outcome does not lead to an overdevelopment of the site or any adverse impact from its bulk and scale.

The proposed design meets all the required DCP requirements.

### **Council's Decision not to apply 100m separation in new LEP**

In October 2023, Council resolved to proceed with a Planning Proposal for the new consolidated Midcoast local Environmental Plan. The proposed new LEP does not contain the 100m separation requirement for detached dual occupancies in the proposed RU1 zone. The proposed design would be consistent with Council's proposed approach to detached dual occupancies in the new LEP.

In the case of *Winten v North Sydney Council* 2001 in the Land and Environment Court, Lloyd J framed a number of questions used to assess a variation to a development standard (under SEPP 1) as follows:

*i. Is the planning control a development standard?*

The minimum 100 separation requirement in Clause 4.2C(b) is a development standard.

*ii. What is the underlying object or purpose of the standard?*

The objective of the standard is to *ensure that development is compatible with the primary production potential, rural character and environmental capabilities of the land.*

The proposed development is consistent with the objective given that the development that is compatible with the existing rural character in the locality and of the land, will not adversely affect primary production on the land and is compatible with the environmental capabilities of the land.

*iii. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the relevant objects specified in Section 1.3 of the EP&A Act 1979?*

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Compliance with the development standard in this instance will not promote the orderly and economic use and development of land as there is no suitable site within 100m of the existing dwelling that can be developed without significant and uneconomic cost.

The proposed dwelling is not contrary to the objects of the Act, and the new dwelling on the land will facilitate the orderly and economic use of a parcel of land. It is unlikely that there would be any negative impacts on the natural or built environments because of the proposed development.

A better outcome for the use and management of the site in perpetuity would be achieved through the application of the flexibility provided by Clause 4.6, as the variation will enable to more efficient and economic use of the land.

### 4. Development Control Plan 2010 Assessment

Greater Taree Development Control Plan 2010 (DCP 2010) outlines the development controls for development in the former Greater Taree region. This Plan is relevant to the proposed development. Section J of DCP 2010 applies to rural development and has the following objectives:

- Encourage a high standard of development that is sympathetic with the environment;
- Protect identified environmental quality, landscapes, flora and fauna;
- Protect and maintain the viability of agricultural lands; and
- Maintain and enhance the rural or environmental scenic amenity.

The following performance criteria for dwellings in a rural zone are applicable to the proposed dwelling. Each of the provisions of this clause as it relates to the proposed development is addressed below.

The relevant performance criteria outlined in Section J1.1, J1.2 and are addressed below.

*1. On land zoned rural the following should be addressed in the use, design and siting of any proposed development:*

- *Size and shape of the allotments;*
- *Existing vegetation and any endangered ecological communities;*
- *Mineral and water resources in the locality;*
- *The potential for soils erosion and measures that may be implemented to minimise that occurrence;*
- *Any natural hazards, including but not limited to flooding and bushfire risk;*
- *Service availability;*
- *Adjoining land uses including nearby agricultural operations;*

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- *Prevailing winds, views and privacy;*
- *The scenic quality of the landscape, and any other environmental factors.*

**The proposed development will not increase the risk of natural hazards, will not impact on vegetation of or any endangered ecological facilities and will not detract from operations or the amenity of adjoining land uses.**

*3. Rural development must not reduce the potential of the land for agricultural production.*

**The proposed development will not reduce the potential of the land for agricultural production.**

*4. Rural development is not considered appropriate where the slope exceeds 18°.*

**The land does not exceed 18°.**

*1. The minimum front street/road setback is 20m.*

**The front setback is greater than 20m.**

*2. Side and rear setbacks are to be a minimum of 10m.*

**The side and rear setbacks are greater than 10m.**

*3. Dwellings must be located to minimise the removal of existing vegetation.*

**No vegetation will be removed.**

*4. Buildings should be visually unobtrusive in the overall landscape.*

**The development will be visually unobtrusive.**

*5. Buildings should complement the characteristics of the landform. Cut and fill shall be kept to a minimum.*

**Cut and fill will be equal and kept to a minimum.**

*6. The roofline of buildings should reflect the land profile within the vicinity of the development.*

**The dwelling is of rural character and has a roofline that is reflective of other dwellings in the locality.**



## **5. Environmental Assessment**

### **Vegetation**

There will be no trees removed for the proposed development.

### **Acid Sulfate Soils**

The site is not classified as containing ASS land under the provisions of GTCC LEP 2010. There will be no disturbance of ASS soils necessary to complete the development.

### **Contamination**

The subject land is identified as not potentially contaminated on Council's mapping.

### **Aboriginal Heritage**

There are no known Aboriginal heritage items on the land.

### **Bushfire**

The subject land is classified as bushfire prone Category 1 vegetation buffer in the south-eastern part of the land as shown on Council's mapping.

A Bushfire Assessment prepared in accordance with Planning for Bushfire Protection (RFS 2019) has been prepared and is included with this Development Application and is attached.

The access road to the proposed house site is greater than 200m in distance however there currently exists opportunities for passing bays every 200m. Photos of the road are shown in **Figure 2**.

**Figure 2 – Access Road**



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### **Traffic**

The proposed development will have no adverse traffic impact.

### **Flooding**

The subject land is not classified as flood affected as identified on Council's mapping.

## **6. Conclusion**

Information presented in this Statement of Environmental Effects indicates that the proposed Detached Dual Occupancy at 200 Watsons Road, Wang Wauk (Lot 163 DP 753156) is consistent with the relevant Local and State planning instruments. The potential impact of the proposed development has been examined in detail and the environmental impacts have been found to be acceptable or able to be managed so that there are no detrimental impacts. The proposed development will not adversely impact upon the surrounding environment.

Yours faithfully

**Midcoast Planning**

*A signed copy can be provided upon request.*

**TONY FISH**

Town Planner