



Statement of Environmental Effects

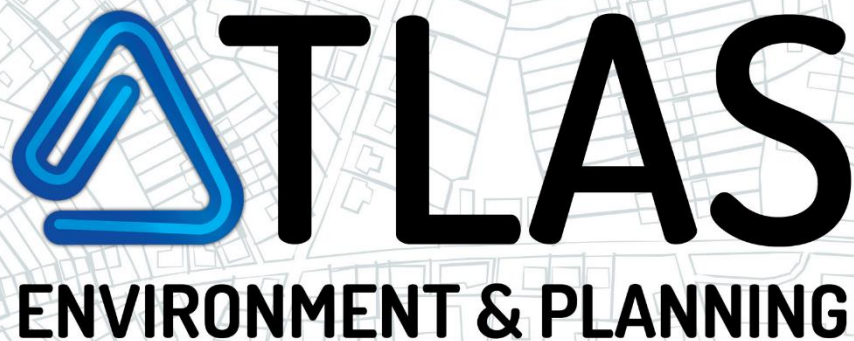
**for the Proposed Demolition of Dwelling and
Proposed New Food and Drink Premises, 33
Horatio Street, MUDGEE**

being Lots 3 & 2 in DP743615

prepared for

Broadview Aust. Pty Ltd

Sept 2021



Emma Yule t/a Atlas Environment and Planning (Atlas), responsible for the preparation and contents and information provided within this report declare that there is no current benefit nor expect to have a beneficial interest in the study area of this project and will not benefit from any of the recommendations outlined in this report.

The preparation of this report has been in accordance with the project brief provided by the client and has relied upon the information, data and results provided or collected from the sources and under the conditions outlined in the report.

Atlas accepts no liability for the accuracy or completeness of the data and information provided to it by, or obtained by it, from any third parties, even if that data has been incorporated into or relied upon for generating this report.

This report has been produced by Atlas using information that is available to the client as at the date stated within this report and cannot be relied upon in any way if situations at the subject site changes. Atlas is under no obligation to update the information contained within the report at any time.

This report has been prepared in behalf of and for the exclusive use of the Atlas client, and is subject to and issued in connection with the provisions of the agreement between Atlas and its client. All information contained within this report are prepared for the exclusive use of the client to accompany this report for the land described herein and are not to be used for any other purpose or by any other person or entity. No reliance should be placed on the information contained in this report for any purposes apart from those stated therein. Atlas accepts no responsibility for any loss, damage suffered or inconveniences arising from, any person or entity using the plans or information in this study for purposes other than those stated above.

VERSION AND AMENDMENT CONTROL HISTORY

VERSION	DATE	DESCRIPTION	QA/QC
001	SEPT 2021	DRAFT FOR CLIENT REVIEW	CLIENT
002	SEPT 2021	FINAL	EY



TABLE OF CONTENTS

1	Introduction	3
1.1	Overview	3
2	Background	4
2.1	Site Identification	4
3	Existing Site Conditions.....	5
4	The Proposal.....	8
4.1	Description Of The Development.....	8
4.1.1	Demolition Of Existing Structures.....	8
4.1.2	Consolidation Of Land.....	8
4.1.3	Development Of A Food And Drink Premises.....	8
5	Legislative Context.....	11
5.1	Biodiversity Conservation Act 2016.....	11
5.2	Roads Act 1993	11
5.3	Environmental Planning And Assessment Act	12
5.3.1	Integrated Development	12
5.3.2	Evaluation- Part 4 Division 4.3 Section 4.15	12
6	Evaluation - Legislation	14
6.1	State Environmental Planning Policies.....	14
6.1.1	State Environmental Planning Policy (Exempt And Complying Development Codes) 2008	14
6.1.2	State Environmental Planning Policy No 55—Remediation Of Land.....	14
6.2	Mid-Western Regional Local Environmental Plan.....	14
6.2.1	Compliance With MWRC Development Control Plan	20
7	Evaluation - Environmental Impacts	26
7.1	Environmental Impacts And Mitigation Measures.....	26
7.2	Soil And Surface Water.....	26
7.2.1	Potential Impacts – Soil And Surface Water.....	26
7.2.2	Mitigation Measures – Soil And Surface Water	27
7.3	Visual Amenity.....	27
7.4	Cumulative Issues.....	28
7.5	Social And Economic Impacts.....	28
7.6	Site Suitability.....	28
7.7	Public Submissions	29
7.8	Public Interest.....	29
8	Conclusion	29

Supporting Documents (under separate cover):

- Architectural Plans of the Proposal prepared by Baldasso Cortese.
- Civil Plans of the Proposal prepared by Triaxial Consulting Pty Ltd.
- *Statement of Heritage Impact – Proposed Development at 33-35 Horatio Street Mudgee* (job No 9188) August 2021 prepared by Rapport Pty Ltd t/a Heritage 21 (Conservation Architects and Heritage Consultants).
- Statement of Heritage Impact – Proposed demolition of Existing Brick Residence 33 Horatio Street Mudgee, Lot 3 DP743615, dated 1st June 2021, prepared by Barbara Hickson Architect and Heritage Adviser.



This page is intentionally blank.



1 INTRODUCTION

1.1 OVERVIEW

Atlas Environment and Planning has been engaged by Broadview Aust. Pty Ltd to prepare a Statement of Environmental Effects to describe the proposed demolition and development of a new premises for the occupation by a KFC franchisee. This report will support the plans to further describe the proposal and assess the potential impacts of the development. The land is zoned SP3 Tourist pursuant to the Mid-Western Regional LEP 2012. The proposal involves various components seeking approval as part of this submission. Overall, the end use as a 'food and drink premises', occupied by KFC, is consistent with the zone objectives, especially located on the Highway route through Mudgee and in vicinity to other similar restaurants. (The existing KFC premises is not owner/occupied, the intention would be a new site for the business and not be a second store).

Supporting Documents (under separate cover):

- Architectural Plans of the Proposal prepared by Baldasso Cortese.
 - TP000 – Cover Sheet,
 - TP100 – Proposed Site Plan,
 - TP110 - Proposed Landscape Plan,
 - TP200 - Proposed Floor Plan,
 - TP201 – Proposed Roof Plan,
 - TP300 - Proposed Elevations Sheet 1,
 - TP301 – Proposed Elevations Sheet 2,
 - TP302 – Proposed 3D Views,
 - TP400 – Signage Details.
- Civil Plans of the Proposal prepared by Triaxial Consulting Pty Ltd.
 - C1.00 – Cover Sheet,
 - C1.01 – General Notes,
 - C2.00 – Existing Site Plan,
 - C3.00 – Intersection design Plan,
 - C5.00 – Vehicle Simulation Plan,
 - C6.00 – Stormwater Management Plan.
- *Statement of Heritage Impact – Proposed Development at 33-35 Horatio Street Mudgee* (job No 9188) August 2021 prepared by Rapport Pty Ltd t/a Heritage 21 (Conservation Architects and Heritage Consultants).
- *Statement of Heritage Impact – Proposed demolition of Existing Brick Residence 33 Horatio Street Mudgee, Lot 3 DP743615*, dated 1st June 2021, prepared by Barbara Hickson Architect and Heritage Adviser.



2 BACKGROUND

2.1 SITE IDENTIFICATION

The site is located approximately 2.1km from the Mudgee Post Office in Market Street (4 min and is well accessed via Douro Street and Horatio Street – Castlereagh Highway/B55). The location of the subject land is shown below in **Figure 1**.

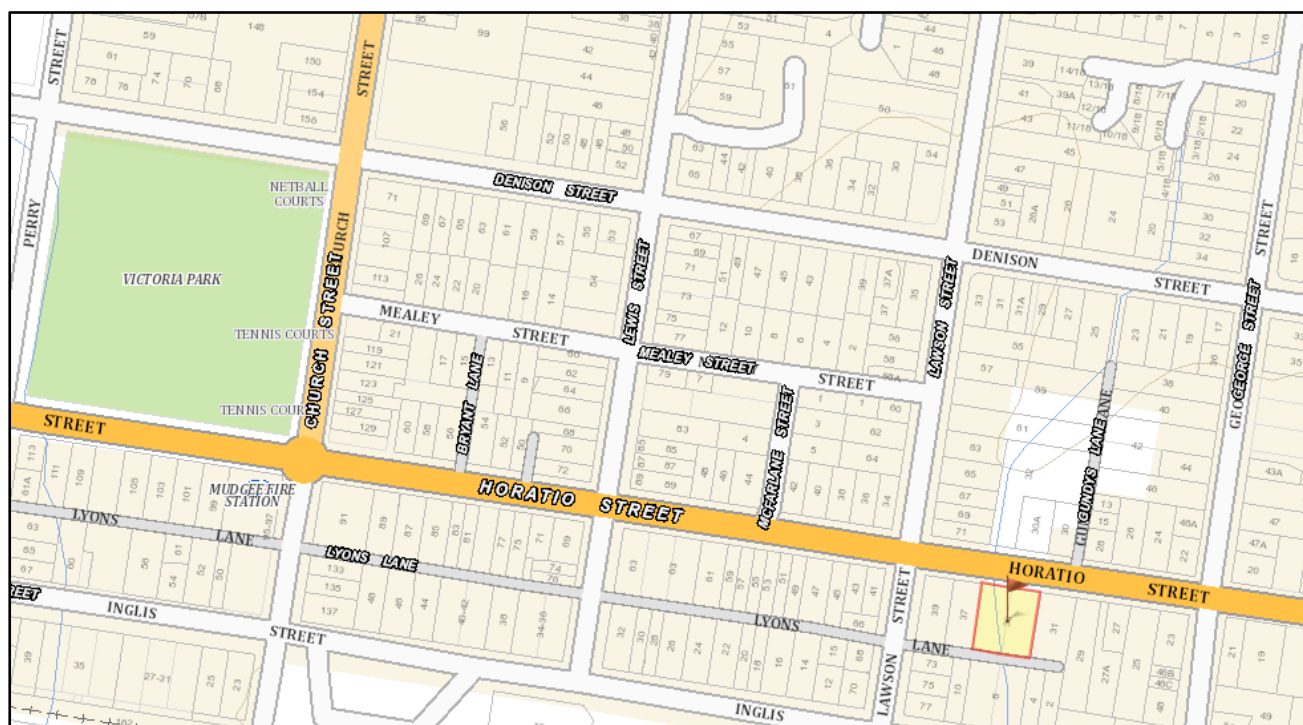


Figure 1: Site Location – 33 Horatio Street, MUDGEE

Source: (NSW Government Land and Property Information- six maps viewer).

Owners: Diamond 7 Pty Ltd.

Property Description: The subject land includes approximately 2260m² in two titles. The land is regular/rectangular shaped with frontage to Horatio Street – approx. 45m.

Site address: 33- 35 Horatio Street, MUDGEE.

Title description: Lots 2 and 3 in DP743615.



3 EXISTING SITE CONDITIONS

The area is characterised by the frontage to Horatio Street (Castlereagh Highway) forming a main transport route through Mudgee. The site also has a rear lane frontage to Lyons Lane). The existing site conditions are depicted in the plan prepared by Triaxial Consulting (TX15361.00- C2.00 Issue A). The site has an existing brick dwelling and separate shed. These structures will be demolished and have been considered in the context of the setting within the Mudgee Conservation Area in an assessment of heritage impact (refer to Statements of Heritage Impact Demolition of residence at 33-35 Horatio Street Mudgee, prepared by Barbara Hickson Architect and Heritage Adviser, Mudgee; as well reference report prepared by Rapport Pty Ltd t/a Heritage 21 (Conservation Architects and Heritage Consultants). Further context of the existing setting can be referenced in those supporting documents, with local heritage advisor engaged originally to provide advice more focussed on the demolition work, with the advice provided by Heritage 21 providing context to the proposed development and design aspects in the setting.

Land opposite in Horatio Street is currently vacant R3 Medium Density Residential zoned land, with an existing drainage channel traversing the subject land and under the road to this vacant land to form open drainage. The wider setting is characterised by the Highway frontage, with developed R3 Medium Density Residential zoned land (occurring to the north of the classified road) and SP3 Tourist zoned land (southern side of Horatio Street). Past infill development has caused a mixed land use setting to form. There is a variety of uses in vicinity, such as motel, tourist cabins, McDonalds Restaurant, single dwellings, residential unit development, and funeral home. It is expected the redevelopment of land and change of use of existing premises, particularly on the southern side of Horatio Street in line with the SP3 zoning will continue to reflect a change towards tourist-orientated development in line with the zoning from past residential land uses under previous LEP's.



Figure 2: Aerial – vicinity of subject land

Source: (Six Maps).

Prior to progression of the proposed development concept, a site analysis was carried out to identify any site issues. In summary the following is noted:

- The land is zoned SP3 Tourist pursuant to the Mid-Western Regional Local Environmental Plan 2012. There is no applicable minimum lot size. Mixed land use to be considered and impact to neighbouring residential occupants.
- The development land is not subject to restrictive easements or covenants. The main easement will pertain to the drainage as depicted on plans. This is channel has been concrete lined and is currently open. The modified drain is not considered a natural water course in this location.
- No site contamination issues are noted for the land already utilised for residential purposes.
- Overhead power lines exist in Horatio Street. Located near electrical infrastructure, the development could be subject to requirements listed under ISEPP Clause 45.
- The site is accessed via a classified road and safety for vehicles accessing the site will involve consultation with the relevant road authorities.
- The site is not in vicinity to any known environmentally sensitive areas, that may be impacted by a food and drink premises.



- The site falls within the Mudgee Heritage Conservation Area. The demolition and redevelopment of the site should consider the context on the setting and on the setting of any nearby heritage listed items.



4 THE PROPOSAL

4.1 DESCRIPTION OF THE DEVELOPMENT

The proposed development has several key components. The description in this SEE report is in support of the architectural plans of the development prepared by Baldasso Cortese P/L and civil details prepared by Triaxial Consulting Pty Ltd.

4.1.1 Demolition of existing structures

To prepare the site for the proposed re-development, demolition of the existing brick residence, ancillary structures and steel shed is required. This work will be carried out in accordance with Council conditions. No known asbestos occurs at the premises, however as part of works if required, Council will be provided with a copy of any Hazardous Substances/Waste Management Plan. The works will be carried out by a licensed demolition contractor in accordance with current safe work practices.

Barbara Hickson Architect and Heritage Advisor was engaged to consider the potential impacts of the removal of the dwelling in the context of the heritage conservation area of Mudgee. It was concluded that the demolition of this item will have no impact on the significance of the Mudgee Conservation Area. Further that the location is considered a 'neutral area' and does not contribute to the conservation area. (Refer to the complete report for further details on the heritage impact assessment).

4.1.2 Consolidation of land

The land is currently in two titles. A consolidation of the lots is required prior to the construction of the new premises, to avoid construction over the existing dividing boundary.

In accordance with Section 6.2 of EP&A Act 1979, procuring a plan of consolidation, (a plan of identification or a miscellaneous plan within the meaning of section 195 of the Conveyancing Act 1919), is not considered 'subdivision'. The consolidation does not require the development approval of Mid-Western Regional Council. However, the timing is expected to be conditioned to ensure the consolidation is finalised prior to construction and any amendment to easements (i.e., particularly for any drainage provisions to be able to be registered in the same plan). It appears the title does not have an existing drainage easement registered. It is proposed that a condition of approval address any requirements for drainage and those be provided within a registered easement. This can be shown and registered with the new DP associated with a consolidated lot.

4.1.3 Development of a Food and Drink Premises

The site is proposed to be redeveloped to support a new restaurant (40 seat), with drive-through service and car parking. The restaurant has been designed to be set back from the front boundary to a distance meeting the existing dwelling. This serves to maintain consistency and mitigate impact on the streetscape. The site will be able to implement a



landscaping plan to soften the car parking area, with fencing to separate the premises from neighbours.

The development is referred to as a “food and drink premises” as defined in the Mid-Western Regional LEP 2012. Food and drink premises are permissible in the SP3 Tourist zone subject to consent:

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

Note—

*Food and drink premises are a type of **retail premises**—see the definition of that term in this Dictionary.*

Road works

The development will require new driveways onto Horatio Street. No access onto Lyons Lane is proposed. Where upgrade to the Horatio Street road corridor is required, to accommodate safe tuning into the site, this will be addressed in a s138 approval process pursuant to the Roads Act 1993.

The hours of operation and staff

It is proposed that the hours of operation be approved for trade between the 10.30am and 10pm. The site will require on average 8 staff members to be onsite between the peak trade period of 12-2pm and 4-7pm. The manager and cook arrive at 8am and night manager and cook will finish work at 11pm. The number of staff accumulate and decumulate before and after the busiest time periods.

Signage and Lighting

Standard security lighting would be proposed and installed to avoid any light nuisance for any residential occupied land. Associated business and traffic management signage is also proposed. Internally illuminated signage is proposed above the main entrance on the east elevation, with other internally illuminated lettering as depicted in the architectural details. The western elevation includes a graphic mural ‘Handmade’. Digital preview menus will be installed as depicted on the plans for drive through operations. The proposed banner sign frame on the Horatio Street frontage will enable the installation of changeable vinyl banners. One Pylon sign is proposed of the type typical for fast food restaurants. Horatio Street has similar signage with McDonald’s restaurant and Motel signage on the same side of the Highway.



Landscaping

A proposed landscaping plan is submitted. The landscaping focusses on softening the driveway areas and providing a buffer to neighbouring land. The plan notes the existing trees to be removed and trees to remain.

Deliveries

The design of the turning lanes and proposed new entry and exit of the development site has been in consultation with Council and Transport for NSW. A 12.5m truck is the largest vehicle that will be used for deliveries with deliveries twice a week (frozen products and packaging); other deliveries are serviced by 3 tonne 4.2m Pantech trucks. Deliveries will be expected to be in line with the existing restaurant in Mudjee. The current deliveries typically include:

- Tip Top (buns); Delivered 5 times a week at 8am (Mon, Tue, Thur, Fri, Sat).
- Baiada (chicken); Delivered 5 times a week at 9am (Tue-Sat).
- Americold (frozen products and packaging) at 8.30am (Wed & Sat).
- Cutfresh (salads) before 11am or after 3pm (Mon, Wed, Fri).



5 LEGISLATIVE CONTEXT

5.1 BIODIVERSITY CONSERVATION ACT 2016

The *Biodiversity Conservation Act 2016*, together with the *Biodiversity Conservation Regulation 2017*, outlines the framework for addressing impacts on biodiversity from development and clearing. The Biodiversity Offsets Scheme applies to local development (assessed under Part 4 of the Environmental Planning and Assessment Act 1979) that triggers the Biodiversity Offsets Scheme threshold or is likely to significantly affect threatened species based on the test of significance in section 7.3 of the *Biodiversity Conservation Act 2016*.

No remnant native vegetation occurs on the development land and the biodiversity offset scheme is not triggered.

5.2 ROADS ACT 1993

Horatio Street is a classified road (Castlereagh Highway). Where work in the road reserve is proposed separate approval is required pursuant to section 138 of the Roads Act. This development will require new driveways onto Horatio Street and s138 Approval is sought with this development application.

Triaxial Consulting on behalf of the developer has assessed the existing road conditions, traffic and proposed development. Pre-lodgement consultation was carried out with Transport for NSW (TfNSW) and Mid-Western Regional Council engineers. The following are noted as key aspects:

- Vehicular access from Horatio Street will need to be designed and constructed in accordance with *Austrroads Guide to Road Design*. Should right turns be allowed into the site from Horatio Street, a channelized right (CHR) turn treatment would be required. This is likely to require removal of the kerb-side parking and pushing the eastbound travel lane in Horatio Street closer to the kerb. Provision will also need to be made for vehicles entering and exiting Horatio Street from nearby residential properties (some it would appear by reversing out onto Horatio St). Adequate separation will also be required between the CHR facility and the intersection of Horatio and Lawson Streets. In this regard, and to summarise, a concept plan showing proposed road works on Horatio Street to service the proposed development is recommended, early, to allow TfNSW, Council and the developer and opportunity to review the extent of the works required and determine whether such works are practical and/or feasible. (NOTING: Triaxial Consulting have prepared civil plans included with this application).
- Should right turn movements at the access not be proposed, or the CHR not able to be accommodated in Horatio St, the access will need to be restricted to left in/left out only movements. This would require a concrete median being constructed in Horatio



St to prevent right turn movements. (NOTING: The civil plan has been produced and included right hand turning which is adequate for a 12.5m vehicle).

- Vehicular access and egress will need to be designed for the largest vehicle required to access the site. This is most likely to be the delivery vehicle (12.5m, 19m or 26m vehicle). A dedicated loading/unloading zone will need to be provided on-site. (NOTING: The loading area is shown on the proposed site plan).
- All vehicular entry and exit movements from/to Horatio Street need to be in a forward direction. (NOTING: This is proposed and demonstrated on the site plan).

5.3 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1976.

This Statement of Environmental Effects aims to assist in this consideration. Further assessment of relevant LEP and SEPPs are addressed below.

5.3.1 *Integrated Development*

Part 4 Division 4.8 Section 4.46 of the *Environmental Planning and Assessment Act* 1979 (EP&A Act) outlines what is 'Integrated Development'. This development will require a s138 Approval pursuant to the Roads Act.

5.3.2 *Evaluation- Part 4 Division 4.3 Section 4.15*

The following sections refer to relevant matters:

Section 6 refers to Part 4 Division 4.3 Section 4.15:

Part 4 Division 4.3 Section 4.15 (1) (a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iii) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

Section 7 refers to Section 4.15 (1)(b) to (e)

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*



- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*



6 EVALUATION - LEGISLATION

6.1 STATE ENVIRONMENTAL PLANNING POLICIES

6.1.1 *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*

Provisions of the SEPP (Exempt and Complying Development Codes) have been considered. The proposed demolition and development of a food and drink premises does not meet development specified for this code with services requiring extension (sewer main) and hence a development application is required.

6.1.2 *State Environmental Planning Policy No 55—Remediation of Land*

State Environmental Planning Policy 55 (SEPP 55) requires planning authorities to consider potential for contamination at a site prior to planning decisions being made. Clause 7 requires Council to consider prior to determination of a development application whether the site is contaminated and suitable for the proposal. No detail of history has been indicated by the previous residential occupation that would suggest previous incompatible land use. The land has been approved for a dwelling (and maintained occupation). Based on this, the development should not be hindered for reasons of potential for site contamination.

6.2 MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN

The Mid-Western Regional LEP 2012 applies to the subject site. The subject land is zoned SP3 Tourist.

Zone SP3 Tourist

1 Objectives of zone

- *To provide for a variety of tourist-oriented development and related uses.*

2 Permitted without consent

Home-based childcare; Home businesses; Home occupations; Roads; Water reticulation systems

3 Permitted with consent

*Amusement centres; Aquaculture; Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Centre-based child care facilities; Dual occupancies; Dwelling houses; Eco-tourist facilities; Entertainment facilities; Environmental protection works; Flood mitigation works; **Food and drink premises**; Function centres; Health consulting rooms; Helipads; Hostels; Information and education facilities; Kiosks; Multi dwelling housing; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential flat buildings; Secondary dwellings; Semi-detached dwellings; Timber yards; Tourist and visitor accommodation*

4 Prohibited

Any development not specified in item 2 or 3

COMMENT – The demolition works will facilitate development for a purpose permitted with consent. The food and drink premises are in line with the objective of the zone, with a KFC



restaurant providing a fast food restaurant choice for locals and travelling tourists and visitors to Mudgee. The site is in vicinity to Motels and an existing fast-food outlet (McDonalds) and is expected for the strip of land fronting the Highway zoned SP3.

The relevant provisions of the MWRLEP 2012 are discussed below:

Clause 2.7 Demolition requires development consent

The demolition of a building or work may be carried out only with development consent.

Note—

If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, as exempt development, the Act enables it to be carried out without development consent.

COMMENT – This SEE supports the development application for which demolition of the existing structures (dwelling and shed) is proposed. The impact of the loss of the dwelling in the context of the setting of Mudgee’s ‘Heritage Conservation Area’ has been addressed in separate heritage assessment reports.

Clause 4.3 Height of buildings

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

- (a) to establish a maximum height limit to which buildings can be designed in particular locations,*
- (b) to enable infill development that is of similar height to existing buildings and that is consistent with the heritage character of the towns of Mudgee, Gulgong, Kandos and Rylstone.*

(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.

COMMENT – The subject land is not affected by the height of buildings provisions.





Figure 3: Excerpt from Mid - Western Regional Local Environmental Plan 2012 Height of Buildings Map - Sheet HOB_006H

5.10 Heritage conservation

Note—

Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the [Heritage Map](#) as well as being described in Schedule 5.

(1) Objectives

The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of Mid-Western Regional,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

(2) Requirement for consent

Development consent is required for any of the following—

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—*
 - (i) a heritage item,*
 - (ii) an Aboriginal object,*
 - (iii) a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) disturbing or excavating an Aboriginal place of heritage significance,*
- (e) erecting a building on land—*
 - (i) on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*
- (f) subdividing land—*
 - (i) on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*

(3) When consent not required

(4) Effect of proposed development on heritage significance



The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment

The consent authority may, before granting consent to any development—

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b),*

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites

(8) Aboriginal places of heritage significance

(9) Demolition of nominated State heritage items

The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—

- (a) notify the Heritage Council about the application, and*
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

(10) Conservation incentives

COMMENT – The subject site falls within the Mudgee Heritage Conservation Area and 2 heritage listed local items are located within a 500m radius, as such clause 5.10 is considered applicable. Development consent is sought for demolition works. Mid-Western Regional Council can make assessment in accordance with this clause. To assist Council, the developer has engaged the services of experienced heritage advisors. Demolition of the existing dwelling is more closely discussed in the heritage assessments prepared by Barbara Hickson, Architect and Heritage Adviser, being experienced in local conservation issues.

The requirement for consent for erecting a building on land within a conservation area is acknowledged and all construction works envisaged are depicted in the proposed development plans. The heritage assessments made by Heritage 21 in their report more closely addresses the impact of the proposed development and design features of the KFC restaurant.



Clause 5.21 Flood planning

COMMENT – The subject land is not mapped within the Flood Planning Area.

Part 6 Additional local provisions within the Mid-Western Regional LEP are considered.

Clause 6.1 Salinity – The Mid-Western Regional LGA is noted has having inherent salinity issues. The development will have negligible impact on the risk of salinity with implementation of adequate drainage provisions and reticulated services available. It is considered that the development is designed appropriately without need for additional site-specific measures.

Clause 6.3 Earthworks – Standalone earthworks are not proposed as part of this proposed development. No fill is proposed to be placed on the land. Drainage works are to be subject to further details design.

Clause 6.4 Groundwater vulnerability - This clause applies to land identified as “Groundwater vulnerable” on the Groundwater Vulnerability Map (Sheet GRV_006). The mapping applies to this development site. The development is not industrial in nature and will not require the onsite storage of significant liquid or solid waste. The restaurant will be connected to the town sewer service and will rely on town water supply. It is unlikely that groundwater dependent ecosystems occur in the vicinity to the site or will be affected as no interference to groundwater is proposed.

Clause 6.5 Terrestrial biodiversity - This clause is not applicable to the site.

Clause 6.7 Active Street Frontages - This clause is not applicable to the site.

Clause 6.9 Essential services – Pursuant to this clause the consent authority is required to be 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 land can be serviced to Council standards (subject to conditions of approval).

- Supply of Water
 - A water main exists currently along the frontage of the site. An existing house service and meter exists on the block. Should the development require a larger connection than the existing 20mm property service, a new larger water service and meter can be arranged through Mid-Western Regional Council works department.

- Supply of Electricity



- The development design has been reviewed by Level 3 Accredited electrical designer, David Bridle of Delta Star Designs. The potential for the largest infrastructure has been included in the site plans (substation being a 500kva 4way sub) and is screened as depicted in the proposed landscaping plan.
- Disposal and Management of Sewage
 - An existing sewer main exists at the front of the site along Horatio Street. An existing sewer junction exists on the block that currently services the residential dwelling. It is proposed to use this sewer connection for the new development (subject to requirements at detailed design stage).
- Stormwater drainage
 - The site sits within Catchment F in Mid-Western Regional Council Local Creeks Flood Study. An open concrete based drainage channel runs through the site where it connects to a box culvert under Horatio Street. The box culvert is nominated as having greater than 100yr capacity in the Catchment F report.
 - It is proposed to extend the existing box culvert through the site to the Southern boundary. A new inlet to the culvert will be constructed near the Southern Boundary of the property that will convey the water through to the Northern side of Horatio Street. The culvert size will match the existing.
 - On site stormwater will be detained in the carpark and released at the pre-developed rate. It is proposed to capture much of the detention required by overland storage in the carpark area. New pits in the carpark area will direct stormwater to be discharged into the new culvert before leaving site at a controlled rate.
 - Water Quality Urban Design stormwater treatment methods will include the use of Enviropod baskets in each of the carpark pits to capture debris and provide a treatment benefit to the stormwater leaving site.
(refer to detail in the Civil plans prepared by Triaxial Consulting Pty Ltd).
- Road Access
 - The road access is addressed below in relation to the s138 Roads Act application. The driveways proposed to separate the entry and exit traffic with a one-way driveway through the site.
 - The service yard and loading area is at the rear of the building and screened from Street.



6.2.1 COMPLIANCE WITH MWRC DEVELOPMENT CONTROL PLAN

The Development Control Plan does not include specific controls for land in the SP3 Tourist zone. Compliance with Part 4.5 Commercial Development of the Mid-Western Regional DCP (2013) is discussed in this section as most relevant. This section of the DCP refers to commercial development without specific zones referenced.

Table 1: Compliance with the DCP Part 4.5 Commercial Development

DCP Provisions	Comments	Complies
<p>Building Setbacks</p> <p>(a) No minimum front setbacks apply.</p> <p>(b) Side and rear must comply with Building Code of Australia (BCA)</p>	<p>Adoption of a front setback to be sympathetic with the neighbouring residential land use has been provided and existing setback of the dwelling to be demolished was adopted – 9700mm.</p> <p>Consolidation of the existing lots 2 & 3 DP743615 is required as the proposed restaurant will be constructed over the dividing lot boundary. Once consolidated, side and rear setbacks will comply with the BCA.</p>	<p>YES.</p>
<p>Signage</p> <p>Refer section 4.4 Signs</p>	<p>Refer to Table 2 below.</p>	
<p>Design</p> <p>(a) The LEP includes provisions relating to active street frontages. All premises on the ground level of a building facing the street are used for the purposes of business premises or retail premises.</p> <p>(b) All premises on the ground level of a building facing the street shall be comprised of windows and doors to encourage the interaction between pedestrians and the retail space.</p> <p>(c) Building facades shall be articulated by use of colour, arrangement of elements or by varying materials.</p> <p>(d) Consider elements within established heritage buildings and how its application may be applied to new development</p>	<p>Clause 6.7 Active Street frontages of the MWRLEP 2012 does not apply.</p> <p>The development has been designed with windows on the front façade.</p> <p>The design has utilised varied materials, darker and muted 'red' shades. Timber look finishes and concrete look sheeting is proposed to break up the building and provide natural tones to contrast with the KFC franchise's required branding.</p> <p>The existing dwelling is not heritage listed. Separate supporting heritage studies have been completed to ensure the design has included heritage sympathetic design measures where possible.</p>	<p>No departures proposed. Design elements have considered all provisions.</p>



DCP Provisions	Comments	Complies
<p>(e) Consider the pattern of built form, scale, use of verandahs, fenestration, colour and materials.</p> <p>(f) Design of new development should seek to be sympathetic to heritage items not reproduce them.</p> <p>(g) Plans must include details of all external infrastructure (air conditioning ducts, plant rooms) and how it will be screen from view form a public road.</p> <p>(h) Development on a corner must include architectural features to address both frontages.</p> <p>(i) Where the development will adjoin the residential, village and mixed use zones, sufficient setbacks in the form of landscape buffers and access ways should be incorporated.</p>	<p>The architectural design has been negotiated with KFC corporate structure to ensure the modifications to provide a design that would be unique for the Mudgee setting has been achieved, but also meet the key requirements of a KFC restaurant. The stripes for business identification replace what otherwise could be signage. The service yard and waste / bin storage areas are to the rear and cause minimal visual intrusion.</p> <p>Air conditioner units will not be located on the roof - will be screened and located in the service yard.</p> <p>The development is not located on a corner. Also, it is noted that the use of the Lyons Lane is not relied upon for this development.</p> <p>The landscaping and setbacks have been applied sympathetic to the mixed-use setting. Setbacks are in line with the existing dwelling and landscaping has specifically been designed to screen and address opportunities for softening of the proposed premises and pavements required for car parking and driveways.</p>	
<p>Scale form and height</p> <p>(a) The LEP controls the height of buildings to a maximum of 8.5m</p> <p>(b) Consistent with the existing heritage character of the town centres of Gulgong, Mudgee and Rylstone.</p> <p>(c) Gulgong has a building height limit to a maximum of 5m</p>	<p>Maximum height of the proposed building is 6m. The roof line is stepped and elevations are broken up by use of colour, materials and parapet design features.</p>	<p>YES.</p>
<p>Mortimer & Church Street Mudgee</p> <p>N/A</p>	<p>N/A</p>	<p>N/A</p>
<p>Articulation and Façade Composition</p> <p>(a) To break visual bulk and create interest, use secondary vertical elements such as fenestration or detail such as changes in materials and colour.</p>	<p>The building proposes use of painted surfaces, textured/coloured wall sheeting, timber-look battens, powder-coated finishes in various colours, patterned screens (metal) and glazed areas.</p>	<p>YES.</p>



DCP Provisions	Comments	Complies
<p>(b) Excessive length of blank walls are not supported in the front facade.</p> <p>(c) Where blank walls are unavoidable (alongside or rear boundaries), break the visual impact through the provisions of landscaping, or by creating visual interest through patterning of the facade, signage or public art.</p>	<p>No elevation is left 'blank'. The signage is proposed in a way to integrate with the building design.</p> <p>Landscaping is proposed to soften the car parking and driveways.</p>	
<p>Post supported verandahs and balconies</p> <p>N/A</p>	<p>N/A</p>	<p>N/A</p>
<p>Residential Commercial Interface</p> <p>(a) Provision of landscaping buffers to provide visual screening along residential boundaries that adjoin development sites in the Mortimer Street precinct (in particular.</p> <p>(b) Ground and first floor development should not overlook residential properties</p> <p>(c) Maintain acoustic privacy through the use of acoustic fencing, where vehicular movement adjoins property boundaries to reduce visual bulk of the proposed development.</p> <p>(d) Reduce visual bulk by locating buildings and structures away from residential boundaries, or where buildings must be located along property boundaries ensure that sufficient landscaping is provided</p> <p>(e) A development should not reduce the sunlight received by the north-facing windows of living area, private open space areas, or clothes drying areas of adjoining properties to less than 3 hours between 9 am and 3pm at the winter solstice.</p>	<p>The side and rear boundaries to the development site will be fenced and landscaped.</p> <p>The development will not cause any overlooking into residential properties.</p> <p>Acoustic issues associated with the ordering system and drive through service are not expected to cause any undue impact, considering the hours of operation and technical ability of systems typical of such franchises available for installation.</p> <p>The proposed building is centrally located on the development land, and screens service areas.</p>	
<p>Utilities and services</p> <p>(a) Documentation to demonstrate that the development is able to be services with water, sewer and drainage and</p>	<p>Servicing of the development has been discussed in section 6.2 in this report in relation to the provisions of the LEP.</p>	<p>YES.</p>



DCP Provisions	Comments	Complies
<p>adequate provision has been made for handling and disposal of solid waste.</p> <p>(b) Trade Waste Application is required where liquid waste (other than water from wash basins, toilet or bathrooms) will be discharged into Council's sewerage system.</p> <p>(c) Building and structures are to be located clear of infrastructure.</p> <p>(d) For new sewer mains structures are to be located 1m plus the equivalent inverted depth, whichever is greater) of the centreline of the main.</p>	<p>Trade waste application may be required for the commercial kitchen (subject to Council requirements).</p>	
<p>Traffic and Access</p> <p>(a) All vehicles must be able to enter and exit the site in a forward direction.</p> <p>(b) All vehicle movement paths are to be sealed.</p> <p>(c) Driveways must comply with Australian Standard AS 2890.1 Parking Facilities.</p> <p>(d) For new commercial development all loading facilities are to be located within the site with no loading to occur from the public road system.</p> <p>(e) All loading facilities shall be designed to complying with Australian Standards.</p> <p>(f) Where the truck delivery paths extend through car parking areas due consideration should be given to the separation of truck, pedestrian and car traffic. Where separation cannot be achieved then the application it to address traffic flow and safety issues.</p>	<p>A separate entry and exit driveway is proposed for forward movement through the site.</p> <p>All vehicle driveways are to be sealed and have been designed to comply with Australian Standard AS 2890.1 Parking Facilities.</p> <p>The loading site is depicted in the site plans and related to the service yard.</p> <p>The maximum size of a delivery vehicle has been considered in the design and loading will not interfere with car parking or access to the drive through service lane.</p>	<p>YES.</p>
<p>Pedestrian Access</p> <p>(a) Maintain existing covered pedestrian access within the town centres.</p> <p>(b) Convenient and safe access through parking areas.</p>	<p>Pathways and pedestrian crossing is proposed internally to ensure designated walking areas are separated as best for pedestrians to walk from the main parking area on the western boundary to the main</p>	<p>YES.</p>



DCP Provisions	Comments	Complies
(c) Convenient and safe disabled access through parking areas and where relevant focus on improving links with the existing retail areas.	entry door on the eastern side of the building. Disabled parking and access to the building complies with the Access to Premises Standard.	
Parking Refer Specific Provisions relating to parking section 1.3.	Assumed is a typographical error and reference to DCP part 5.1 Car parking is referenced. See Table 3 below.	YES.
Landscaping (a) Landscaped areas within the car parks should be provided incorporating the use of canopy trees and buffer planting to residential boundaries. (b) Landscaping to comprise low maintenance, drought and frost tolerant species.	Hedging that reaches 2-3m height is proposed to southern, western and eastern boundaries. This will screen from neighbouring residential properties. Species choices are depicted on the Proposed Landscape Plan prepared by Baldasso Cortese.	YES.

Table 2: Compliance with the DCP Part 4.4 Signs

DCP Provisions	Comments	Complies
General Requirements Full details of sign type, size, lettering, location, colours etc. must be provided with a development application.	Architectural plans depict proposed signage/colours and locations. All signage relates to the proposed food and drink premises.	YES
Signs in Towns and Villages HERITAGE CONSERVATION AREAS	In accordance with the DCP particular attention has been paid to the preservation and enhancement of the character and appearance of the conservation area. A muted darker red colour more appropriate to the setting is proposed as alternative to the usual corporate KFC branding.	YES
Tourist Signage Tourist related development including restaurants. (No specific provisions apply for a fast-food restaurant).	The DCP permits 2 identification signs. However, the provisions are aimed toward tourist development in the rural area. Internal signage is proposed to be approved as part of the DA. Including directional and menu boards. No provisions are specifically applicable to the proposed pylon sign.	Merit based consideration required.



Table 3: Compliance with the DCP Part 5.1 Car Parking

Spaces shall be provided to the next highest whole number. Floor space areas refer to gross internal spaces, excluding stairs, amenities and corridors.

DCP Provisions	Comments	Complies
<p>Restaurants or cafes or Take away food and drink premises</p> <p>1 space per 7m² gfa or 1 space per 3 seats whichever is the greater (Restaurant).</p> <p>1 space per 4m² for licensed floor including outdoor seating or dining</p> <p>Drive thru food service</p> <p>10 spaces, either in queue or as normal parking</p>	<p>Relevant floor area = approx. 92m² - at 1 space per 7m²- requires 13 spaces.</p> <p>1 space per 3 seats utilised based on 40 seat restaurant – requires 14 spaces (adopted).</p> <p>Nil required – no licensed floor area.</p> <p>6 spaces available in queue with additional spaces in car park.</p> <p>Total 23 spaces provided (including 1 disabled space and additional spaces in queue). Bicycle parking is also provided as additional (4 spaces).</p> <p>For the design and layout including manoeuvring, provisions of accessible spaces and access reference is made to AS 2890.1 Parking Facilities.</p>	<p>YES.</p>



7 EVALUATION - ENVIRONMENTAL IMPACTS

7.1 ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

This section considers the likely impacts of the proposed development, including environmental impacts on both the natural and built environments.

7.2 SOIL AND SURFACE WATER

7.2.1 Potential Impacts – Soil and Surface Water

The proposed development does not trigger integrated development provisions due to works within 40m of a waterway. Under the Water Management Act 2000 (WM Act) an approval is required to undertake controlled activities on waterfront land. The map in **Figure 4** below shows mapped watercourses, however in this location the drainage has been concrete lined, relocated and culvert under the road, is not a natural watercourse for the purpose of the Act.



Figure 4: First order streams in vicinity to the site

Potential soil impacts due to the development of the additional lots may include exposure of soils to increased erosion and offsite sediment transport during the demolition works and land preparation (including tree removal). This limited disturbance is not expected to have any long-term impact and can be managed with standard practices for development sites.



7.2.2 Mitigation Measures – Soil and Surface Water

Overall, soil and water management issues are considered minor. With the appropriate stormwater design for the culvert treatment (ensuring the channel contains volume commensurate with the 1 in 100 yr event) and any required easement creation for long term legal drainage.

Mitigation measures should be adopted to minimise potential for impacts to soil and water.

- Erosion and sediment controls are to be established prior to any site disturbance.
- A Demolition Management Plan is expected to be prepared addressing waste management.
- Methods within the '*Managing Urban Stormwater: Soils and Construction Volume 1*' (Landcom 2004) are to be employed where relevant.
- The provisions of the DCP 5.4 Environmental Controls – Building in a saline environment can be implemented for any building proposals. No further investigation or action are considered necessary for this project.

7.3 VISUAL AMENITY

The proposed demolition and redevelopment of a KFC restaurant will lead to notable changes to the built aspects of the land. The changes were addressed with specific consideration to the location within the Mudgee Heritage Conservation Area in the assessment prepared by Heritage 21. The conclusions of that report are referenced. Aspects that respect or enhance the heritage significance were noted:

- The proposed setback of the development would be consistent with the setback of adjacent properties.
- It would not alter the historic subdivision pattern in the Mudgee locality.
- The proposal would not result in the demolition of heritage significant fabric.
- The proposed colour scheme identified would result in a neutral heritage impact on the Mudgee Heritage Conservation Area and heritage item in the vicinity.
- The design, bulk and form of the proposed commercial structure would not dominate the local streetscape and would be considered sympathetic within the context of the Mudgee Heritage Conservation Area, nearby heritage items as well as the Horatio Street streetscape.
- Landscaping – including tall plantings – at the rear boundary of the site would reduce the potential visual impact of the proposed development on view lines to and from the heritage item at the rear of the site as well as from within the Mudgee Heritage Conservation Area.



- The proposed would attract the community to the area and would therefore facilitate the ongoing community engagement with the Mudgee Heritage Conservation Area and nearby heritage items.

7.4 CUMULATIVE ISSUES

No significant potential cumulative issues have been identified because of the proposed demolition of the dwelling and redevelopment for a food and drink premises. The development will support the zone objectives and development of the land with Highway frontage for tourist related uses.

7.5 SOCIAL AND ECONOMIC IMPACTS

This section considers the likely social and economic impacts of the development in the locality. Socially the proposal will have a positive impact as identified in the heritage assessment "The proposed would attract the community to the area and would therefore facilitate the ongoing community engagement with the Mudgee Heritage Conservation Area and nearby heritage items".

The development facilitates commercial/tourist related development within Mid-Western Regional LGA that may have positive economic flow on effects.

7.6 SITE SUITABILITY

REVIEW OF SITE ISSUES - An overview of site issues was provided in **Section 3** of this report.

ZONING AND PERMISSIBILITY OF THE PROPOSED DEVELOPMENT – Redevelopment of the land for the purpose of a food and drink premises with Highway frontage in the SP3 Tourist is consistent with the zone objectives and is permissible with consent. Overall, the proposed KFC development will be consistent with the zone objectives, having environmental impacts that are able to appropriately mitigated and managed.

SIZE AND SHAPE OF THE LAND - The land titles will require consolidation for the development to proceed and formalise the drainage easement, as required. The shape of the land is regular and conducive to the development.

COMPATIBILITY WITH ADJOINING DEVELOPMENT - The proposed restaurant with 'drive through' service has included design aspects to reduce any detrimental impact on surrounding land residential in nature. Compatibility issues are addressed through minimising interaction with building design aspects, separation through landscaping and fencing.

Overall, no issue has been identified that would indicate that the land is not suitable for the development as proposed.



7.7 PUBLIC SUBMISSIONS

Any submissions made in accordance with the EP&A Act, or the regulations received during the notification period for the development application would be required to be considered by Council in the assessment of the application.

7.8 PUBLIC INTEREST

Section 4.15(1)(e) requires consideration of the public interest in assessing the proposed development. The proposal is not likely to have wider public implications. The s138 Roads Act application will require referral to Transport for NSW.

8 CONCLUSION

This Statement of Environmental Effects assessed the impact of the proposed development and where relevant provides the supporting information and outlines proposed actions that demonstrate measures to be undertaken to ensure consistency with the objectives of the zone, and outline what plans are in place to ensure mitigation of any potential environmental impacts.

Key issues relate to the demolition and redevelopment proposal in the Mudgee Heritage Conservation Area, and consideration of impacts on the setting. Particular attention has been made to ensure the design is compatible with the location. Interactions with neighbouring residential development have been considered and mitigated through design and landscaping. Design of the new premises has been considerate to the location and no significant departures from the DCP are noted. Pre-lodgement advice from Mid-Western Regional Council staff and Transport for NSW has been included in the design with adequate access off the Horatio Street (classified road) frontage, and design of services able to be achieved.

Overall, the development will meet the development standards expected for franchise and inclusion of signage and restaurant areas that meet KFC standards are included in the design. The development will have a positive economic impact and support the SP3 Tourist zone objectives. All potential environmental impacts likely to result from the project can be mitigated by the implementation of the standard demolition/ construction management measures.

In accordance with the *Environmental Planning & Assessment Act 1979* an Environmental Impact Statement is not required and Mid-Western Regional Council is able to undertake assessment and subsequent determination of a development application for demolition work and redevelopment of the food and drink premises based on the Plans, this SEE and the referenced supporting documents.

END OF REPORT