

**Request for Variation to a Development Standard
and Supporting Information**

What is the address of the land?

Lot 5 DP 863320
150 Tandys Lane, Brunswick Heads

What is the zoning of the land?

The site has a mixed zoning of RU1, RU2 & C2 pursuant to the Byron Local Environmental Plan 2014. The proposed dwelling is to be located entirely within land zoned RU1 Primary Production Zone and RU2 Rural Landscape Zone.

What are the objectives of the zone?

RU1 – Primary Production Zone Objectives

- *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 encourage consolidation of lots for the purposes of primary industry production.*
- *To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.*
- *To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.*

RU2 – Rural Landscape Zone Objectives

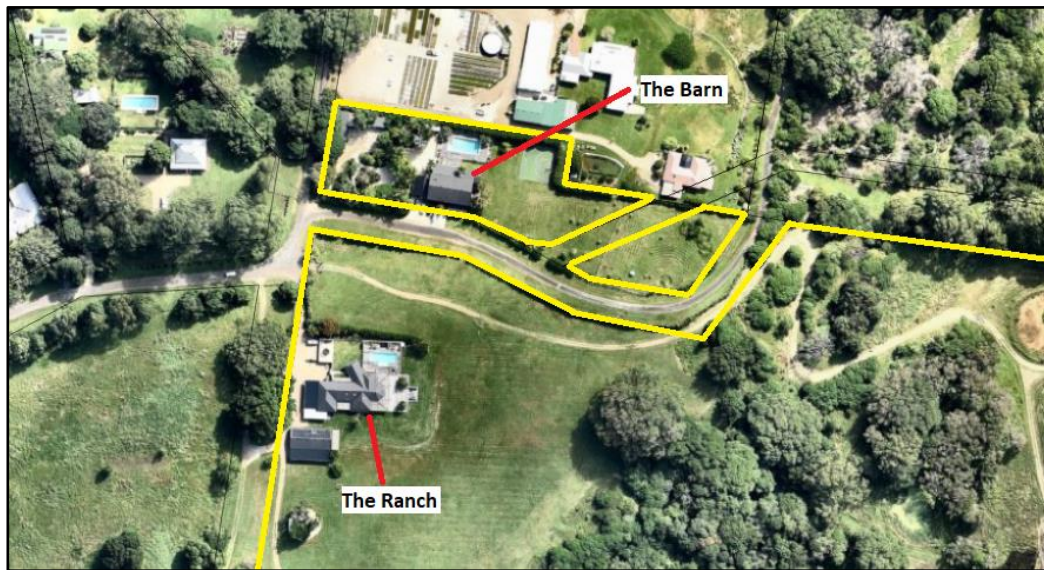
- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To enable the provision of tourist accommodation, facilities and other small-scale rural tourism uses associated with primary production and environmental conservation consistent with the rural character of the locality.*
- *To protect significant scenic landscapes and to minimise impacts on the scenic quality of the locality.*

What is the development standard being varied? e.g. Floor Space Ratio, height, lot size
Requirement for rural dual occupancies that each dwelling will use the same vehicular access to and from a public road.
Under what clause is the development standard listed in the environmental planning instrument?
Clause 4.2D - Erection of dual occupancies (detached) and secondary dwellings in rural zones. Specifically, Clause 4.2D (2)(b)
What are the objectives of the development standard?
<p>(1) <i>The objectives of this clause are as follows—</i></p> <ul style="list-style-type: none"> (a) <i>to provide alternative accommodation for rural families and workers,</i> (b) <i>to ensure that development is of a scale and nature that is compatible with the primary production potential, rural character and environmental capabilities of the land,</i> (c) <i>to set out consent considerations for development of dual occupancies (detached) and secondary dwellings to address matters such as access, siting, land suitability and potential impacts.</i>
Is it a numerical or performance based standard that you would like to vary?
Performance based.
What is the numeric value of the development standard in the environmental planning instrument?
N/a.
What is the proposed numeric value or performance based variation in your development application?
<p>Clause 4.2D (2)(b) requires that for rural dual occupancies <i>‘each dwelling will use the same vehicular access to and from a public road’</i>.</p> <p>The development proposal involves the two dwellings obtaining access from separate driveways.</p>
What is the percentage variation (between your proposal and the environmental planning instrument)?
N/a.

How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

Strict compliance with the development standard is unreasonable and unnecessary for the following reasons:

1. As illustrated in the following plate, the property is 'split' by Andersons Lane which effectively excises a small portion of the site from the broader land holding. The dwelling to the north of Andersons Lane is referred to as 'The Barn' and is not impacted by the current application. The dwelling to the south of Andersons Lane is known as 'The Ranch' and is the focus of the current proposal.



2. Both of the existing dwellings have development consent, with the existing non-compliance with respect to the two dwellings sharing a single driveway being specifically considered and approved by Council as part of DA 10.2016.818.1. The current proposal seeks to continue this arrangement.
3. Given the lot size and configuration to the north of Andersons Lane and the existing development on this portion of the site, it is not possible to construct a second dwelling on this part of the site in compliance with the DCP setback and wastewater design requirements.

How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Environmental Planning and Assessment Act 1979?

The objects specified in Section 1.3 of the Act are as follows:

- a. to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- b. to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- c. to promote the orderly and economic use and development of land,*
- d. to promote the delivery and maintenance of affordable housing,*
- e. to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- f. to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- g. to promote good design and amenity of the built environment,*
- h. to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- i. to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- j. to provide increased opportunity for community participation in environmental planning and assessment.*

Rural dual occupancies are permissible with development consent in rural zones within Byron Shire. The proposed development complies with all other aspects of Council's Local Environmental Plan and Development Control Plan. Strict compliance with the Development Standard would hinder achieving an otherwise compliant development.

Demonstrate how the objectives of the zone and the objectives of the development standard have been complied with despite the variation to the development standard.

RU1 and RU2 Zone Objectives

The following comments are provided against the zone objectives as provided above:

- The proposed dual occupancy dwelling will be located generally in the same position as an existing approved dwelling on the land. As such, the project will not impact upon any existing primary production activities occurring on the site and will not result in the fragmentation of rural land.
- The position of the dwelling is such that no potential offsite land use conflicts have been identified. In this regard, the locality comprises a combination of rural residential allotments and general grazing. No intensive livestock agriculture or horticulture occurs in proximity to the site of the proposed dwelling.
- Extensive earth mounding and landscaping have been incorporated as integral elements of the design, with the aim of ensuring that the dwelling is fully integrated with the landscape. Furthermore, there is an established vegetated backdrop in the form of the large figs within the adjoining road reserve and other trees along Tandys Lane.

Clause 4.2D Erection of dual occupancies (detached) and secondary dwellings in rural zones

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

(a) to provide alternative accommodation for rural families and workers,

Comment: The development proposal provides for a new dwelling designed to meet the specific requirements of the property owners. The second, smaller dwelling on the land is available as either rental accommodation or accommodation for family members or farm workers.

(b) to ensure that development is of a scale and nature that is compatible with the primary production potential, rural character and environmental capabilities of the land,

Comment: The proposed dual occupancy dwelling will be located generally in the same position as an existing approved dwelling on the land. As such, the project will not impact upon any existing primary production activities occurring on the site and will not result in the fragmentation of rural land. The construction of the proposed dwelling does not require the removal of significant native vegetation.

(c) to set out consent considerations for development of dual occupancies (detached) and secondary dwellings to address matters such as access, siting, land suitability and potential impacts.

Comment: The proposed development is consistent with each of the other provisions established within Clause 4.2D. In this regard the Statement of Environmental Effects demonstrates that:

- the proposal will not impair the use of the land for agriculture or rural industries;
- the two dwellings will be situated within 100 metres of each other;
- the land is physically suitable for the development;
- the land is capable of accommodating the on-site disposal and management of sewage for the development; and
- the development will not have an adverse impact on the scenic amenity or character of the rural environment.

Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why? Will approval of the variation of the Development Standard set a precedent? Why or why not?

As detailed within this variation request, the development site involves a rural property which is split by a public road. There are existing dwellings located on the two separate portions of the land. Both of the existing dwellings have development consent, with the existing non-compliance with respect to the dual occupancy dwellings sharing a single driveway being specifically considered and approved by Council as part of DA 10.2016.818.1. The current proposal seeks to continue this arrangement.

The above circumstances are very specific to the site in question. As such, it is considered that the approval of the requested variation will not set a precedent relating to the application of this LEP requirement.

Are there sufficient environmental planning grounds to justify contravening the Development Standard?

The Statement of Environmental Effects, and the information contained within this variation request demonstrates sufficient environmental planning grounds to justify contravening the development standard.

Is compliance with the development standard unreasonable or inappropriate due to the current use of the land and current environmental character of the particular parcel of land? Should the particular parcel of land have been included within the current zone?

The development site involves a rural property which is split by a public road. There are existing dwellings located on the two separate portions of the land. Both of the existing dwellings have development consent, with the existing non-compliance with respect to the dual occupancy dwellings sharing a single driveway being specifically considered and approved by Council as part of DA 10.2016.818.1. The current proposal seeks to continue this arrangement.

It is considered that enforcing strict compliance with the standard would be unreasonable and inappropriate given the circumstances of the case.

The current zoning framework is considered appropriate for the site given the environmental characteristics of the land.

Applicant Details

PROPERTY:

Lot 5 DP 863320
150 Tandys Lane, Brunswick Heads

DATE:

23rd May 2023

AUTHOR:

Karina Vikstrom

