

Item 8: Development

8.1 DA0204/2021 - Function Centre, Amenities Building and Change of Use to Bed and Breakfast Accommodation - 345 Spring Flat Road, Spring Flat

REPORT BY THE PLANNING COORDINATOR

TO 19 MAY 2021 ORDINARY MEETING
 GOV400088, DA0204/2021

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator on DA0204/2021 - Function Centre, Amenities Building and Change of Use to Bed and Breakfast Accommodation at 345 Spring Flat Road, Spring Flat;**
- B. approve DA0204/2021 - Function Centre, Amenities Building and Change of Use to Bed and Breakfast Accommodation at 345 Spring Flat Road, Spring Flat, subject to the following conditions and Statement of Reasons:**

CONDITIONS

Approved plans

- 1. The development is to be carried out in accordance with the following plans endorsed with Council's Stamp as well as the documentation listed below, except as varied by the conditions listed herein and/or any plan notations.**

Title / Name:	Drawing No / Document Ref	Revision / Issue:	Sheet No:	Date [dd.mm.yyyy]:	Prepared by:
Overall Site Plan	35146-A01	B	Sheet 2 of 5	14.12.2020	Barnson
Part Site Plan	35146-A02	B	Sheet 3 of 5	14.12.2020	Barnson
Tent Floor Plan & Elevation	35146-A03	B	Sheet 4 of 4	14.12.2020	Barnson
Amenities Floor Plan & Elevations	35146-A04	B	Sheet 5 of 5	14.12.2020	Barnson
Proposed Floor Layout	1132-A1	A		19/03/2021	On Point Building Design

Plan of Management	-	-	-	-	AGSR Escapes T/A Yurali House Mudjee
Traffic Impact Assessment Report	35146-TIA01_0	-	-	15.03.2021	Barnson
Visual Impact Assessment	35145-VIA01_A	-	-	6/03/2021	Barnson
Noise Impact Assessment	MAC211298-01RP1D1	-	-	March 2021	Muller Acoustic Consulting

2. This development consent does not include approval for any signage for the approved development. A separate Development Consent or Complying Development Certificate may be required for signage, if the signage is not exempt development.
3. This consent does not permit commencement of any site works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifier.
4. For clarity, this development consent provides approval for a function centre, amenities building and change of use to Bed and Breakfast Accommodation which is limited to three (3) bedrooms of the dwelling only.
5. This development consent limits the function centre operations to the following:
 - A maximum of 60 functions per year.
 - A maximum of 120 guests at any one function.
 - All amplified music is to cease at 11.00pm for an event held on Friday or Saturday.
 - All amplified music is to cease at 10.00pm for each event held Monday to Thursday, and also Sunday.
 - All event guests are required to vacate the premises at 12midnight.
 - All music and speaker systems are restricted to operate within the marquees only.
 - The marquees are to be enclosed during the evening and night periods (6pm to 12midnight) on the north-eastern and western facing facades during each event.
 - No outdoor events or activities are permitted to occur on the site in conjunction with any function held within the marquees.
 - Where there is no event scheduled to occur within 28 days of the previous event, the marquees are to be disassembled.
 - During each event, an event manager is required to be onsite at all times and shall be responsible for event coordination, security, emergencies and to ensure compliance with the operational conditions of consent at all times.

GENERAL

6. In recognition that an unreliable reticulated water supply exists, a 20,000 litre dedicated water supply tank (non-flammable) shall be provided on the site. An RFS standard 65mm metal Storz outlet with a ball valve shall be provided.

7. Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, public road reserve, or public reserve (open space) be required, an approval in accordance with Section 138 of the *Roads Act 1993* will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council for the installation of warning signage within the road reserve. The Section 138 application is to be submitted to, and approved by Council, prior to works commencing within the road reserve.

NOTE: The existing crossover does not comply with sight distance requirements 100km/hr design speed. Therefore, to improve the sight distance requirement, the applicant must install "Slow Down Driveway Ahead" (W2-207 Guide Signage for Eastbound Vehicles) Signage.

8. No native vegetation clearing is authorised by this development consent.
9. The development is to be managed in accordance with the mitigation methods contained within the Visual Impact Assessment dated 6/03/2021 and the following requirements:
 - Building materials are to be selected to reduce colour contrast and blend new and existing structures into the surrounding landscape; and
 - The existing vegetation established on the site are to be retained and supplementary planting incorporated with use of endemic flora species which integrate with the existing landscape character.
10. The development must be managed in accordance with the recommendations of the Noise Impact Assessment dated March 2021 at all times which is to include:
 - Appropriately managing noisy patrons during functions at the project site;
 - All amplified music would be situated within the pavilions/marquees;
 - The marquees should be fitted with removable panels made from weatherproof fabric and loaded vinyl (2mm Sonicclear curtain or equivalent). These panels should be utilised during the evening and night periods (6pm to 12am) on the north-eastern and western facing facades to minimise noise transmission to sensitive receivers during noise enhancing conditions; and
 - Amplified music will only consist of DJ, trio/duet or medium level amplified music (i.e. ipod music and speakers). Larger band (i.e. rock bands) are not recommended for the project.

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

11. Prior to the issue of a Construction Certificate, the developer shall pay a long service levy at the prescribed rate to either the Long Service Levy Corporation or Council, for any work costing \$25,000 or more.

Note - The amount payable is currently based on 0.35% of the cost of work. This is a State Government Levy and is subject to change.

Note – Council can only accept payment of the Long Service Levy as part of the fees for a Construction Certificate application lodged with Council. If the Construction Certificate is to be issued by a Private Certifier, the long service levy must be paid directly to the Long Service Levy Corporation or paid to the Private Certifier.

12. Prior to release of the Construction Certificate, approval pursuant to Section 68 of the *Local Government Act 1993* for the installation of an On Site Sewer Management System is to be obtained from Council.
13. Details of compliance with the National Construction Code (Building Code of Australia) shall be provided to the Certifying Authority prior to the issue of a Construction Certificate.
14. The function centre and demountable toilet as well as the accessible paths of travel to those amenities from the carpark shall comply with Part D3 of the BCA and Australian Standard *AS1428.1-2009 Design for Access and Mobility Part 1: General Requirement for access – New building work*. In this regard, details of compliance shall be provided to the Certifying Authority prior to the issue of a Construction Certificate.
15. Prior to issue of the Construction Certificate, details of the marquees provided with removable panels made from weatherproof fabric and loaded vinyl (2mm Sonicclear curtain or equivalent) as recommended by the Noise Impact Assessment dated March 2021 is to be provided to the Certifying Authority.
16. Prior to issue of the Construction Certificate, details of the marquees demonstrating compliance with the Visual Impact Assessment dated 6/03/2021 and containing only colours to blend the structures into the rural landscape is to be provided to the Certifying Authority.
17. In accordance with the provisions of Section 7.12 of the *Environmental Planning and Assessment Act 1979* and the *Mid-Western Regional Contributions Plan 2019*, a levy based on the value of works shall be paid to Council in accordance with this condition for the purpose of local infrastructure, prior to issue of a Construction Certificate.

The value of works is to be calculated in accordance with Section 2.9.3 and the procedure outlined in Section 4.3 of the Contributions Plan. A report regarding value of works and any necessary certification is to be submitted to Council. Council will calculate and advise of the levy amount following submission of the documents.

Note – the contribution amount will be adjusted by the Consumer Price Index, if not paid in the same financial year the development consent was issued.

Note – Mid-Western Regional Contributions Plan 2019 is available for perusal at Council's Administration Centre at 86 Market Street, Mudgee or on Council's website www.midwestern.nsw.gov.au under Council Documents/Strategies and Plans.

PRIOR TO COMMENCEMENT OF WORKS – BUILDING

18. No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
 - a) the appointment of a Principal Certifying Authority and
 - b) the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

19. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.

NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE

20. A sign must be erected in a prominent position on any work site on which in the erection or demolition of a building is carried out;
- a) stating that unauthorised entry to the work site is prohibited, and
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
 - c) the name, address and telephone number of the principal certifying authority for the work,
 - d) The sign shall be removed when the erection or demolition of the building has been completed.
21. If the work involved in the erection/demolition of the building;
- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b) building involves the enclosure of a public place
- A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
22. The development site is to be managed for the entirety of work in the following manner:
1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 2. Appropriate dust control measures;
 3. Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 4. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

BUILDING CONSTRUCTION

23. All earthworks, filling, building, driveways or other works, are to be designed and constructed (including stormwater drainage if necessary) so that at no time will any ponding of stormwater occur on adjoining land as a result of this development.
24. In the event of any Aboriginal archaeological material being discovered during construction works, all work in that area shall cease immediately and Heritage NSW notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the Heritage NSW.

25. If unexpected soil contaminants are discovered during works which has the potential to alter previous conclusions regarding site contamination; work must cease and Council or NSW Environmental Protection Authority must be notified immediately.

The contaminated land situation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the developer, which is agreed to by Council.

Note – Council may also request that a NSW Environmental Protection Authority accredited site auditor is involved to assist with the assessment of the contaminated land situation and review and new contamination information. The developer must also adhere to any additional conditions which may be imposed by the accredited site auditor.

26. Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
27. Costs associated with all development works including any necessary alteration, relocation of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
28. Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately to Council's satisfaction and at no cost to Council.
29. A total of 42 car parking spaces are to be provided within the site of the development and comply with AS 2890.1: 2004 and the following requirements:
- Each parking space is to have minimum dimensions of 5.5m x 2.4m;
 - Each disabled car parking space is to be in accordance with the provisions of AS 2890.6: 2009 and must be sealed and signed and line marked;
 - Line marking, wheel stop and signage has to be installed as per the relevant Australian Standard;
 - Car parking spaces are to be provided with a hard standing all weather compacted gravel surface and must be maintained in a satisfactory condition at all times.
30. All building work must be carried out in accordance with the provisions of the National Construction Code, the *Environmental Planning & Assessment Act 1979* and Regulations and all relevant Australian Standards.
31. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.
32. Construction work noise that is audible at other premises is to be restricted to the following times:
- Monday to Saturday - 7.00am to 5.00pm

33. **No construction work noise is permitted on Sundays or Public Holidays.**
34. **All mandatory inspections required by the *Environmental Planning & Assessment Act 1979* and any other inspections deemed necessary by the Principal Certifying Authority being carried out during the relevant stage of construction.**
35. **All stormwater is to discharge a minimum 3m from the building and disposed of in such a way as to not adversely affect the adjoining properties.**
36. **This approval does not provide any indemnity to the owner or applicant under the *Disability Discrimination Act 1992* with respect to the provision of access and facilities for people with disabilities.**
37. **All building work is to comply with the requirements of the Access to Premises Standard.**
38. **The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the *Environmental Planning and Assessment Regulation 2000*.**

PRIOR TO ISSUE OF THE OCCUPATION CERTIFICATE

39. **Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.**
40. **Prior to occupation or the issue of the Occupation Certificate, the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the *Environmental Planning and Assessment Regulation 2000* for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.**
41. **Prior to the issue of an Occupation Certificate, pursuant to Clause 93 of the *Environmental Planning and Assessment Regulations 2000*, the Bed and Breakfast Accommodation is to be brought into conformity with the Category 1 fire safety provisions as are applicable to the buildings use. In this regard, the building shall comply with;**
 - a) **Performance Requirement P2.3.2 'Fire Detection and early warning' of BCA, Volume 2.**
 - b) **Performance requirement EP2.2 of BCA Volume 1.**
42. **Prior to issue of an Occupation Certificate, an Operational Management Plan for the development is to be prepared and submitted to Council for approval. The Plan shall also include Bushfire and Emergency Management details, ensuring that no events are held during high and catastrophic bushfire danger periods.**
43. **All car parking and associated driveway works are to be completed prior to occupation of the development.**

44. Prior to the issue of an Occupation Certificate, an Approval to Operate the On-Site Sewage Management System granted under Section 68 of the *Local Government Act 1993* is to be obtained.
45. Prior to issue of an Occupation Certificate, the installation of roadside warning signage is required to be completed in accordance with the Section 138 approval of Council.
46. Prior to issue of an Occupation Certificate, the developer is required to prepare a Bushfire and Emergency Management Plan and this plan must ensure that no events are held during high and catastrophic bushfire danger periods.
47. Prior to issue of an Occupation Certificate, the 20,000 litre dedicated water supply tank (non-flammable) with an RFS standard 65mm metal Storz outlet and ball valve shall be provided on the site.

ONGOING USE

48. For every 12 month period after the issue of the Final Fire Safety Certificate the owner/agent of the building must provide the Council and the Commissioner of NSW Fire Brigades with a copy of an Annual Fire Safety Statement Certifying that each specified fire safety measure is capable of performing to its specification.
49. Where any essential services are installed in the building a copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and Council. A further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
50. All vehicles are required to enter and leave the site in a forward direction at all times. Signage to this effect is to be appropriately located within the site.
51. All loading and unloading in connection with the premises shall be carried out wholly within the site.
52. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto any adjoining property or roadways, in accordance with Australian Standard 4282 "Control of the Obtrusive Effects of Outdoor Lighting".
53. There being no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise", vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.
54. The developer must provide for independent noise monitoring to be undertaken during each function held on the site. In the event of a complaint being received, the noise monitoring data shall be provided to Council and Muller Acoustic Consulting (or another preferred acoustic consultant at no cost to Council) to verify that there has been no breach of noise control requirements imposed by this consent and the recommendations of the Noise Impact Assessment dated March 2021.
55. The Bed and Breakfast Accommodation approved under this consent is limited to the use of three (3) bedrooms of the dwelling-house only. The additional bedroom / media room / study is to be utilised by the permanent resident of the dwelling only.

56. **The Bed and Breakfast Accommodation is to be used for temporary or short-term accommodation only in association with the use of the dwelling by the permanent residents.**
57. **The developer is required to maintain a guest register for the Bed and Breakfast Accommodation. The register must record all stays including guest numbers, contact information and the duration of each stay for the life of the development. The register must be made available to Council at any time on request.**
58. **All waste generated by the development is to be disposed of to an appropriately licenced waste facility. Local Transfer Stations are not to be utilised for waste disposal by this development at any time. All fees and charges for disposal are to be borne by the developer.**
59. **The development is to be maintained in a clean and tidy manner, at all times.**
60. **Event or function centre guests are not to trespass on to adjoining private property.**
61. **No fireworks are authorised to occur in conjunction with any event held on the site.**
62. **The development must operate in accordance with the approved Operational Management Plan at all times.**
63. **In the event of any complaints being lodged relating to the site or its operations, a complaints register must be kept by the developer clearly recording all relevant information and reasons for the complaint. The log book must be made available to Council at any time on request.**

The complaints log book is to record the following information:

- a) **Name, address and contact details of the complainant;**
- b) **Description of complaint (e.g. character and volume);**
- c) **Frequency and duration of complaint;**
- d) **Meteorological conditions during complaint; and**
- e) **Any actions taken to resolve complaint.**

ADVISORY NOTES

1. **The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".**
2. **The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.**
3. **Division 8.2 of the *Environmental Planning and Assessment Act* (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 12 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.**
4. **If you are dissatisfied with this decision section 8.7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice, pursuant to section 8.10(1)(b).**

5. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.
6. The development is to operate so as to not emit offensive noise, as defined in the Protection of the *Environment Operations Act 1997*.

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning & Assessment Act 1979.
3. The proposed development satisfactorily addresses the issues raised in objections received in response to public notification of the development, as follows:
 - (a) The traffic and parking impacts of the development are acceptable.
 - (b) Vehicle access into and out of the site is acceptable.
 - (c) Sufficient detail has been provided to enable an assessment of the application.
 - (d) The proposed development will not have an adverse impact on the visual amenity of the area, subject to conditions.
 - (e) The proposed development will not have an adverse noise impact, subject to conditions.
 - (f) The proposed development is suitable for the site.
 - (g) The proposed development will not have an adverse economic impact.

Executive summary

OWNER/S	Mr Samuel J Reece & Ms Amy L Goble
APPLICANT	Mr Sam Reece C/- Barnson Pty Ltd
PROPERTY DESCRIPTION	345 Spring Flat Road, Spring Flat Lot 6 DP 756894
PROPOSED DEVELOPMENT	Function Centre, Amenities Building and Change of Use to Bed and Breakfast Accommodation
ESTIMATED COST OF DEVELOPMENT	\$50,000
REASON FOR REPORTING TO COUNCIL	Seven (7) submissions were received during the public notification period
PUBLIC SUBMISSIONS	Seven (7)

Council is in receipt of Development Application DA0204/2021 that seeks approval for a Function Centre with Amenities Building and Change of Use to Bed and Breakfast Accommodation, to be located at 345 Spring Flat Road SPRING FLAT NSW 2850, Lot 6 DP 756894, received by Council on 6 January 2021.

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 3 February 2021. During the notification period, 7 submissions were received. A further information request was subsequently issued and this resulted in the applicant modifying the development to include a change of use to the existing dwelling to also include bed and breakfast accommodation. The application was renotified accordingly with no additional submissions received.

The proposed development has been assessed in accordance with Council's DCP and the LEP. The proposed development is considered generally consistent with Council's planning controls.

The application has been referred to Council for consideration as it exceeds staff's *Delegation of Authority*, in that seven (7) or more objections have been made against the development.

The application is recommended for Approval.

Disclosure of Interest

Nil.

Detailed report

SUBJECT SITE

The subject site (Lot 6) is located on the northern side of Spring Flat Road and has an area of 12.95 hectares.

The site contains an existing dwelling and associated outbuildings, two dams and scattered vegetation throughout. 345 Spring Flat Road, encompasses two (2) lots being Lot 5 and Lot 6 DP 756894, however all works relating to this application are proposed within a cleared area of land within Lot 6 only. Refer to Figure 1 below.



Figure 1: Site Plan

PROPOSED DEVELOPMENT

The proposal will consist of the erection of two semi-permanent marquee structures (74m² and 194m²) to be used as a 'function centre' for weddings and events, and proposed to be limited to

150 seats. In addition, an amenities block (supported by a new onsite system of sewerage management) shall be provided to support the function centre along with establishment of a car parking area with 42 available spaces, 1 being a disabled space in accordance with AS1428. The carpark is proposed to be gravel with the exception of the disabled parking space. No signage is proposed as part of this application.

To complement the function centre land use, the proposal was amended during the assessment process to include the change of use of the existing dwelling located on the site to be used as bed and breakfast accommodation. The change of use will consist of 3 guest rooms associated with the bed and breakfast in accordance with the Mid-Western Regional Local Environmental Plan 2012 requirements. Plans of the development are provided within Attachment 1.

Operational elements proposed include:

- All events are proposed to finish at 11:30pm with music no later than 11:00pm and all patrons to be off the property by 12:00am.
- No food preparation carried out on the site. All events shall be fully catered by businesses with the food being made off-site.
- Temporary staff shall be employed for each event, consisting of wait and bar staff, as required by each event and the catering company.
- Temporary lights for each event, which is usually driven by the person booking the event (i.e. flood lights, lanterns, festoon lighting etc.).
- Use of the existing dwelling located on the site as bed and breakfast accommodation, consisting of three guest rooms and one main bedroom for the permanent residents.
- The owners shall reside in the dwelling within the main bedroom. The other three bedrooms shall be provided to guests, with a maximum occupancy of 6 at any one time.

Following the public exhibition period (and prior to submission of the further information request for a Traffic Assessment, Visual Impact Assessment and Noise Impact Assessment made by Council), the applicant made the following operational suggestions for the function centre to alleviate concerns raised by the submissions (refer to copy provided within Attachment 7):

- Venue owners propose that any amplified sound e.g. microphones/ speakers be restricted to inside the function centre only after 9pm and are not used elsewhere on the property.
- Venue owners propose that the function centre is enclosed (e.g. all sides/ doors closed) from 9pm to significantly restrict noise travel.
- Venue owners will recommend to all event hosts that local transport is provided for event guest's e.g. local mini bus/coach to transport guests to and from the venue. This will reduce noise impact & mitigate traffic concerns detailed below.
- Venue owners propose reducing the number of events per year from 100 to 60 to help mitigate the noise concern.
- Venue owners propose reducing the number of guests attending each event from 150 to 120 to help mitigate the noise concern.
- All music is to finish by 11pm.
- Venue owners are based permanently in Mudgee and will reside at the property. Venue owners and will be available and contactable at all times during an event.
- Venue owners or a dedicated events manager (to be hired by venue owners if required) will be in attendance and managing all events.

Conditions have been imposed accordingly.

LEGISLATIVE REQUIREMENTS

Environmental Planning and Assessment Act 1979

Designated Development

The development proposal is not considered to be Designated Development, in accordance with Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regs).

Integrated Development

The development proposal is not considered to be Integrated Development, in accordance with section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

SECTION 4.15(1) – MATTERS FOR CONSIDERATION – GENERAL

The application has been assessed in accordance with Section 4.15 of the *Environmental Planning & Assessment Act 1979*. The main issues are addressed below as follows.

4.15(1)(a) Requirements of Regulations and Policies

(i) Do any environmental planning instruments (SEPP, REP or LEP) apply to the land to which the Development Application relates?

State Environmental Planning Policy No 55 – Remediation of Land

A site inspection and a search of Council's records did not reveal any potentially contaminating activities upon the site. Accordingly, no further consideration is necessary.

State Environmental Planning Policy (Koala Habitat Protection) 2020

SEPP (Koala Habitat Protection) applies to the proposal as Mid-Western Regional Council is listed within Schedule 1 of the SEPP and the area of land associated with the proposal is greater than 1 hectare in size including adjoining land within the same ownership.

However, the proposal does not involve the clearing of any trees and therefore no further consideration is warranted.

Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012)

The following clauses of Mid-Western Regional Local Environmental Plan 2012 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

Clause 1.2 Aims of Plan

The application is not contrary to the relevant aims and objectives of the plan.

Clause 1.4 Definitions

The proposal is defined in accordance with the MWRLEP 2012 as a:

Function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

And

Bed and breakfast accommodation means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where—

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

Note— See clause 5.4 for controls relating to the number of bedrooms for bed and breakfast accommodation.

Clause 2.2 Zoning of Land to Which Plan Applies

The land is zoned RU4 Primary Production Small Lots and is therefore subject to the Plan.

Clause 2.3 Zone objectives and Land Use table

The land is zoned RU4 Primary Production Small Lots pursuant to MWRLEP 2012. The proposal, being a function centre and bed and breakfast accommodation is permissible with consent in the zone and complies with the relevant objectives.

The objectives of the zone and how the proposal satisfies the objectives is addressed below:

RU4 Primary Production Small Lots

1. *To enable sustainable primary industry and other compatible land uses.*

Comment The proposal does not significantly impact upon the ability of the land to be used for the purposes of primary production or other compatible land uses.

2. *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.*

Comment The proposal will provide diversification on the subject site whilst continuing to enable the land to be used for primary industry enterprises.

3. *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Comment The proposal will not result in any significant conflict with adjoining land uses subject to compliance with the recommended conditions. The applicant has demonstrated that appropriate controls can be implemented on the subject site to mitigate impacts of the development including limiting the number of attendees, and it is also proposed to mitigate noise impacts by ensuring the recommendations of the Acoustic assessment are included as part of the development.

4. *To ensure that land is available for intensive plant agriculture.*

Comment The proposal will not hinder the use of the site for the purposes of intensive plant agriculture.

5. *To encourage diversity and promote employment opportunities related to primary industry enterprises, particularly those that require smaller holdings or are more intensive in nature.*

Comment The proposal will not result in any significant impact upon the immediate visual amenity or environmental/cultural heritage values of the site, subject to compliance with the conditions of consent.

Clause 5.4 Controls relating to miscellaneous permissible uses

The proposal involves a change of use to the existing dwelling house to include a bed and breakfast. Clause 5.4(1) requires the following:

(1) ***Bed and breakfast accommodation*** *If development for the purposes of bed and breakfast accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.*

Note: *Any such development that provides for a certain number of guests or rooms may involve a change in the class of building under the Building Code of Australia.*

The current dwelling contains a total of 4 bedrooms with a 'media and study' also shown on the submitted floor plan. As a result, it is considered that a condition of consent will be required to be imposed to ensure that only 3 bedrooms are utilised as part of the bed and breakfast accommodation at any one time and the 4th bedroom, media and study are to only be utilised by the permanent residents. A guest register is also to be maintained to ensure compliance with the conditions of consent.

Clause 5.10 Heritage Conservation

No items of aboriginal significance or a heritage item are recorded on the site or in the vicinity. Notwithstanding this, a condition will be placed upon the consent ensuring that work is ceased should an item be discovered during construction.

Clause 6.1 Salinity

The proposal only involves minimal earthworks and is not expected to significantly affect the process of salinisation.

Clause 6.2 Flood planning

The subject site is not identified as being within the flood planning area in accordance with Council's maps and the Floodplain Study and Management Plan. No further consideration is necessary.

Clause 6.3 Earthworks

The proposal involves only minor earthworks to prepare the site for the development. The works are not expected to generate any significant impacts as listed in Clause 6.3(3). Conditions of consent have been included to ensure any earthworks related activities are carried out appropriately and minimise impacts upon neighbouring properties.

Clause 6.4 Groundwater vulnerability

The site is identified as groundwater vulnerable in accordance with Council's mapping. No broad excavation is needed to facilitate the proposal and no significant impacts upon those matters contained within clause 6.4(3) is expected as a result of the proposed development. Given the extent of excavation, it is considered that the development would not cause groundwater contamination, adversely affect any groundwater dependent ecosystems, will not cumulatively impact potable water supply, and therefore no special measures, or conditions of consent would be considered necessary.

Clause 6.5 Terrestrial biodiversity

The proposal is not located in any area identified as 'Moderate or High Biodiversity Sensitivity'.

Clause 6.8 Airspace operations – Mudgee Airport

The proposal will not penetrate the relevant height limits for safe operation of the Mudgee Airport.

Clause 6.9 Essential Services

All essential services that are relevant to the proposal are available or will be available as a result of the proposed development.

Clause 6.10 Visually sensitive land near Mudgee

The land is located within the visually sensitive land map area. Clause 6.10 of the LEP requires consideration towards the following:

6.10 Visually sensitive land near Mudgee

- (1) *The objective of this clause is to protect the visually and environmentally significant land on the urban fringe of the town of Mudgee.*

- (2) *This clause applies to land shown as “Visually Sensitive Land” on the Visually Sensitive Land Map.*
- (3) *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 proposed development involves the erection of two (2) semi-permanent ‘marquees’ which will have a total maximum height of 6.7m from natural ground level, and placed on a timber deck flooring system. The marquees are proposed to occupy 74m² and 194m² of the land and are to be used as a ‘function centre’ for weddings and events, proposed to be limited to 150 seats.

In addition, an amenities block (supported by a new onsite system of sewerage management) shall be provided to support the function centre, with establishment of a car parking area with 42 available spaces. The carpark shall be unformed gravel with the exception of the disabled space which will be concrete. No signage is proposed as part of this application.

As the proposal is located in an area mapped as ‘visually sensitive land’, the applicant was requested to provide a Visual Impact Assessment which was submitted on the 15 March 2021.

The assessment included a viewpoints analysis of ten areas surrounding the subject site accessible from public roads. The assessment demonstrated that:

The existing character of the area is dominated by rural land uses, with scattered residential dwellings. The locality is generally flat throughout, and there are vegetated areas established along road reserves, within properties and along identified watercourses. Further, the development is fairly isolated, with large distances to nearby receptors or visually available areas. Given the established vegetation and large setback distances, and recommendations provided in this report, it is likely that there will be little to no impact upon the existing landscape character of the area if the development were to proceed.

There would be distant views from the Castlereagh Highway, given that the land in between is predominately vacant and used for rural/agricultural grazing purposes. However, the distance from the subject site to the Highway is approximately 1.5km, which to the naked eye is a considerable distance that is unlikely to trigger any significant visual intrusion. Therefore, the setbacks to the highway and nearby receptors in which the proposed development enjoys, would not be contributing any new or contrasting elements to the character of the locality.

Night lighting is likely to be required for the operation of the proposed development. It is likely that this will appear in keeping with existing lighting from vehicular traffic, farming and residential land uses.

The proposal is likely to be viewed as a continuation of the existing residential dwelling locality on the site. Therefore, as the chosen area on the site is already disturbed, it is our determination that the visual impacts from public domain areas are acceptable.

Mitigation methods included the following;

- *The built form of the proposed buildings are of similar scale to surrounding residential and agricultural land uses;*

- *It is recommended that building materials be selected to reduce colour contrast and blend and new and existing structures, as far as possible, into the surrounding landscape;*
- *The existing vegetation established on the site and in the locality are recommended to be retained and supplementary planting incorporated where possible (in accordance with the screen planting principles below);*
- *Retention of trees surrounding the site to assist in fragmenting views of the proposed development.*

Screening principals included:

- *Foreground visual planting may be undertaken in areas surrounding the proposed development site;*
- *The use of endemic flora species which integrate with the existing landscape character whilst providing habitat for fauna is recommended;*
- *Planting should aim to fragment views instead of blocking completely.*

On this basis, the assessment concludes:

The objective of this Visual Impact Assessment is not to determine whether the proposal is visible or not, but rather to determine how the proposal will impact on existing visual amenity, landscape character and scenic quality. If there is potential for negative impacts, it must be investigated and determined how this impact can be mitigated to the extent that the impact is reduced to an acceptable level.

The existing landscape character is a mix of rural farming, residential development and some scattered wineries. Predominately, however, the locality consist of vacant lands. The scale and built form of the proposal is small compared to other developments in the area supporting those land uses.

The proposal is well sited in an area that already creates visual screening/buffering. The proposal is not immediately visible from nearby residential receptors and given the separation distances, would not be distinguished separately to existing developments on the site.

The recommended mitigation measures have been suggested to reduce visual impact further so the proposed development could be undertaken whilst maintaining the character of the locality, and have a negligible visual impact on the surrounding visual landscape.

In assessing the Visual Impact of a development within the visually sensitive land mapped area, the consent authority must consider clause 6.10(3) which states:

- (3) *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.*

It is considered that the proposed development will incorporate appropriate mitigation measures that will provide for a complementary development for the locality and is to be located within an area containing mature vegetation and new landscaping. The development is deemed to be

adequately setback from all boundaries and the road network and exceeds all minimum requirements under the DCP for front and side setbacks. As the current plans submitted demonstrate that the proposed marquees will be white, it is proposed that this will be conditioned in accordance with the Visual Impact Assessment and be required to incorporate '*building materials be selected to reduce colour contrast and blend and new and existing structures, as far as possible, into the surrounding landscape*'. In this regard, it is considered that imposing a restriction of greys, browns or greens to blend into the rural landscape is considered appropriate.

To further reduce any potential impacts from surrounding lands when the function centre is not in use, it is proposed to impose a condition that requires the marquees to be disassembled where there is no event scheduled to occur within 28 days of the prior event.

4.15(1)(a) Requirements of Regulations and Policies

(ii) Draft environmental planning instruments (EPI)

No draft environmental planning instruments apply to the land to which the Development Application relates.

(iii) Any development control plans

Mid-Western Regional DCP 2013

An assessment is made of the relevant chapters and sections of this DCP. Those chapters or sections not discussed here were considered not specifically applicable to this application or are discussed elsewhere in this report.

Part 4.4 Signs

Not applicable. The application does not propose to have any signage installed as part of the application.

Part 4.7 Tree Preservation Order

No trees to be removed.

Part 5.1 Car Parking

The DCP requires parking to support the development as follows:

Land Use	Proposed	Required	Complies with DCP
Function Centre	42 spaces including 1 disabled space.	This is covered by 'Other uses' under the DCP and a Traffic Impact Assessment has been provided utilising the 'Places of Public Worship, Entertainment Facilities and Community Facilities' parking rates 1 space per 4 seats or 1 space per 10m ² of GFA. This is deemed satisfactory on the basis that this will require a maximum of 37.5 spaces.	Yes
Bed and breakfast	Utilising existing dwelling parking and proposed overflow parking of the function centre.	1 space per unit (total of 3 spaces required)	Yes

Part 5.2 Flooding

Not applicable.

Part 5.3 Stormwater Management

Council's Development Engineer has provided comments and conditions concerning adequate disposal of stormwater.

Part 5.4 Environmental Controls

All the relevant considerations have been discussed elsewhere in this report or dealt with through conditions of consent.

Part 6.4 Tourist and Visitor Accommodation

The proposal for the change of use to a bed and breakfast satisfies the tourist accommodation provisions of the DCP 2013 in that the property will retain a residential component. All services are available to the site.

A condition of consent has been included ensuring the bed and breakfast is limited to 3 bedrooms of the existing dwelling at any one time.

Section 7.11 Contributions

Mid-Western Regional Contributions Plan 2019

Pursuant to Council's Contributions Plan 2019, the development is proposing a commercial development with the value of works stated to total \$50,000. To verify this amount, a cost estimate report is to be submitted to Council. A condition has been imposed accordingly, prior to issue of a Construction Certificate.

Section 64 - Water/Sewer Developer Services Charges

In accordance with the Developer Servicing Plans for Water and Sewer (August 2008), the development does not increase the demand or loading upon Council's infrastructure or require additional water, sewer or trade waste services to the land or building. No charges can therefore be applied under the plan.

4.15(1)(a) Provisions of any Planning Agreement or Draft Planning Agreement – (1)(a)(iiia)

No Planning Agreements are applicable.

Regulations – 4.15(1)(a)(iv)

Environmental Planning and Assessment Regulation 2000

Clause 93 – Fire safety and other considerations

93(2) and (3) requires Council to consider fire safety measures and structural capacity when assessing a development application for change of use where no alterations or extensions to the building are proposed.

The proposal is seeking a change of use with no alterations or extensions to the building. Accordingly, Council's Health & Building Surveyor has provided the following comments:

Clause 93 of the EP&A Regulation applicable requiring the consent authority required to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the buildings proposed use. Under Clause 93(3) of the EP&A Regs 2000 the building is to be brought into conformity with respect to Category 1 fire safety provisions. In this regard the building will need to comply with Performance Requirement P2.3.2 'Fire Detection

and early warning' of BCA, Volume 2 and Performance requirement EP2.2 of BCA Volume 1. Condition to be included.

EP&A Reg's requires an OC to be issued for a change of use therefore a condition is recommended to be included to satisfy this requirement. OC to be issued on submission of the Final Fire Safety Certificate.

A Fire Safety Schedule shall be issued concurrently with the development consent should it be approved – please refer to additional attachment.

Likely impacts of the development – 4.15(1)(b)¹

¹ Including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

(a) Context and Setting

The proposal is considered appropriate with regards to the surrounding context and setting, subject to compliance with the conditions recommended to mitigate the impacts of a large structure on the landscape and in accordance with the Visual Impact Assessment recommendations.

(b) Access, Transport and Traffic

The implications of additional traffic, suitable access and parking have been considered in the context of the submitted Traffic Impact Assessment for the development. The assessment reviews the current traffic volumes for Spring Flat Road which has been calculated at an average of 360 vehicles per day and 34 vehicles per hour.

The assessment provides a proposed traffic generation for the function centre of 38 vehicles movements during the peak hour of arrival and departures. Deliveries will also occur on the day of the function and will occur before and after each event on the site therefore will not contribute to the peak traffic movements for the function centre use.

The access to site has been assessed in accordance with Austroads Guidelines for the 100km speed limit environment which has determined that the eastern sight distance complies, with over 250m available, however the western sight distance does not comply with only 170m available due to a sharp bend in the road network. Council's Development Engineer has advised that warning signage should be installed within the road reserve to reduce potential traffic impacts.

Despite the above recommendations, the traffic impact assessment provided with the application concluded the following:

- *The proposed parking provisions are compliant with the requirements prescribed by Mid-Western Regional Council's Development Control Plan.*
- *Spring Flat Road is currently operating at an acceptable level of service and will continue to do so once the development is operational.*
- *The estimated existing traffic volumes and projected future volumes on the driveway and Spring Flat Road warrant BAL and BAR turn treatments in accordance with Austroads Guide to Road Design Part 4 (2017).*
- *The existing driveway condition satisfies the requirements for the BAL and BAR turn treatments.*
- *The existing driveway provides sufficient sight distances to both directions in accordance with Austroads Guide to Road Design Part 4a (2017).*
- *It has been concluded that the development is unlikely to have any significant impacts on the traffic operations of the existing local road network.*

Conditions have been imposed accordingly to address the above matters as recommended by Council's Development Engineer.

(c) Public Domain

The development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces.

(d) Utilities

All relevant utilities are available or can be made readily available to the site.

(e) Heritage

Not applicable.

(f) Other Land Resources

No impact expected on the conserving and the use of valuable land, such as productive agricultural land, mineral or extractive resources, or water supply catchments.

(g) Water

No significant impact expected.

(h) Soils

No significant impact expected. The land is not known to be affected by subsidence, slip or mass movement, subject to contamination, and will not result in significant soil erosion or degradation.

(i) Air and Microclimate

The development is not expected to impact air quality or microclimatic conditions.

(j) flora and fauna

No vegetation is proposed to be removed as a result of the development.

(k) Waste

Specific waste control measures will be required for the proposal. This will require the applicant to enter into a private arrangement with a contractor to collect and dispose of wastes on the site and have this disposed to a licenced waste facility.

(l) Energy

Not applicable.

(m) Noise and Vibration

Muller Acoustic Consulting Pty Ltd (MAC) has completed a Noise Impact Assessment (NIA) for the proposed Function Centre.

The assessment quantified noise levels from live music, patrons and vehicles, including catering vehicles, to receivers within the surrounding noise catchment.

Figure 2 below provides the locations of residents within the assessed catchment which are located approximately 550m (R2 west) to 1.3km (R5 east):



Figure 2: Noise Impact Assessment Location of Receivers

The conclusions of the assessment found that noise levels comply with relevant Noise Policy for Industry (NPI), Maximum Noise Level Assessment and Independent Liquor and Gaming Authority (ILGA) criteria with the implementation of the following recommendations:

- *Appropriately managing noisy patrons during functions at the project site;*
- *Ceasing music at 11.30pm at the conclusion of functions;*
- *All amplified music would be situated within the pavilions/marquees;*
- *The marquees should be fitted with removable panels made from weatherproof fabric and loaded vinyl (2mm Sonicclear curtain or equivalent). These panels should be utilised during the evening and night periods (6pm to 12am) on the north-eastern and western facing facades to minimise noise transmission to sensitive receivers during noise enhancing conditions; and*
- *Amplified music will only consist of DJ, trio/duet or medium level amplified music (i.e. ipod music and speakers). Larger band (i.e. rock bands) are not recommended for the project.*

Based on the Noise Impact Assessment results, there are no noise related issues which would prevent Council approving the project once the noise control recommendations provided in this assessment have been implemented. Additionally, the results of the assessment show compliance with the relevant EPA criteria. Although there is potential for noise levels above the ILGA criteria at receiver R1 and R5 in the 63Hz frequency band, the received noise level is below the threshold of hearing and is anticipated to be inaudible.

Conditions are imposed in regards to operational elements to mitigate noise impacts in addition to the need to provide acoustic monitoring during each event held on the subject site. Further, ensuring that all events, are held within the marquees and not outdoors has been conditioned accordingly.

(n) Natural Hazards

The development site is not identified as bushfire prone or flood prone and there are no known subsidence, slip or mass movement issues.

(o) Technological Hazards

There are no known risks to people, property or the biophysical environment, resulting from technological or industrial hazards, or building fire risk.

(p) Safety, Security and Crime Prevention

Increased passive surveillance as a result of the proposed development.

(q) Social Impact in the Locality

It is considered that there are generally positive impacts generated by the proposal, subject to compliance with the recommended conditions of consent. The proposal will enable a boutique small scale events location that will be managed by the landowners and is a permitted land use in the RU4 zone.

(r) Economic Impact in the Locality

Generally positive impacts are expected including the provision of additional employment and service opportunities for local suppliers associated with each event, along with additional expenditure from event guests in the local region.

(s) Site Design and Internal Design

Adequate as discussed throughout this report.

(t) Construction

To comply with the BCA where relevant.

(u) Cumulative Impacts

Nil. There are no known impacts that have the potential to act in unison, in terms of space or time, or owing to their repetitive nature, that would produce an effect greater or different than the sum of the separate parts.

Suitability of Site for Development – 4.15(1)(c)

(a) Does the proposal fit in the locality?

Yes. There are no hazardous land uses or activities nearby, there are no constraints posed by adjacent developments and there are adequate utilities and transport facilities in the area available for the development subject to compliance with the conditions of consent.

(b) Are the Site Attributes conducive to Development?

Yes. The site is not subjected to any natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site.

Submissions made in accordance with Act or Regulations – 4.15(1)(d)

(A) Public Submissions

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 3 February 2021. During the notification period, seven (7) submissions were received.

A further information request was subsequently issued and this resulted in the applicant modifying the development to include a change of use to the existing dwelling to also include bed and

breakfast accommodation. The application was subsequently renotified for a period of 14 days. No further submissions were received during this period.

A summary of the submissions is provided below and the Applicant also provided a formal response to the concerns raised.

Matter of concern	Comment
<p>Noise:</p> <ul style="list-style-type: none"> - Material of the buildings not likely to contain any loud music / speakers. Sound proofing of the buildings should be required. - Finishing time of events should be 10pm, not midnight. - A noise assessment is required. - No speakers or sound systems permitted out on grass areas. 	<p>The applicant, upon a further information request made by Council, submitted an acoustic assessment prepared by MAC Consulting Engineers. Independent noise monitoring and modelling was undertaken by the consultant and assessment undertaken in accordance with AS1055:2018, "Acoustics – description and measurement of environmental noise".</p> <p>The conclusions of the assessment found that noise levels will comply with relevant Noise Policy for Industry requirements, with the implementation of the following recommendations:</p> <ul style="list-style-type: none"> • <i>Appropriately managing noisy patrons during functions at the project site;</i> • <i>Ceasing music at 11.30pm at the conclusion of functions;</i> • <i>All amplified music would be situated within the pavilions/marquees;</i> • <i>The marquees should be fitted with removable panels made from weatherproof fabric and loaded vinyl (2mm Sonicclear curtain or equivalent). These panels should be utilised during the evening and night periods (6pm to 12am) on the north-eastern and western facing facades to minimise noise transmission to sensitive receivers during noise enhancing conditions; and</i> • <i>Amplified music will only consist of DJ, trio/duet or medium level amplified music (i.e. ipod music and speakers). Larger band (i.e. rock bands) are not recommended for the project.</i> <p>Based on the Noise Impact Assessment results, MAC consulting concluded that there are no noise related issues which would prevent Council approving the project once the noise control recommendations provided in this assessment have been implemented.</p> <p>A condition will be imposed to ensure the above matters are implemented accordingly prior to operations.</p>

	<p>The applicant also provided a response to the submissions that have raised noise as a concern resulting from the development. It was suggested that noise monitoring equipment will be used for each event to ensure compliance is maintained and recorded. A condition is to be further imposed in this regard and all records kept shall be maintained and provided to Council upon request.</p>
<p><u>Operations:</u></p> <ul style="list-style-type: none"> - Time of the events should be limited to Friday and Saturday only. - Limited to 20 events per year. - Neighbour impact from each event managing the catering and alcohol management rather than the owners being present and onsite at each event. - Owners not living on the property and should be made to prove they do. - Drink driving on back roads to avoid police. 	<p>The applicant proposes that the events be reduced from 100 per year to 60. The applicant proposes to also reduce the number of guests from 150 to 120, per event.</p> <p>The applicant suggests that local transport (mini bus or coach) be utilised for transport to the event to reduce impacts on the road network and for the safety of guests.</p> <p>The applicant provides written confirmation that the venue owners are based permanently in Mudgee and will be available, and contactable during an event. Further, an events manager will be in attendance to manage all events.</p> <p>All alcohol management will be required to comply with Responsible Service of Alcohol and NSW Liquor Licencing requirements.</p> <p>All illegal activities such as drink driving will be subject to Police enforcement but will be required to be managed by the RSA requirements on the subject site.</p>
<p><u>Waste Management:</u></p> <ul style="list-style-type: none"> - No waste to be disposed of at the Queens Pinch Transfer Station. 	<p>A condition will be imposed to ensure that a waste contractor is engaged to manage the wastes associated with the development for each and every event held onsite.</p>
<p><u>Traffic</u></p> <ul style="list-style-type: none"> - Spring Flat Road and Wallinga Lane should be upgraded/sealed to reduce deterioration to the gravel road, prevent dust and noise. - Blind corners on Spring Flat Road, not safe and accidents increased due to visitors with no knowledge of the road conditions. - High number of near misses already on this road. - Increase in the maintenance of road will be required. - Road is currently only graded at once every two years under Council's Asset Management Plan. - The road is already at its maximum capacity. - Traffic assessment is required. 	<p>The applicant, upon a further information request made by Council, submitted a Traffic Impact Assessment for the proposed development.</p> <p>The traffic impact assessment provided concluded the following:</p> <ul style="list-style-type: none"> • <i>The proposed parking provisions are compliant with the requirements prescribed by Mid-Western Regional Council's Development Control Plan.</i> • <i>Spring Flat Road is currently operating at an acceptable level of service and will continue to do so once the development is operational.</i>

	<ul style="list-style-type: none"> • <i>The estimated existing traffic volumes and projected future volumes on the driveway and Spring Flat Road warrant BAL and BAR turn treatments in accordance with Austroads Guide to Road Design Part 4 (2017).</i> • <i>The existing driveway condition satisfies the requirements for the BAL and BAR turn treatments.</i> • <i>The existing driveway provides sufficient sight distances to both directions in accordance with Austroads Guide to Road Design Part 4a (2017).</i> • <i>It has been concluded that the development is unlikely to have any significant impacts on the traffic operations of the existing local road network.</i> <p>The application was also reviewed by Council’s Development Engineering Officers and the assessment concluded that the proposal is considered acceptable subject to conditions of consent, including for the provision of a new advanced ‘driveway ahead’ warning sign being installed for eastbound vehicles within Spring Flat Road.</p>
<p><u>Land use:</u> - Not in keeping / not compatible with the RU4 Zoning.</p>	<p>The proposal is permitted in the RU4 zone with consent of Council. The development proposes to occupy a small portion of the site which therefore enables the remainder of the 27.32hectares to continue to be used for agricultural purposes.</p>
<p>Fire risks increased.</p>	<p>The subject site is not mapped as bushfire prone land. The surrounding land of the site is however identified to contain grassland which will require maintenance as an Asset Protection Zones and to ensure that there is no risk of a grass fire spreading from the subject site. A condition will be imposed to ensure that a Bushfire and Emergency Management Plan is prepared and that no events are held during high bushfire danger periods. A static water supply (minimum of 20,000L) is also to be available for firefighting purposes and will be conditioned accordingly.</p>
<p>Detrimental effect on value and lifestyle.</p>	<p>The proposal is not considered to have any significantly adverse impact on land values or lifestyle of properties in the locality, subject to conditions of consent being imposed.</p> <p>The structures are semi-permanent and can be removed where no events are to be held for an extended period of time.</p>

	<p>The proposal is deemed to adequately achieve noise and traffic criteria for this form of development, subject to conditions of consent being imposed and compliance being achieved. It is however also considered appropriate that a complaints register and management plan be prepared and managed by the landowners which should also include a direct contact phone number and email within the plan to ensure that all issues that arise during any event held is appropriately recorded and available where issues arise and Council must investigate.</p>
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(b) Submissions from Public Authorities

No submissions were sought or received from public authorities.

The Public Interest – 4.15(1)(e)

(a) Federal, State and Local Government interests and Community interests

No significant issues in the interests of the public are expected as a result of the proposed development.

CONSULTATIONS

(a) Health and Building

Council's Health & Building Surveyor has not raised any concerns with the proposal, subject to standard conditions.

(b) Technical Services

Council's Development Engineer has not raised any concerns with the proposal subject to conditions including an advance warning sign for the driveway location for eastbound vehicles along Spring Flat Road.

(c) Heritage Advisor

No consultation necessary.

(D) Access committee

Council's Access Committee has not raised any concerns with the proposal subject to provision of the following:

1. *The Applicant should ensure there is adequate accommodations in place to ensure people in wheelchairs or vision impaired people can alight the timber floor deck without it being a difficult obstacle/trip hazard;*
2. *The accessible bathroom may require a ramp from the pathway to the verandah of the building;*
3. *The accessible bathroom should comply with current disability standards.*

Community Plan implications

Theme	Protecting Our Natural Environment
Goal	Protect and enhance our natural environment
Strategy	Ensure land use planning and management enhances and protects biodiversity and

natural heritage

Strategic implications

Council Strategies and Policies

Mid-Western Regional Development Control Plan 2013
Mid-Western Regional Contributions Plan 2019
Mid-Western Regional Development Servicing Plan
Mid-Western Regional Community Participation Plan 2019

Legislation

Environmental Planning & Assessment Act 1979
Environmental Planning & Assessment Regulation 2000
Mid-Western Regional Local Environmental Plan 2012

Financial implications

Nil. No developer contributions are required to be paid as the proposal does not trigger the contribution requirements under the Mid-Western Regional Contributions Plan 2019.

Associated Risks

Should Council refuse the Development Application, the applicant may seek a further review of this decision or appeal through the Land & Environment Court.

KAYLA ROBSON
PLANNING COORDINATOR

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

4 May 2021

Attachments:

1. Development Plans. (separately attached)
2. Management Plan. (separately attached)
3. Traffic Impact Assessment. (separately attached)
4. Visual Impact Assessment. (separately attached)
5. Noise Impact Assessment. (separately attached)
6. Submissions. (separately attached)
7. Applicant Submission Response. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER