

STATEMENT OF ENVIRONMENTAL EFFECTS v2

USE OF EXISTING BUILDING AS A FARM BUILDING

686 Queens Pinch Road, Mullamuddy



Navigate Planning

8 March 2024

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1 INTRODUCTION

This Statement of Environmental Effects (SEE) supports a development application for the use of an existing building as a farm building at Lot 39 DP 756870, 686 Queens Pinch Road, Mullamuddy.

The farm building was constructed under the provisions of Subdivision 16 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. However, due to the fitting out of the building with separate rooms, large windows, a fireplace, plumbing and other features, Mid-Western Council issued a Stop Work Order stating that, in the Council's opinion, "*the exempt classification and ancillary use of the building within the context of its RU1 Primary Production zoning as a Farm Building under Subdivision 16 of the State Environmental Planning Policy (Exempt & Complying Development Codes) 2008 may no longer be valid*".

To address this concern, this development application seeks consent for the use of the building as a farm building in accordance with the development plans provided in Appendix 1. It is anticipated that, should the development application be approved, a condition of consent will be imposed to state that the building is approved for use as a farm building and not for any other purpose.

Minor building work is also proposed to complete the internal fitout of the building, such as hanging doors, affixing architraves and installation of a balustrade. None of the work proposed is structural and therefore a Construction Certificate is not required.

The development site is zoned RU1 Primary Production under *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012). The land has been, is currently, and will continue to be used for agricultural activities and the farm shed will support those activities by providing storage for stock feed, machinery, fertilisers and pesticides, tools and fencing equipment, etc, with other ancillary activities such as administration, file storage and a washrooms, as outlined in the floor plans.

A farm building is permitted with consent in the RU1 zone.

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

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

2 PROPOSED DEVELOPMENT

The development consists of:

1. Use of existing building as a farm building.
2. Minor building works such as:
 - a. Replacement of front door due to water damage
 - b. Installation of a rain roof over front door to prevent further rain damage
 - c. Internal doors to be hung
 - d. Architraves to be affixed, and
 - e. Balustrade to be installed along staircase.

The building and its use will be a class 10a building under the Building Code of Australia with the predominant use of the building being for storage purposes as outlined on the development plans. Any other activities proposed in the building such as administration, file storage, washrooms and a utility room are ancillary to the primary storage use and do not change the classification of the building.

Being a class 10 building, there are no essential fire safety measures required to be installed.

The maximum number of persons to use the farm building at any one time will be two. An existing gravel area on the northern side of the building provides adequate room for the parking of two vehicles. Being a storage building, it will be used for storage at all times, with the ancillary activities to be undertaken at any time as required. Therefore, no specific hours of operation are considered to be warranted.

3 SITE ANALYSIS

The subject land contains a building constructed as an exempt farm shed.

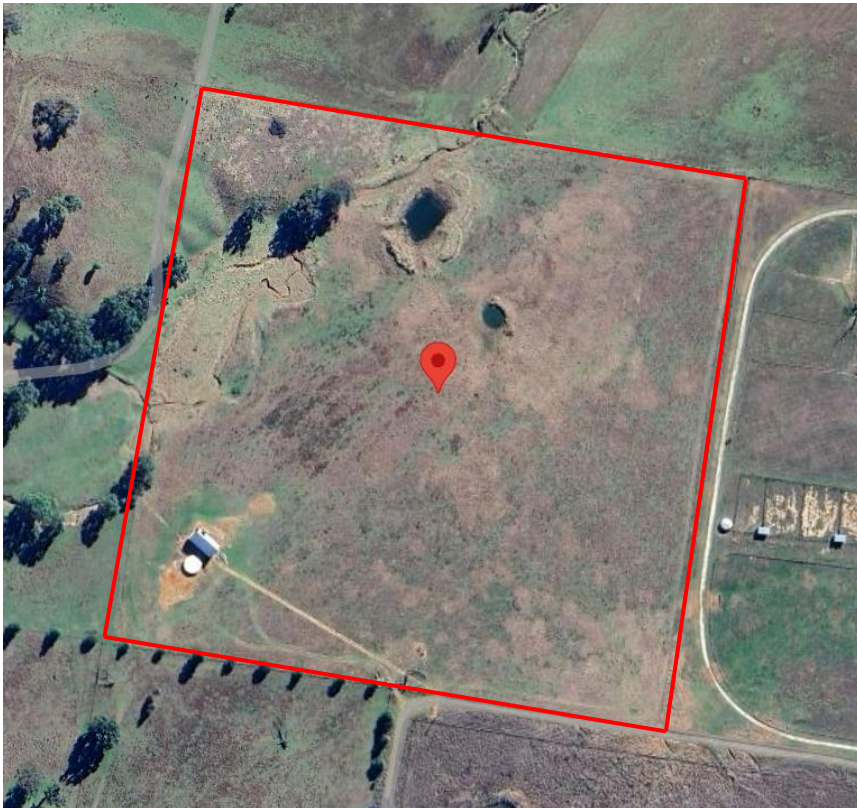
The remainder of the land is vacant of buildings and used for agricultural purposes such as grazing. Two farm dams are located on the site.

Legal and practical access to the land is available to Queens Pinch Road.

The development site is relatively flat. A watercourse crosses the north-western corner of the site. A small patch of native vegetation existing within the riparian corridor of the watercourse.

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

An aerial photograph of the site is provided below.



Aerial photograph (Google Maps)

4 COMPLIANCE WITH RELEVANT LEGISLATION

4.1 Environmental Protection and Biodiversity Conservation Act 1999 (Commonwealth)

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

There are no known threatened species or endangered ecological communities on the site. No native vegetation was removed for the building. The building is located more than 40m from the watercourse crossing the site. The development is therefore unlikely to have a significant impact on any matters of national environmental significance. A referral to the Federal Environment Minister under the EPBC Act is not required.

4.2 Environmental Planning and Assessment Act 1979 (NSW)

4.2.1 Section 4.5 – Designation of consent authority

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

4.2.2 Section 4.10 – Designated development

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

4.2.3 Section 4.13 – Consultation and concurrence

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

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

Section 4.14 requires a consent authority to consult with the NSW Rural Fire Service (RFS) if it is not satisfied that the development conforms to the document Planning for Bush Fire Protection (PFBP). The subject land is mapped as bush fire prone land, however, there are no bushfire protection measures required for a farm building. Referral to the RFS is therefore not required.

4.2.5 Section 4.15 – Evaluation

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

State Environmental Planning Policies

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

Local Environmental Plans

- *Mid-Western Regional Local Environmental Plan 2012*

Draft Environmental Planning Instruments

Nil

Development Control Plans

- *Mid-Western Regional Development Control Plan 2012*

Planning Agreements

Nil

Impacts on the built environment

The farm building is rectangular in shape with a pitched roof, clad in colorbond and has the appearance of a farm shed. The location of the building is approximately 1km from that part of Queens Pinch Road to the north-east where there is an unobstructed view towards the building. From this vantage point the building is not overly visible and appears as a small farm shed. The development therefore will have no detrimental impacts on the built environment.

While the site is located on Visually Sensitive Land as defined in the MWRLEP 2012, for the reasons outlined above, the development will complement the visual setting of the area.

Impacts on the natural environment

The building was constructed in a location that contained no native vegetation. The use of the building as a farm building will have no impacts on the natural environment. An approved septic system has been installed to ensure that there are no significant impacts on groundwater or the watercourse crossing the site.

Social and economic impacts

The use of the building as a farm building supports the ongoing use of the land for agricultural purposes and therefore has positive social and economic impacts.

Suitability of the site

The site is suitable for the development as the use of the building as a farm building supports the ongoing use of the land for agricultural purposes. The use is permissible in the RU1 zone.

The Public Interest

The development is in the public interest as it facilitates the ongoing use of the land for agricultural purposes, with no detrimental impacts on the local area.

4.2.6 Section 4.46 – Integrated Development

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

4.3 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) outlines the processes for biodiversity assessments, approvals and offsets where required. The BC Act also defines biodiversity values, and these are shown as the purple areas on the Biodiversity Values Map (see the map on the following page). The subject land is not included on the Biodiversity Values Map.

No native vegetation was removed for the building. No threatened species are known to occur on the subject land. The use of the building as a farm shed will have no direct or indirect impacts on and threatened species.

4.4 National Parks and Wildlife Act 1974

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

The building was constructed as exempt development. No additional works that would disturb the ground are proposed as part of this development application. The use of the building as a farm building will have no potential impact on any Aboriginal artefacts. No further Aboriginal archaeological assessment is warranted for the development.

5 COMPLIANCE WITH PLANNING CONTROLS

5.1 State Environmental Planning Policy (Resilience and Hazards) 2021

The site has a history of agricultural use, primarily being the grazing of animals. The building was constructed as exempt development. No additional works that would disturb the ground are proposed as part of this development application. The proposed use of the building supports the ongoing use of the land for agricultural purposes. Given the above, no further contamination assessment of the land is considered warranted for the proposal. The site is considered suitable for the proposed use.

5.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 4 of this SEPP aims to conserve and manage areas of natural vegetation that provide habitat for koalas. The SEPP applies to land greater than 1ha in size and requires an assessment as to whether the development is likely to have any impact on koalas or koala habitat.

Given no trees are proposed to be removed as part of this development, it is considered that the proposal is unlikely to have any impact on koalas or koala habitat.

5.3 State Environmental Planning Policy (Primary Production) 2021

The land is not considered to be State significant agricultural land and was not identified on the Draft State Significant Agricultural Land Map. Notwithstanding, the proposed use of the building as a farm building supports the ongoing use of the land for agricultural purposes. No other provisions of this SEPP are relevant to the proposed development.

5.4 Mid-Western Local Environmental Plan 2012

5.4.1 Zoning and zone objectives

The development is proposed on land included within the RU1 Primary Production zone under the *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012), as shown on the map below.



Source: NSW eplanning spatial viewer

The objectives of the RU1 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To maintain the visual amenity and landscape quality of Mid-Western Regional by preserving the area's open rural landscapes and environmental and cultural heritage values.*
- *To promote the unique rural character of Mid-Western Regional and facilitate a variety of tourist land uses.*

The development is consistent with the objectives of the RU1 zone. The development is a farm building to support the ongoing use of the land for agricultural purposes. The building is not overly visible in the landscape and where it is visible, it has the appearance of a small farm shed. The development maintains the rural setting of the locality and has minimal impacts on the local environment. The development will not increase demand for public services or facilities and will not result in any land use conflicts.

5.4.2 Land Use Permissibility

The proposed development is defined as “farm building” under MWRLEP 2012.

The definition of farm building is as follows:

farm building means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

Farm buildings are permitted with consent in the RU1 zone.

The subject land has, is and will continue to be used for agricultural purposes. Currently there are 30 Angus steers grazing on the property. In early March, weeds will be sprayed to prepare the land for the planting of oats at the end of March.

The use of the building as a farm building is ancillary to the agricultural use of the land by providing storage for stock feed, machinery, fertilisers, pesticides, tools, fencing equipment, etc, amongst other ancillary activities as outlined in the floor plans.

The building does not contain a kitchen and therefore cannot be defined as a dwelling as it is not “capable of being occupied or used as a separate domicile”. It is anticipated that, should the development application be approved, a condition of consent will be imposed to state that the building is approved for use as a farm building and ancillary purposes, and not for any other purpose.

5.4.3 Lot Size

The land has a minimum lot size of 100ha. No subdivision is proposed.

5.4.4 Building height

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

5.4.5 Heritage

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

5.4.6 Flood planning

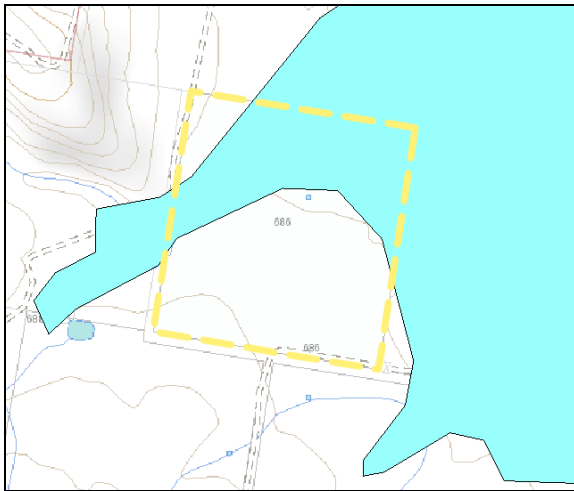
Clause 6.2 of MWRLEP 2012 requires consideration of the impacts on a development by flooding and of the impacts of development on flood behaviour. The proposed development is not identified as flood prone under the MWRLEP 2012.

5.4.7 Earthworks

Clause 6.3 of MWLEP 2012 requires separate development consent for earthworks unless the earthworks are ancillary to other development for which development consent has been given. No earthworks are proposed as part of this development application.

5.4.8 Groundwater Vulnerability

Clause 6.4 of MWRLEP 2012 requires consideration of the impact of development on groundwater. Part of the subject land is identified as groundwater vulnerable on the Groundwater Vulnerability Map in MWRLEP 2012, as shown below.

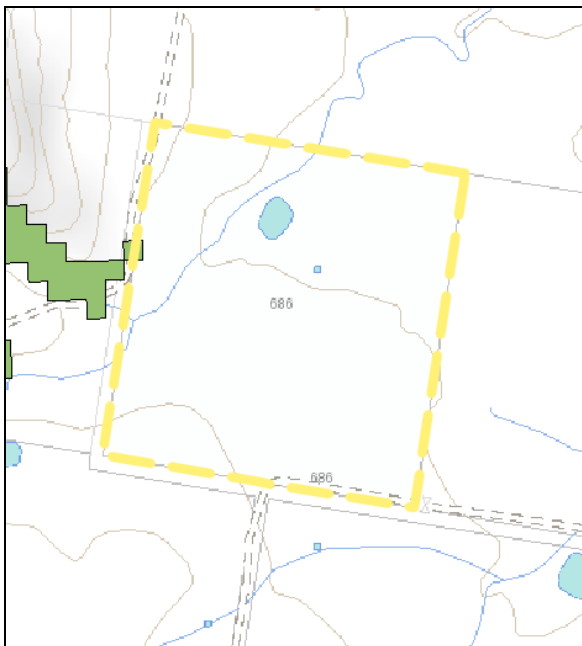


Source: NSW eplanning spatial viewer

The farm building is not located within the area mapped as groundwater vulnerable. An approved septic system has been installed to ensure that the use of the building will have no significant impact on groundwater.

5.4.9 Biodiversity

Clause 6.5 of MWRLEP 2012 requires consideration of the impacts of development on biodiversity. A small part of the subject land is identified as containing biodiversity sensitivity on the Sensitive Biodiversity Map in MWRLEP 2012, as shown below.



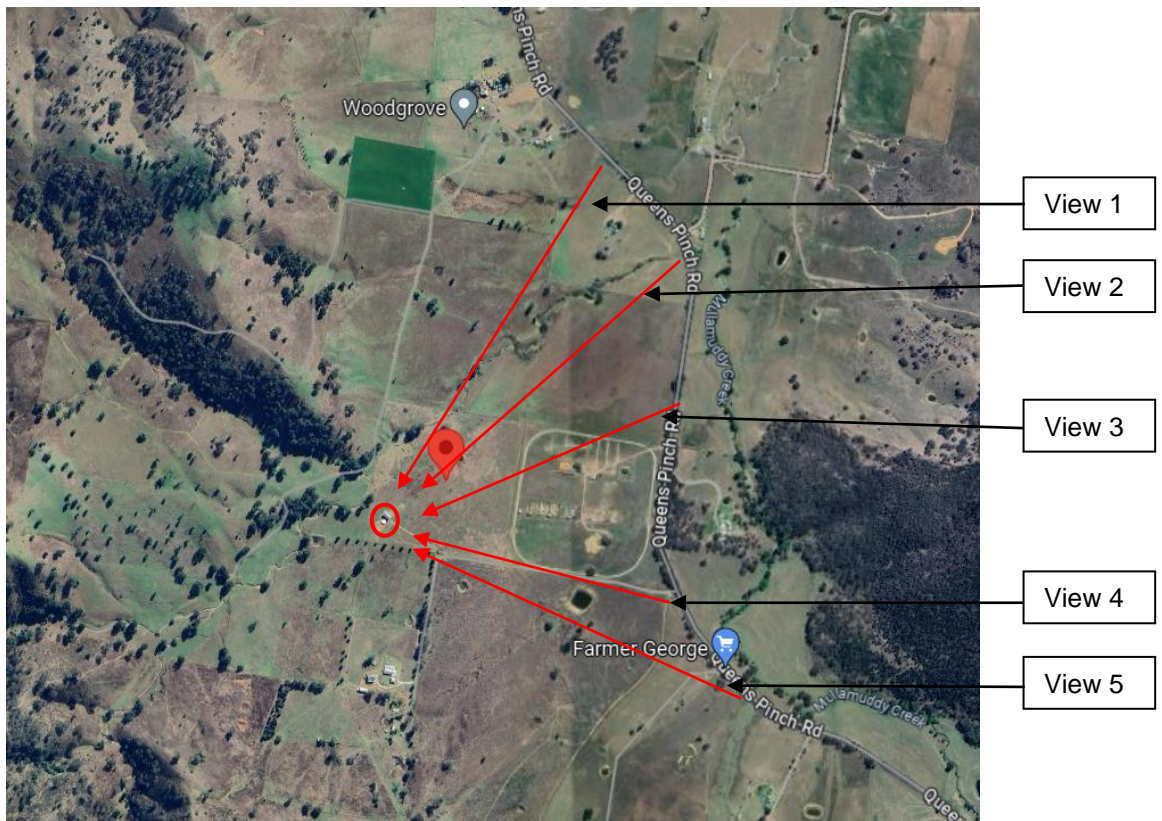
Source: NSW eplanning spatial viewer

The farm building is not located within the mapped area. No native vegetation was removed for the construction of the building and there will be no impact on biodiversity from the use of the building as a farm building.

5.4.10 Visually Sensitive Land Near Mudgee

Clause 6.10 of the MWRLEP 2012 requires the consent authority to be satisfied that the development will complement the visual setting forming the backdrop to Mudgee and 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.

A visual analysis of the existing building from various vantage points along Queens Pinch Road has been undertaken, as outlined in the map and photos below. The analysis demonstrates that the building is insignificant in the landscape and has the appearance of just another small rural shed dotted across the farmland. IT is considered that the proposal is satisfactory having regard to clause 6.10 of the MWRLEP 2012.



Visual Analysis Map



View 1 – North of creek crossing on Queens Pinch Road, farm building identified by red circle. Only the roof of the shed is visible.



View 2 – At creek crossing on Queens Pinch Road, farm building identified by red circle. From this view, the roof and top half of the north facing wall is visible, as is the chimney.



View 3 – South of creek crossing on Queens Pinch Road, farm building identified by red circle. From this view, the roof and top half of the east and north facing walls are visible, as is the chimney.



View 4 – At entrance to site on Queens Pinch Road, farm building identified by red circle. From this view, only the roof and east gable end is visible.



View 5 – South of entrance to site on Queens Pinch Road, farm building identified by red circle. From this view, only the roof, east gable end and top part of the chimney is visible.

From all vantage points, the farm building is not overly visible and appears as a small farm shed. From some vantage points, the chimney is visible but does not dominate the building or stand out in the overall viewscape. Depending on the topography and vegetation between Queens Pinch Road and the shed along the drive between view 1 and 5, the shed comes into and out of view, sometimes with only the roof visible. At all times, the shed appears small and distant and is not dominant in the landscape.

Within the site, the farm building sits in a flat area and similarly is occasionally screened by topography and vegetation, as demonstrated in the following photograph.



View of farm building from near site entrance.

5.5 Mid-Western Regional Development Control Plan 2012

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

5.5.1 Section 5.1 – Car Parking

There are no car parking requirements for a farm building.

5.5.2 Section 5.3 – Stormwater Management

Stormwater from the shed is directed to an existing rainwater tank for reuse on the site and in the farm building.

5.5.3 Section 5.4 – Environmental Controls

Aboriginal Archaeology

As noted in Section 4.4 above, the building was constructed as exempt development. No additional works that would disturb the ground are proposed as part of this development application. The use of the building as a farm building will have no potential impact on any Aboriginal artefacts. No further Aboriginal archaeological assessment is warranted for the development.

Bushfire Management

Part of the subject land is mapped as bush fire prone, as shown below.



Source: NSW eplanning spatial viewer

While the farm building is located in the mapped area, there are no bushfire protection measures required for a farm building under Planning for Bushfire Protection 2019.

Riparian and drainage line environments

A watercourse crosses the north-western part of the site. The farm building is located more than 40m from the watercourse and the use of the building as a farm building will have no detrimental impacts on the watercourse.

Pollution and Waste Management

An approved septic system has been installed to ensure that the use of the building as a farm shed will have no significant impacts on groundwater or the watercourse.

Waste from the use of the building will be managed by the land owner and disposed of at a Council facility.

Threatened Species and Vegetation Management

The development has no impact on any threatened species. No native vegetation was removed in the construction of the building and its use as a farm building will have no impact on threatened species.

Building in Saline Environments

The proposed development is for the use of an existing building. No further assessment of this matter is therefore required.

5.5.4 Section 6.1 – Dwellings

While the heading of this Section of the DCP is “Dwellings”, provisions for setbacks for all buildings and size controls for outbuilding and farm buildings are also provided in this Section.

Building Setbacks – The DCP requires a 60m front setback and a 20m side/rear setback for buildings in the RU1 zone. The subject land does not have direct frontage to Queens Pinch Road and the farm building is located approximately 750 m from the road and approximately 340m from the eastern property boundary. The nearest side setback is the western side boundary which is approximately 50m. The farm building has a setback of 80m to the southern side boundary and approximately 310m to the northern boundary. The proposal complies with the building setbacks.

Outbuildings and Farm Buildings – The DCP require a that farm buildings have a maximum size of 200m² on land between 5ha and 40ha. It is noted that the DCP control does not refer to the floor space of the building, therefore the control is assumed to relate to the footprint of the building. This is consistent with the provision of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* under which the building was erected, which requires the maximum footprint of a farm building to be 200m².

Under the SEPP, the term footprint is defined as “*the area of the ground surface occupied by a building, including the walls, footings and roofing of the building, and extending to the perimeter of the foundations and other means of structural support to the building, but does not include the area of access ramps, eaves and sunshade devices*”.

The subject land is approximately 16.2ha in size and the total footprint of the farm building (excluding the roof overhangs at the eastern and western ends of the buildings which are designed for sun shading purposes) is 175.5m² (17.29m by 10.15m).

There is no definition of size in the Mid-Western Council's DCP, therefore given that the building was erected under, and in compliance with, the SEPP, and has a footprint less than 200m², it is considered that the development complies with the size requirement in the DCP.

6 CONCLUSION

The proposed development is for the use of an existing building as a farm building at Lot 39 DP 756870, 686 Queens Pinch Road, Mullamuddy and minor, non-structural, building work to complete the fit out of the building.

The farm building was constructed as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. However, in the opinion of Mid-Western Regional Council, the building may not comply with the relevant provisions of the SEPP and a Stop Work Order has been issued.

To address this concern, this development application seeks consent for the use of the building as a farm building in accordance with the development plans provided in Appendix 1.

The development site is zoned RU1 Primary Production under *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012). The land has been, is currently, and will continue to be used for agricultural activities and the farm shed will support those activities by providing storage for stock feed and machinery, amongst other activities as outlined in the floor plans.

A farm building is permitted with consent in the RU1 zone.

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

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

APPENDIX 1 – DEVELOPMENT PLAN SET