

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

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**PROPOSED ALTERATIONS & ADDITIONS TO  
CELLAR DOOR PREMISES AND CONSTRUCT  
MARQUEE**

**2 YARRAWA ROAD, DENMAN NSW 2328  
(LOT 1 DP 1036050)**

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PP Reference		J003996		
Prepared for (client)		Two Rivers Development		
Document Versions and Control				
Statement of Environmental Effects – 2 Yarrawa Road, Denman NSW 2328				
Version	Date	PP ref	Author	Reviewed by
1	20/02/2024	Draft SoEE – 2 Yarrawa Road, Denman, NSW, 2328	GB	ED/Client
2	23/02/2024	Final SoEE – 2 Yarrawa Road, Denman, NSW, 2328	ED	GB
3	16/04/2024	Final SoEE – 2 Yarrawa Road, Denman, NSW, 2328 V2	GB	ED
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## EXECUTIVE SUMMARY

Perception Planning Pty Ltd has been engaged by Two Rivers Development (the client) to prepare a Statement of Environmental Effects (SoEE) for Alterations and Additions to Cellar Door Premises and construction of Marquee at 2 Yarrowa Road, Denman NSW 2328 legally identified as Lot 1 of DP 1036050 (**'the site'**). The characteristics of the development include:

1. Alterations & Additions to Cellar Door Premises forming:
  - **Redevelopment of the existing cellar door building to provide a function room and bar area.** Located on the north east of the site with access via a service road off Yarrowa Road. The extension will include a function room, wine tasting room, bar area and store room, increasing the area from 68m<sup>2</sup> to 90m<sup>2</sup>.
  - **Increased pallet storage area.** The extension will increase the pallet storage area from 38m<sup>2</sup> to 72m<sup>2</sup>.

Construction will include a mix of concrete and timber floors, lightweight cladding to match existing exterior and Colourbond roof sheeting chosen to match existing exterior surfaces.

2. Marquee:
  - Construction of a Proprietary Marquee Structure to Manufacturers Specifications. Adjacent to the Celler door building, the marquee will be located on the east of the site with access via a service road off Yarrowa Road. The marquee will have a covered area of 453m<sup>2</sup>, and an additional patio area of 75.3m<sup>2</sup>. The structure will include a function area, toilet facilities, storage and back of house areas.
3. Once complete, it is understood that the site would be expected to accommodate up to 200 patrons across its various components.

**Photo 1 – Artist impression (Source: CAD Design & Draft Pty Ltd 2023)**



4. The availability of overflow parking on site is considered adequate to accommodate all peak parking demands.
5. Decommission existing AWTs servicing the current cellar door, and installation of a AWTs system onsite to treat the calculated flowrate of 5600L/day to service and a minimum 3021m<sup>2</sup> surface irrigation field to service the proposed cellar door and marquee onsite.

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

The Architectural Plans are provided at **(APPENDIX 6)**.

The key factors as to why the proposed development should be considered acceptable includes;

- The site is appropriately zoned RU1: Primary Production under Muswellbrook Local Environmental Plan (LEP) 2009, which facilitates the cellar door and Marquee style function facility proposed for this development;
- The development will have a positive social impact through the on-going implementation of the Plan of Management associated with the site;
- The proposed development will have a positive economic and social impact on the surrounding community by creating short term construction jobs and contributes to local diversity of shop, housing and tourist accommodation;
- No adverse impact on the existing character or amenity of the area will result;
- The development can suitably manage or mitigate environmental impacts; and
- Development of the land achieves the highest and best use of the site which directly benefits the community through providing employment and recreational facilities to accommodate the needs of the growing community population.

The proposal has been analysed in terms of all relevant planning frameworks to identify and address the key planning requirements and site constraints. These issues have been addressed throughout the SoEE to ensure optimal consideration has been afforded to the development of the site.

This proposal presents the best opportunity for existing site to live up to its potential, a development to enhance the aesthetic of Denman township and provide new commercial enterprise and tourist facilities.

TERMS AND ABBREVIATIONS

AHIMS	Aboriginal Heritage Information Management System
DA	Development Application
DCP	Development Control Plan
EP&A Act	Environmental Planning & Assessment Act 1979
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
LGA	Local Government Area
SEPP	State Environmental Planning Policy
SoEE	Statement of Environmental Effects
SoHI	Statement of Heritage Impact

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## PLANS AND SUPPORTING DOCUMENTATION

This SoEE is supported by the following plans and documentation:

Appendix	Document	Prepared by	Reference
1	EP&A Regulation Compliance Table	Perception Planning	J003996
2	DCP Compliance Table	Perception Planning	J003996
3	AHIMs Search Results	Perception Planning	ID: 864621 15.02.2024
4	Before You Dig Search Results	BYD Australia	BYD Australia
5	Landscaping	GSP	Ref GSP230436 Dated: 14.03.2024
6	Architectural Plans	CAD Design and Draft Pty Ltd	Ref 23-039 Rev B 23.11.2023
7	Bushfire Assessment Report	Newcastle Bushfire Consulting	12.04.2024
8	Waste Water Management Report	GSL Environmental	Ref 110723 31.10.2023
9	Stormwater Management Plan	DRB Consulting Engineers	Ref 4743 – Rev B 24.11.2023
10	Waste Management Plan	Perception Planning	J003996
11	Traffic Impact Statement	WAG	WGA 231659 28.11.2023
12	BCA report	Perception Planning	TBA
13	Building Cost Estimate	Sorensen	Dated 21.03.2024
14	Certificate of Title	Land Registry Service	1/1036050 15.02.2024
15	Deposit Plan	Office of Registrar General	DP 1036050 07.12.2001
16	Visual Impact Assessment	Perception Planning	TBA
17	Crime Prevention Through Environmental Design report	Perception Planning	TBA

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# 1 BACKGROUND

## 1.1 PURPOSE

The purpose of this Statement of Environmental Effects (SoEE) is to assist Council in their assessment and determination and to assist the community in understanding the proposed development.

This SoEE has been prepared in coordination with Two Rivers Development (**‘the client’**) and other sub-consultants to demonstrate the relevant matters associated within the proposed development. The SoEE examines the existing development and site location, how the proposed development relates to the location and the environment, as well as the planning merits of the development with respect to the relevant legislation, regulation, and other requirements. The SoEE examines the applicable site attributes and the specifics of the development proposal that are appropriate to the development application stage. The SoEE seeks to provide all the relevant data to give a cogent level of certainty to the consent authority that the proposal has a positive impact on the immediate area and the wider surrounds.

This SoEE has been prepared in accordance with best practice principles, applicable aspects of the Development Assessment Framework and the Department of Planning and Infrastructure’s (now the Department of Planning, Infrastructure and Environment) guide to the *Environmental Planning and Assessment Act* (EP&A Act) 1979 (s4.15).

The objectives of this SoEE are as follows:

- To provide a description of the site, existing development, and the surrounding locality;
- To provide a description of the proposal and the key issues;
- To provide a discussion of the relevant Environmental Planning Instruments (EPI)s; and
- To provide an assessment of the potential environmental impacts, having regard to the matters for consideration pursuant to the EP&A Act (s4.15) and other State, Regional and Local environmental planning policies, and guidelines.

## 1.2 SITE DETAILS

<b>Property Address</b>	2 Yarrawa Road, Denman, NSW, 2328
<b>Lot and DP</b>	Lot 1 of DP 1036050 ( <b>Figure 2</b> )
<b>Current Use</b>	Vineyard and Cellar door operation.
<b>Zoning</b>	RU1: Primary Production
<b>Size</b>	103.2ha
<b>Site Constraints</b>	Height of Building – 12 m Biodiverse: riparian land Minimum lot size – 80ha. Bushfire Prone Land: Vegetation Buffer and Vegetation Category 3
<b>Owner</b>	Owner's consent has been provided on the Application Form for the DA.
<b>DP and 88B Instrument</b>	Noting nothing on the DP or 88B instrument prohibits the proposed development.

## 1.3 SITE DESCRIPTION

The site is located at 2 Yarrawa Road, Denman NSW 2328 (**'the site'**) and has a total area of 103.2ha. The site particulars are summarised in the table above, with site constraints obtained from the NSW Spatial Viewer. The site is zoned RU1: Primary Production pursuant to the Muswellbrook LEP and associated maps (**Figure 1**).

Access to the site is direct from Yarrawa Road to the north and to the north west. The allotment is an irregular shape and measures approximately 103.2ha in size. The site is currently occupied by a structures associated with the established vineyard and a cellar door facility. Surrounding development is primarily other vineyard or primary production enterprises. The closest intersection is Yarrawa Road and South Street, with the subject site situated south of these two streets via an access road. Ogilvie and South Street are both identified as a Local Roads.

The site is located approximately 2 kms from the central area of Denman and is well connected to various business, residential and recreational precincts including the Denman Golf Course and Denman Park to the west of the site. Yarrawa Road presents a local centre that consists of a range of establishments, including both large and smaller specialty shops and facilities. It caters to various needs, offering amenities such as post office, supermarket, pharmacy and health practitioners, convenience stores, restaurants, and recreational opportunities.

While the broader site includes both established vineyards and riparian wetlands species, vegetation within the development site is limited to managed lawns and no significant vegetation.

A Before You Dig search conducted on 15 February 2024 identifies that the site has access to reticulated water and sewer. Telecommunications including NBN and electricity are available to the site. Refer to **(APPENDIX 4)** for search results.

*Figure 2: Zoning Map (Source: NSW Planning Portal 2024)*

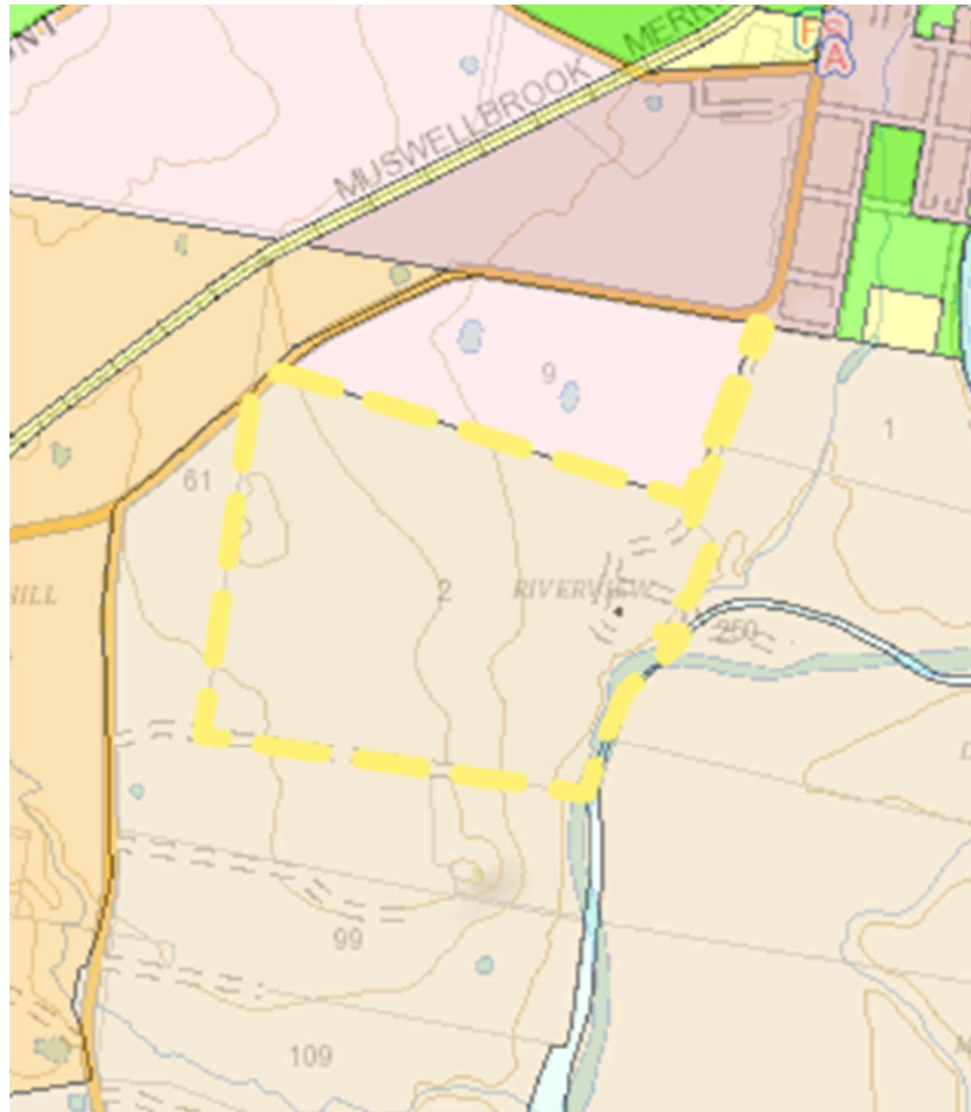
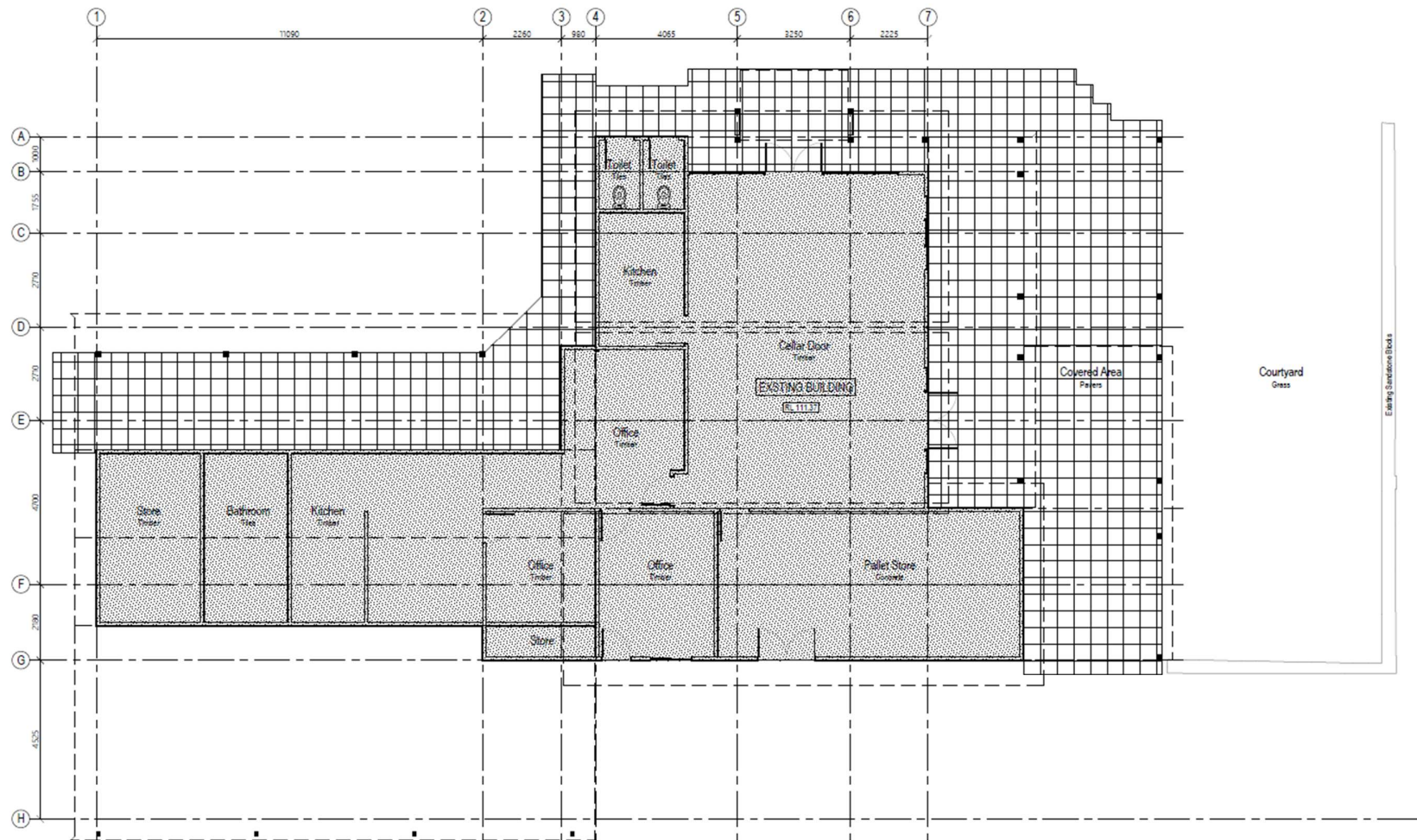


Figure 3: Locality Map (Source: Six Maps 2024)





**Figure 4: Existing Cellar Door facilities (Source: CAD Design & Draft Pty Ltd 2023)**



## 1.4 CURRENT USE AND EXISTING DEVELOPMENT DETERMINATIONS

The site currently accommodates an existing vineyard and cellar door facilities. A review of the Muswellbrook Development Application Tracker website on the 15 February 2024 has identify the following recent approvals for the site as shown in **Table 1**.

*Table 1: Summary of recent approvals on the development site*

Show	Application Number	Application Type	Determined Date	Details
<a href="#">Details</a>	42/2017	Development Application	26/05/2017	2 Yarrawa Rd, Denman 2328 NSW Construct a Wine Storage Area as an Extension of Existing Facilities
<a href="#">Details</a>	233/2013	Development Application	30/01/2014	2 Yarrawa Rd, Denman 2328 NSW CHANGE OF USE - HOLD CONCERTS AND OUTDOOR FUNCTIONS IN THE CELLAR DOOR GROUNDS
<a href="#">Details</a>	69/2013	Development Application	12/04/2013	2 Yarrawa Rd, Denman 2328 NSW OUTDOOR FILM FESTIVAL

The proposed development supports the existing approved uses on-site (cellar door premises and function centre).

No known compliance matters exist over the site which would pose issues for the proposed development.

The site has not been identified as being contaminated.

## 2 DESCRIPTION OF THE DEVELOPMENT

### 2.1 PROPOSED DEVELOPMENT

The objective of the proposed development is to obtain development consent for Alterations and Additions to Cellar Door Premises and construction of Marquee at 2 Yarrawa Road, Denman NSW 2328. This development is enabled through Muswellbrook Local Environmental Plan (MLEP) 2009 and Muswellbrook Development Control Plan 2013 (MDCP). The characteristics of the development include:

1. Alterations & Additions to Cellar Door Building forming:
  - **Redevelopment of the existing cellar door building to provide a function room and bar area.** Located on the north east of the site with access via a service road off Yarrawa Road. The extension will include a function room, wine tasting

room, bar area and store room, increasing the area from 68m<sup>2</sup> to 90m<sup>2</sup>.

- **Increased pallet storage area.** The extension will increase the pallet storage area from 38m<sup>2</sup> to 72m<sup>2</sup>.

Construction will include a mix of concrete and timber floors, lightweight cladding to match existing exterior and Colourbond roof sheeting chosen to match existing exterior surfaces.

## 2. Marquee:

- Construction of a Proprietary Marquee Structure to Manufacturers Specifications. Adjacent to the Cellar door building, the marquee will be located on the east of the site with access via a service road off Yarrowa Road. The marquee will have a covered area of 453m<sup>2</sup>, and an additional patio area of 75.3m<sup>2</sup>. The structure will include a function area, toilet facilities, storage and back of house areas.

Table 2: Summary of Existing vs Proposed Development

COMPONENT	EXISTING	PROPOSED	CHANGE
Cellar Door	68 m <sup>2</sup>	90m <sup>2</sup> *	22m <sup>2</sup>
Pallet Storage	38m <sup>2</sup>	72m <sup>2</sup>	34m <sup>2</sup>
Function Room / Marquee		453m <sup>2</sup>	453m <sup>2</sup>

\* Includes wine tasting room

3. Once complete, it is understood that the site would be expected to accommodate up to 200 patrons across its various components.
4. The availability of overflow parking on site is considered adequate to accommodate all peak parking demands.
5. Decommission existing AWTs servicing the current cellar door, and installation of a AWTs system onsite to treat the calculated flowrate of 5600L/day to service and a minimum 3021m<sup>2</sup> surface irrigation field to service the proposed cellar door and marquee onsite.

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

**Figures 4 – 6** demonstrate the proposed floor plan of the proposed development. Detailed Architectural Plans are provided at **(APPENDIX 6)**.

The proposed development will provide a well-coordinated and sustainable development with no foreseeable impact on the character of the surrounding area. This DA is consistent with the planning framework and has the potential to deliver triple-bottom line sustainability outcomes as envisaged by Muswellbrook Council.

Following a meticulous and comprehensive evaluation of the proposed project, it is confidently highlighted that there are no foreseen detrimental environmental effects that

could potentially arise from this proposal. This thorough analysis assessment instils a high degree of confidence in the positive environmental impact and sustainability of the envisioned project. This encouraging outcome underscores the project's alignment with the commitment to safeguard and enhance the surrounding ecosystem, while also contributing substantially to the overall well-being of the community.



**Figure 5:** Site Plan Proposed Development (Source: CAD Design & Draft Pty Ltd, 2023)



Figure 6: ground floor plans (Source: CAD Design & Draft Pty Ltd, 2023)

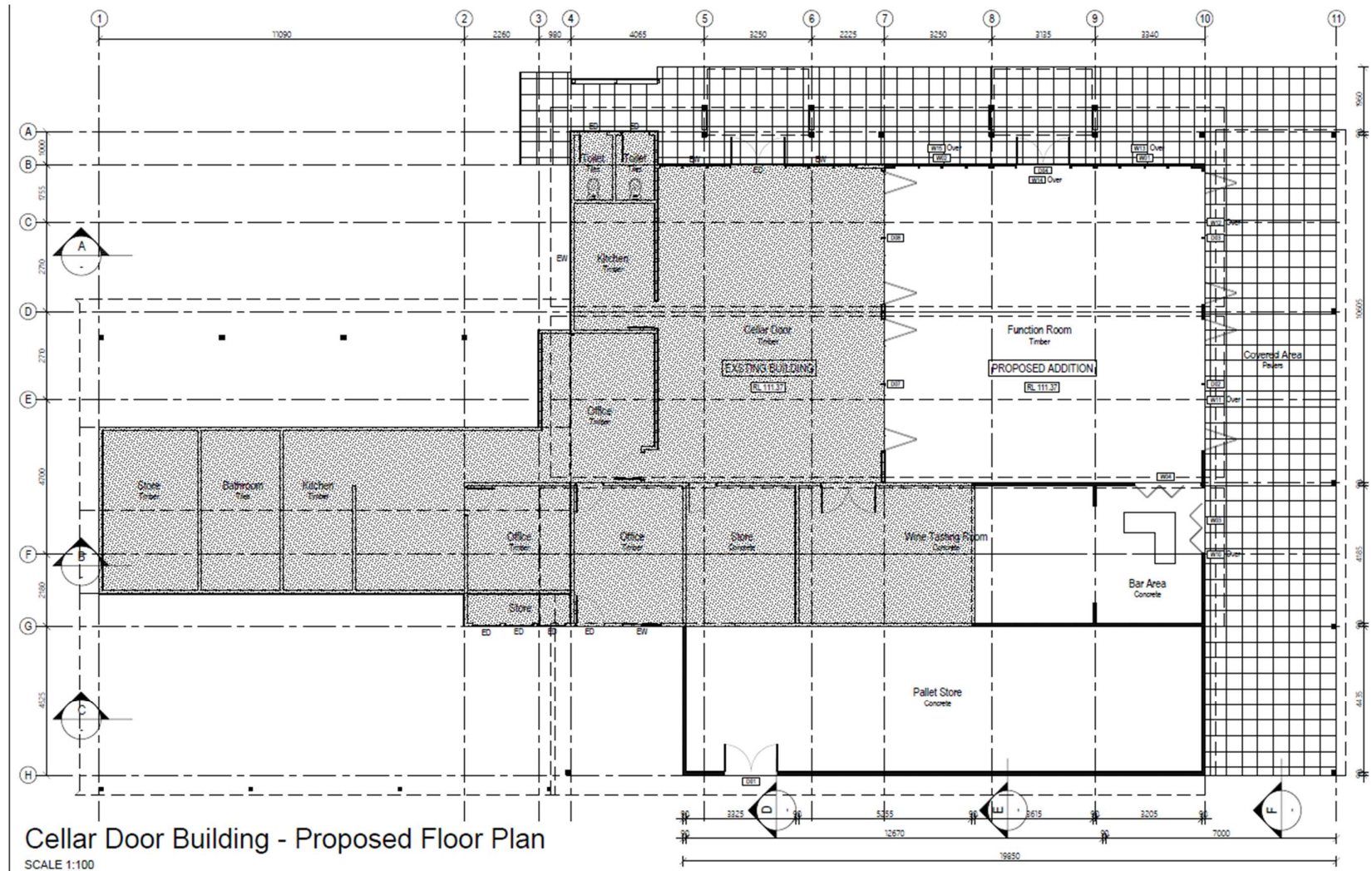
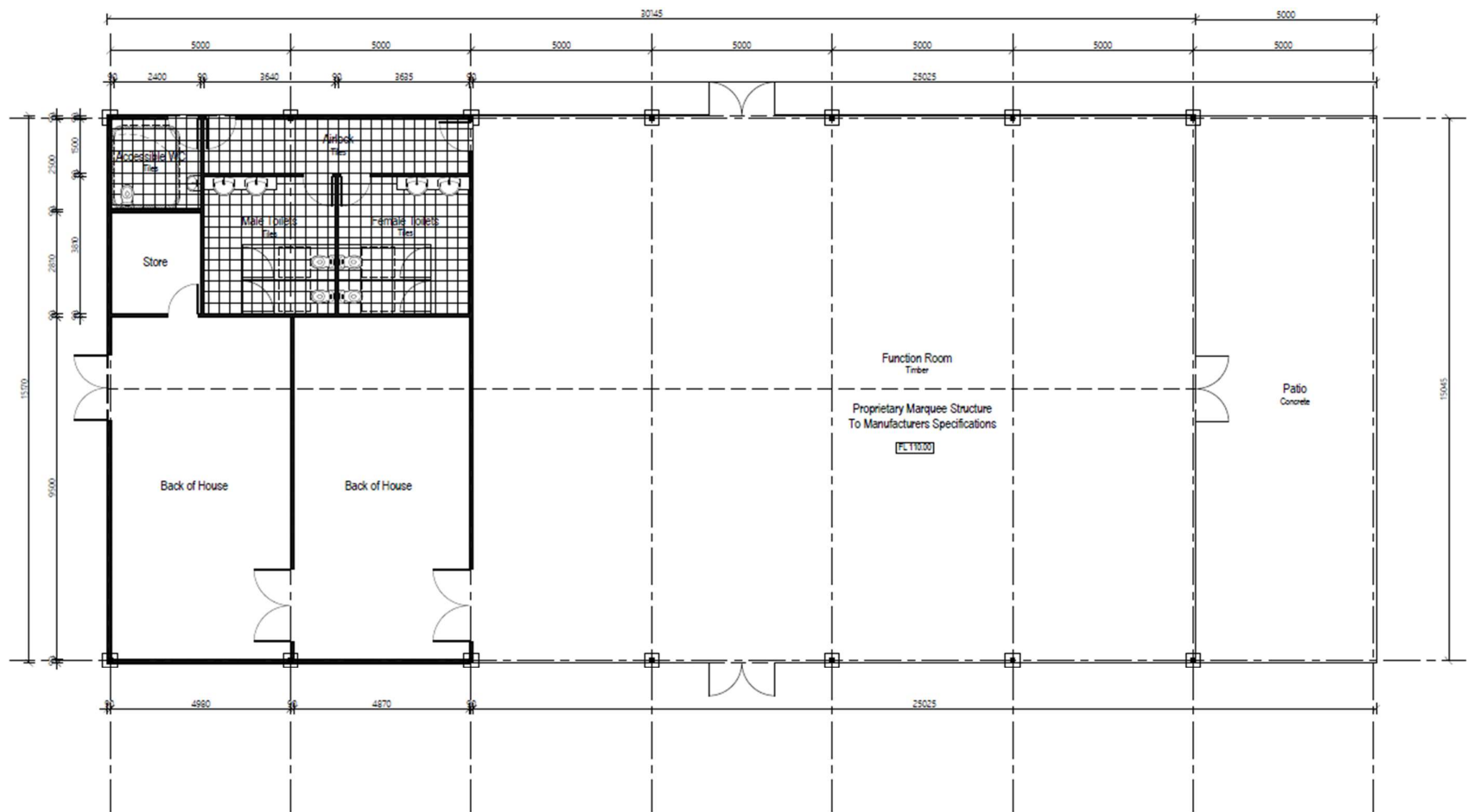


Figure 7: Proposed first floor plan (Source: CAD Design & Draft Pty Ltd, 2023)



## 3 PLANNING CONTROLS

### 3.1 ACTS

All NSW Acts have been considered in the preparation of this SoEE. The following Acts are considered relevant to the proposed development and discussed in further detail below.

- *Environmental Planning and Assessment Act*
- *Water Management Act 2000*
- *Rural Fires Act 1997*
- *Biodiversity Conservation Act 2016*

#### 3.1.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) is the principal planning and development legislation in NSW and is applicable to the proposed development. Section 4.15 of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15 are addressed in further detail in separate sections of this SoEE below.

##### **Section 4.46 What is integrated development?**

Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the approvals listed within **Table 3** below. The proposed development is not classified as integrated development.

##### **Section 7.11 Development Contributions**

Development contributions will be required to be calculated or charged in accordance with the Muswellbrook Local Infrastructure Contributions Plan (CP).

#### 3.1.2 WATER MANAGEMENT ACT 2000 (WM ACT)

The subject site is not located within a Drinking Water Catchment. No physical works will take place within 40m of any body of water, nor will the development have a lasting impact on any watercourses or waterbodies on site.

#### 3.1.3 RURAL FIRES ACT 1997

The site is identified as being bushfire prone, with land classified as vegetation buffer and vegetation category 1 present on-site, as shown in **Figure 7**. However, the development is for non-habitable alterations and additions and a marquee. As such the development is not



identified as integrated development under S100B of Rural Fires Act. And a detailed in the Bushfire Report prepared as part the Application, and is provided at **APPENDIX 7**.

The bushfire recommends the proposed development offers compliance with Planning for Bush Fire Protection (2019). There is potential for bushfire attack at this site and a list of recommendations has been included in the attached assessment to reduce that risk.

*Figure 8: Bushfire Prone Land (Source: NSW Planning Portal, 2024)*



### 3.1.4 BIODIVERSITY CONSERVATION ACT 2016

The purpose of this Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development.

The Biodiversity Values (BV) Map forms part of the Biodiversity Offsets Scheme Threshold which is one of the triggers for determining whether the Biodiversity Offset Scheme (BOS) applies to a clearing or development proposal. The map is prepared by the Department of Planning, Industry and Environment (the Department) under Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

The subject site does contain area identified on the Biodiversity Values Map as land with high biodiversity value and sensitive to impacts from development and clearing as seen in **Figure 8**. The proposal requires no removal of vegetation within an area mapped as biodiversity value. Accordingly, no further assessment of the proposal regarding the Biodiversity Conservation Act is required.

**Figure 9: Biodiversity Values Map** (Source: NSW Planning Portal, 2024)

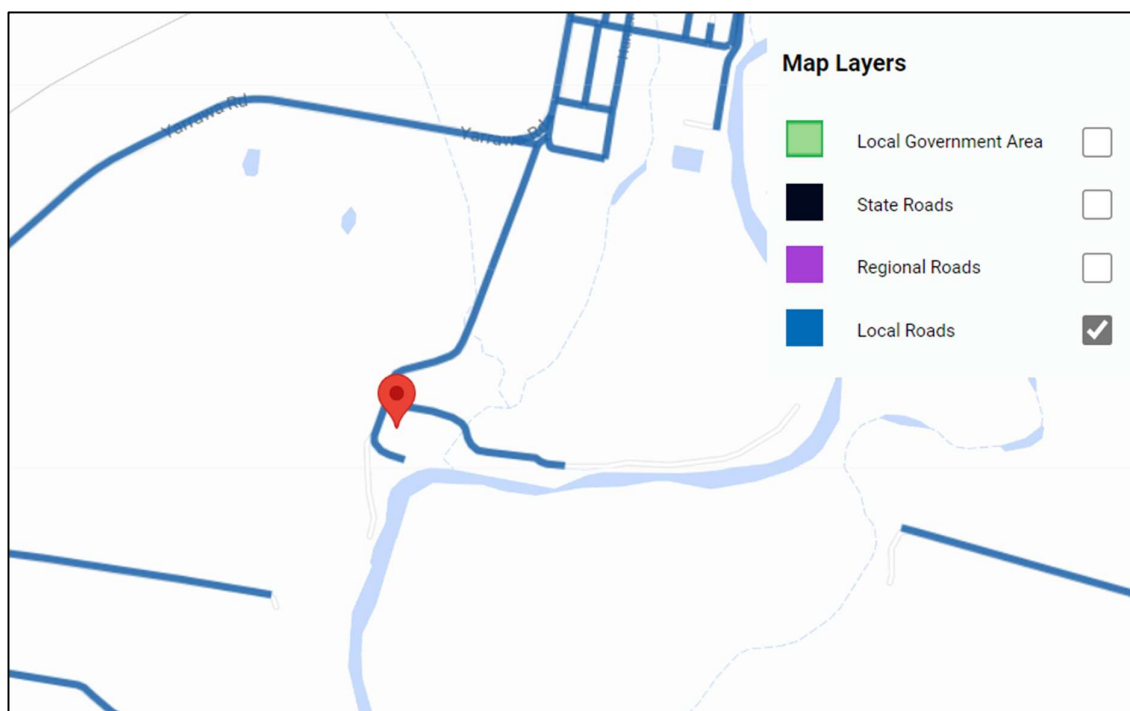


### 3.1.5 ROADS ACT 1993

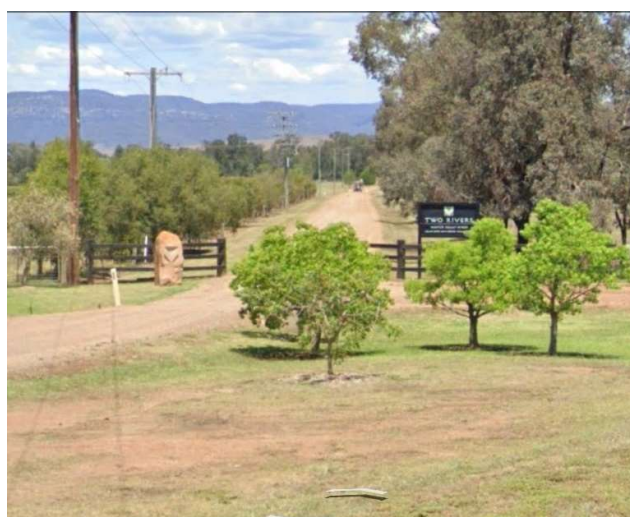
Road management between Roads and Maritime Services and councils in NSW provides for three categories of road: State, Regional and Local. The *Roads Act 1993* provides for roads to be classified as Freeways, Controlled Access Roads, Tollways, State Highways, Main Roads, Secondary Roads, Tourist Roads, Transitways and State Works. The classification of a road empowers Roads and Maritime Services to exercise broad authority over some, or all, aspects of legally classified roads and to provide financial assistance to councils.

Yarrawa Road and South Street are identified as local roads under the authority of Muswellbrook Shire Council. The local road network is outlined in **Figure 9** below. No new driveway crossovers are required for the development Referral to the state road authority is not required. To this extent, no further consideration of the Roads Act is required.

**Figure 10: NSW Road Network Classifications Map (Source: Transport for NSW, 2024)**



**Photo 2 – Yarrawa Road and Virginia Street Access (Source Google Maps)**



**Table 3: Integrated development**

Integrated development	Proposed Development	
<b>Fisheries Management Act 1994</b>	<ul style="list-style-type: none"> <li>▪ s 144</li> <li>▪ s 201</li> <li>▪ s 205</li> <li>▪ s 219</li> </ul>	N/A
<b>Heritage Act 1977</b>	<ul style="list-style-type: none"> <li>▪ s 58</li> </ul>	<p>N/A – Development is not integrated development in respect of an Aboriginal heritage impact permit required under Part 6 of the National Parks and Wildlife Act 1974 unless –</p> <ul style="list-style-type: none"> <li>a) an Aboriginal object referred to in that Part is known, immediately before the development application is made, to exist on the land to which the development application applies, or</li> <li>b) the land to which the development application applies is an Aboriginal place within the meaning of that Act immediately before the development application is made</li> </ul> <p>An AHIMs Search has been carried out for the site and is provided at <b>(APPENDIX 3)</b> The AHIMs Search identifies 6 Aboriginal sites or places have been declared on or near the site (within 200m). Should any Aboriginal objects be uncovered during works, all works will cease in that location and contact shall be made with the appropriate person.</p>
<b>Coal Mine Subsidence Compensation Act 2017</b>	<ul style="list-style-type: none"> <li>▪ s 22</li> </ul>	N/A – The site is not identified as being within a mine subsidence area.
<b>Mining Act 1992</b>	<ul style="list-style-type: none"> <li>▪ s 63, 64</li> </ul>	N/A



<b>National Parks &amp; Wildlife Act 1974 (as amended)</b>	<ul style="list-style-type: none"> <li>▪ s 90</li> </ul>	N/A
<b>Protection of the Environment Operations Act 1997</b>	<ul style="list-style-type: none"> <li>▪ ss 43(a), 47, 55</li> <li>▪ ss 43(b), 48, 55</li> <li>▪ ss 43(d), 55, 122</li> </ul>	N/A
<b>Roads Act 1993</b>	<ul style="list-style-type: none"> <li>▪ s 138</li> </ul>	N/A
<b>Rural Fires Act 1997</b>	<ul style="list-style-type: none"> <li>▪ s 100B</li> </ul>	No – While the subject site is identified as bushfire prone, the development is for non-habitable alterations and additions and a marquee. Referral to the RFS as integrated development is therefore not required as part of the DA.
<b>Water Management Act 2000</b>	<ul style="list-style-type: none"> <li>▪ ss 89, 90, 91</li> </ul>	N/A – The development will not occur within 40m of the mapped watercourse, referral to the Natural Resource Access Regulator as integrated development is not required as part of this application.

## 3.2 STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

The following SEPPs are considered relevant to the proposed development:

All State Environmental Planning Policies (SEPPs) have been considered. The following SEPPs are considered relevant to the proposed development and discussed in further detail below.

- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Primary Production) 2021*

### 3.2.1 SEPP (SUSTAINABLE BUILDINGS) 2022

The aim of this SEPP is to encourage sustainable residential development. The proposed development is for additions and alteration to a cellar door and marquee.

The proposed development is not residential development so further assessment of this Policy is not warranted.

### 3.2.2 SEPP (BIODIVERSITY AND CONSERVATION) 2021

This aim of this SEPP is to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

#### Chapter 3 – Koala Habitat Protection 2021

This Chapter aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. This SEPP applies to land identified within Part 3.2, Section 3.5 and LGA's specified within Schedule 2.

The SEPP applies to the Muswellbrook Local Government Area (LGA). In accordance with Section 3.8, the council's determination of the development application must be consistent with the approved koala plan of management that applies to the land.

The proposed development does not require the removal of any native vegetation, as such it is not anticipated that the proposed development will adversely affect the free-living population of koalas. The site is currently zoned for village purposes. It is not expected or known that the site or immediate area has the potential to contribute to Koala population decline, therefore, the land is considered suitable for the proposed development.

### 3.2.3 SEPP (TRANSPORT AND INFRASTRUCTURE) 2021

#### Chapter 2 – Infrastructure

The purpose of this Chapter is to facilitate the effective delivery of infrastructure across the state and identifying matters to be considered in the assessment of developments adjacent to particular types of development.

#### **Section 2.121 – Traffic Generating Development**

In accordance with Section 2.121, development listed in Schedule 3 is identified as traffic-generating development. The proposed development is not identified under Schedule 3 and therefore does not warrant referral to TfNSW.

A Traffic Impact Statement has been prepared to support this application (**APPENDIX 11**). The report considers the parking provision on site and has determined that overflow parking provided is adequate to accommodate minor increase in traffic as a result of the proposed development.

Accordingly, further assessment of the SEPP is not required.

### 3.2.4 SEPP (RESILIENCE AND HAZARDS) 2021

The State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) consolidates, transfers, and repeals the provisions of three (3) SEPPs into a single environmental planning instrument, including: the SEPP (Coastal Management) 2018 (Coastal Management SEPP), SEPP 33 – Hazardous and Offensive Development (SEPP 33), and SEPP 55 – Remediation of Land (SEPP 55).

The Resilience and Hazards SEPP aims to promote the protection and improvement of key environmental assets for their intrinsic value and the social and economic benefits they provide.

#### Chapter 2 – Coastal Management

The aim of this Chapter is to promote an integrated and coordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016. The site has not been identified as being located within a Coastal Use Area or Coastal Environment Area. Further assessment of this Policy is not warranted.

#### Chapter 4 Remediation of Land

The object of this Chapter is to provide for a State-wide planning approach to the remediation of contaminated land.

In accordance with Clause 4.6, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated. Where the land is contaminated a consent authority must determine if the land is suitable in its

contaminated state for the development, or alternatively determine that the land would be suitable once remediated.

A review of the Environment Protection Authority (EPA) contamination register confirms that no contamination, the subject of regulation by the EPA, is identified on the site.

The site is currently zoned RU1: Primary Production and is currently used as a vineyard and a cellar door. To this extent, the subject site is land considered suitable for the proposed development and future residential occupation and the objectives of Chapter 4 have been satisfied.

### **3.2.6 SEPP (INDUSTRY AND EMPLOYMENT) 2021**

#### Chapter 3 Advertising and Signage

This Chapter aims to ensure that signage is compatible with the desired amenity and visual character of an area and provides effective communication in suitable location which is of high-quality design and finish.

Signage is not proposed as part of this application. Accordingly, further assessment against the Industry and Employment SEPP is not required.

### **3.2.7 SEPP (PRIMARY PRODUCTION) 2021**

#### Chapter 2 Primary production and rural development

SEPP (Primary Production) 2021 applies to the proposed development due to the RU1 zoning of the land. The aims of the SEPP applicable to the proposed development include to facilitate the orderly economic use and development of lands for primary production, to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources and to encourage sustainable agriculture.

The proposed development aims to construct alteration and addition to a cellar door operation and construct a marquee for functions on the site which will support the current use of the site as a vineyard. Subdivision of the site is not proposed.

Through this process, rural land will not be sterilised, rather it will provide an opportunity to better define the land use, zoning and ownership. At the completion of the proposed development, primary production and agriculture will continue to be maintained and encouraged without harming the natural environment.

The predominant land uses within proximity to the subject site relate to small and large primary production land holdings with dwelling houses, reflecting the exact nature of the proposed development. In addition, the proposed development poses no adverse environmental, social, economic, or visual effects on the subject site or adjacent land. To this effect, the proposed

development is not inconsistent or incompatible with the existing amenity of the locality and meets the objectives of the SEPP.

### 3.3 LOCAL ENVIRONMENTAL PLAN (LEP)

The site is located within the LGA of Muswellbrook, accordingly the MLEP is the appropriate EPI to assess the development proposal. The following assessment will demonstrate that the development proposal is compliant with the relevant clauses of the MLEP and permits approval by the Consent Authority.

- **Clause 2.3 – Zone Objectives and Land Use Table**

The subject site is zoned RU1 Primary Production. The proposed development includes alterations and additions to the existing Cellar door facilities and the construction of a marquee. The Land Use Table of the LEP identifies the following objectives for the RU1 zone:

- *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 protect the agricultural potential of rural land not identified for alternative land use, and to minimise the cost to the community of providing, extending and maintaining public amenities and services.*
- *To maintain the rural landscape character of the land in the long term.*
- *To ensure that development for the purpose of extractive industries, underground mines (other than surface works associated with underground mines) or open cut mines (other than open cut mines from the surface of the flood plain), will not—*
  - (a) destroy or impair the agricultural production potential of the land or, in the case of underground mining, unreasonably restrict or otherwise affect any other development on the surface, or*
  - (b) detrimentally affect in any way the quantity, flow and quality of water in either subterranean or surface water systems, or*
  - (c) visually intrude into its surroundings, except by way of suitable screening.*
- *To protect or conserve (or both)—*

- (a) *soil stability by controlling development in accordance with land capability, and*
- (b) *trees and other vegetation, and*
- (c) *water resources, water quality and wetland areas, and their catchments and buffer areas, and*
- (d) *valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits.*

### 3 Permitted with consent

*Agritourism; Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Camping grounds; Caravan parks; **Cellar door premises**; Cemeteries; Community facilities; Crematoria; Depots; Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Flood mitigation works; Forestry; **Function centres**; Group homes; Hazardous industries; Health consulting rooms; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home industries; Industrial retail outlets; Information and education facilities; Intensive livestock agriculture; Kiosks; Landscaping material supplies; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Rural worker's dwellings; Secondary dwellings; Service stations; Sewerage systems; Signage; Storage premises; Take away food and drink premises; Tourist and visitor accommodation; Transport depots; Truck depots; Turf farming; Veterinary hospitals; Waste disposal facilities; Water supply systems*

Pursuant to Clause 2.3 of the Land Use Table alterations and additions to the existing Cellar door premises and the construction of a marquee are permissible with consent and is consistent with the aims and objectives of the RU1 Primary Production zone. The proposed development is sympathetic to the existing rural and commercial amenity and character and has been designed in a way to ensure it fits will within its locality and surrounding area.

- **Clause 4.3 – Height of Buildings**

The objective of Clause 4.3 is to ensure that the height of buildings is appropriate for the context and character of the area. The Muswellbrook Shire Council LEP 2009 identifies the maximum height of building under Cadastre.

As shown within the Architectural plans contained as (**APPENDIX 6**), the maximum height of the proposed structure are as follows:

- Cellar door facilities – 4.64m
- Marquee – 5.03m

The maximum height of each proposed dwelling is consistent with the LEP.

- **Clause 5.10 – Heritage conservation**

The objectives of Clause 5.10 are to –

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

A search of the Aboriginal Heritage Information Services (AHIMS) database (15 February 2024) identifies the subject site as containing 6 Aboriginal sites or places as shown in **(APPENDIX 3)**.

Following a review of the site it was determined that the aboriginal sites are located at least 300m from the development site, concluding that -

- a) the aboriginal sites will not be required to be demolished or moved or altered,
- b) there are no current or proposed archaeological sites,
- c) the aboriginal sites will not be disturbed or excavated at any time,
- d) buildings will not be erected on land on which an Aboriginal object is located or within an Aboriginal place of heritage significance,

Further, it is noted that the development site -

- a) is located more than 100m from the Hunter River,
- b) and adjacent land does not contain rock outcroppings, caves or platforms,
- c) and adjacent land has been significantly disturbed by historical agricultural practices.

The Applicant believes that this site investigation is adequate to determine that all Aboriginal objects have been identified by the AHIMS search and are unlikely to be located on the development site. The Applicant anticipates that local Aboriginal communities will be notified of development and will consider any responses received within 28 days after the notice is sent.

On this basis, it is unlikely that aboriginal artefacts will be uncovered during building works on the development site. Should any Aboriginal objects be uncovered during works, all works will cease in that location and contact shall be made with the appropriate person.

- **Clause 5.11 – Bushfire Hazard Reduction**

The site has been identified to be bushfire prone. Accordingly, a detailed in the Bushfire Report prepared as part of the application, and is provided at **APPENDIX 7**.

- **Clause 5.21 – Flood Planning**

The site is not identified as being flood prone land, accordingly it is not anticipated that the proposed development would result in an increased risk to life as a result of a flood event.

- **Clause 7.1 - Terrestrial Biodiversity**

The site is identified on the Terrestrial Biodiversity Map under the MLEP 2009. The site is in proximity to a biodiverse value corridor as seen in **Figure 7**. The proposal requires no removal of vegetation within an area mapped as biodiversity value. Accordingly, no further assessment of the proposal regarding the Biodiversity Conservation Act is required.

- **Clause 7.6 - Earthworks**

Moderate earthworks associated with the levelling of the site for the installation of services and drainage infrastructure, and establishment of the building foundation is proposed. The design of the development corresponds to the topography of the site, minimising the requirement for excessive cut and fill. Excess soil will be spread across the site.

No adjoining allotments will be impacted by the development. All water run-off is to be directed to the existing stormwater system or controlled with sediment control fencing and is not to cause nuisances to adjoining sites. Any earthworks would be moderate in nature and are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place.

Any material that is proposed to be imported or exported from the subject site will consist of Virgin Excavated Natural Materials (VENM), Excavated Natural Materials (ENM) or other certified material. Accordingly, the development complies with the requirements of this clause.

### **3.4 DEVELOPMENT CONTROL PLAN (DCP)**

Consideration of compliance and/or consistency with the relevant provisions of the Muswellbrook Development Control Plan 2013 is provided in the Table of Compliance provided at **APPENDIX 2**. The Table of Compliance identifies that the proposed development demonstrates compliance with the relevant provisions of the DCP or overarching objectives where variations are proposed.

## **4 LIKELY IMPACTS OF THE DEVELOPMENT**

The likely impacts of the proposed development and constraints affecting the subject site have been explored throughout this SoEE. The following sections detail the major potential impacts and constraints in greater detail, in accordance with Section 4.15(1) of the EP&A Act 1979.

### **4.1 BUILT ENVIRONMENT**

#### **4.1.1 CONTEXT, SETTING AND VISUAL IMPACT**

The proposed development has demonstrated consistency of the surrounding locality through the environmental planning regulations and site features informing the overall development



design. It has also shown to be consistent with the surrounding locality as there are multiple developments and revitalisation projects occurring in Denman area.

The proposed development will not negatively impact on the visual amenity of the locality through the appropriate sitting and style of the development. The proposed development will positively contribute to the local area by improving the visual amenity of the site, by performing alterations and additions to cellar door building. The application includes relevant construction methods and services such as stormwater management systems (**APPENDIX 9**) that will minimise the potential for adverse impacts on adjoining properties. The environmental constraints of the site have been justified throughout this report and associated sub-consultant documents, the proposed development design responds and mitigates these constraints for a successful mixed use outcome.

The proposal also results in the construct of a marquee to permit the site to be revitalised and commercially viable. The new building will have appropriately designed form, a casual character and materiality, will result in no adverse impact on the identified significance of the place. Perception Planning were engaged to complete a Building Code of Australia report contained in (**APPENDIX 12**) confirming the construction of proposed additions to an existing class 6 cellar door, and construction of an associated class 9b marquee, to determine how the proposal generally complies with the (NCC/BCA) Building Code of Australia 2022. The building and its proposed uses are considered, being assessed against the Deemed-to-Satisfy (DTS) Provisions of the BCA as applicable. There are no anticipated adverse impacts on the built environment as a result of the proposed development.

#### **4.1.2 ACCESS, TRANSPORT AND TRAFFIC**

Access to the site will be via established vehicular access from Yarrawa Road on the north-eastern side of the site.

The proposed development consists of alterations and additions to cellar door building and construction of marquee. The proposed parking arrangement meets the requirements outlined in the Development Control Plan (DCP) for visitors. The proposed increase to the cellar door component results in a statutory car parking requirement of 4 spaces. The proposed marquee / function room has been assessed as a 'function centre' under the Muswellbrook DCP and attracts a statutory car parking requirement of 51 spaces. Therefore, the proposal attracts a total requirement to provide an additional 55 spaces. The typical car parking demand associated with the cellar door operations peak at approximately six (6) to eight (8) vehicles at any one time, outside of major events. The existing unsealed car parking areas are considered to be able to accommodate 30 vehicles, with the grassed verges along the site access driveway able to accommodate overflow car parking demands during peak periods (i.e. weddings, Christmas carols, etc.). Additionally, the waste collection and loading arrangements have been considered appropriate.

In conclusion, the traffic and parking aspects of the proposed development are deemed satisfactory. The development's impact on the surrounding traffic and transportation environment is anticipated to be minimal. The development is not anticipated to have any significant adverse impacts on access, transport or traffic.

Traffic Impact Study is contained in **APPENDIX 11**.

#### **4.1.3 PUBLIC DOMAIN**

The proposed development is not anticipated to have an impact on any public domain. The development contributions derived from this development in providing infrastructure and public domain improvement in accordance with the MSC Development Contributions Framework.

In essence, the proposed development not only ensures its own seamless integration however also actively contributes to the betterment of the public domain. This multifaceted approach underscores the development's commitment to promoting a cohesive urban environment that is both functional and aesthetically pleasing, ultimately fostering a higher quality of life for residents and visitors alike.

A Visual Impact Assessment is contained in **APPENDIX 16**.

#### **4.1.4 SERVICES**

The site has available connection to reticulated water, telecommunication, electricity, and sewer. In addition, the application demonstrates that stormwater drainage resulting from future roof and hard stand areas can be catered for in accordance with Council's requirements (**APPENDIX 8**). Stormwater drainage resulting from roof area will be directed to the sites stormwater drainage in accordance with Councils requirements.

#### **4.1.5 NOISE AND VIBRATION**

Construction noise will be as per normal construction times and processes and will cease once construction is completed.

No noise impacts associated with the operating hours of the premises have been identified due to the locality of this proposed development and surrounding similar rural premises in the Denman area.

Further, noise generated within the premises is within a controlled environment and can be limited and/or managed by staff / employees on-site. The establishment will implement a management plan focussed on minimising noise to ensure the amenity of adjoining premises will not be impacted. To this effect, it is considered surrounding properties will not be unduly impacted by noise during operating hours.

#### **4.1.6 SAFETY, SECURITY AND CRIME PREVENTION**

No safety, security or crime prevention measures are required. The alterations and additions to cellar door building and marquee will provide additional passive surveillance capacity from the site for Yarrowa Road and South Road.

Crime Prevention Through Environmental Design report is contained in **APPENDIX 17**.

### **4.2 NATURAL ENVIRONMENT**

#### **4.2.1 ECOLOGICAL**

No trees or significant vegetation will be required to be removed in order to facilitate the proposed development. While the site is located within a recognised area of biodiverse value, it is not anticipated the proposed development will have a detrimental impact on the ecology on the site or surrounding area.

In addition, the installation and maintenance of erosion and sedimentation controls will occur during construction.

#### **4.2.2 LANDSCAPING**

The proposed landscaping layout is considered sufficient for the proposed development and will enhance the design and built form. A Landscape plan has been prepared to support this application. (**APPENDIX 5**).

#### **4.2.3 STORMWATER**

A Stormwater Management Plan has been prepared by DRB Consulting Engineers and is contained as (**APPENDIX 9**). The site generally falls to the Hunter River to the east, the development proposes to maintain the general flow characteristics for the site and discharge stormwater to a retention basin located approximately 110m from the Hunter River.

The proposed stormwater philosophy is as follows:

- All roof water will be captured and directed to the detention basin.
- The driveway area will be captured in a series of pits and pipes and captured in the detention basin.

#### **4.2.4 ACID SULFATE SOILS**

The site is not identified within a mine subsidence area and is not identified to have any acid sulfate soils.

#### **4.2.5 BUSH FIRE**

The site is identified to be bushfire prone, and a bushfire report has been prepared. The report provided a number of recommendations that ensures the proposed development complies with Planning for Bush Fire Protection (2019) requirements. There is potential for bushfire

attack at this site and a list of recommendations has been included in the assessment to reduce that risk. The report appears at **APPENDIX 7**.

#### **4.2.6 HERITAGE**

The development site has not been identified in Muswellbrook LEP as containing a Heritage item, or within the Denman Heritage Conservation Area.

An AHIMs Search has been carried out for the site and is provided at **(APPENDIX 3)** The AHIMs Search identifies 6 Aboriginal sites or places on or near the site (within 200m). A review of property demonstrates that the identified sites are at least 300m from the development site and more than 100m from the Hunter River. As adjacent land does not contain rock outcroppings, caves or platforms and the land surrounding the development site has been significantly disturbed by historical agricultural practices it is considered unlikely that further sites could be uncovered.

Should any Aboriginal objects be uncovered during works, all works will cease in that location and contact shall be made with the appropriate person.

### **4.3 SOCIAL AND ECONOMIC**

#### **Social**

Social impact is best defined by (Armour 1992) that describes changes that occur in:

- People's way of life (how they live, work, play and interact with one another on a day to day basis),
- Their culture (shared beliefs, customs and values), and
- Their community (its cohesion, stability, character, services and facilities).

The proposed development provides for Alterations and Additions to Cellar Door Building and construction of Marquee to enhance the commercial use of RU1 Primary Production zone. The development will be serviced by suitable facilities and services without burdening the existing supply available within the area.

The proposed development:

- Will increase recreational facilities available to the local community,
- Will increase the numbers of visitors within the locality, providing opportunities within the nearby historic Denman area,
- Is consistent with the general aims of the RU1 Zone including –
  - encouraging diversity in primary industry enterprises and systems appropriate for the area
  - protecting the agricultural potential of rural land
  - protecting or conserve soil stability, trees and other vegetation, and water resources, water quality and wetland areas,

- Will not disadvantage or benefit any particular social group, rather will provide additional residential, tourist and visitor facilities to achieve the objectives and requirements of the Hunter Regional Plan 2036 and associated population and dwelling projection.
- Will enhance the cultural life of the community through increasing the number of commercial facilities within the Denman area, which will in turn contribute to cultural and community activities when available.
- Will provide the opportunity to increase land use diversity within the wider Muswellbrook area and provides for greater residential, tourist and visitor activities.

There are no anticipated adverse economic impacts as a result of the proposed development, rather it is considered the proposal will contribute positively to the social elements of the locality through an increase commercial and tourist opportunity. The proposed development is not out of character with the existing urban context, will not involve an increased risk to public safety and will not threaten the existing sense of community, identity, or cohesiveness, rather will contribute to the increase of these aspects in the locality.

### **Economic**

The proposed development will result in a large capital investment value (CIV) within the local economy, with construction providing employment opportunities in the locality and support to the local building and development industries. In addition, the development will having direct monetary input to the local economy, the increased number of visitor and residential activity options and commercial properties in the locality will provide ongoing economic input within the development and surrounds. There are no anticipated adverse economic impacts as a result of the proposed development.

## **5 SUITABILITY OF THE SITE**

The proposed development is a suitable use of the site. The application design includes all elements required under the relevant planning instruments and policies and there are no anticipated negative impacts on the locality as a result of the development. This development is permissible under the LEP and has addressed any relevant concerns through this SoEE.

The proposed development whilst not anticipated to have any adverse impacts on surrounding properties or amenity of the locality, is to be considered within the public's interest.

## **6 ANY SUBMISSIONS AND CONSULTATION**

As part of the DA consideration process, it is envisaged Council may place the proposal on public exhibition and send neighbor notification letters to adjoining or adjacent properties.

## 7 PUBLIC INTEREST

The subject site is located within an existing rural recreational area and is clear of any significant vegetation. The site has access to all relevant essential services and the proposed development makes good use of the available land. The application design includes all elements required under the relevant planning instruments and policies and there are no anticipated negative impacts on the locality as a result of the development. This development facilitates a commercially viable use of the property, and the merits of approval are very strong for the local Denman community. To this extent, the site is suitable for development.

The proposal represents additional tourist and commercial opportunities in the locality to service the needs of the community, whilst not anticipated to have any significant adverse impacts on surrounding properties or the amenity of the locality. The environmental site constraints of the site are minimised and managed through the design. The proposed development reinforces the village nature of the land and is in keeping with the character of surrounding developments. The proposed development is in the public interest.

## 8 CONCLUSION

This SoEE has shown that the development is within the public interest, from a social, economic, and environmental perspective. The proposed alterations and additions to cellar door building and construction of marquee is the most suitable option for the development of the site. Any relevant matters have been addressed through this SoEE.

The key reasons why the proposed development is appropriate are as follows;

- The site is appropriately zoned RU1 Primary Production which facilitates the perspective. The proposed alterations proposed for this development;
- No adverse impact on the existing character or amenity of the area will result;
- The proposed development will have a positive economic and social impact on the surrounding community by creating short term construction jobs and contributes to local diversity of retail and visitor facilities;
- The development can suitably manage or mitigate environmental impacts;
- Development of the land achieves the highest and best use of the site which directly benefits the community through providing additional saleable units to meet the housing needs of the growing community population.

It is considered that the proposal will have no significant impacts on the surrounding properties to that it is likely to adversely affect their enjoyment or amenity. We look forward to Council's determination of this matter.

If we can provide any further information or clarity, please do not hesitate to contact us.



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