

STATEMENT OF ENVIRONMENTAL EFFECTS

DUAL OCCUPANCY DWELLING

253 Burrundulla Road, Burrundulla



Navigate Planning

27 August 2024

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1 INTRODUCTION

This Statement of Environmental Effects (SEE) supports a development application for a dual occupancy dwelling at Lot 1 DP 198755, 253 Burrundulla Road, Burrundulla.

The development site is zoned RU4 Primary Production Small Lots under Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012). Dual occupancy dwellings are permitted with consent in this zone. It is understood that a dual occupancy is permitted on the land under clause 4.2A(3)(b) of MWRLEP 2012. Development consent was granted for the existing dwelling on the land on 12 March 2001 (M435/00).

The development is not “state significant development”, “regionally significant development”, “designated development” or “integrated development”.

A Section 68 application is required for the proposed on-site sewerage management system for the dual occupancy dwelling. This will be undertaken separately.

This SEE addresses the environmental, social and economic impacts of the proposed development.

2 PROPOSED DEVELOPMENT

The development consists of:

1. Construction of a dual occupancy dwelling.
2. Provision of a carport for the dual occupancy dwelling and a driveway to the carport from an existing gate at Burrundulla Road.
3. Upgrading of the access at the existing gate to Council's standards.
4. Provision of an on-site sewage management system.
5. Provision of a new 20,000L water tank.

The dual occupancy dwelling contains three bedrooms and is 132.24m² in size (including the verandah) and contains three bedrooms.

The dual occupancy dwelling is located in an existing cleared area on a slope above the Cudgegong River floodplain. The building is to be constructed on piers and will be timber framed with weatherboard cladding and colorbond roof.

3 SITE ANALYSIS

3.1 Existing Development

The subject land contains a dwelling and associated outbuildings (garage, sheds, water tanks, fencing etc).

The land is also used for agricultural purposes with a small vineyard in the south western corner of the site and areas of cultivation and grazing in the eastern and northern parts of the site.

Access to the existing dwelling is from a constructed access to Burrundulla Road. A separate gate to the south of the main access provides current access for farm vehicles. This access is not constructed.

An aerial photo of the site is provided below.



Source: Sixmaps

3.2 Topography, Soils and Groundwater

The subject land is predominantly flat, particularly in the eastern part of the site within the Cudgegong River floodplain. The land then rises in the western part of the site where the dwelling and vineyard is located. This part of the site is above the floodplain.

The site of the proposed development is on the slope between the floodplain and the higher part of the site.

There are no defined watercourses in the vicinity of the proposed development. A tributary of the Cudgegong River crosses the eastern corner of the site, some 350m from the site of the proposed development.

Geo-technical investigations of the site were undertaken in September 2023. The reports identify the following:

- Soils are a sandy clay loam with fine gravels.
- Bedrock is more than 1.5m below the surface.

- Groundwater is approximately 700mm below the surface.
- Soil conditions are suitable for on-site sewerage management with surface or sub-surface irrigation.

The dual occupancy dwelling is located adjacent to a vineyard. A preliminary contamination assessment has found that levels of potential contaminants all fell within safe guidelines for residential development.

3.3 Flora and Fauna

The site is mostly cleared of native vegetation, with much of the site cultivated for grape vines and fodder crops.

The site of the proposed development is cleared of trees and contains mostly exotic grasses. It is considered that the proposed development will have no direct or indirect impacts on flora or fauna habitat.

3.4 History, Heritage and Archaeology

The site does not contain a heritage item, is not in a heritage conservation area and there are no heritage items in the vicinity of the site.

A basic search of the Aboriginal Heritage Information Management System (AHIMS) found 0 records of an Aboriginal site or place within 1km of the subject land. An Aboriginal Heritage Due Diligence Assessment has been undertaken for the development (See Section 4.4)

3.5 Services (Water, Sewer, Stormwater, Power)

The proposed development will be serviced by on-site water and sewer. Electricity and telecommunication services are connected to the site. Stormwater will also be addressed on site by collection in a water tank with overflow to be directed away from the building and the effluent disposal area.

4 COMPLIANCE WITH RELEVANT LEGISLATION

4.1 Environmental Protection and Biodiversity Conservation Act 1999 (Commonwealth)

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), a person must not take an action that has, will have or is likely to have a significant impact on any of the matters of national environmental significance without the approval of the Federal Environment Minister. This includes any impacts on threatened species or endangered ecological communities (EEC) listed under the EPBC Act.

There are no known threatened species or endangered ecological communities on the site. No native vegetation is proposed to be removed for the development. The development is therefore unlikely to have a significant impact on any matters of national environmental significance. A referral to the Federal Environment Minister under the EPBC Act is not required.

4.2 Environmental Planning and Assessment Act 1979 (NSW)

4.2.1 Section 4.5 – Designation of consent authority

Pursuant to clause 4.5 (d) of the *Environmental Planning and Assessment Act 1979* (EPA Act), the Mid-Western Regional Council is the consent authority.

4.2.2 Section 4.10 – Designated development

Clause 4.10 defines designated development as development that is declared by an environmental planning instrument or the regulations as designated development. The proposal is not designated development.

4.2.3 Section 4.13 – Consultation and concurrence

Section 4.13 provides for an environmental planning instrument to identify where consultation or concurrence is required before determining a development application. There are no consultation or concurrence requirements for the development under any relevant environmental planning instrument.

4.2.4 Section 4.14 – Consultation and development consent – certain bush fire prone land

Section 4.14 requires a consent authority to consult with the NSW Rural Fire Service (RFS) if it is not satisfied that the development conforms to the document Planning for Bush Fire Protection (PFBP). The subject land is not mapped as bush fire prone land and as the whole of the site is managed land, no bushfire protection measures are considered warranted.

4.2.5 Section 4.15 – Evaluation

The following matters are relevant to the proposal under section 4.15 of the EPA Act. Detailed assessment against each of these matters is provided in Section 5 of this SEE.

State Environmental Planning Policies

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Primary Production) 2021*

Local Environmental Plans

- *Mid-Western Regional Local Environmental Plan 2012*

Draft Environmental Planning Instruments

Nil

Development Control Plans

- *Mid-Western Regional Development Control Plan 2012*

Planning Agreements

Nil

Environmental Planning and Assessment Regulation 2000

N/A

Impacts on the built environment

The proposed dual occupancy dwelling is small in scale and is located to be not overly visible from Burrundulla Road. It is considered that the development will have minimal impacts on the built environment.

The site is located on Visually Sensitive Land as defined in the MWRLEP 2012, however the development is in a relatively low lying area and will not be dominant in the skyline.

Impacts on the natural environment

The development will have minimal impacts on the natural environment. No native vegetation is proposed to be removed as part of the development. Erosion and sedimentation will be prevented through the use of controls during construction. Effluent will be appropriately managed on-site.

Social and economic impacts

The proposal will have positive social and economic impacts on the locality and the wider region, through the provision of additional family accommodation on a site that contains commercial agricultural activities.

Suitability of the site

The site is suitable for the development as it provides additional family accommodation in a manner that has minimal impacts on adjoining properties or the environment. Access to the site is via suitable sealed roads. The development can be undertaken without impact to native vegetation or any cut and fill. The proposed dual occupancy dwelling is located a sufficient distance from surrounding residences so as to minimise any visual or acoustic impacts.

The Public Interest

The development is in the public interest as it provides additional family accommodation without detrimental impacts on the local area.

4.2.6 Section 4.46 – Integrated Development

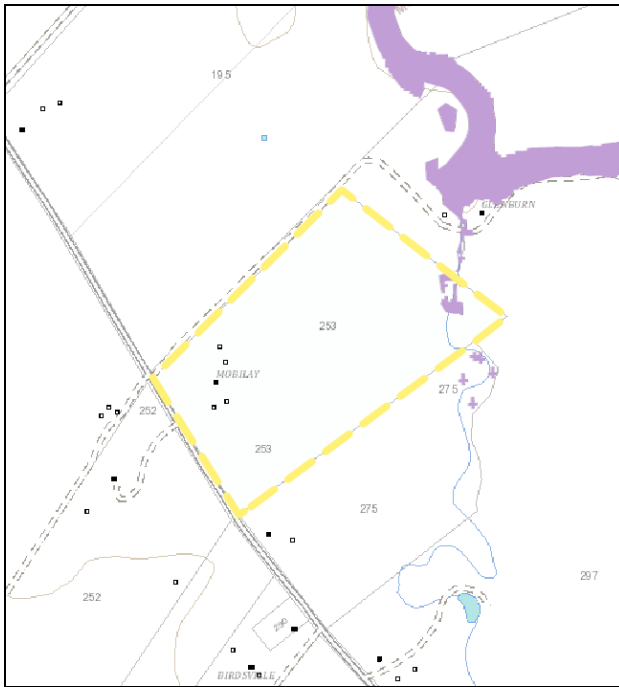
Section 4.46 of the EPA Act identifies development that requires other approvals and is therefore integrated development. The development is not integrated development. This Section therefore does not apply to the development.

4.3 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) outlines the processes for biodiversity assessments, approvals and offsets where required. The BC Act also defines biodiversity values, and these are shown as the purple areas on the Biodiversity Values Map (see the map below). While the subject land contains vegetation that is identified as having biodiversity values on the Biodiversity Values Map, the location of the cabins is outside of the mapped area. The area mapped follows a tributary of the Cudgegong River in the western corner of the site.

No native vegetation is proposed to be removed. Existing groundcover in the location of the development is predominantly introduced grasses. No threatened species are known to occur on the site.

As the site of the development is not mapped as containing biodiversity values and there is no clearing of native vegetation, the proposal does not trigger the Biodiversity Offset Scheme and therefore a Biodiversity Development Assessment Report (BDAR) is not required. It is considered that the proposed development will have no significant impact on any threatened species.



Source: *Biodiversity Values Map, NSW eplanning spatial viewer*

4.4 National Parks and Wildlife Act 1974

Part 6 of the *National Parks and Wildlife Act 1974* (NPW Act) states that it is an offence to harm or desecrate an Aboriginal object unless authorised by an Aboriginal heritage impact permit.

A basic search of the Aboriginal Heritage Information Management System (AHIMS) found no record of an Aboriginal site or place within 1km of the subject land.

An Aboriginal Heritage Due Diligence Assessment has been undertaken for the development site. The assessment has determined that:

- A very small area of natural ground surface will be disturbed for building footings and works to construct the driveway.
- There are no known Aboriginal heritage items on the land and observation has not disclosed any apparent objects.
- The site has been extensively disturbed from residential and agricultural activities.

While there is some potential for scattered artefacts to be found, it is considered that no further detailed Aboriginal archaeological assessment is warranted for the development. However, in the undertaking of all physical works on site, if any Aboriginal objects are uncovered, work shall cease and the Office of Environment and Heritage shall be notified.

5 COMPLIANCE WITH PLANNING CONTROLS

5.1 State Environmental Planning Policy (Resilience and Hazards) 2021

The overall site has a history of agricultural and residential use. The location of the proposed dual occupancy dwelling is on a slope between a vineyard and a cultivated paddock. Due to the proximity of the dual occupancy dwelling to the vineyard, a preliminary contamination assessment was undertaken. The assessment found that potential contaminants all fell within safe guidelines for residential development. The site is therefore considered suitable for the proposed use.

5.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 3 of this SEPP aims to conserve and manage areas of natural vegetation that provide habitat for koalas. The SEPP applies to land greater than 1ha in size and requires an assessment as to whether the land is potential or core koala habitat.

A search of the koala sightings bionet map has found no recent sightings of koalas within 5km of the subject land. Given no trees are proposed to be removed as part of this development and the development footprint is relatively small, it is considered that the site is not potential or core koala habitat. The proposal is unlikely to have any impact on koalas or koala habitat.

5.3 State Environmental Planning Policy (Primary Production) 2021

Part 2.2 of this SEPP relates to State significant agricultural land. While no land has yet been declared as State significant agricultural land, a Draft State Significant Agricultural Land map was prepared for public consultation. The land is identified on the Draft State Significant Agricultural Land Map, as shown below.



Source: Draft State Significant Agricultural Land Map

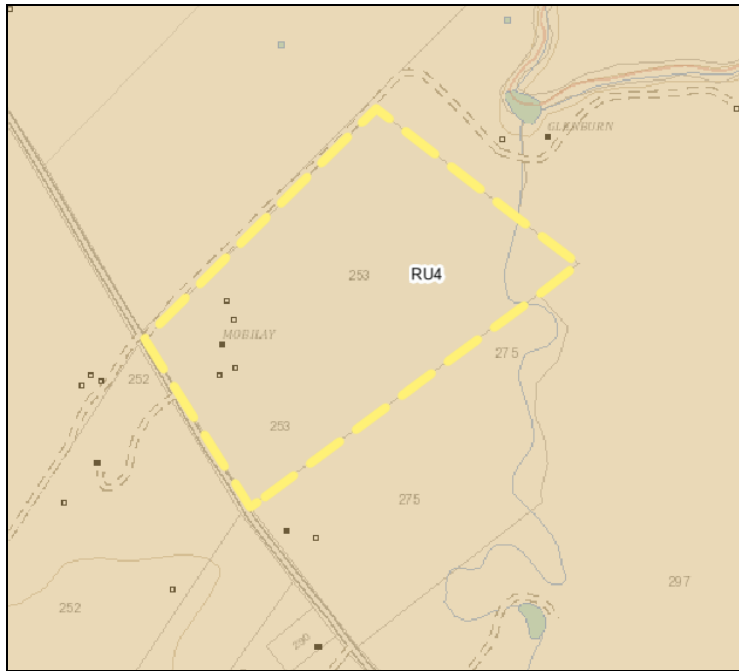
The site is and will continue to be used for commercial agricultural activities. The location of the proposed dual occupancy dwelling is on a slope between a vineyard and a cultivated paddock. The only known agricultural activity in the development area is grazing of animals. The proposed development will have no impact on the vineyard or cultivated paddock and will not significantly reduce the area of grazing on the land. The proposal provides some additional family accommodation to support the ongoing agricultural use of the land. The proposal is therefore considered appropriate for the site.

No other provisions of this SEPP are relevant to the proposed development.

5.4 Mid-Western Local Environmental Plan 2012

5.4.1 Zoning and zone objectives

The development is proposed on land included within the RU4 Primary Production Small Lots zone under the *Mid-Western Regional Local Environmental Plan 2012* (MWLEP 2012), as shown on the map below.



Source: Zoning Map, NSW eplanning spatial viewer

The objectives of the RU4 zone are:

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To ensure that land is available for intensive plant agriculture.*
- *To encourage diversity and promote employment opportunities related to primary industry enterprises, particularly those that require smaller holdings or are more intensive in nature.*

The development is consistent with the objectives of the RU4 zone. The development is associated with an approved dwelling on the land and intensive and extensive agriculture, maintains the rural setting of the locality and has minimal impacts on the local environment. The development will not increase demand for public services or facilities and will not result in any land use conflicts.

5.4.2 Land Use Permissibility

The proposed development is defined as “dual occupancy” under MWRLEP 2012.

The definition of dual occupancy is as follows:

dual occupancy means a dual occupancy (attached) or a dual occupancy (detached).

dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

Dual occupancy is permitted with consent in the RU4 zone, subject to clause 4.2A and 4.2B of the LEP (see below).

5.4.3 *Clause 4.1 – Lot Size*

The land has a minimum lot size of 20ha. The subject land is 15.35ha in size. No subdivision is proposed.

5.4.4 *Clause 4.2A – Erection of dwelling houses and dual occupancies on land in certain zones*

The proposed development is a new dwelling. With one existing dwelling on the site, the proposal is defined as a dual occupancy dwelling. As the existing dwelling has development consent from Council, the proposed dual occupancy is permitted with consent under clause 4.2A (3) (b), as follows:

(3) Development consent must not be granted for the erection of a dwelling house or dual occupancy on land in a zone to which this clause applies, and on which no dwelling house or dual occupancy has been erected, unless the land—

(b) is a lot or holding that existed before this Plan commenced and on which the erection of a dwelling house or dual occupancy was permissible immediately before that commencement,

Under the former LEP (Mudgee LEP 1998), clause 23, where a dwelling house is permitted, a dual occupancy is also permitted with consent.

5.4.5 *Clause 4.2B – Dwelling houses on land in Zone RU4 Primary Production Small Lots*

Clause 4.2B of the LEP provides the following matters for consideration for a dwelling house on land zoned RU4:

(a) the land is being used, or is intended to be used, for the purpose of intensive plant agriculture, and

(b) the dwelling house will be required to support the carrying out of the intensive plant agriculture or the irrigation of pasture and fodder crops, and

(c) the dwelling house is not likely to cause any land use conflict with existing agricultural uses being undertaken on neighbouring properties in the zone, and

(d) services for the supply of water and electricity to support that agricultural use are available or adequate arrangements have been made to make them available when required.

The proposed dual occupancy dwelling satisfies the above considerations as the land is being used for intensive plant agriculture (vineyard) and for the cultivation of pasture or fodder crops and the proposed dwelling is required for additional family accommodation to support the ongoing agricultural activities on the land. The proposed dual occupancy dwelling is proposed to be located with a large setback to adjoining land and will therefore not cause land use conflicts with adjoining agricultural activities. The site is serviced with electricity and water (bore) for agricultural use.

5.4.6 *Clause 4.3 – Building height*

There is no maximum building height in MWLEP 2012 for the subject land.

5.4.7 *Clause 5.10 – Heritage*

The site does not contain a heritage item and is not in a heritage conservation area. There are no heritage items in the vicinity of the land.

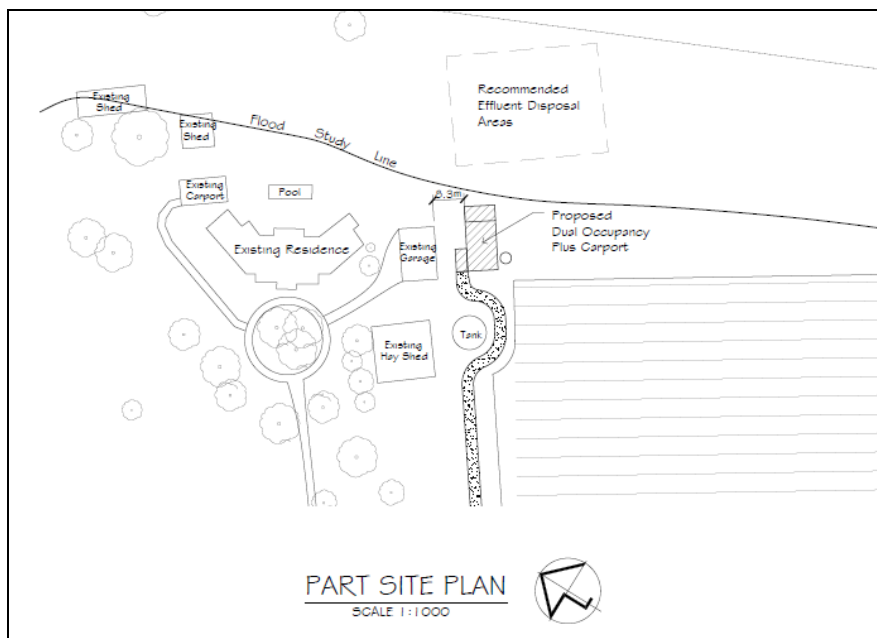
5.4.8 Clause 5.21 – Flood planning

Clause 5.21 of MWLEP 2012 requires consideration of the impacts on a development by flooding and of the impacts of development on flood behaviour. Part of the subject land is identified as flood prone as shown below.



Source: Flood Planning Map, NSW eplanning spatial viewer

The flood line in the Mudgee Flood Study 2021 has been transposed over the site plan as shown below. The dual occupancy dwelling is wholly above the flood planning area, as shown below.



The effluent disposal area is located within the flood planning area. The effluent management report for the development recommends appropriate measures to manage the impacts of effluent disposal within the flood planning area.

5.4.9 Clause 6.3 – Earthworks

Clause 6.3 of MWLEP 2012 requires separate development consent for earthworks unless the earthworks are ancillary to other development for which development consent has been given.

The proposal will involve some minor earthworks for the building footings and access driveway. The scale and impact of the earthworks have been considered as part of this development application and therefore separate development consent will not be required.

The extent of earthworks are minor in scale and will have no impact on drainage patterns or soil stability. Erosion and sediment controls will be in place during construction.

5.4.10 Clause 6.4 – Groundwater Vulnerability

Clause 6.4 of MWLEP 2012 requires consideration of the impact of development on groundwater. The subject land is identified as groundwater vulnerable on the Groundwater Vulnerability Map in MWLEP 2012.

The proposal involves on-site effluent management that has potential to pollute the groundwater. An effluent management study was prepared for the dual occupancy dwelling identifying that soil conditions are suitable for on-site sewerage management with surface or sub-surface irrigation. The report recommends appropriate measures to manage the impacts of effluent disposal within the flood planning area.

5.4.11 Clause 6.5 – Terrestrial Biodiversity

Clause 6.5 of MWLEP 2012 requires consideration of the impacts of development on biodiversity. The subject land is not identified as containing high biodiversity sensitivity on the Sensitive Biodiversity Map in MWLEP 2012.

5.4.12 Clause 6.9 – Essential Services

Clause 6.9 relates to essential services and states that:

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable road access.*

The dual occupancy dwelling will be connected to reticulated power and telecommunications. On-site effluent management is proposed and the dwelling will be provided with a 20,000L rainwater tank. Stormwater will be collected in the rainwater tank with overflow away from the building and the effluent management area. Access to the site will be constructed in accordance with Council's requirements.

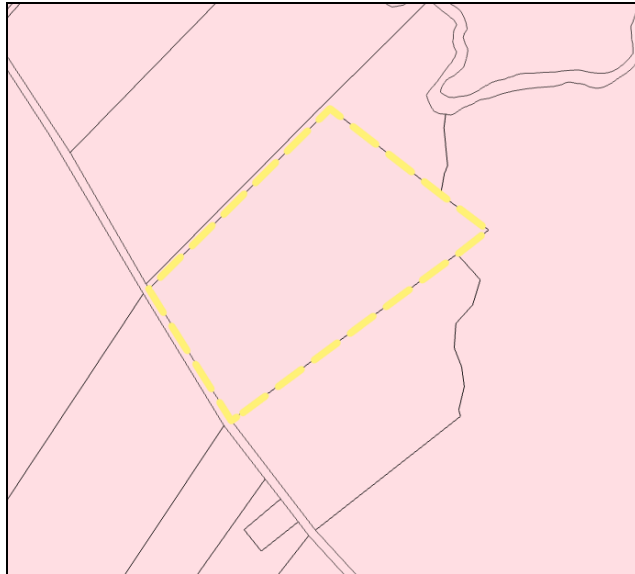
5.4.13 Clause 6.10 – Visually Sensitive Land Near Mudgee

Clause 6.10 of the LEP states that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

- (a) will complement the visual setting forming the backdrop to Mudgee, and

(b) will be designed, set back and sited to respond sympathetically to the landform of the site on which the development is proposed to be carried out and will minimise visual intrusion.

The subject land is included within the visually sensitive land near Mudgee Map, as shown below.



Source: *Visually Sensitive Land near Mudgee Map, NSW eplanning spatial viewer*

The subject land is in a low lying area in the foreground of the hills that form the backdrop to Mudgee. As the proposed building is modest in size, single storey in height and screened from public view by the existing vineyard, it is considered that the development will have minimal visual intrusion in the landscape.

5.5 Mid-Western Regional Development Control Plan 2012

The following provisions of the *Mid-Western Development Control Plan 2012* (MWDCP) are relevant to the development:

5.5.1 Section 5.1 – Car Parking

For a dual occupancy dwelling, the DCP requires 2 spaces per dwelling, with one to be in a garage.

The proposal provides one carport for the dual occupancy dwelling with room available for an additional car to park in front of the carport. While the proposed covered space is not a garage, the proposed parking complies with the numerical requirement and is considered appropriate for the development.

The proposal therefore complies with Council's requirements.

5.5.2 Section 5.3 – Stormwater Management

For the proposed development, the MWDCP requires stormwater quality management during construction, stormwater quality management during operation, water conservation and salinity prevention where applicable.

For stormwater quality management during construction, erosion and sediment control measures will be in place during construction.

For stormwater quality management during operation, given the small scale of the development and the rural nature of the land, no additional quality management measures are considered necessary.

For water conservation, the subject land is not connected to a reticulated water supply and collects rainwater in tanks for use on site. One additional rainwater tank is proposed to be installed to maximise collection and conservation of rainwater.

In relation to salinity prevention, geo-technical assessments have found that the site is not affected by high ground salinity. No specific measures are therefore warranted.

5.5.3 Section 5.4 – Environmental Controls

Aboriginal Archaeology

As noted in Section 4.4 above, a due diligence assessment has been undertaken for the development. Given the small scale of the development, more detailed assessment is not considered warranted.

Bushfire Management

The subject land is not mapped as bush fire prone and as the whole of the site is managed land, no bushfire protection measures are considered warranted.

Riparian and drainage line environments

The nearest watercourse to the proposed development is a tributary of the Cudgegong River located in the eastern corner of the site, some 350m from the site of the proposed development. The proposal will have no impact on the watercourse or its riparian vegetation.

Pollution and Waste Management

All wastewater will be disposed of through the proposed on-site wastewater system. The proposal will therefore cause no significant pollution of ground or surface water.

Construction waste will be managed on site and disposed at an approved facility.

Threatened Species and Vegetation Management

The development has no impact on any threatened species. No native vegetation is proposed to be removed as a result of the development.

Building in Saline Environments

Geotechnical assessments of the land have identified that the soil is not saline. No further assessment of this matter is therefore required.

5.5.4 Section 6.1 – Dwellings in Rural Areas (Setbacks)

The MWDCP requires a 60m setback from street frontages and a 20m setback to side and rear boundaries.

The proposed dual occupancy dwelling has a 78m setback to Burrundulla Road and a 115m setback to the southern side boundary. The proposal therefore complies.

6 CONCLUSION

The proposed development of a dual occupancy dwelling is an appropriate development of the subject land and will have minimal environmental or amenity impacts.

No native vegetation is proposed to be removed for the development. Due to the small scale of the development, there will be no adverse, noise, traffic or visual impacts on surrounding properties.

The development will effectively manage effluent on site. Rainwater will be captured for re-use through the provision of a water tank.

The development is permissible with consent and is consistent with all relevant legislation and policy. There is no impediment to the granting of development consent subject to conditions.

