

Item 8: Development

8.1 DA0429/2021 - Proposed Mixed Use Development including Detached Dual Occupancy, Tourist Accommodation and Restaurant - 182 Cudgegong Road, Rylstone

REPORT BY THE PLANNING COORDINATOR

TO 21 SEPTEMBER 2022 ORDINARY MEETING

GOV400098, DA0429/2021

RECOMMENDATION

That Council:

- A. receive the report by the Planning Coordinator on the DA0429/2021 - Proposed Mixed Use Development including Detached Dual Occupancy, Tourist Accommodation and Restaurant - 182 Cudgegong Road, Rylstone and;
- B. approve DA0429/2021 - Proposed Mixed Use Development including Detached Dual Occupancy, Tourist Accommodation and Restaurant - 182 Cudgegong Road, Rylstone subject to the following conditions and statement of reasons:

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. Any modification otherwise required to the approved plans will require the submission of a modification application under Section 4.55 of the *Environmental Planning and Assessment Act*.

Title / Name:	Project No.:	Drawing No.:	Revision / Issue:	Date:	Prepared by:
Context / Master Plan	2108	A-001	C	May 2021	Field Office Architecture
Existing Site Plan	2108	A-000	B	June 2021	Field Office Architecture
Site Plan - Accommodation	2108	A-101	H	September 2021	Field Office Architecture
Type A – Hotel Accommodation	2108	A-200	A	May 2021	Field Office Architecture
Type A – Hotel Accommodation	2108	A-201	A	May 2021	Field Office Architecture
Type B – Staff Accommodation	2108	A-202	A	May 2021	Field Office Architecture
Type B – Staff Accommodation	2108	A-203	A	May 2021	Field Office Architecture
Type C – Owners Residence	2108	A-204	A	May 2021	Field Office Architecture

Title / Name:	Project No.:	Drawing No.:	Revision / Issue:	Date:	Prepared by:
Type C – Owners Residence	2108	A-205	A	May 2021	Field Office Architecture
Type D – Accessible Accommodation	2108	A-206	A	August 2021	Field Office Architecture
Site Plan Restaurant	2108	R-100	A	May 2021	Field Office Architecture
Floor Plan	2108	R-200	A	May 2021	Field Office Architecture
Roof Plan	2108	R-210	A	May 2021	Field Office Architecture
Elevations – Eastern Northern	2108	R-300	A	May 2021	Field Office Architecture
Elevations – Western Southern	2108	R-301	A	May 2021	Field Office Architecture
Sections	2108	A-400	A	May 2021	Field Office Architecture
Existing Site Plan	-	36209-C01	B	19.08.2021	Barnson
Existing Part Site Plans	-	36209-C02	B	19.08.2021	Barnson
Proposed Part Site Plans	-	36209-C03	B	19.08.2021	Barnson
General pavement & road specifications	-	36209-C04	B	19.08.2021	Barnson
Proposed Bulk Earthworks Plan	-	36209-C05	B	19.08.2021	Barnson
Sediment and Erosion Control Details		36209-C08	A	19.08.2021	Barnson
Noise Impact Assessment	-	5174R001. LB.210816	2	20 August 2021	Acoustic Dynamics
Bushfire Hazard Assessment	-	-	3905-1001 Version 3 Final	12/10/2021	Geolink Environmental Management and Design
Biodiversity Assessment Report	-	-	3905-1044 Version 3.2 Final	12/10/2021	Geolink Environmental Management and Design
Preliminary Site Contamination Assessment	36209 ER01	-	Final	23/06/2021	Barnson
Archaeological Survey Report	-	-	5	June 2021	Everick Heritage

Title / Name:	Project No.:	Drawing No.:	Revision / Issue:	Date:	Prepared by:
Traffic Impact Assessment	20471	-	4	4 August 2022	Rytenskild Traffic Engineering

GENERAL

2. For clarity, this development consent approves the following mixed use development:

- A restaurant with 60 seats with an adjoining function room for up to a maximum of 120 persons, ancillary kitchen and bar;
- Tourist accommodation (hotel and motel accommodation) comprising sixty (60) cabins along with three (3) accessible cabins;
- Three (3) cabins for ancillary staff accommodation;
- A 3 bedroom dwelling house (forming a detached dual occupancy on the land); and
- Associated civil works including road upgrades, car parking and landscaping.

Note: This consent does not approve the 'wellness centre' shown on the site plan. Separate consent of Council is required for this proposal.

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. The General Terms of Approval issued in relation to the approved development, shall be complied with prior, during and at the completion of the development, as required.

The General Terms of Approval include the following:

- i. General Terms of Approval, issued by NSW Rural Fire Service, for a Bush Fire Safety Authority to be issued in accordance with Section 100B of the *Rural Fires Act 1997*.

A copy of the General Terms of Approval are attached to this determination notice.

5. All earthworks, filling, building, driveways or other works, are to be designed and constructed to ensure that at no time any ponding of stormwater occurs on the subject site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.

6. Where it is proposed to import fill, the material shall be free of hazardous materials and contamination and be classified as VENM or ENM under the guidelines of the NSW Environmental Protection Authority by a qualified Geotechnical Engineer. Fill placed in residential or commercial lots shall be compacted in accordance with AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.

7. All works are to be carried out in a workmanlike manner and in accordance with technical and performance requirements of relevant and applicable Codes, Standards, Council's Development Control Plan and Aus Spec #1, Austroad guide to road design.

8. **A Traffic Management Plan showing proposed traffic signposting around the construction site in accordance with AS 1742.3 and RMS Manual for Traffic Control at Worksites current at the time of construction is to be provided to Council for approval prior to any works commencing on Cudgegong Road. The plan must be prepared and certified by a person holding the appropriate RMS accreditation.**
9. **All traffic control including setup and removal of traffic control devices and/or regulation of traffic is to be carried out by persons suitably accredited by RMS. The developer/contractor must produce upon request evidence that all staff involved in the above have such accreditation.**
10. **All disturbed surfaces that will contribute to erosion and scouring must be stabilized and turfed.**
11. **All stormwater runoff from roof and developed surfaces is to be controlled in such a manner so as not to flow or discharge over adjacent properties. Methods of disposal of excess stormwater including overflow from tank/s must also include adequate provision for prevention of erosion and scouring. All stormwater is to be discharge by connecting to the existing stormwater network system.**
12. **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.**
13. **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.**
14. **The internal access driveway must be constructed and maintained at all times to provide access in all weather conditions for largest possible vehicles that can access to site. The driveway must also be of a sufficient standard to allow for access by emergency service vehicles and must have suitable passing bays in accordance to AS2890.1.**
15. **Access for firefighting must be available to all structures with ample turning area to allow emergency personnel to conduct firefighting operations.**
16. **In order to minimise noise impacts the operation of the development shall be carried out in accordance with all the recommendations set out in Section 6 of the Noise Impact Assessment by Acoustic Dynamics dated 20 August 2021. These include but are not limited to restrictions of hours of operation of certain activities, closing of openable façade components during certain activities and post- approval monitoring for 3 months after commencement of the operation.**

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

17. **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 Mid-Western Regional Council.**
18. **Prior to issue of the Construction Certificate, all plans and documentation to support the application must ensure that compliance with the General Terms of Approval issued by the NSW Rural Fire Service and the requirements of the Bushfire Hazard Assessment Report (Version 3 Final dated 12/10/2021) is achieved.**

19. The design, construction and fit-out of the proposed kitchen, coolroom/s and associated structures must be constructed in accordance with the relevant requirements of Australian Standard 4674 - 2004 "Design, Construction and Fitout of Food Premises". Full details are to be submitted for approval with the required Construction Certificate.
20. Prior to issue of the Construction Certificate for the tourist accommodation buildings, the floor plan shall be amended to include laundry facilities within each suite.
21. Prior to issue of a Construction Certificate, fully detailed design plans along with the supporting report prepared by professional registered engineer must be submitted with a Section 138 application for assessment and approval of Council. The design must ensure that the intersection upgrade complies with BAL and BAR requirements as per Austroads Guide to Road Design part 4A: Un-Signalised and Signalised Intersections.
Note: this does trigger upgrade of culvert crossing along Cudgegong road and must ensure that the widened shoulders are sealed to have a sound and even surface and the design must be upgraded as per the recommendation of Traffic Impact assessment report prepared by Rytenskild, Figure 7.2 and Figure 7.3.
22. Prior to the issue of the Construction Certificate, all civil engineering design works required by the development (including the internal access road, parking areas and stormwater detention measures) must comply with relevant Design Standards with cross sectional details along with longitudinal sectional details provided. All designs must be prepared and certified by registered professional engineer and must be submitted to Council.
23. Prior to the issue of the Construction Certificate, the Applicant must submit to Council a manoeuvring plan to ensure that the largest possible design vehicle to access the site can safely manoeuvre the external/internal road.
24. Prior to the issue of the Construction Certificate, an amended drawing of the type 2 road must be submitted to Council to ensure that two vehicles can pass safely. If not, some localised widening is required to be incorporated into the road design as a passing bay with proper sight distance included.
25. Prior to issue of a Construction Certificate, a minimum of 65 car parking spaces are to be provided within the site of the development and must comply with AS 2890.1: 2004/2890.2 and 2890.6 in relation to dimension, signage, lines marking, safety/crash barriers, wheel stop and should comply with the following requirements:
 - a) Council preference is for parking spaces to be sealed and line marked to address environmental impacts. If not, as a minimum standard is to be provided with a hard standing all weather compacted gravel surface and must be maintained in a satisfactory condition at all times.
 - b) The aisle widths, internal circulation, ramp widths and grades of the car park are to generally conform to the Roads and Maritime Services (RMS) guidelines and Australian Standard AS 2890.1 – 2004. Details of compliance are to be shown on the relevant plans and specifications.
 - c) 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.

26. Prior to the issue of Construction Certificate, a revised stormwater management plan must be submitted and approved by Council to provide a stormwater drainage system in accordance with the "major/minor" system concept set out in Chapter 14 of Australian Rainfall & Runoff, 1987 (ARR 1987); that is, the "major" system shall provide safe, well-defined overland flow paths for rare and extreme storm runoff events while the "minor" system shall be capable of carrying and controlling flows from frequent runoff events Design Principles. The report must demonstrate that the stormwater runoff from the site is not increased beyond the existing undeveloped state up to and including a 100-year ARI. All stormwater detention details including analysis shall be included with the drainage report.
27. A construction management plan is to be submitted along with the Construction Certificate application. The management plan shall include:
- a) Details of sedimentation and erosion control.
 - b) Details of haulage routes shall be providing to Council for approval.
Note: All trucks and machinery must be free from all foreign material where such material is likely to cause pollution. An area must be set aside for the cleaning of concrete agitator trucks.
 - c) Details of dust mitigation and access roads.
 - d) Location and phone number of the site office.
28. Prior to the issue of Construction Certificate, a Soil and Water Management Plan and soil loss calculation must be prepared by a certified professional and is to be submitted to Council for approval. Erosion control measures are to be implemented prior to the commencement of any earthworks and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas. The Soil and Water Management Plan (SWMP) for this development is to be prepared and implemented in accordance with Landcom Guidelines and requirements as outlined in the latest edition of "Soils and Construction- Managing Urban Stormwater. The SWMP must also incorporate the change of pervious surface to compacted gravel road surface and hard standing all weather surface for parking. The overall drainage plan for the site must be included and the strategy for its disposal must be submitted to ensure that the post development discharge must not be more that the pre-development discharge.
- Points to be considered include but are not limited to:
- Drainage reserves and swales and disturbed surfaces due to construction activities are to be turfed.
 - Saving available topsoil for reuse in the revegetation phase of the development;
 - Using erosion control measures to prevent on-site damage prior to any construction activity on site;
 - Rehabilitating disturbed areas promptly;
 - Maintenance of erosion and sediment control structures;
 - Disturbed areas are to be seeded, fertilised and hay mulched or similar on completion of regrading works. Disturbed areas are to be progressively revegetated with exposed areas kept to a workable minimum.
 - Details of scour protection devices

Note: Councils development engineer must be contacted to carry out this inspection. As a hold point, this erosion controlling measures must be inspected prior carrying out works.

29. A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
30. 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 (where the value of works exceeds \$100,000) shall be paid to Council in accordance with this condition for the purpose of public facilities, prior to issue of a Construction Certificate.

The value of works is to be calculated in accordance with Table 6 and the procedure outlined in Figure 1 of the Contributions Plan. Based on the cost of works for the accommodation and restaurant provided with the application, the estimated amount payable is \$70,000.39. A report regarding the confirmed value of works and any necessary certification is to be submitted to Council. Council will then calculate and advise of the final levy amount following submission of the documents which is required to be provided prior to issue of the Construction Certificate.

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.

31. Prior to issue of a Construction Certificate for the restaurant building, details shall be submitted to the Principal Certifying Authority of a suitable acoustic screen or barrier on the external deck. The screen/barrier shall be in accordance with Section 6.1.1 of the Noise Impact Assessment by Acoustic Dynamics dated 20 August 2021.
32. Prior to issue of a Construction Certificate for the Restaurant building, details shall be submitted to the Principal Certifying Authority of a suitable acoustic screen or barrier around mechanical plant. The screen/barrier shall be in accordance with Section 6.1.2 of the Noise Impact Assessment by Acoustic Dynamics dated 20 August 2021.
33. Prior to issue of a Construction Certificate for the Restaurant building, details shall be submitted to the Principal Certifying Authority of the construction materials of the restaurant/function room including sound transmission details. The details shall be in accordance with Section 6.1.5 of the Noise Impact Assessment by Acoustic Dynamics dated 20 August 2021.

PRIOR TO THE COMMENCEMENT OF WORKS

34. No work shall commence until a Construction Certificate, as relevant, 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.

35. Prior to the commencement of works for all moveable dwellings, approval pursuant to section 68 (Part A) of the Local Government Act 1993 to install a moveable dwelling and associated structure is to be obtained from Council. A current engineer's

certificate is required to be site specific and acknowledge the structure is to be relocated to the new site.

Note: You will be required to obtain separate Section 68 (Part A) approvals for each individual dwelling.

36. 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

37. A sign must be erected in a prominent position on any work site on which the erection or demolition of a building is carried out:
- stating that unauthorised entry to the work site is prohibited;
 - 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;
 - the name, address and telephone number of the principal certifying authority for the work; and
 - the sign shall be removed when the erection or demolition of the building has been completed.

38. If the work involved in the erection/demolition of the building;
- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
 - 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.

39. The development site is to be managed for the entirety of work in the following manner:
- 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;
 - Appropriate dust control measures;
 - Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 - 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.

40. Construction must not take place until appropriate erosion control, dust control and silt collection measures are in place. These controls must be within the satisfaction of Council and to relevant engineering standards. Such erosion control, dust control and silt collection measures must remain onsite and maintained to the satisfaction of Council for the duration of the construction period.

Any soil / water retention structures are to be constructed prior to the bulk stripping of topsoil to ensure sediment from the whole site is captured.

BUILDING CONSTRUCTION

- 41. 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.**
- 42. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the Plumbing Code of Australia.**
- 43. 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**

No construction work noise is permitted on Sundays or Public Holidays.
- 44. 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.**
- 45. 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.**
- 46. The strength of the concrete used for the reinforced concrete must be a minimum 25Mpa.**
- 47. 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.**
- 48. All building work is to comply with the requirements of the Access to Premises Standard.**
- 49. 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.**
- 50. Gravel formed internal driveways, manoeuvring and parking areas must be constructed with compacted gravel and maintained to acceptable standards and Council's satisfaction at all times to ensure the safety of users. Measures to prevent erosion and scouring and the transport of sediment by stormwater runoff must be put in place and maintained at all times.**
- 51. If any aboriginal artefacts are uncovered or identified during construction earthworks, such work is to cease immediately and the local aboriginal community and National Parks and Wildlife Service are to be notified. (Note: A suitably qualified person is required to be present during earthworks to identify whether any artefacts were uncovered).**
- 52. 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.

FOLLOWING WORKS

53. Following the completion of intersection upgrade works, one set of Works as Executed (WAE) Drawings in PDF format, AutoCAD compatible files in DWG format, MapInfo files (MGA GDA94 Zone 55/56) and completed Asset Data Template spreadsheets in MS Excel format, are to be submitted to Council. All Works as Executed plans shall bear the consulting engineer's or consulting surveyor's certification stating that all information shown in the plans are accurate.
54. The access road must be maintained on a regular basis and manage stormwater to prevent release of stormwater to adjoining properties and cause no adverse impact to water bodies.
55. The table drain/s must be stabilised so as to ensure that it does not contribute to erosion and scouring which ultimately leads to siltation.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

56. 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.
57. Prior to the occupation of any moveable dwelling, a Certificate of Completion is to be obtained from Council for the installation of the moveable dwelling.
58. 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 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.
59. Prior to issue of an Occupation Certificate, the road works approved under the Section 138 application for works within Cudgegong Road must be satisfactorily completed with a final inspection report issued by Council's Development Engineering Department.
60. All stormwater, internal road / driveway and car parking works must be completed prior to issue of the Occupation Certificate for the development.
61. Prior to issue of the Occupation Certificate for each relevant building, onsite detention tanks of the required capacity in accordance with the approved stormwater management plan is to be installed for each building.

62. Prior to the issue of an Occupation Certificate, all works including but not limited to the following required for this development must be inspected and approved by Council's Development Engineer to ensure its compliance:
- a) Internal road works,
 - b) Stormwater management, including erosion and scouring if any,
 - c) Measures to control siltation,
 - d) Access and parking upgrade works, including crash barriers, if required, as per AS2890 and signage.

DURING OPERATIONS / ONGOING USE

63. 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.
64. 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.
65. There is to be 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.
66. All waste generated by the development is to be disposed of to an appropriately licenced waste facility. In this regard, a commercial waste contract agreement is to be established to ensure that wastes are disposed of appropriately. All fees and charges for disposal are to be borne by the developer.
67. The hours of operation of the restaurant and function room is limited to the following:
- 8am - 11pm Monday to Friday & Sundays and
 - 8am - Midnight on Saturdays.
- Note: The operations of the restaurant and function room is limited to the requirements of the Acoustic Assessment Dated 20 August 2021.*
68. Following commencement of operations of the restaurant, an operational noise validation report is to be conducted and submitted to Council within 3 months. The report must demonstrate and certify that noise emissions from the development satisfies the conditions of consent and the requirements of the Noise Impact Assessment prepared by Acoustic Dynamics dated 20 August 2021. Any recommendations contained in the validation report must be implemented immediately.
69. All vehicles are required to enter and leave the site in a forward direction at all times.
70. All loading and unloading in connection with the premises shall be carried out wholly within the site.

71. All car parking areas, loading and unloading areas, vehicle manoeuvring and driveway areas must not be used for the storage of any goods or materials and must be available for their intended use at all times.
72. All waste generated by the development is to be disposed of to a Council approved waste facility. All fees and charges for disposal are to be borne by the developer.
73. All exterior lighting associated with the development shall be designed and installed so that no obtrusive light will be cast onto adjoining property or roadways, in accordance with Australian Standard 4282 "Control of the Obtrusive Effects of Outdoor Lighting".
74. Measures, such as raised kerb edges, bollards and/or fencing, are to be installed and maintained around all approved landscaped areas in order to prevent vehicles driving over them.
75. The development is to be kept in a clean and tidy condition at all times.
76. The food premises shall, at all times, be operated and maintained in accordance with Food Safety Standards 3.1.1, 3.2.2 and 3.2.3 prescribed in chapter 3 of the Australia and New Zealand Food Standards Code.
77. A complaint handling procedure and reporting register is to be established that ensures all complaints made by neighbouring residents or visitors as a result of the operations of the development are appropriately resolved. The register is to be made available to Council at any time upon request.
78. A sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building for the following uses:
 - (a) entertainment venue;
 - (b) function centre;
 - (c) pub;
 - (d) registered club;
 - (e) restaurant.

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 Contractor is required to contact Dial Before You Dig to obtain details of the location of the various services in the vicinity of the subdivision to minimise the chance of disturbing utility services as well as the location of services which require to be relocated. DBYD can be contacted online <https://www.1100.com.au/> or by phone on 1100.
3. 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.

4. **Division 8.2 of the Environmental Planning and Assessment Act 1979 (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.**
5. **If you are dissatisfied with this decision section 8.7 of the EP&A Act 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).**
6. **To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&A Act.**

STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. **The proposed development generally complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013. Where variations have been identified, conditions of consent have been imposed.**
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. **No submissions were received during the public exhibition period.**

Executive summary

OWNER/S	Mr R and Mrs J Beaurepaire
APPLICANT	Newton Denny Chappelle
PROPERTY DESCRIPTION	'Woodlawn' 182 Cudgegong Road, Rylstone Lot 1 DP 879337
PROPOSED DEVELOPMENT	Mixed Use Development including Detached Dual Occupancy, Hotel and Motel Accommodation (60 Cabins), Staff Accommodation (3 cabins) and Restaurant with Function Room
ESTIMATED COST OF DEVELOPMENT:	\$7,039,881.00
REASON FOR REPORTING TO COUNCIL:	Cost of development exceeds \$2 Million
PUBLIC SUBMISSIONS:	Nil

Development Application DA0429/2021 has been submitted to Council that seeks approval for a Dual Occupancy (Detached), Tourist and Visitor Accommodation (Hotel and Motel Accommodation comprising 60 suites), Three (3) Staff Accommodation Units, Restaurant with Function Room and Associated Works, to be located at 182 Cudgegong Road RYLSTONE NSW 2849, legally identified as Lot 1 DP 879337.

The subject land, bordered by the Cudgegong River, has an area of 201.5 Hectares and contains a vineyard and cellar door known as De Beaurepaire Wines which currently operates from 11am to 5pm, Thursday to Monday.

The application was notified, in accordance with Mid-Western Regional Community Participation Plan 2019, for a period of 14 days, ending 13 August 2021. During the notification period, no submissions were 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 however, a variation to the onsite parking arrangements has been requested with justification provided in the traffic impact assessment report.

The application has been referred to Council for consideration as it exceeds staff's *Delegation of Authority*, in that the value of the application exceeds \$2 million.

The application is recommended for Approval.

Disclosure of Interest

Nil

Detailed report

PROPOSED DEVELOPMENT

Council is in receipt of Development Application DA0429/2021 for a mixed use development to be located at 182 Cudgegong Road RYLSTONE NSW 2849, Lot 1 DP 879337.

Key aspects of the proposal includes two (2) separate precincts comprising of:

- Restaurant (60 seats) with adjoining function room for up to a maximum of 120 persons, ancillary kitchen and bar comprising a total internal floor area of 382m²;
- Tourist Accommodation – comprising sixty (60) 'pre-fabricated' cabins being a mix of 1, 2 or 3 bedrooms along with three (3) accessible cabins;
- Three (3) 'pre-fabricated' cabins for staff accommodation;
- New 'pre-fabricated' 3 bedroom owners' residence (forming a detached dual occupancy on the land); and
- Associated civil works including road upgrades, car parking and landscaping.

It should be noted that the proposed 'wellness centre' shown on the site plan is not included as part of this development application. Plans of the proposal are included within **Attachment 1**.

The proposal provides a total of 65 formalised car parking spaces, 28 are proposed to be provided in a common / central parking area for visitors, and 12 spaces are proposed for staff in a separate parking area. An additional 25 car parking spaces are proposed adjacent to the tourist accommodation units. A 12 seater courtesy bus is proposed to also be utilised to support the land uses.

The proposed opening hours of the restaurant and function room are:

- 8am - 11pm Monday to Friday & Sundays and
- 8am - Midnight on Saturdays.

SUBJECT LAND

The subject land known as 182 Cudgegong Road, Rylstone (legally identified as Lot 1 DP 879337) contains an existing winery and cellar door (approved under DA0053/2008) with supporting outbuildings and dwelling house.

The subject land comprises a total area of 201.5 Hectares and has legal access via a right of carriageway over Lot 42 DP 755802, located to the south of the site.

The site is bound to the north and west by the Cudgegong River and the Rylstone Common is found to the east of the site.

The subject site and the proposed development footprints are identified by Figures 1 and 2 below.

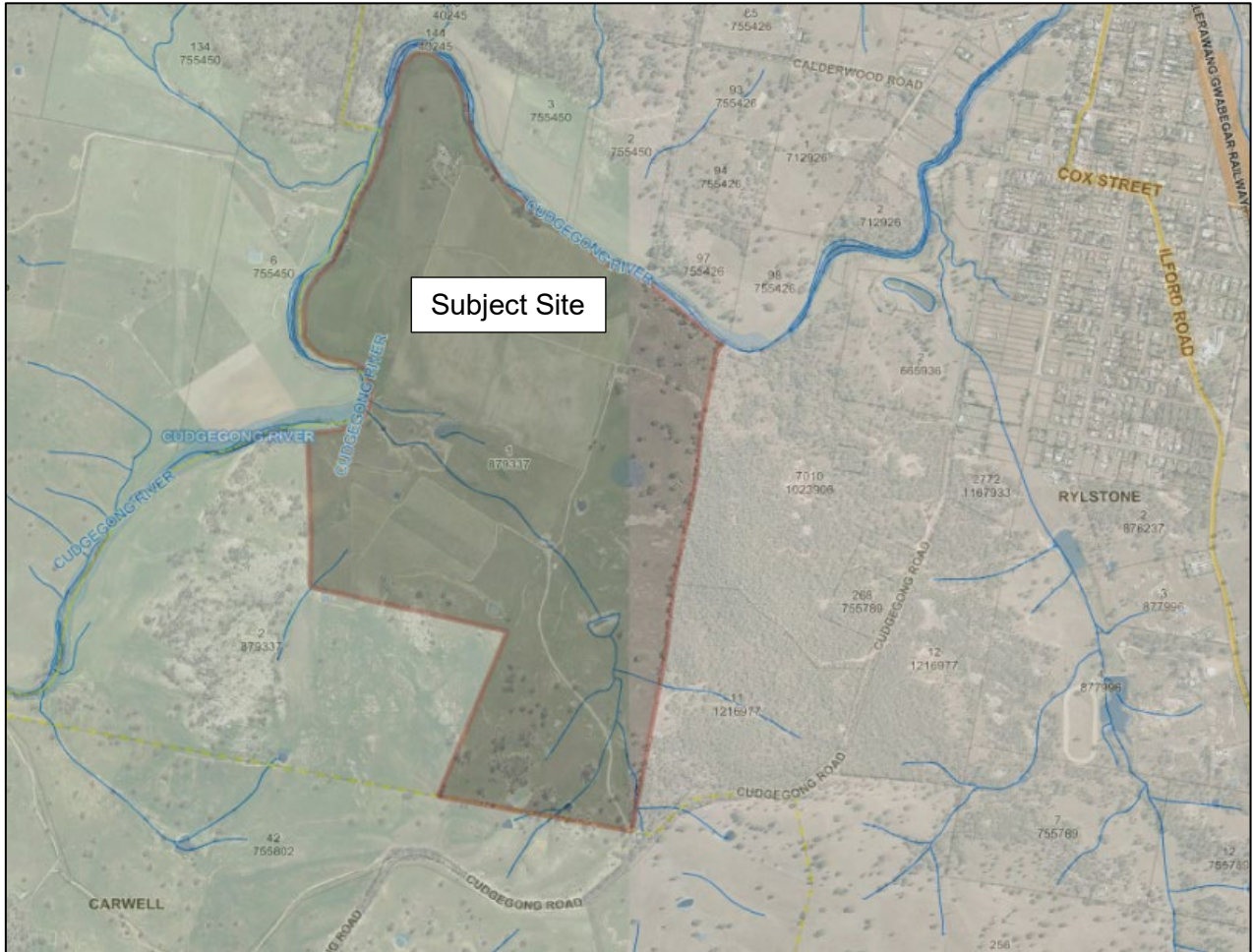


Figure 1: Existing Site Location Plan

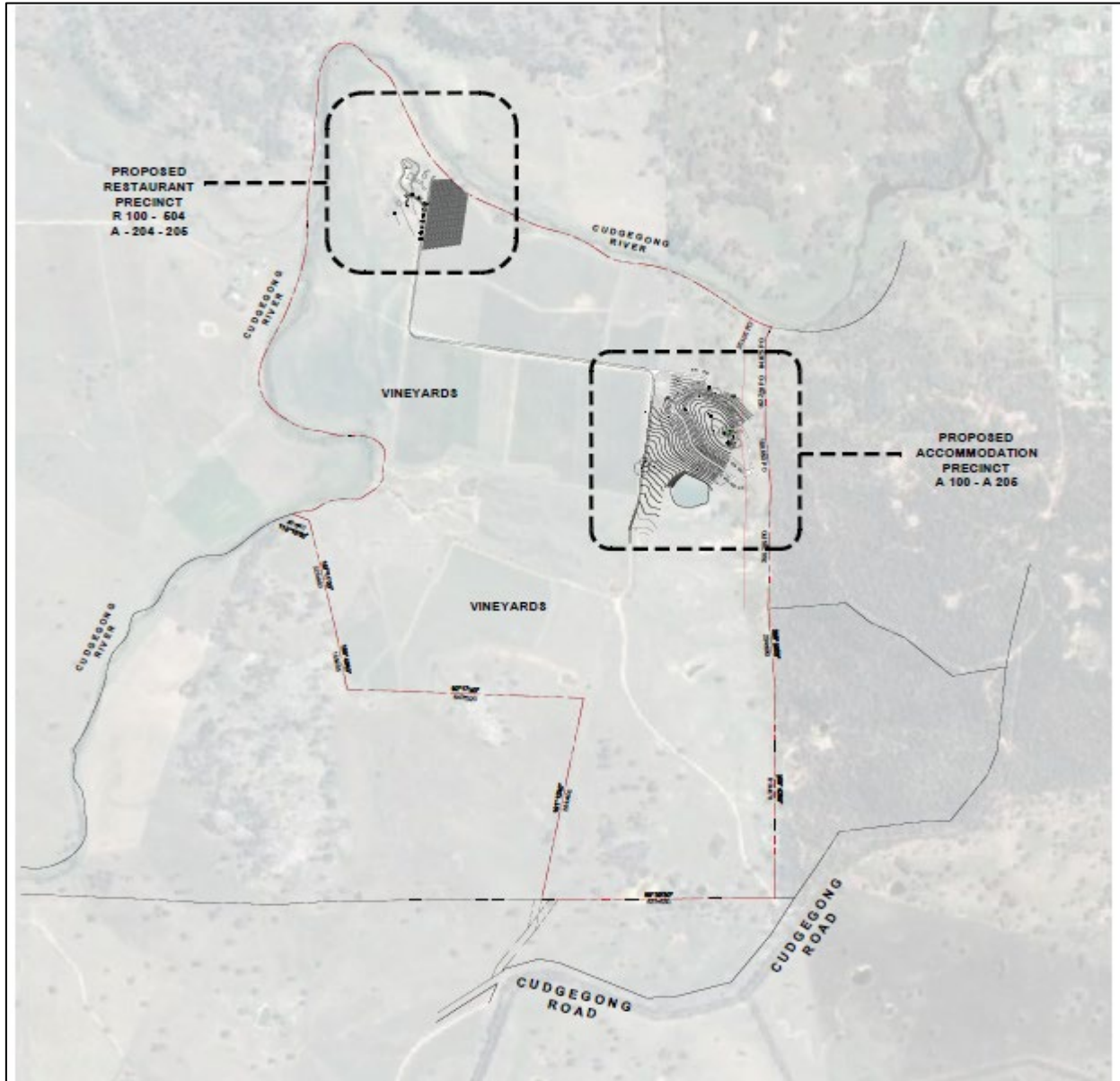


Figure 2: Proposed Site Layout Plan

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 considered to be Integrated Development, in accordance with section 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act). The subject land is identified as bushfire prone land and the application is identified to be for a special fire protection purpose (tourist accommodation). As a result, pursuant to Section 100B of the Rural Fires Act, General Terms of Approval from the NSW Rural Fire Service is required to be obtained. General Terms of Approval were issued on the 23 September 2021 with conditions imposed. The conditions

and a copy of the General Terms of Approval have been included within the recommended conditions of consent.

ASSESSMENT

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 (BIODIVERSITY AND CONSERVATION) 2021

The Biodiversity and Conservation SEPP applies to the proposal as the area of land associated with the proposal is identified on the Koala Development Application Map, and is greater than 1 hectare in size. The application was supported by a Biodiversity Assessment Report which states that 0.97 hectares of native vegetation will be removed to support the proposal however, there will be no impact on koala habitat, as identified under Schedule 2 of the SEPP as a result of the proposed development. The proposed clearing is also less than the prescribed clearing threshold of 1 hectare and no impact to threatened species was identified under the 5 part test undertaken within the Biodiversity Assessment Report.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

The proposal involves residential development however it is proposed in a prefabricated or manufactured form and therefore SEPP BASIX does not apply.

STATE ENVIRONMENTAL PLANNING POLICY (INDUSTRY AND EMPLOYMENT) 2021

The proposed development does not involve Advertising or Signage nor is impacted by any other requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

STATE ENVIRONMENTAL PLANNING POLICY (PLANNING SYSTEMS) 2021

The proposed development is not identified as State or Regionally Significant Development nor is the proposal impacted by any other requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

STATE ENVIRONMENTAL PLANNING POLICY (PRIMARY PRODUCTION) 2021

The proposed development is not impacted by any requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Pursuant to section 4.6 of the Policy, a site inspection and a search of council's records confirm that a winery and agricultural activities have historically been undertaken on the subject site. Whilst the proposed development has avoided the existing grape vine areas, the application has been supported by Preliminary Site Contamination Assessment which included site soil sampling to confirm the subject site is suitable for the proposed development. The report confirmed that:

Based on the findings of the desktop review and site investigation it can be stated with a reasonable level of confidence that the areas identified for the proposed development of the hospitality and tourist accommodation are suitable for this intended land use. This finding is

supported with analytical results of surface soil samples collected at the respective development areas, in which no contaminants were detected above human health-risk based and ecological risk screening criteria.

The following recommendation was made in the report findings:

It is recommended that during any excavation or construction activities that involve disturbance of the surface soil, sediment and erosion control measures be put in place to prevent the dispersion of sediment off-site.

A condition has been imposed within the recommended conditions of consent.

STATE ENVIRONMENTAL PLANNING POLICY (RESOURCES AND ENERGY) 2021

The proposed development is not impacted by any requirements of this Policy. Therefore, no further consideration of this SEPP is considered necessary.

STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021

Pursuant to section 2.48, the development will not have impact on underground electricity power lines, distribution pole or tower. There are no electrical easements that constrain the subject site and therefore no further consideration of this SEPP is considered necessary.

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 a mixed use development defined in accordance with the MWRLEP 2012 as follows:

- *mixed use development means a building or place comprising 2 or more different land uses.*

The land uses involved in the mixed use development includes the following:

1. *dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.*
2. *restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided. Note—Restaurants or cafes are a type of food and drink premises—see the definition of that term in this Dictionary.*

A 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

3. *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.*
4. *hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that —*
 - (a) comprises rooms or self-contained suites, and*
 - (b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.*

Note: Hotel or motel accommodation is a type of tourist and visitor accommodation—see the definition of that term in this Dictionary.

Tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) backpackers' accommodation,*
- (b) bed and breakfast accommodation,*
- (c) farm stay accommodation,*
- (d) hotel or motel accommodation,*
- (e) serviced apartments,*

but does not include—

- (f) camping grounds, or*
- (g) caravan parks, or*
- (h) eco-tourist facilities*

Clause 2.2 Zoning of Land to Which Plan Applies

The land is zoned RU1 Primary Production and is therefore subject to the Plan.

Clause 2.3 Zone objectives and Land Use table

The land is zoned RU1 Primary Production pursuant to MWRLEP 2012. The proposal, being a mixed use development including a dual occupancy detached, restaurant, function centre and hotel or motel 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:

RU1 Primary Production

1. *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*

Comment The proposal does not significantly impact upon the ability of the land to continue to be used for the purposes of primary production with all grape vines that exist over the site to be retained and grazing of stock able to be maintained over the 200 hectare site.

2. *To encourage diversity in primary industry enterprises and systems appropriate for the area.*

Comment The proposal allows for diversification from existing primary industry enterprises conducted over the site and with the segregation of the land uses to already disturbed areas of the site, minimal impacts are generated.

3. *To minimise the fragmentation and alienation of resource lands.*

Comment The proposal does not contribute to unreasonable fragmentation of rural land.

4. *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 conditions of the consent.

5. *To maintain the visual amenity and landscape quality of the Mid-Western Region by preserving the area's open rural landscapes and environmental and cultural heritage values.*

Comment The proposal will not result in any significant impact upon the immediate visual amenity or environmental/cultural heritage values of the site. The site is not identified as visually sensitive land or located in a scenic protection area. The development footprint has been isolated to two (2) areas of the site which ensures that the potential level of environmental impact is reduced.

6. *To promote the unique rural character of the Mid-Western Region and facilitate a variety of tourist land uses.*

Comment The proposal includes tourist related land uses that will promote the unique rural character of the Mid-Western Region.

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

This clause applies as the land is zoned RU1 and the application involves the erection of a dwelling, to form a dual occupancy.

In order for the property to benefit from a 'dwelling entitlement' it must satisfy one of the provisions contained within clause 4.2A(3). A review of Council's records and the details submitted with the application has revealed that the property complies with clause 4.2A(3)(a) and 4.2A(4). Subsequently, the consent authority can consider the development application for the erection of a dwelling to form a dual occupancy on the land.

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 5.21 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. The development will have no impact on Cudgegong River flows due to the higher elevation of the site. No further consideration is necessary.

Clause 6.1 Salinity

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

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 not identified as groundwater vulnerable.

Clause 6.5 Terrestrial biodiversity

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

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.

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, no signage is proposed as part of this application.

Part 4.7 Tree Preservation Order

No trees to be removed that are listed within Part 4.7 of the DCP.

Part 5.1 Car Parking

The proposed development seeks to establish tourist and visitor accommodation and a restaurant which generates the following parking rates under the DCP:

- **Restaurant**
 1 space per 7m² GFA or 1 space per 3 seats whichever is the greater
 1 space per 4m² for licensed floor including outdoor seating or dining
- **Tourist and Visitor Accommodation**
 1 space per unit, plus 2 spaces per 3 employees

An extract of the DCP parking calculations from the Traffic Report provided to Council on the 8 August 2022 is provided below, noting that the staff accommodation has since been reduced to three (3) units.

Table 5.1: Requirement for car parking under DCP (Mid-Western Regional Council)

Component	Minimum Car Parking Spaces Required
Accommodation	
STAGE 1	
Visitor (30 cabins)	30 spaces
Staff (3 cabins)	2 spaces
STAGE 2	
Visitor (30 cabins)	30 spaces
Staff (2 cabins)	2 space
STAGE 1	
Restaurant (60 seats)	20 spaces
TOTAL PARKING REQUIRED	
STAGE 1	52 spaces
STAGE 2	<u>32 spaces</u>
TOTAL	84 spaces

The development seeks to provide a total of 65 formalised car parking spaces, of which all will be provided in Stage 1. As shown in Table 5.1 of the traffic report and extract provided above, the proposal results in a shortfall of 19 spaces, a variation of 22%. The applicant's consultant states that the proposed parking provisions are considered to be acceptable based on the following:

- *The rural location the site and proposal to operate a courtesy bus (van) service to Rylstone, Mudgee and other surrounding areas.*
- *It is expected that a significant number of visitors to the restaurant will be accommodation guests, and therefore not generate additional car parking demand.*
- *The facility has been designed so that it will only operate at capacity when there is cross-use between the accommodation and restaurant / function facility.*
- *Should there be an occasional need for overflow parking, such could comfortably be accommodated on grassed areas that have satisfactory gradient and surface condition.*
- *With regards to the courtesy bus service, it is intended that a 12 seat van would be used. The use of this van (3-4 trips to local areas) would equate to approximately 3 cars per trip and therefore up to 12 parking spaces for four trips.*

As a result of the above justification, in particular the use of a transport bus to reduce car reliance for guests and the cross-use of the facility, the variation to the DCP parking requirements over the large rural site is supported in the circumstances of the case.

Part 5.2 Flooding

The subject site is not identified within Council's Flood Planning Area. The development will have no impact on Cudgegong River flows due to the higher elevation of the site. No further consideration is necessary.

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 6.1 Dwellings in Rural Areas

The minimum front setback as prescribed within the table is 60 m. The proposed dwelling to form a dual occupancy is setback 2.2km from the Cudgegong Road. Accordingly, the proposal complies.

The minimum side/rear setback as prescribed within the table is 20m. The proposed dwelling to form a dual occupancy is setback 130m from the Cudgegong River which is the side and rear boundary feature. Accordingly, the proposal complies.

Part 6.4 Tourist and Visitor Accommodation

The proposal generally satisfies the tourist accommodation provisions of the DCP 2013 in that the subject land already contains a residential component and will also include a dual occupancy development as part of this application. Additional conditions are required to ensure parking compliance is achieved onsite.

Further, as the proposed development seeks to establish hotel and motel accommodation, the maximum of six (6) units does not apply in this instance.

The development design and siting has satisfactorily retained vegetation and maintained the topography of the site without significant cut or fill required and all services required to support the development are already available onsite or can be readily provided onsite. A waste water report has been provided to support the application which has been reviewed by the Health and Building

Department and no objections have been raised. A separate section 68 Activity Approval will however be required to be obtained prior to commencing onsite sewerage management works.

Section 7.11 Contributions

MID-WESTERN REGIONAL CONTRIBUTIONS PLAN 2019

Pursuant to Council's Contributions Plan 2019, the development is proposing a mixed use development comprising of residential accommodation (inclusion of a detached dual occupancy), 63 hotel / motel accommodation units and a restaurant with function room which exceeds a total cost of \$100,000.

In accordance with section 2.6.1 of the Contributions Plan 2019, a single development can only be levied one type of contribution under Section 7.11 or 7.12 of the EP&A Act. In accordance with the Plan, the component that represents the majority share of the gross floor area (GFA) of the development shall inform which contribution method applies. As the GFA is greater for the accommodation and restaurant component, Section 7.12 contributions apply.

The contribution payable has been calculated below for the tourist accommodation and the restaurant based on the cost report provided to support the application:

- \$7,000,039.20 (including GST) x 1% = \$70,000.39

An appropriate condition has been imposed requiring payment of the contribution subject to provision of finalised cost estimate report.

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 Councils 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)(iia)

No Planning Agreements are applicable.

Regulations –4.15(1)(a)(iv)

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021

No matters prescribed by the Regulations impact determination of the Development Application.

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 appropriate with regards to the surrounding context and setting and provides a complimentary tourist related land use to an existing winery and cellar door with minimal impacts on the environmental attributes of the site.

(B) ACCESS, TRANSPORT AND TRAFFIC

Traffic Generation:

The Traffic Impact Assessment Report has estimated that the proposed tourist accommodation cabins would generate in the order of 4 vehicle trips per cabin per day, or 0.4 per cabin per hour. Assuming 100% occupancy, application of this rate equates to 240 vehicles per day.

Restaurants typically generate traffic at the following rates:

- 5 vehicle movements per hour per 100m² GFA;
- 60 vehicle movements per day per 100m² GFA.

Table 6.1 - Estimated Development Traffic Generation (peak hour) assuming full occupancy

Component	AM peak hour			PM peak hour			Daily		
	In	Out	Total	In	Out	Total	In	Out	Total
Accommodation (60 cabins)	16	8	24	8	16	24	120	120	240
Restaurant (382m ² GFA)	10	10	20	10	10	20	115	115	230
Total	26	18	44	18	16	44	135	135	470

The above traffic estimates of 44 vehicles per hour in the AM and PM periods assume full occupancy and full use of the restaurant / functions facility by day visitors. It is expected that the traffic generation of the proposal will be in the order of 10% - 20% of the above volume on average weekdays, and 50% on average weekends.

Access and Road Impacts

The Traffic Impact Assessment Report has included surveyed volumes at Cudgegong Road / Coomber Street and Bylong Valley Way / Coomber Street intersections which indicate a through traffic demand of approximately 200 vehicles per peak hour on the Bylong Valley Way with minimal turning demand to Coomber Street. Based on the surveyed demand and low traffic generation of the proposal these intersections only warrant the provision of 'Basic' turn treatments and are considered to be acceptable.

It is noted that a channelised right turn and an auxiliary left turn treatment are provided at the Castlereagh Highway / Bylong Valley Way intersection, with a Type AUR right turn treatment provided at the Castlereagh Highway / Cudgegong Road intersection. The proposal only generates 5 right turn movements from Castlereagh Highway to Bylong Valley Way, with no right turn demand at the Cudgegong Road intersection. It is therefore considered that the existing geometry of each intersection is satisfactory, and the proposal does not trigger additional works to accommodate peak development traffic demands.

Cudgegong Road carries in the order of 35 vehicles per hour during peak periods. This volume warrants the provision of 'Basic' turn treatments regardless of the turning volume. The proposed site access intersection layout is shown in Figures 7.2 and 7.3. As shown, it is proposed that the road be widened on the northern side to allow for Type BAL and BAR turn treatments suitable for a 110 Km / Hr design speed.

The layout shown in the extract of Figure 7.2 from the Report indicates that an Austroads compliant intersection layout (Type BAL and BAR) can be achieved with a widening of approximately 3 metres on the northern side of Cudgegong Road, with all works contained within the road reserve.

The Traffic Impact Assessment Report has concluded that the location of the existing driveway complies with sight distance requirements set out in AS2890 - with the sight distance to the west measured as 208 metres and a greater sight distance is available to the east.

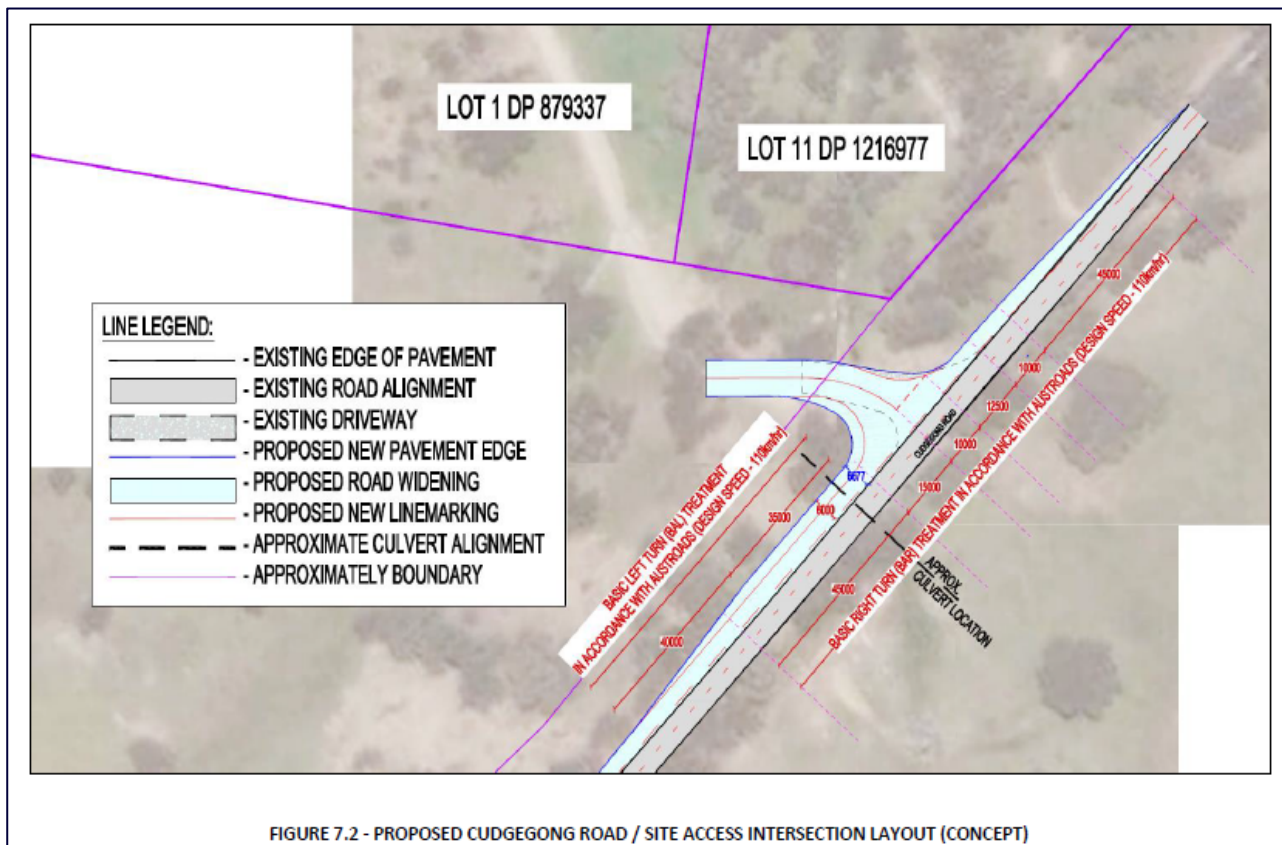


FIGURE 7.2 - PROPOSED CUDGONG ROAD / SITE ACCESS INTERSECTION LAYOUT (CONCEPT)

(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

The proposed development was supported by a heritage report which concluded that there were no Aboriginal sites or objects identified during a survey of the land. Further, the site is not identified as heritage listed or contained within a heritage conservation area. Notwithstanding the field survey conducted, an 'unexpected finds' condition of consent is recommended to ensure that any objects found during the commencement of works is appropriately managed and reported.

(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 however, the development will need to comply with the Public Health Unit and Councils requirements for supply of water to the restaurant and accommodation. This will require the development of a Quality Assurance Program for the water supply.

(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 with conditions recommended to manage dust during construction and operations.

(J) FLORA AND FAUNA

The proposed development has been supported by a Biodiversity Assessment Report. The proposed footprint of the development has been designed to eliminate the need to clear any significant vegetation along with consideration of APZ's being maintained around the accommodation precinct buildings. The total estimated amount of clearing has been considered within the report and totals 0.97ha to accommodate the cabins, parking areas and access roads. In accordance with the Biodiversity Conservation Act 2016, the proposed development is unlikely to require substantial native vegetation loss, and that the site is not mapped as containing biodiversity value land as per the Biodiversity Values Map and Threshold Tool, the Biodiversity Offsets Scheme (BOS) would not be triggered. It should be noted that the minimum lot size for the site is 100 ha and 40 ha under the Mid-Western Regional Local Environmental Plan 2012 and hence up to 1 ha of native vegetation may be cleared before triggering the BOS. The proposed development seeks to remove 0.97ha and therefore is less than the prescribed clearing thresholds under the Biodiversity Conservation Regulation.

Further to the above, the Biodiversity Conservation Act requires a test of significance (five-part test) when assessing whether an action, development or activity is likely to significantly affect threatened species, ecological communities or their habitats. The Biodiversity Assessment Report provided to support the application identified that there is the potential for several threatened fauna species to occur at the site and the presence of *White Box Yellow Box Blakely's Red Gum Woodland* (a threatened ecological community) was noted during the site inspection. As a result, a five-part test of significance has been undertaken which concluded that it is unlikely that the local population of any of the subject species or the local occurrence of the subject threatened ecological community would be placed at significant risk of extinction as a result of the proposed development.

(K) WASTE

Waste management will be a requirement of the facility during construction and operation. It is recommended that a commercial waste agreement also be established to ensure that wastes are removed from the site and disposed of to a licenced waste facility capable of receiving large amounts of commercial wastes and recyclables. A condition is imposed accordingly.

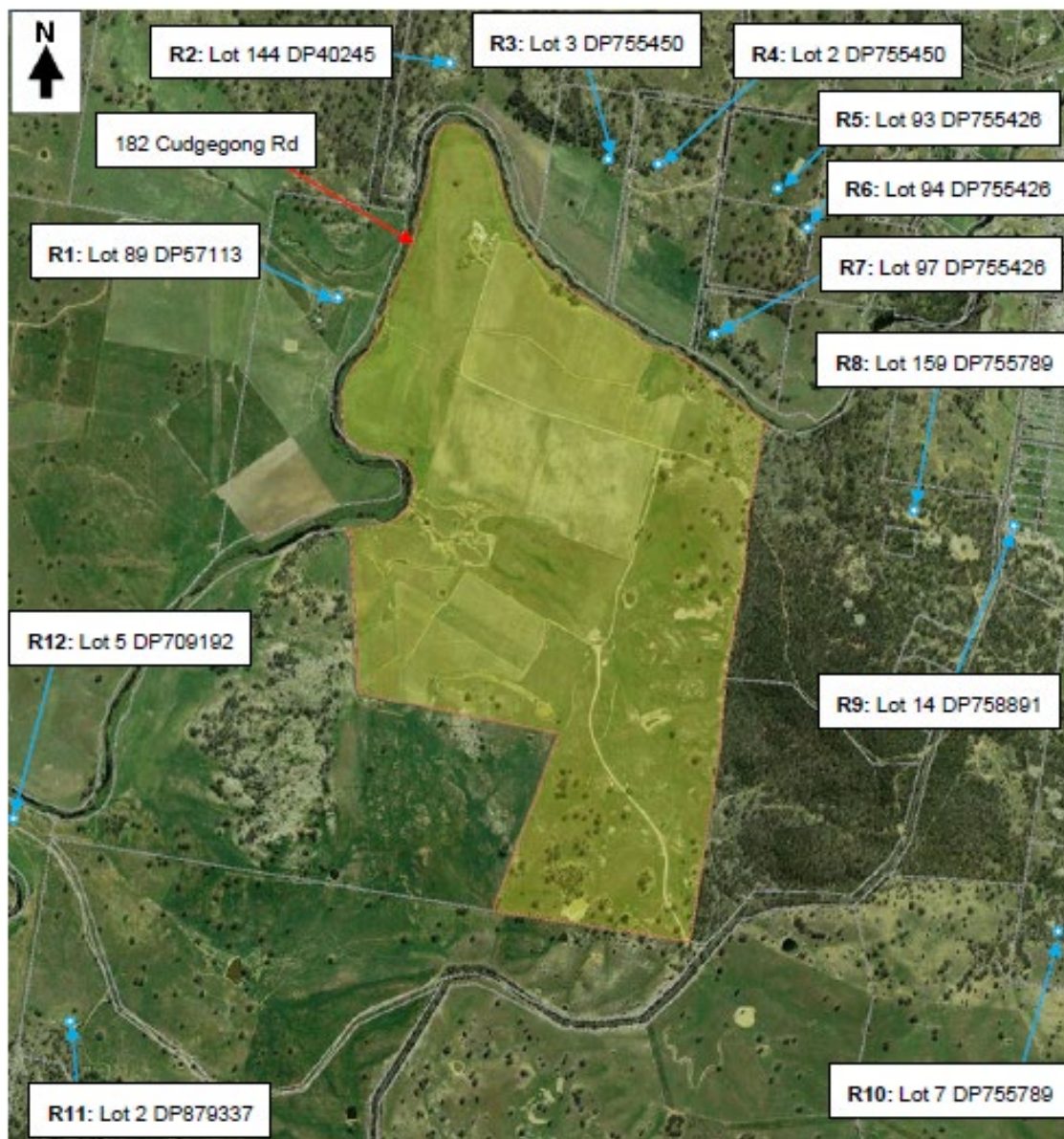
(L) ENERGY

The proposal will be subject to the requirements of the National Construction Code for the relevant building classifications.

(M) NOISE AND VIBRATION

An acoustic assessment was provided as part of the application with the closest sensitive receptors identified in excess of 400m from the development precincts. As part of the assessment however, 12 receptors have been included for the modelling as shown by the extract from the assessment below.

A.1 AERIAL IMAGE WITH SITE AND RECEIVER LOCATIONS



The proposed revised opening hours of the restaurant and function room will be:

- 8am -11pm Monday to Friday & Sundays and
- 8am - Midnight on Saturdays.

To address the recommendations of the acoustic assessment, the applicant states a number of operational requirements are included within the proposal, as outlined below:

- Restriction of 20 persons will be applied to the use of the open deck area for night operating times.
- All glazed façade components and operable faced components (i.e. windows and doors) should be closed during the evening and night-time (except to allow ingress/egress);
 - Night – 10pm-7am
 - Evening – 6pm-10pm
- Glass bottle and rubbish disposal be conducted between the hours of 7am to 6pm on weekdays and 8am to 6pm on weekends and public holidays.

- Management is to ensure guests leave in a civil manner and prevent any loitering of guests of the restaurant within the car park or surrounds of the restaurant.

As there are a number of onsite management issues associated with the above, conditions have been recommended accordingly and align with the requirement of the Acoustic Assessment dated 20 August 2021. Furthermore, it is recommended that the operator develop a complaints management procedure and register to ensure that all complaints are identified and mitigation measures can be introduced should the need arise. Conditions have been imposed accordingly.

(N) NATURAL HAZARDS

The site is identified as bushfire prone land. This has been discussed elsewhere in the report with the General Terms of Approval of the Rural Fire Service required to be complied with at all times. Conditions have been imposed accordingly.

(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

The proposed development is considered to increase passive surveillance with onsite crime prevention measures to be managed by the onsite landowners.

(Q) SOCIAL IMPACT IN THE LOCALITY

The proposal is considered to have generally positive social impacts on the locality, providing additional tourism opportunities for the region that supports an existing onsite winery and cellar door operations.

(R) ECONOMIC IMPACT IN THE LOCALITY

The proposal is considered to have generally positive economic impacts on the locality, boosting local accommodation opportunities and providing new employment in a range of fields.

(S) SITE DESIGN AND INTERNAL DESIGN

The proposal is considered to be adequate as discussed throughout this report with the footprint of the development segregated into two key precincts being the restaurant and owners dwellings with outbuildings, and the hotel / staff cabins. Minor modifications will be required to the hotel cabins to ensure that each suite is self-contained. A condition is imposed accordingly.

(T) CONSTRUCTION

To comply with the National Construction Code and the Local Government Act where relevant.

(U) CUMULATIVE IMPACTS

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. The proposal is able to be constructed in stages and provides an integrated low scale tourist accommodation precinct with supporting restaurant and function room, complimenting the existing winery and cellar door operating from the site.

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.

(B) ARE THE SITE ATTRIBUTES CONDUCIVE TO DEVELOPMENT?

Yes. The site is not subjected to any significant natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site. Appropriate mitigation measures will be required to manage the site from bushfire which has been conditioned accordingly.

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 13 August 2021. During the notification period, no submissions were received.

The applicant lodged amended plans/details during the assessment process which reduced the number of staff cabins. However, the changes were not considered significant enough with regards to implications on adjoining neighbours and re-notification of the proposal was not considered necessary.

(B) SUBMISSIONS FROM PUBLIC AUTHORITIES

The application was referred to the NSW RFS pursuant to S.100B of the Rural Fires Act. General Terms of Approval have been provided and included within the recommended conditions of consent.

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 conditions provided on the 6 January 2022.

Council's Environmental Health Officer has also reviewed the application and recommended non-standard conditions to manage noise impacts as follows:

Prior to the Issue of Construction Certificate:

- *Details shall be submitted to the Principal Certifying Authority of a suitable acoustic screen or barrier on the external deck. The screen/barrier shall be in accordance with Section 6.1.1 of the Noise Impact Assessment by Acoustic Dynamics dated 20 August 2021*
- *Details shall be submitted to the Principal Certifying Authority of a suitable acoustic screen or barrier around mechanical plant. The screen/barrier shall be in accordance with Section 6.1.2 of the Noise Impact Assessment by Acoustic Dynamics dated 20 August 2021*
- *Details shall be submitted to the Principal Certifying Authority of the construction materials of the restaurant/function room including sound transmission details. The details shall be in accordance with Section 6.1.5 of the Noise Impact Assessment by Acoustic Dynamics dated 20 August 2021*

Ongoing/Operational Conditions:

- *In order to minimise noise impacts the operation of the development shall be carried out in accordance with all the recommendations set out in Section 6 of the Noise Impact Assessment by Acoustic Dynamics dated 20 August 2021. These include but are not limited to restrictions of hours of operation of certain activities, closing of openable façade components during certain activities and post- approval monitoring for 3 months after commencement of the operation.*

Conditions have been imposed accordingly.

(B) TECHNICAL SERVICES

Council's Development Engineer has not raised any concerns with the proposal subject to conditions provided on the 1 September 2022.

(C) HERITAGE ADVISOR

No consultation necessary.

(D) ACCESS COMMITTEE

No consultation necessary.

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

Not Applicable

Council Policies

Mid-Western Regional Development Control Plan 2013
Mid-Western Regional Contributions Plan 2019
Mid-Western Regional Community Participation Plan 2019
Mid-Western Regional Developer Servicing Plan 2008

Legislation

Environmental Planning & Assessment Act 1979
Environmental Planning & Assessment Regulation 2021
Local Government Act 1993
Mid-Western Regional Local Environmental Plan 2012

Financial implications

The Applicant will be required to pay developer contributions in accordance with the Mid-Western Regional Contributions Plan 2019 and Developer Servicing Plans 2008.

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

ALINA AZAR
DIRECTOR DEVELOPMENT

6 September 2022

Attachments: 1. Development Plans. (separately attached)
2. Noise Impact Assessment. (separately attached)
3. Other Specialist Reports including Traffic Report. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER