



STATEMENT OF ENVIRONMENTAL EFFECTS



99 MOUNT PLEASANT LANE, BUCKAROO

Modification of Consent - DA0073/2023

30 May, 2025

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1 Introduction

This Statement of Environmental Effects (SEE) has been prepared for Emma & Michael Ferris and forms part of a Section 4.55(1A) application to Mid-Western Regional Council for a tourist & visitor accommodation development consent (DA0073/2023) issued for 99 Mount Pleasant Lane, Buckaroo.

The proposal is considered to be eligible for consideration pursuant to Section 4.55(1A) of the Act as it is considered of minimal environmental impact and is substantially the same development as to that which was granted consent i.e. *tourist and visitor accommodation*. It should be noted that the proposal will still be fully compliant with the various DCP and LEP provisions and will have no significant additional impacts with regards to amenity, traffic, groundwater and the like.

The objective of this proposal is to enhance the services that will be available to the existing boutique operation upon the site.

The proposal remains in accordance with the relevant zone objectives contained in the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012) and continues to generally satisfy the relevant objectives and controls of the Mid-Western Regional Development Control Plan 2013 (MWRDCP).

This document is divided into 6 sections. Section 2 contains a site analysis, Section 3 contains details of the proposal, Sections 4 and 5 contain the detailed assessment of the application in accordance with Section 4.15(1) of the Environmental Planning & Assessment (EP&A) Act 1979, and Section 6 concludes the report. The following details accompany this SEE:

- Amended Architectural Plans.

2 Site Analysis

This section contains a description of the following: The Locality; Site Description; Existing Character and Context; and Surrounding Road Network.

2.1 The Locality

The subject site is located approximately 4.5km north-east of Mudgee and is located within the Local Government Area (LGA) of Mid-Western Region.



FIGURE 1: LOCATION PLAN (SIX MAPS)

2.2 Site Description

The subject site is located on the northern side of Mount Pleasant Lane and is known as 99 Mount Pleasant Lane, Buckaroo or Lot 147 DP 755418. Mount Pleasant Lane connects directly to Ulan Road to the west at a distance of approximately 800m from the site.

The site is regular in shape, generally flat throughout and encompasses a total area of 12.14 hectares with the majority of area cleared for native pasture. The Mudgee General Cemetery directly adjoins the site to the west.

The site is currently under construction for 6 serviced apartments and operational.

2.3 Existing Character and Context

The surrounding area is predominantly rural, characterised by larger farms/rural properties. Several other tourist accommodations, cellar door premises and function venues are present in the area, which are all taking advantage of the ideal location with close access to Mudgee and sitting amongst the surrounding wine region.

The outcome of the modification is considered to be in keeping with the character of the rural area in that it will have no unreasonable impacts upon the function, environmental criteria, agricultural opportunities or the residential amenity of the locality.

2.4 Surrounding Road Network

The site has frontage to Mount Pleasant Lane with vehicular access gained from same. Mount Pleasant Lane is a standard two way sealed road that connects directly to the Ulan Road. Mount Pleasant Lane is not identified as a Classified Road in accordance with the Roads Act 1993, with Mid-Western Regional Council the designated roads authority.

The existing access was already granted consent with the serviced apartments under DA0073/2023 and will also be utilised for the yoga facility. No additional significant traffic movements will arise from the modification with the yoga facility only accessible to existing guests that have booked accommodation on the property.

3 Details of the Proposal

Development consent DA0073/2023 (ME0002/2024) was granted on 19 September 2023 for the purposes of 6 tourist and visitor accommodation buildings (serviced apartments), including ancillary works. The boutique apartments are located in the rear portion of the site with an internal driveway extending to the Mount Pleasant Lane frontage to facilitate access.

Four of the six apartments have been completed and the site is working towards full serviced operation. A key component of achieving full serviced operation is the need to provide appropriate facilities and amenities to the guests at a boutique level.

It is proposed to make the following modifications to the consent:

- Relocation of cabin 5 (yet to be constructed) to a new position to the west.
- Erection of a new yoga studio in the redundant cabin 5 location with a footprint of 60m². The studio will be open in form and designed to accommodate 6 guests. The yoga studio facility will only be available to existing guests staying at the property.

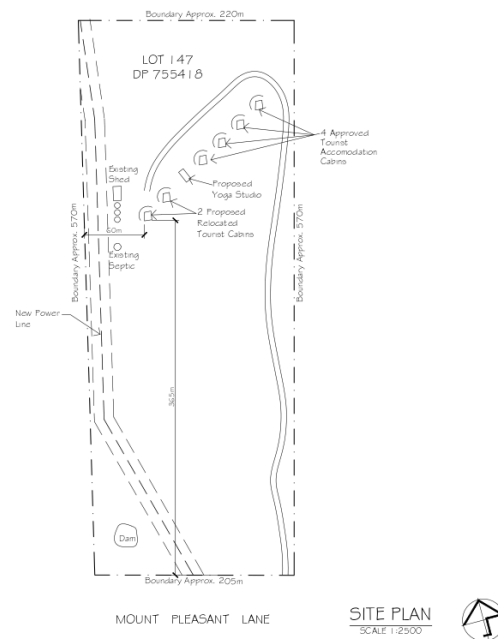


FIGURE 2: LAYOUT (GISSELLE DENLEY DRAFTING SERVICES)

The proposal will continue to result in a modern accommodation facility, including high quality design and layout across the site, that takes advantage of the rural outlooks whilst providing all the amenities necessary for short term stays.

All considerations as required under 4.55 of the EP&A Act 1979 are able to be readily satisfied by MWRC, being the consent authority.

4 Planning Controls

Pursuant to section 4.15(1)(a) of the EP&A Act, this section will assess the continued compliance with the planning controls applicable to the site and relevant to the proposal pursuant to the relevant heads for consideration. The relevant controls include:

- Biodiversity Conservation Act 2016
- Mid-Western Regional Local Environmental Plan 2012 (MWRLEP);
- State Environmental Planning Policy (Resilience & Hazards) 2021;
- State Environmental Planning Policy (Biodiversity & Conservation) 2021;
- State Environmental Planning Policy (Transport & Infrastructure) 2021;
- Mid-Western Regional Development Control Plan 2013 (MWRDCP).

4.1 Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 prescribes the requirements for addressing impacts on biodiversity from development, particularly where clearing is also proposed. The Biodiversity Offsets Scheme applies to development that triggers the Biodiversity Offsets Scheme threshold, or, is likely to significantly affect threatened species based on the test of significance in section 7.3 of the Biodiversity Conservation Act 2016.

The Biodiversity Assessment Method (BAM) is the assessment protocol that details how an accredited person assesses impacts on biodiversity in connection to a development proposal. The assessor documents the results of the biodiversity assessment in a Biodiversity Development Assessment Report (BDAR). A proponent must provide the BDAR to the Council as part of their development application.

The Biodiversity Offsets Scheme Threshold is a test used to determine when it is necessary to engage an accredited assessor to apply the Biodiversity Assessment Method (the BAM) to assess the impacts of a proposal. The threshold is triggered either when:

- 1.The amount of native vegetation being cleared exceeds a threshold area.

or,

- 2.When the impacts on vegetation occur on an area mapped on the Biodiversity Values map published by the Minister for the Environment.

If clearing exceeds either of the above triggers, the Biodiversity Offset Scheme applies to the proposed development.

However, the modified proposal does not involve the clearing of vegetation or impact upon any threatened species. Subsequently, no further consideration of this legislation is necessary.

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

The subject site is zoned RU4 – Primary Production Small Lots under Council’s MWRLEP 2012 (see Figure 4). *Serviced apartments* (under the group definition of *tourist and visitor accommodation*) are permissible with consent in the zone and the proposal is considered to continue to satisfy the objectives of the zone.

It should be noted that the yoga facility is an ancillary aspect to the existing and approved serviced apartments that are located on the property and consent is sought as such.

The following table addresses common characteristics of the proposal that demonstrate the proposed development is appropriately characterised as an ancillary aspect to the serviced apartments. These questions of characterisation are derived from *Planning Circular PS13-001 “How to Characterise Development”* published 21 February 2013.

TABLE 1: ANCILLARY TEST	
LEP Provisions	Complies / Comments
Is the component going to serve the dominant purpose of the development or is it independent?	<p>The yoga facility will only be available to existing guests of the serviced apartments and will therefore directly serve the dominant use of serviced apartments.</p> <p>No outside guests will be permitted onto the property for yoga as this will erode the exclusive nature of the overall accommodation service being offered at the site.</p>
What is the amount of land to be used for a certain component, relative to the amount of land proposed to be used for other purposes? If the amount of land is relatively small, it is more likely to be ancillary.	<p>The proposed building will occupy a minor portion of the property overall with the vast majority of the property to continue to be utilised for the serviced apartments and other various elements of the operation including, gardens, demonstration food production areas, animal grazing/viewing, sculpture walk and the like.</p> <p>The size of the building is conducive only to a minimal number of guests i.e. 6 guests, and this matches the expected patronage of the yoga facility from the serviced apartment guests only.</p>
Evidence of a purpose that is inconsistent with the dominant purpose is likely to undermine a claim that a component is ancillary.	No part of the proposal is inconsistent with the dominant use for the serviced apartments.

<p>If the component is temporary, it is more likely to be ancillary; if it is regular (that is, will constitute an ongoing use for a long period of time), it is likely to be an independent use.</p>	<p>The building is of a standard design. However, the positioning of the building within the immediate curtilage of the serviced apartments ensures that it will have to be incorporated with the use of the site for a tourist operation in perpetuity.</p> <p>It should be noted that the serviced apartments have been designed to a high quality and significant investment ensuring that the continuing operation of the business will ensue. As a comparison, the serviced apartments do not include “glamping tents” or the like that have a short life span and can be readily removed from the site.</p>
<p>If the component goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose, it is likely to be an independent use (regardless of whether it has ancillary qualities).</p>	<p>The building is of a size that can only accommodate a limited number of 6 guests. Accordingly, the yoga component does not go beyond what would be reasonably required to provide this additional service to guests staying at the serviced apartments.</p>
<p>Related components of a development are likely to have an ancillary relationship, although this is not necessarily determinative of such a relationship.</p>	<p>The building is wholly related to the serviced apartments with regards to the additional service proposed to be provided.</p>
<p>Physical proximity of the component to the rest of the development is likely to be evidence of an ancillary relationship, although again not necessarily determinative.</p>	<p>The building is positioned directly in the immediate curtilage of the existing serviced apartments so as to ensure it cannot be operated as an independent venture.</p>

4.2.1 Zone Objectives

The relevant objectives for Zone RU4 are stated:

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

Comment: The proposal is for an ancillary aspect to an approved tourist accommodation operation and not primary industry. However, the proposal will not hinder the site from being utilised for a variety of other uses in the future.

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

Comment: The proposal is for an ancillary aspect to an approved tourist accommodation operation, which will have negligible impact upon any of the surrounding areas with regards to primary industry enterprises.

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

Comment: The proposal is for an ancillary aspect to an approved tourist accommodation operation, which will have negligible impact upon any of the surrounding areas with regards to other land uses within other zones.

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

Comment: The proposal is for an ancillary aspect to an approved tourist accommodation operation. Subsequently, the site will be unaffected with regards to the capacity to undertake intensive plant agriculture.

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

Comment: The proposal is for an ancillary aspect to an approved tourist accommodation operation, which will have negligible impact upon any of the surrounding areas with regards to primary industry enterprises.

In our opinion the proposed ancillary development ensures the proposal overall continues to be consistent with the relevant objectives of the *RU4 Primary Production Small Lots* zone as detailed above. The proposal is intended to create additional minor elements to the existing tourist operation on the site with no notable additional impacts with regards to amenity, traffic, environmental impacts and the like.

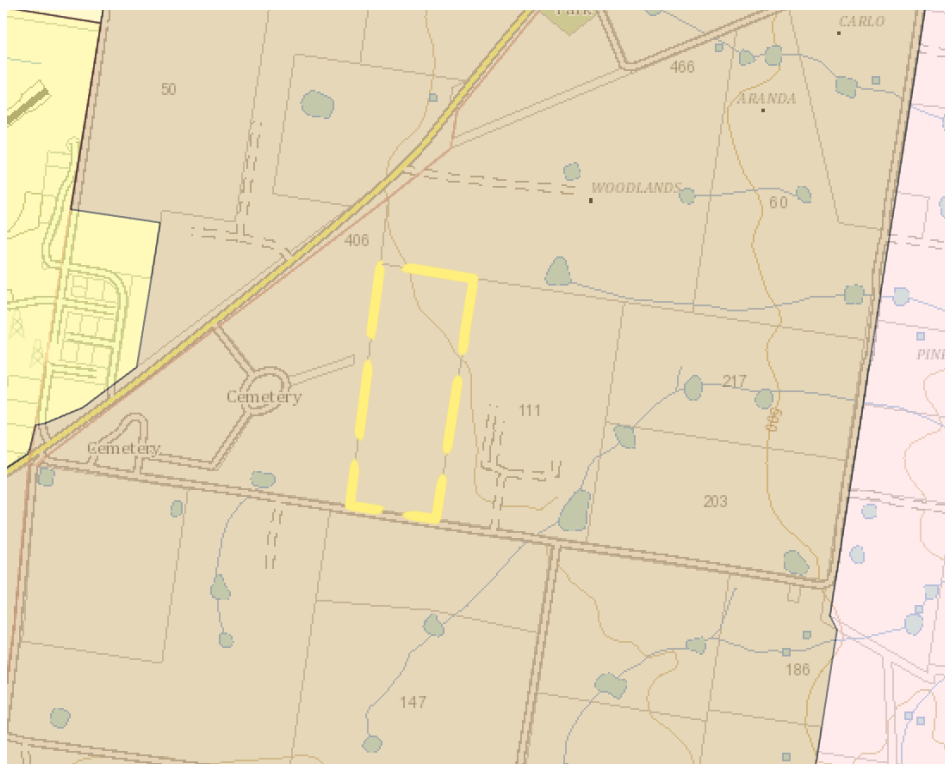


FIGURE 4: EXTRACT FROM ZONING PLAN
(SOURCE: MID-WESTERN REGIONAL LEP 2012)

A summary of our assessment of the proposed development, as modified, against the relevant LEP provisions is in the following table (see Table 1):

4.2.2 Other LEP Provisions

TABLE 2: PROJECT COMPLIANCE – Mid-Western Regional LEP 2012	
LEP Provisions	Complies / Comments
5.10 Heritage Conservation This clause provides numerous considerations regarding the preservation of both heritage items and areas of Aboriginal archaeological sensitivity.	<p>No items of Aboriginal significance or heritage items as listed under Schedule 5 of the LEP are present on the site.</p> <p>However, the property is adjacent to the 'Mudgee General Cemetery' to the west which is listed as an item of environmental heritage (I376) under Schedule 5.</p> <p>The proposed modification to include one additional facility and relocate a serviced apartment will have negligible impact upon the cemetery with a setback of approximately 60m continuing to be proposed. The location of the facility does not impede upon the general curtilage of the cemetery and does not prevent</p>

	<p>the enjoyment of the heritage item for the public. It should be noted that the cabins and yoga facility are small in scale and incorporate the use of sensitive materials to sit comfortably within the landscape. The proposed landscaping to be provided along the western boundary of the site will continue to be implemented, further screening the site from the cemetery and reducing the presence of the development from the curtilage of the cemetery.</p>
6.1 Salinity	<p>The proposal does not involve any major physical works apart from standard footings for the additional structure. Subsequently, no additional impacts related to salinity are expected.</p>
6.4 Groundwater vulnerability	<p>The site is identified as groundwater vulnerable within the MWRLEP 2012 mapping.</p> <p>The proposal involves only one additional building in the form of a small yoga studio.</p> <p>As the studio is only to be utilised by guests already staying at the property in the separate serviced apartments, there is not expected to be any additional load upon the OSSM system already in place. No additional upgrades to the OSSM system are considered necessary to facilitate the proposal.</p>
6.5 Terrestrial biodiversity	<p>The site has an area of '<i>high biodiversity</i>' land that has been identified within the Council mapping. However, this area is generally restricted to the road reserve.</p> <p>The additional building is not proposed on any of the 'land' mapped as high biodiversity and will be positioned within a grass paddock where no native vegetation exists. Subsequently, clause 6.5 does not apply.</p>
6.9 Essential services	<p>All essential services associated with a rural location are already available and connected to the site.</p> <p>These are not expected to be affected by the proposal.</p>

4.3 State Environmental Planning Policy (Resilience and Hazards) 2021

The object of this policy is to provide a mechanism to ensure remediation of contaminated land is undertaken within the planning framework.

Part 4 of the SEPP requires the consent authority (Mid-Western Regional Council), before determining a development application, to consider whether the land is potentially contaminated and if so whether the land is suitable in its current state for the proposed use.

A contamination assessment was undertaken by Envirowest Consulting confirming the suitability of the site for the original proposed development. This was considered by MWRC as a part of the development application and the proposed yoga studio will have no bearing upon the original findings or conclusions. The level and type of agricultural activity would have been consistent across the site with no significant variation in soil types or chemicals used. Accordingly, no further investigation is considered warranted as a part of the Section 4.55 application.

4.4 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The Biodiversity and Conservation SEPP 2021 applies to the site as the site sits within Mid-Western Regional Council LGA, as noted under Schedule 2.

Clause 4.9 of the SEPP prescribes as follows:

4.9 Development assessment process—no approved koala plan of management for land

(1) This section applies to land to which this Chapter applies if the land—

(a) has an area of at least 1 hectare (including adjoining land within the same ownership), and

(b) does not have an approved koala plan of management applying to the land.

(2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.

(3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.

(4) If the council is satisfied that the development is likely to have a higher level of impact on koalas or koala habitat, the council must, in deciding whether to grant consent to the development application, take into account a koala assessment report for the development.

(5) However, despite subsections (3) and (4), the council may grant development consent if the applicant provides to the council—

(a) information, prepared by a suitably qualified and experienced person, the council is satisfied demonstrates that the land subject of the development application—

(i) does not include any trees belonging to the koala use tree species listed in Schedule 3 for the relevant koala management area, or
(ii) is not core koala habitat, or

(b) information the council is satisfied demonstrates that the land subject of the development application—

(i) does not include any trees with a diameter at breast height over bark of more than 10 centimetres, or
(ii) includes only horticultural or agricultural plantations.

(6) In this section—

koala assessment report, for development, means a report prepared by a suitably qualified and experienced person about the likely and potential impacts of the development on koalas or koala habitat and the proposed management of those impacts.

Comment: No clearing of vegetation is proposed or necessary to facilitate the erection of the yoga studio or relocated cabin. Subsequently, no impact upon koala feed species will occur and no further consideration of this SEPP is necessary.

4.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

The electricity power lines traversing the site have recently been relocated to assist in facilitating the proposed serviced apartments. The proposed yoga studio and relocated cabin will be located outside of the easement for the new location of the power lines and new easement 20m wide and therefore there is not considered to be any need to further consult with Essential Energy concerning the proposal.

4.6 Mid-Western Regional Development Control Plan 2013 (MWRDCP 2013)

The Mid-Western Regional DCP 2013 applies to the site and the proposed development.

Part 5.4 '*Environmental Controls*' contains some relevant provisions including protection of aboriginal archaeology, riparian lines, bushfire management and vegetation management. The proposal will continue to generally satisfy these provisions, which are also discussed in various sections throughout this report. No significant impact with respect to the local ecology or groundwater is expected as a result of the proposal.

Part 6.4 '*Tourist and Visitor Accommodation*' contains specific controls relating to the proposal and the relevant sections, as they relate to an ancillary yoga studio only, are addressed in the table below.

TABLE 2: PROJECT COMPLIANCE – Mid-Western Regional DCP	
Relevant sections applicable to this proposal.	
DCP Provisions	Complies / Comments
Definition This clause outlines the definitions to different tourist accommodations that can be utilised	The proposal continues to be best characterised as a <i>serviced apartment</i> in accordance with the definition.
Location This clause implies that any property proposed for tourist and visitor accommodation must comply with clause 4.2A of the MWRLEP 2012 i.e. the property must have dwelling entitlement.	This aspect of the proposal was addressed with the original development application and the proposal was deemed as appropriate. The proposed modification to include only an ancillary component to the existing approved serviced apartments will have no bearing upon the consideration of this requirement with the proposal continuing to be defined as <i>tourist and visitor accommodation</i> .
Design and Layout The following requirements are noted in the 'design and layout' section. (a) The development should address the constraints of the site including topography, existing vegetation.	The property has no constraints regarding topography or existing vegetation with the additional ancillary yoga studio to be positioned in close proximity to the approved development and will not require the removal of any native vegetation.

<p>(b) Development for the purpose of serviced apartments (cabins or the like) shall be limited to a maximum of 6 individual accommodation units and one permanent dwelling (or manager's residence).</p> <p>(c) The use of manufactured or relocated homes will not be permitted in the urban areas.</p>	<p>The proposal will not result in any additional serviced apartments.</p> <p>N/A. Property not within urban area and the design of the yoga studio is of excellent architectural merit that will not reflect the nature of a manufactured home.</p>
<p>Water Cycle Management</p> <p>This clause requires that an OSSM report be prepared for each serviced apartment proposed.</p> <p>Additionally, the clause also requires that a buffer of 100m be required between any septic system and a waterway.</p>	<p>The ancillary yoga studio will not be open to outside guests with all guests already booked on site staying in the serviced apartments. Accordingly, no additional significant load upon the septic system will occur and, therefore, no upgrades to the existing system are considered warranted or necessary.</p>
<p>Electricity</p> <p>'The proponent shall demonstrate that the development can be serviced by electricity either via connection to the grid or solar power. Generators will generally not be accepted as a source of electricity.'</p>	<p>No changes to existing arrangements are required or necessary to facilitate the erection of the yoga studio and relocated cabin.</p>
<p>Parking</p> <p>This clause defers to section 5.1 of the DCP where parking requirements are stated.</p>	<p>Guests utilising the yoga studio will already be accommodated on site within the serviced apartments. Subsequently, no additional parking is necessary. However, provision for one space will be made for a yoga instructor.</p>
<p>Signage</p> <p>This clause defers to section 4.4 of the DCP where signage requirements are stated.</p>	<p>N/A. No signage proposed apart from minor directional signage within the property directing guests to the yoga studio.</p>

5 Planning Assessment

This section will consider the following: the Assessment of Natural Environmental Impact; the Built Environment Impacts; the Site Suitability and the Public Interest in accordance with Section 4.15(1)(b),(c) and (e).

5.1 Assessment of Natural Environmental Impact – S4.15 (1)(b)

5.1.1 Micro Climate Impacts

The proposed development overall is unlikely to result in any adverse effects to the micro-climate in the locality.

5.1.2 Water & Air Quality Impacts

The proposed development is unlikely to result in any adverse effects on the locality in terms of water and air quality as discussed previously.

5.2 Assessment of Built Environment Impacts – S4.15 (1)(b)

5.2.1 Impact on the Areas Character

The surrounding built environment comprises a mix of single dwellings on larger and smaller rural allotments together with other tourist and visitor accommodation facilities and cellar doors. Although the proposal is minor in nature, the development will contribute to the character of the area in a positive manner by allowing the existing serviced apartments to operate to a high standard in a scenic area of the Mid-Western Region with close access to Mudgee and cellar doors.

5.2.2 Privacy, Views & Overshadowing Impacts

The proposed development overall will continue to not impede the existing privacy or views of the subject or surrounding lots. The development will not provide overshadowing within the subject or adjoining lots.

5.2.3 Aural & Visual Privacy Impacts

The proposed development, being within a rural area and fully compliant with the relevant planning provisions, will not result in any significant privacy concerns for adjoining properties, in particular for the residents in the adjoining site immediately to the west.

The nearest dwelling is approximately 260m to the east from the development site, which results in maximum visual privacy and acoustic privacy outcomes.

The operation of the yoga studio for a maximum of 6 guests will, by its very nature, not involve any acoustic impacts beyond the immediate area. No amplified music or other sources of noise will be utilised.

5.2.4 Environmentally Sustainable Development

The proposal will have minimal impact with regards to ESD subject to standard conditions continuing to be imposed by the consent authority.

5.3 Assessment of the Site Suitability – 4.15(1)(c)

5.3.1 Proximity to Service and Infrastructure

As outlined, the site has readily available access to Mount Pleasant Lane to the south, which connects the site directly through to Mudgee via Ulan Road. All services as required for the proposal are available and able to be readily connected.

5.3.2 Traffic, Parking & Access

The development will generally not increase the traffic volume for the area, as the proposal is for an ancillary yoga studio that will only be available to existing guests staying at the property. It is expected that the current road network is capable of continuing to support the minimal traffic movements.

One yoga instructor will attend the site to conduct classes on an as needed basis. The traffic movements associated with this will be negligible.

5.3.3 Hazards

The site is not in an area recognised by Council as being subject to landslip, flooding, bushfire or any other particular hazards. The proposed development will not increase the likelihood of such hazards.

5.4 The Public Interest – 4.15(1)(e)

5.4.1 Social and Economic Impact

The proposal will make a positive contribution to the Mid-Western Region by supporting additional tourist accommodation and the creation of employment.

5.4.2 The Public Interest

The proposal is in the public interest as it satisfies the objectives of the MWRLEP 2012 and MWRDCP 2013 and will not set any undesirable planning precedents.

6 Conclusion

The proposed development has been assessed in accordance with Section 4.15(1) of the EP&A Act 1979 and Council's planning instruments. The proposal remains permissible in the RU4 Primary Production Small Lots Zone under the Mid-Western Regional LEP 2012 and in our opinion is consistent with the relevant objectives of the Zone.

As discussed throughout the SEE, the crux of the proposal is to facilitate the erection of an ancillary yoga studio upon the site to contribute to the boutique offering available to guests staying at the property. This facility is essential in meeting the outcomes of the plan of management applied to the property by the operators, who are seeking to establish an offering that legitimately contributes to the local area beyond that of an ordinary accommodation offering.

The proposal is minor in nature, with no impacts expected with regards to the environmental elements of the site, road infrastructure, surrounding amenity and the adjacent heritage item, being the Mudgee General Cemetery.

The design is of a contemporary, high quality layout and finish that will comfortably sit within the surrounding landscape.

For the above reasons the proposal is considered to be in the public interest and is recommended for approval subject to standard conditions.