

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

**Alterations and Additions to Restaurant / Café**

**205 Dowling Street, Dungog 2420**

**Lot 3 DP9396**

**September 2024**

**Ref: 1331\_SEE**

**STATEMENT OF ENVIRONMENTAL EFFECTS FOR  
Alterations and Additions to Restaurant / Café**

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Date 24/04/2025

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## EXECUTIVE SUMMARY

This Statement of Environmental Effects (SEE) has been prepared by WPP Pty Limited (WPP) to accompany a development application (DA) for proposed alterations and additions to a restaurant / café.

Being a type of 'commercial premises', the ongoing use of the site as a 'restaurant or café' is permissible with consent in the E1 Local Centre zone applying to the site under the *Dungog Local Environmental Plan 2014*.

This SEE has been prepared pursuant to Section 4.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Clause 24 of the *Environmental Planning and Assessment Regulation 2021*.

The SEE seeks to:

- Describe the proposed development and its context (immediate / local / regional);
- Determine the applicable development assessment pathway (e.g. State Significant / Regional / Local);
- Assess the proposal against the applicable planning controls and guidelines; and
- Assess the potential environmental impacts and describe any measures to mitigate impacts.

This SEE has found that the proposal is generally compliant with the statutory planning framework applicable to the site and proposed development, compatible with surrounding uses and a suitable ongoing use for the site. Its approval will allow for the continued use of the premises for commercial purposes in a manner consistent with the objectives of the zone without resulting in any adverse impacts on the built and natural environment, including in terms of heritage, acoustic, parking and traffic impacts.

The site is not constrained by any environmental conditions which would otherwise preclude the proposed development. The site and location are capable of supporting the proposal including with respect to available services and infrastructure, and environmental quality. For the above stated reasons, this SEE finds the proposal to be in the public interest and worthy of Council's approval.

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Appendix 2	Architectural Plans
Appendix 3	Waste Management Plan
Appendix 4	AHIMS Search
Appendix 5	BCA Compliance Report
Appendix 6	Statement of Heritage Impact
Appendix 7	Plan of Management
Appendix 8	Certificate of Title
Appendix 9	Asbestos Clearance Certificate

# 1 Introduction

This Statement of Environmental Effects (SEE) has been prepared by WPP Pty Limited (WPP) on behalf of the landowner to accompany a development application (DA) for alterations and additions to a restaurant / café at 205 Dowling Street Dungog (the site).

The key components of the proposal are as follows:

<b>Proposal</b>	Alterations and additions
<b>Site</b>	205 Dowling Street Dungog, Lot 3 DP9396
<b>Zoning</b>	E1 – Local Centre
<b>Proposed Use</b>	Restaurant or café
<b>Owner</b>	Slowdance Pty Ltd ATF The Norval Family Trust

This SEE has been prepared in accordance with Part 3 of the *Environmental Planning & Assessment Regulation 2021*, having regard to Section 4.15 of the *Environmental Planning & Assessment Act 1979*. It provides a description of the existing land, as improved, and the site context in Section 2, with details of the proposed development in Section 3. The environmental planning controls applying to the site and an assessment of compliance with these controls are set out in Section 4. Section 5 contains concluding comments in respect of the proposed development.

## 2 The Site and Context

### 2.1 Site Location and Context

The subject site is located in the town centre of Dungog, the largest centre in the Dungog Local Government Area, approximately 80km north of Newcastle and 55km north-east of Maitland.

The site is situated on the eastern side of Dowling Street which performs the traditional role as the main thoroughfare through the town. Retail, commercial and civic activities are focused along Dowling Street, providing a range of services for residents and workers in the Dungog area, as well as visitors and passing trade. Various recreational, health, educational and community facilities, as well as tourist accommodation, are also located in and around the town centre.

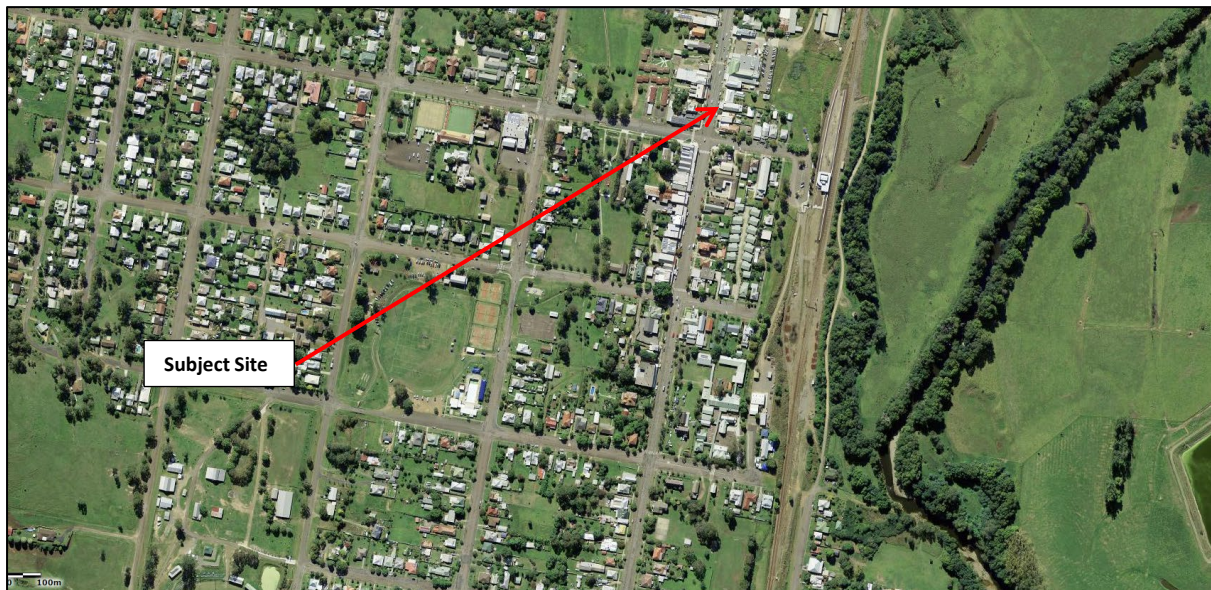
Areas of low density residential development are located to the east and west of Dowling Street, while some light industrial and farm land is located to the north-east and east of the township. The Main Northern Railway Line and, beyond, the Williams River are to the east of Dowling Street.

The site's regional context and local context are shown in **Figures 1 and 2**, below, respectively.

Figure 1 - Regional Context (Source: NSW Planning Spatial Viewer)



Figure 2 - Local Context (Source: Sixmaps)



In terms of built form, Dungog's town centre is characterised by low density late Victorian through to 1930s residential and commercial buildings of modest scale. The main business section at the northern end of Dowling Street is highly consistent, due mainly to the repetition of posted awnings and verandas, and above awning parapets (see **Figure 3**). Building setbacks and scale are also fairly uniform, further contributing to the continuity of the streetscape. The central section of Dowling Street is dominated by non-residential buildings including churches and community buildings, transitioning to low density residential development at the southern end including many grand older style residences with generous front garden areas.

The wide streetscape, elevated position and modest scale of Dowling Street allows views of the hills of the surrounding district (see **Figure 4**).

Areas of low density residential development are located to the east and west of Dowling Street, primarily comprising older dwellings interspersed with some newer style at-grade units and seniors housing.

Figure 3 - View along northern end of Dowling Street in the vicinity of the subject site, looking generally south (Source: Google streetview)



Figure 4 - View along northern end of Dowling Street in the vicinity of the subject site, looking generally north (Source: Google streetview)



## 2.2 Adjoining Development

The site is adjoined by commercial premises fronting Dowling Street, comprising a single storey heritage-listed retail store to the north (Former 'Stephensons Inn') and the 2-storey 'Country Women's Association' hall to the south (see **Figure 5**). To the rear (east) of the site is a the rear yard of a veterinary hospital fronting Brown Street. To the west, on the opposite side of Dowling Street, is additional commercial development including an insurance broker.

Figure 5 - View of subject site and adjoining development fronting Dowling Street, looking generally east (Source: Google streetview)



## 2.3 Site Characteristics

The site comprises of a single rectangular shaped allotment with an area of 629.3m<sup>2</sup>. It has a primary frontage to Dowling Street of approximately 13.41m. The site has a relatively flat topography.

The site currently accommodates a single-storey inter-war building with a galvanised iron roof and decorative above awning parapet fronting Dowling Street. The building has a direct frontage to Dowling Street and a minimal setback from the northern side boundary. A detached, semi-open shed

structure is positioned to the rear of the site, which has been constructed to the southern (side) boundary. A paved courtyard is positioned between the main building and rear shed.

In recent years the main building has accommodated a restaurant / café and kitchen / serving space at the front, with public bathroom facilities, ancillary office and storage space, and staff amenities to the rear. Outdoor dining areas are located along the street frontage and southern side of the building.

Vehicular access to the site is via an a gravel sealed driveway extending along the rear boundary from Brown Street to the south. The site benefits from a registered right-of-way over the access driveway. A copy of the Certificate of Title is provided at **Appendix 8**.

Vegetation within the site is limited to shrubs and some grassed areas.

An aerial view of the site and extract of the Site Survey are provided in **Figures 6 and 7** below. A copy of the Site Survey is provided at **Appendix 1**. Photographs of existing site development are provided in **Figures 8-12**.

Figure 6 - Aerial View of Subject Site (Source: Six Maps)



Figure 7 - Extract of Site Survey

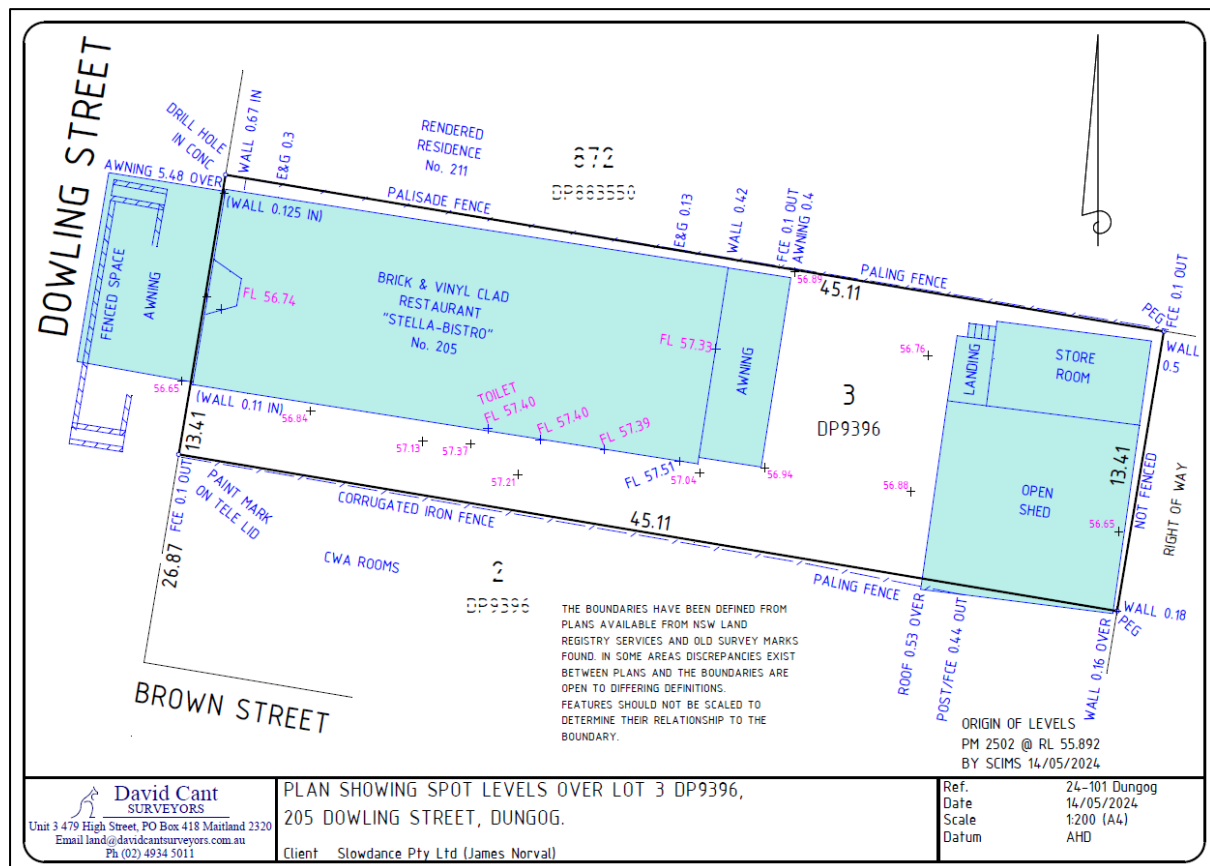


Figure 8 - View of site's Dowling Street frontage, looking generally west (Source: Realestate.com)



Figure 9 - View of outdoor seating on Dowling street, looking generally north (Source: Realestate.com)



Figure 10 – Paved area and ancillary shed to rear of site, looking generally north-east (Source: Realestate.com)



Figure 11 – Courtyard along southern side of the building, looking generally west towards Dowling Street (Source: Realestate.com)



Figure 12 – Right of way access to subject site from Brown Street, looking generally north (Source: Google streetview)



A desktop analysis of Council / NSW Department of Planning records, including a review of the Section (2) and (5) Planning Certificate, indicates the site:

- Is located within the 'Dungog Commercial Precinct' heritage conservation area and in proximity to a number of 'local' heritage-listed items;
- Does not contain an item of environmental heritage significance;
- Is not mapped as being affected by flooding;
- Is not mapped as containing Acid Sulfate Soils;
- Is not within a mine subsidence district;
- Is not Bushfire Prone Land;
- Is not mapped as potentially contaminated land, nor has the land been used for any potentially contaminating land use based on Council's records;
- Is not known to be affected by any easements or other services which would preclude development.

The findings of the desktop analysis have informed design development and evaluation of the likely impacts associated with the proposal.

## 2.4 Historic Use and Site Approvals

The site has historically been used for various commercial purposes, including a hardware store and second-hand furniture shop. Since the 1980s, the site has operated as a restaurant / café. It is understood this landuse has operated without any limitation on seating and applied to the site in its entirety. A review of historical photographs and operations indicate the site could accommodate up to 70 seats within the bistro area (now shop), the alfresco area adjacent to the southern elevation and within the alfresco seating area adjacent to Dowling Street. This is evident in the below images:

Figure 13 – General Seating Arrangements



Figure 14 - General Seating Arrangements



Figure 15 - General Seating Arrangements



Figure 16 - General Seating Arrangements



Figure 17 - General Seating Arrangements



On 4 September 2024, development consent was granted for a change of use over part of the site from a 'restaurant or café' to 'shop' (DA 66/2024). As shown in the approved layout plan in **Figure 18** below, the consent allowed for the use of the front part of the main building and ancillary storage rooms (shaded orange) as a shop. The shop contains a 'Wholefood Co-Operative', selling a range of fresh food, produce and other goods. The Co-Operative is approved to operate between 7 am – 6pm Monday to Sunday and is typically staffed by two volunteers at a time. The approved site plan for the shop is shown in **Figure 18** below.

Figure 18 - Approved layout plan (DA 66/2024)

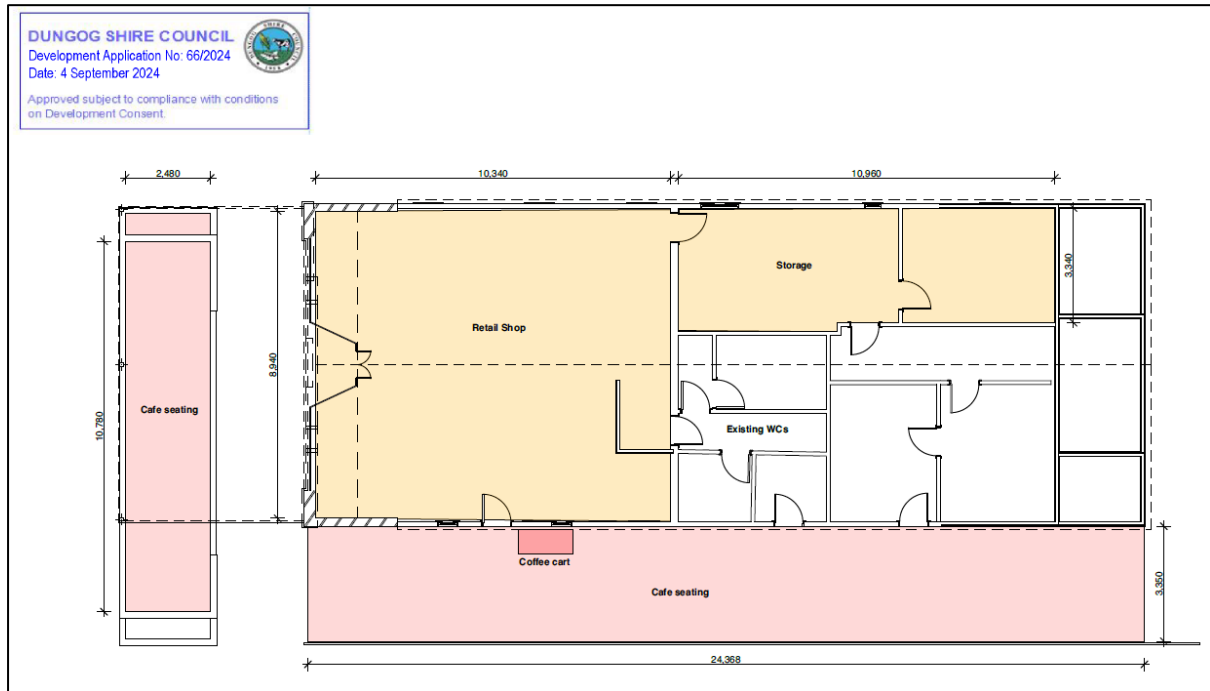


Figure 19 - Whole Food Co-Op Shop



### 3 Proposed Development

#### 3.1 Overview

The proposal involves alterations and additions, including:

- Select internal and external demolition works to the rear of the existing main building, and demolition of the rear shed;
- Internal alterations and construction of a new single-storey addition to the rear of the main building;
- Construction of an awning and new entry feature along the southern side of the main building; and
- Construction of a new single-storey detached structure to the rear.

The front of the main building would continue to operate as a shop in accordance with DA 66/2024, with the remainder of the site operating as a restaurant / café. Further operational details are provided within the Plan of Management provided at **Appendix 7**, and in Section 3.5 of this SEE.

A site plan, showing the layout of proposed development, is provided at **Figure 14** below. A floor plan showing the location of the shop, café and restaurant is provided in **Figure 15** below, while 3D views of the proposal are provided in **Figures 16-18**. A copy of the architectural plans is provided at **Appendix 2**.

Figure 20 - Site Plan

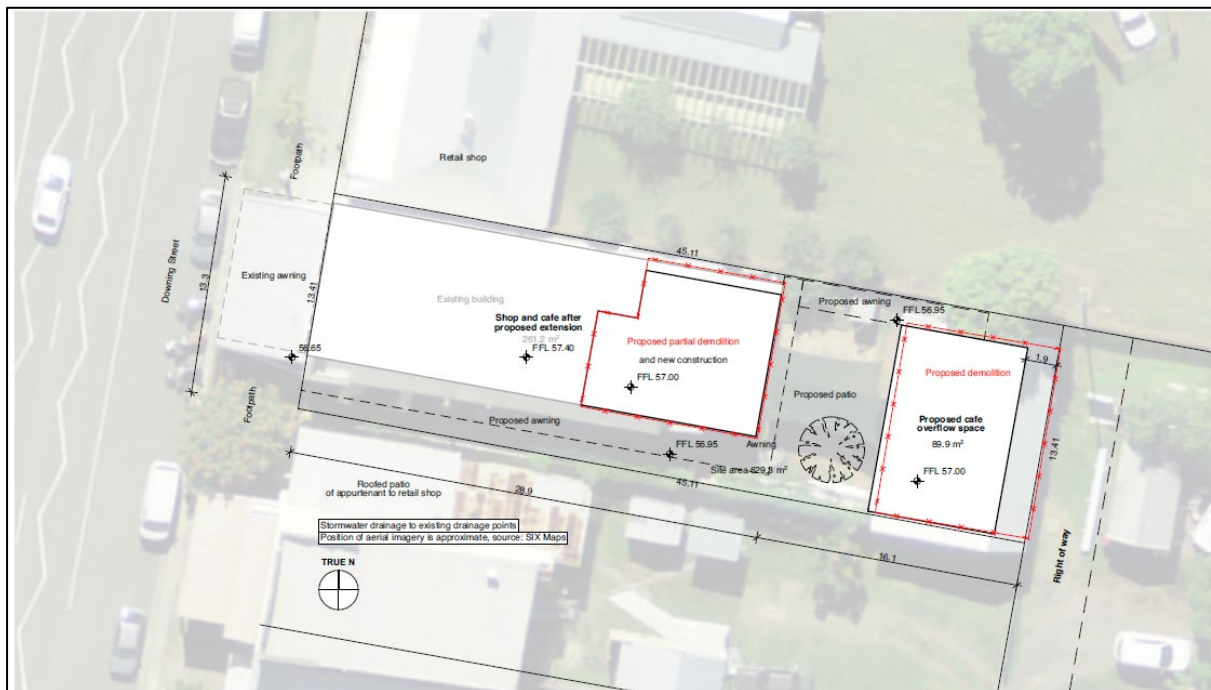


Figure 21 - Ground Floor Plan

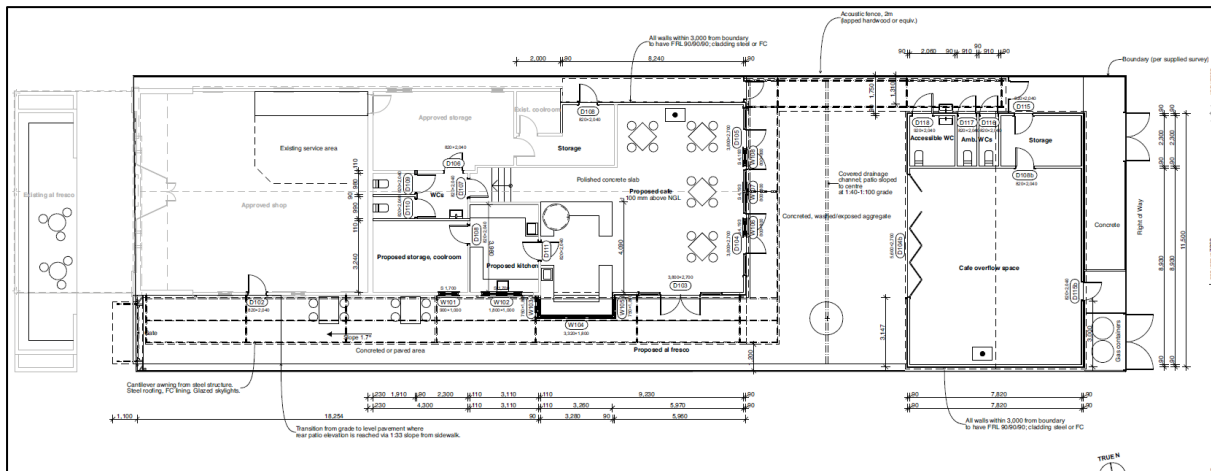
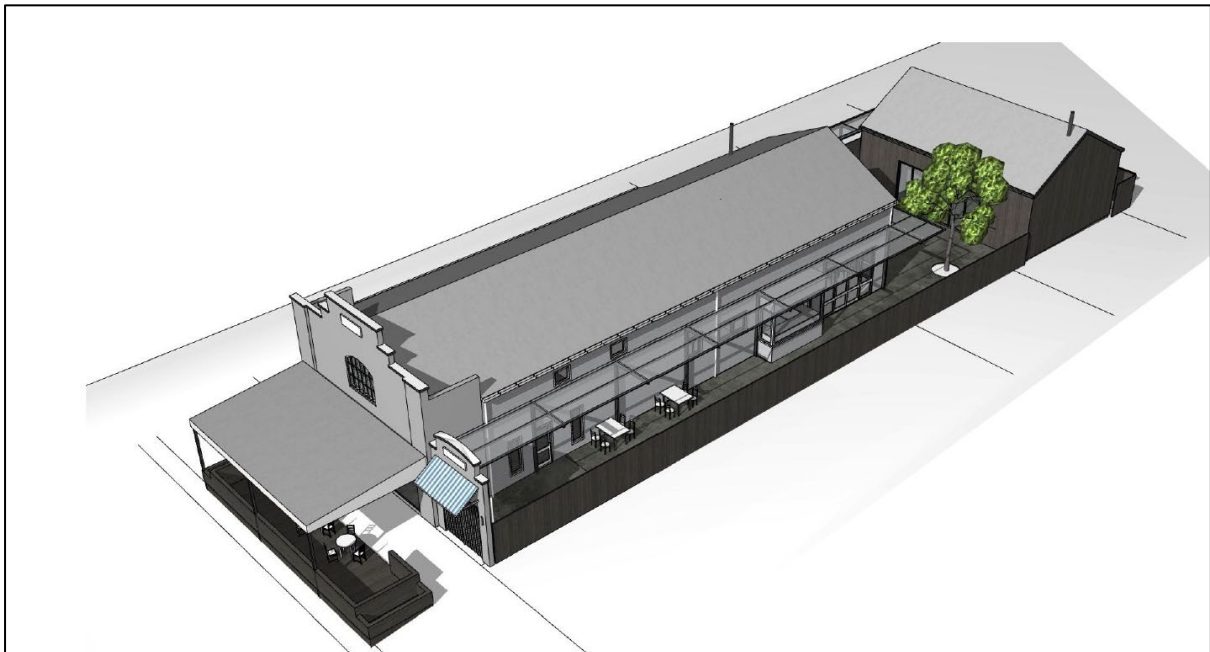


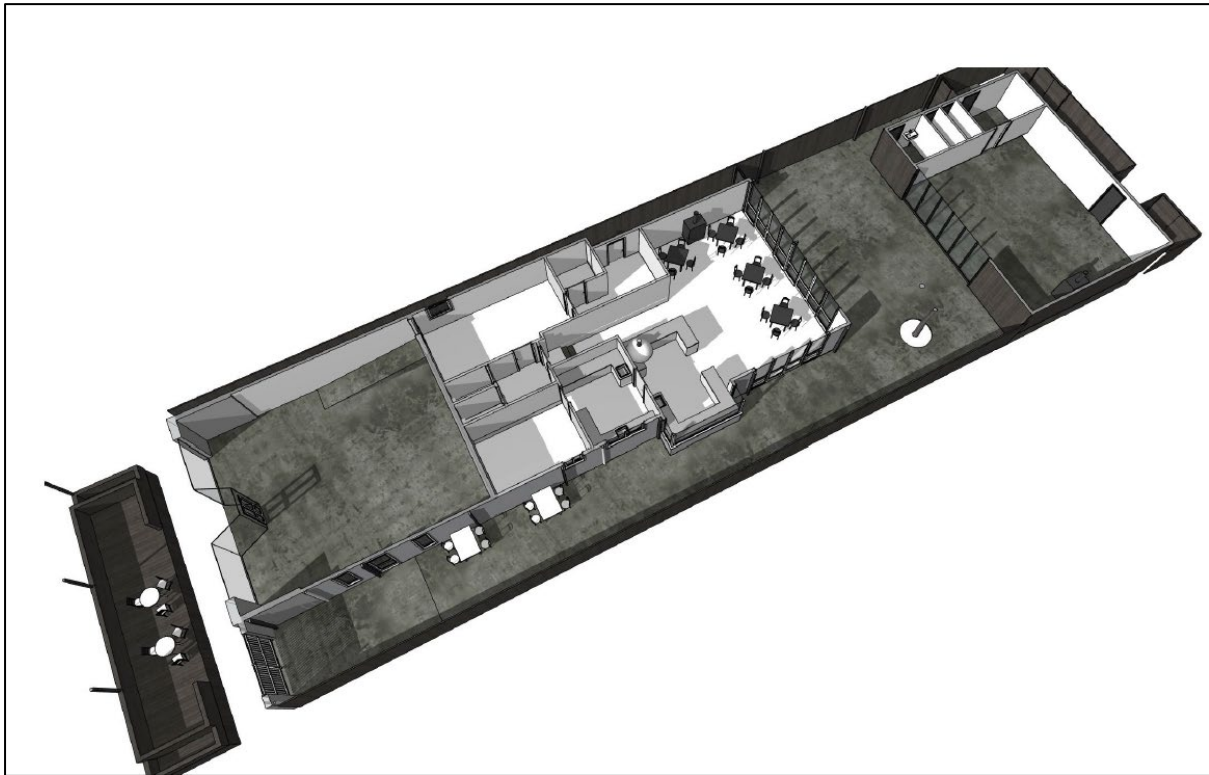
Figure 22 - 3D View of Overall Site



### Figure 23 – Proposed Elevations



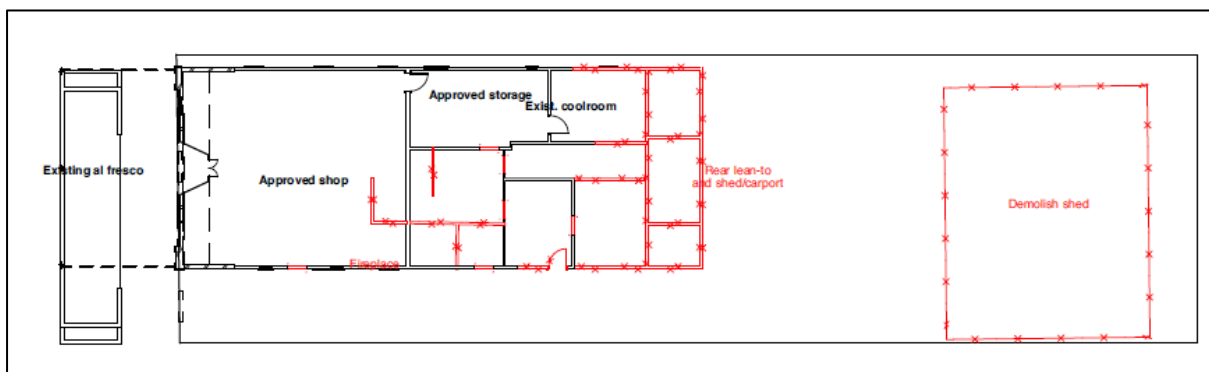
Figure 24 - 3D View of Ground Floor Plan



### 3.2 Proposed Demolition Works

As provided on the Demolition Plan extracted in **Figure 19** below, the proposal involves select demolition works including removal of internal walls, windows and the rear of the existing main building, and demolition of the existing rear shed.

Figure 25 - Demolition Plan



### 3.3 Proposed Alterations and Additions

The proposal involves alterations to the main building for the purposes of a restaurant / café with outdoor seating. The restaurant / café would have an internal floor area of 101.52m<sup>2</sup> and would comprise of an internal dining area and kitchen, with seating provided within an 89m<sup>2</sup> footprint. Other ancillary elements would include storage / cool room (13.93m<sup>2</sup>), and a proposed storage room (8.32m<sup>2</sup>). The main building contains two existing w/c's which would serve the occupants of both the approved shop and the restaurant / café. An outdoor dining area with an area of 206m<sup>2</sup> would

be located to the rear of the new addition, and would include a feature tree to provide shade and amenity for patrons.

In line with DA 66/2024, outdoor dining areas would also be provided along the southern side of the building and Dowling Street footpath. A narrow, cantilevered awning is proposed at the rear (eastern side) of the new addition, connecting to a larger awning along the southern side of the building above the outdoor dining area.

It is proposed to construct a new single storey-structure to the rear of the site for the purposes of a restaurant, in the general location of the existing shed structure. The restaurant would have an area of an internal floor area of 87.99m<sup>2</sup>, comprising of an open internal dining area, storage room and amenities, inclusive of accessible and ambulant facilities. Awnings are proposed to connect the two buildings adjacent to the northern boundary. A paved area is provided to the rear of the building which would be utilised for bind storage

The new extension to the main building would comprise of weatherboard and fire rated external walls and a corrugated steel roof to match the existing building. The detached structure to the rear would be constructed of hardwood external walls to complement the main building with fireproof fibre cement wall at the southern end and corrugated steel roofing. A schedule of materials and finishes is provided at **Appendix 2**.

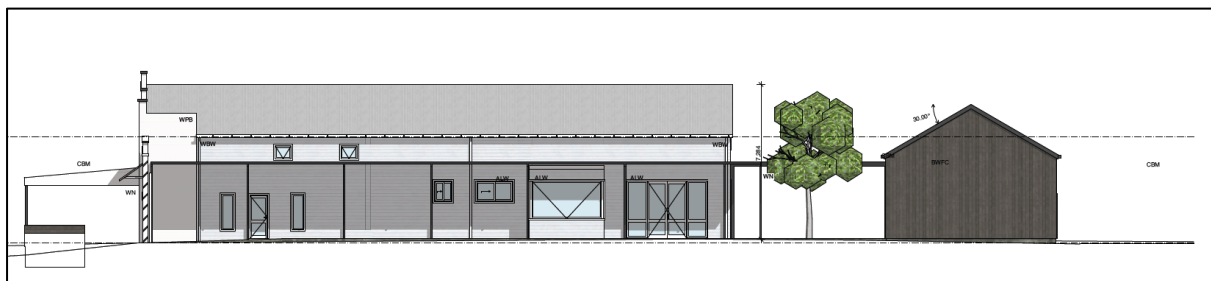
Additional details on building materials and those required to achieve a FRL are specified in the BCA compliance assessment provided at **Appendix 5**.

A new entry gate feature with identification signage is proposed at the street frontage, providing public access to the café and restaurant along the southern boundary.

The finished floor level for the proposed café / restaurant within the main building would stand at RL57.10m, being 100mm above the natural ground level. The existing level within the courtyard would be retained at approximately RL56.95m. A two-metre high lapped and capped hardwood timber fence is proposed from the rear of the main building to the eastern property boundary.

Elevation plans of the proposed works are provided in **Figures 26 and 27** below.

**Figure 26 - Southern Elevation**



### Figure 27 - Eastern and Western Elevations



### 3.4 Stormwater Management

The new paved areas across the site have been graded to direct stormwater to Council's existing drainage network in Dowling Street. Run off from the new roof areas would be collected by downpipes and directed to the existing drainage network servicing the site. Augmentation of existing drainage infrastructure would be further considered during the construction phase, as required.

### 3.5 Proposed Operations

It is intended that the restaurant / café would operate between 8am and 3pm, Monday to Sunday, then between 6pm and 11pm, Friday to Sunday. The restaurant / café would have a maximum capacity of 70 patrons at any one time, accommodated either within the main building, courtyard or rear building. It is anticipated that no more than 3 staff would operate the restaurant / café at peak times.

In addition to dining offerings, the restaurant would be used to run cooking classes over weekends, with a maximum capacity of 12 patrons. It should be observed that such classes would not occur every weekend. As provided in the Plan of Management (**Appendix 7**), the restaurant would provide such offerings by prior appointment only. As provided in the PoM, measures would be taken to ensure that the overall capacity does not exceed 70 seats when such bookings are made. The proposed operations are articulated in **Figures 28 – 29** below:

Figure 28 - Day Time Seating Arrangement

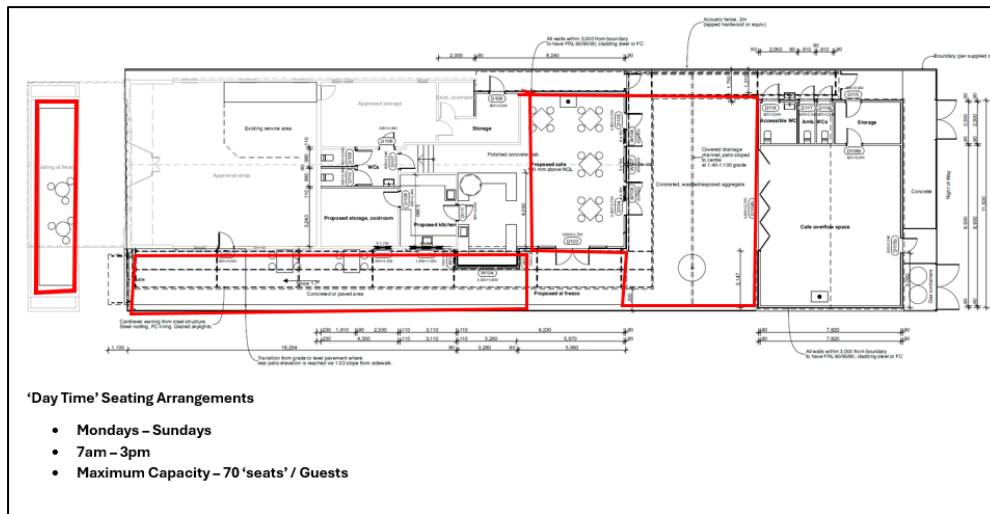
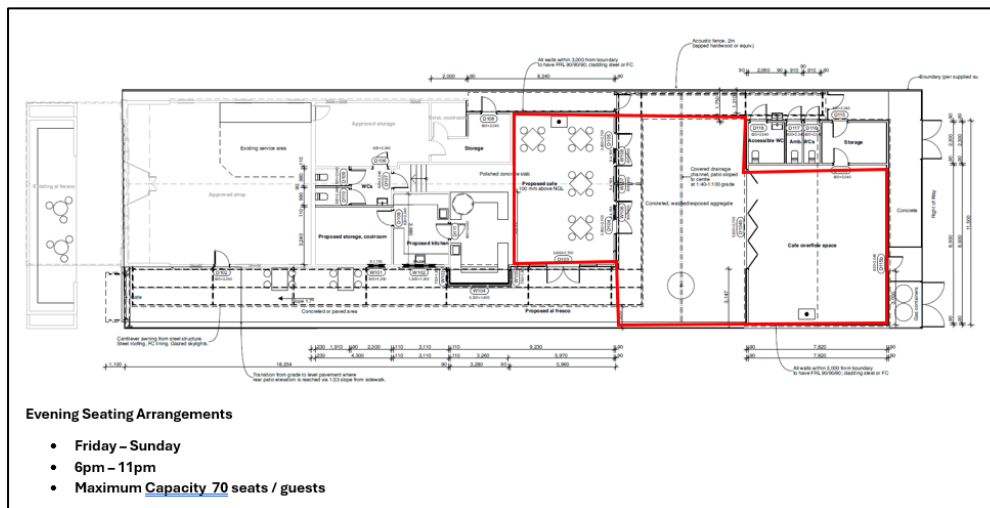


Figure 29 - Evening Seating Arrangements



### 3.6 Proposed Parking and Access

The site does not benefit from formal off-street parking with the most recent and historical land uses utilising on street parking along Dowling Street and in the general vicinity of the site. The arrangements for the proposal would remain the same, with on street parking available for both staff and patrons.

Service access would utilise the right of way to the rear of the site. A limited number of deliveries would be made via the Dowling Street entry, either via the shop or the alfresco. Deliveries would generally be scheduled outside of peak operating hours (8am – 1pm).

Refer to **Section 4.5.3** of this SEE for further discussion regarding parking, traffic and vehicular access.

### 3.7 Waste Management

Waste generated by all activities would be stored in the designated storage area (**Figure 31**) to the rear of the site, adjacent to the right of way. As provided in **Figure 32**, bins would be wheeled for collection to the kerbside fronting Brown Street via the gravel sealed right of way, which benefits the subject site. An operational waste management plan is provided at **Appendix 3**.

Figure 30 - Bin Storage Location

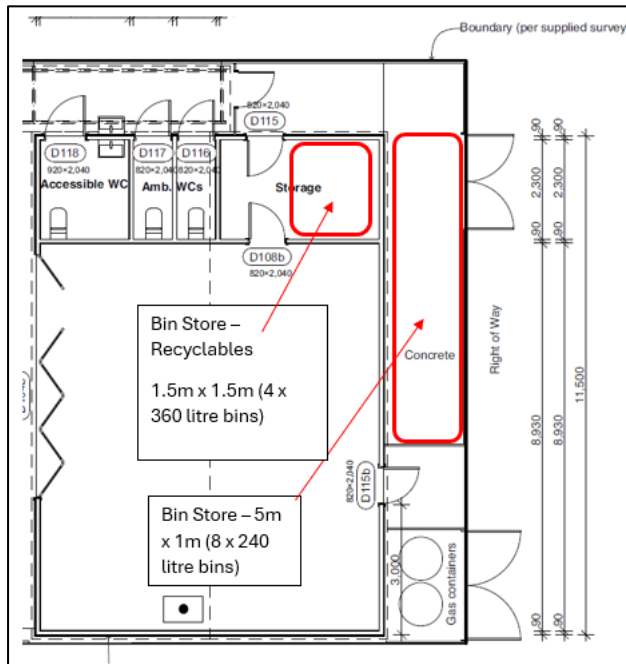


Figure 31 – Kerb Side Bin Collection Arrangements



## 4 Planning Framework

*This section summarises the approval requirements for the proposal, including its permissibility under relevant planning instruments, and the application of other environmental legislation.*

The legislation and environmental planning instruments relevant and applicable to the subject site and proposal include:

- *Environmental Planning and Assessment Act 1979;*
- *Environmental Planning and Assessment Regulation 2021;*
- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *Dungog Local Environmental Plan 2014;* and
- *Dungog Development Control Plan 2014.*

The particulars of each policy and how it relates to the site and intended development are provided in Section 4 of this document along with an evaluation of the proposal against the relevant provisions.

### 4.1 Assessment and Approvals Pathway

In accordance with Section 4.2 of the *Environmental Planning & Assessment Act 1979* (EP&A Act), the proposal is development that needs consent and is therefore subject to the provisions of Part 4 of the EP&A Act. Based on the cost of works the proposal is neither state significant development or regional development as described in *State Environmental Planning Policy (Planning Systems) 2021*.

The proposal is not anticipated to be integrated development, as described in Section 4.46 of the EP&A Act.

### 4.2 Relevant Legislation

#### 4.2.1 Environmental Planning and Assessment Act 1979

The EP&A Act provides the framework for environmental planning and development approvals and includes provisions to ensure that the potential environmental impacts of a development are assessed and considered in the decision-making process.

As outlined in Section 4.1 of this SEE, the proposal is subject to assessment under Part 4 of the EP&A Act.

##### 4.2.1.1 Objects of the EP&A Act

The objects of the EP&A Act (Section 1.3) are:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*

- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

For the reasons set out below, it is considered that the proposed development satisfies the above stated objects of the EP&A Act:

- The proposal will promote social and economic welfare by providing ongoing food and drink offerings at the site, while helping to diversify the night-time economy of the Dungog town centre.
- The site comprises a historically disturbed site with no significant environmental values, therefore the proposal can be developed without the potential for unreasonable adverse environmental impacts.
- The proposal will facilitate the orderly and economic use and development of land as the site is of an appropriate size, location and land use zoning to accommodate the proposal. Further, it will create employment opportunities during the construction phase, as well as the operation phase.
- The development is designed to respect and complement the streetscape and surrounding heritage values.
- Appropriate utility services are available to serve the subject site.
- There will be no unreasonable adverse impacts on the environment.

#### **4.2.1.2 Designated Development**

The proposal is not designated development, as described in Section 4.10 of the EP&A Act.

#### **4.2.1.3 Section 4.15 Evaluation**

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 **Table 1** below.

**Table 1 – Section 4.15 Considerations**

<b>Section 4.15</b>	<b>Reference within this SEE</b>
(a) the provisions of:	
(i) any environmental planning instrument, and	Refer to Section 4.3 of this SEE

Section 4.15	Reference within this SEE
(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	Refer to Section 4.3 of this SEE
(iii) any development control plan, and	Refer to Section 4.4 of this SEE
(iia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and	No reference. No planning agreement has been entered into with respect to the site or proposed development.
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and	Refer to Section 4.3.2 of this SEE
(v) any coastal zone management plan (within the meaning of the <a href="#">Coastal Protection Act 1979</a> ),	No reference. The site is not situated in the coastal zone.
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	Refer to Section 4.5 of this SEE and associated technical reports and plans.
(c) the suitability of the site for the development,	Refer to Section 4.6 of this SEE and associated technical reports and plans.
(d) any submissions made in accordance with this Act or the regulations,	To be considered as part the assessment process.
(e) the public interest	Refer to Section 4.7 of this SEE.

#### 4.2.1.4 Section 4.46 - Integrated Development

The application is not anticipated to constitute Integrated Development for the purposes of Section 4.46 of the EP&A Act.

### 4.2.2 Environmental Planning and Assessment Regulation 2021

This application satisfies relevant clauses of the Regulation as follows:

- [Clause 69](#) - all building work will be carried out in accordance with the provisions of the Building Code of Australia. A BCA compliance report prepared by Newcert is provided at **Appendix XX**;
- All information required in Part 3, Division 1 of the EP&A Regulation 2021 has been submitted.

## 4.3 Environmental Planning Instruments

### 4.3.1 State Environmental Planning Policy (Planning Systems) 2021

#### 4.3.1.1 Chapter 2 State and regional development

Chapter 2 of this SEPP to confer functions on Regional Planning Panels (RPP) to determine development applications in certain circumstances.

Part 2.4 of the SEPP provides that a regional panel (in this case the Hunter-Central Coast Joint Regional Planning Panel) may exercise consent authority functions, including the determination of development applications, for development identified within Schedule 6.

The proposal is not described as regional development within Schedule 6. Consequently, the application will be determined by Dungog Shire Council rather than the RPP.

## 4.3.2 State Environmental Planning Policy (Resilience and Hazards) 2021

### 4.3.2.1 Chapter 4 – Remediation of land

Chapter 4 of SEPP (Resilience and Hazards) 2021 provides a state-wide planning approach for the remediation of land and aims to promote the remediation of contaminated land to reduce the risk of harm to human health or the environment. Clause 4.6(1) states:

- (1) A consent authority must not consent to the carrying out of any development on land unless—*
- (a) it has considered whether the land is contaminated, and*
  - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
  - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The site has been used for the purpose of a restaurant / café since the 1980s, and there is no indication the site previously accommodated any ‘potentially contaminating activities’ pursuant to Table 1 of the *Contaminated Land Planning Guidelines*. A search of the NSW EPA’s Contaminated Land Record (at 18 September 2024) returned no results for the site or surrounds.

Importantly, in granting the recent approval under DA 66/2024, Council would have been satisfied that the site was suitable for ongoing use as a restaurant / café with respect to contamination. The proposal involves the ongoing use of the site as a restaurant / café.

Based on the above, it is submitted the land is not likely to be contaminated. Accordingly, Council can be satisfied that the potential for contamination of the site has been appropriately considered.

## 4.3.3 Dungog Local Environment Plan 2014

### 4.3.3.1 Land Use Zone and Zone Objectives

The proposed development is subject to the provisions of Dungog Local Environmental Plan 2014 (DLEP). The subject site is zoned E1 – Local Centre under the DLEP (see **Figure 22**).

The objectives of the zone are as follows:

- *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
- *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
- *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council’s strategic planning for residential development in the area.*

- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*

The proposal is considered to be consistent with the relevant objectives of the E1 zone as it provides for the ongoing use of the site as a restaurant / café to meet the day to day needs of residents, workers and visitors to Dungog. The proposal will help contribute to the diversity of food and drink offerings and food-related experience in the Dungog town centre, providing additional employment opportunities, and strengthening the local tourist and night-time economy. The proposal is compatible with surrounding uses and a suitable use for the site.

Figure 32 – DLEP Zoning Map



#### 4.3.3.2 Statutory Definition and Permissibility

The proposed café and restaurant would be characterised under the DLEP as ‘restaurant or café’, defined as follows:

**restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of—

- (a) an artisan food and drink industry, or
- (b) farm gate premises.

**Note—**

Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.

The undertaking of cooking classes falls within the definition of a restaurant or café, and is therefore permitted with consent in the zone.

Being a type of 'commercial premises', the ongoing use of the site as a 'restaurant or café' would be permissible with consent in the E1 Local Centre zone applying to the site under the DLEP.

#### 4.3.3.3 Dungog LEP 2014 – Other Provisions

##### Clause 5.10 – Heritage Conservation

The subject site is located within the 'Dungog Commercial Precinct' heritage conservation area and in the vicinity of a number of heritage items of 'local' significance (see **Figure 23**).

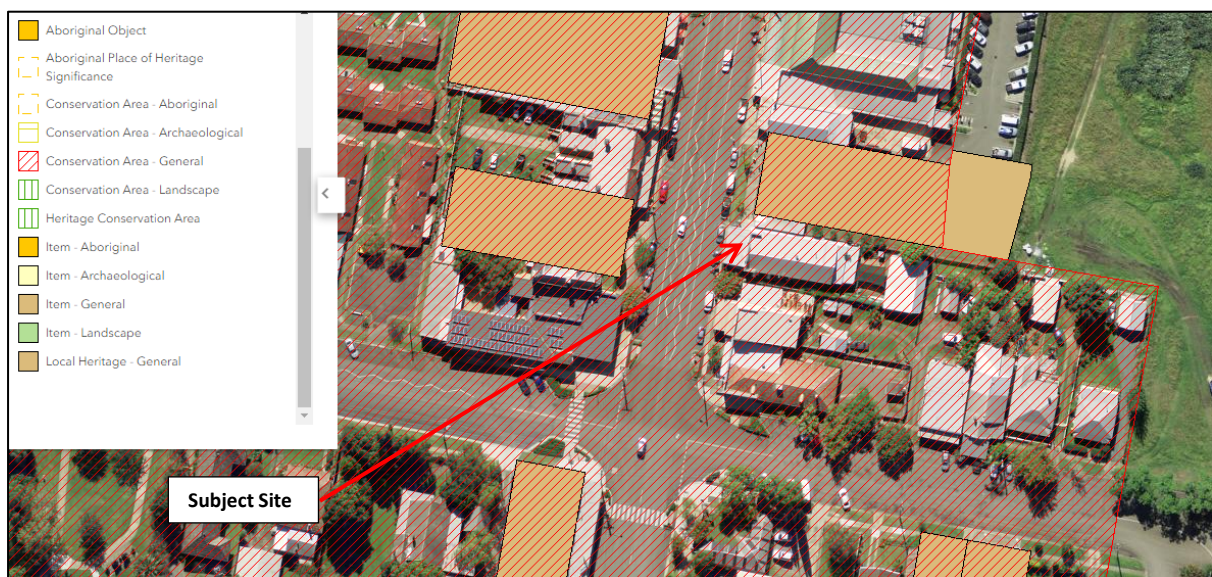
The objectives of Clause 5.10 of the DLEP are as follows:

- (a) to conserve the environmental heritage of Dungog,
- (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.

**Section 4.5.1** of this SEE includes an assessment of the proposal's potential impact on the HCA. The proposal retains the original building façade with the majority of new works positioned to the rear of the site. The front gate feature has been designed to complement the original building, taking cues from the front window and parapet, and provide an attractive and sympathetic streetscape outcome. Overall, the assessment finds that no adverse impacts on surrounding heritage values are anticipated. The proposal is therefore considered to be consistent with the relevant objectives of clause 5.10.

Under such circumstances a Statement of Heritage Impact is not considered to be warranted.

**Figure 33 - DLEP Heritage Map**



**Clause 6.2 - Earthworks**

The objective of the clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on the built and natural environment.

The proposal includes limited earthworks in order to achieve level areas for development footprints. The following is noted in response to this provision:

- All earthworks for the development will be carried out in accordance with *AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.
- An appropriate stormwater management regime is proposed across the site, which will ensure drainage patterns in the locality are adequately managed;
- Appropriate sedimentation and erosion controls will be put in place throughout the construction period, to ensure no off-site impacts;
- The proposed earthworks will essentially result in areas of level ground, which will provide appropriate surfaces for the proposed development;
- The land is not anticipated to be contaminated, and any spoil won from excavation is anticipated to be appropriate for disposal in an appropriately licensed landfill, as required.
- Any fill imported to the site will be certified Virgin Excavated Natural Material.
- No Aboriginal artefacts are anticipated within the site. However, if artefacts were to be found, work would cease immediately until the relevant authorities could be notified.

Pursuant to the above, the proposed earthworks are not likely to have negative impacts on the surrounding environment.

**Clause 6.4 - Stormwater Management**

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

The proposal would result in a negligible increase in impervious areas across the site. As outlined in **Section 3.4** of this SEE, an appropriate stormwater management regime is proposed across the site.

Accordingly, the proposal is not likely to have negative impacts on the surrounding environment from stormwater runoff.

**Clause 6.5 – Drinking Water Catchments**

The subject site is located within the Williams River Drinking Water Catchment as mapped under the DLEP (see **Figure 24**).

The objectives of this clause are to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages.

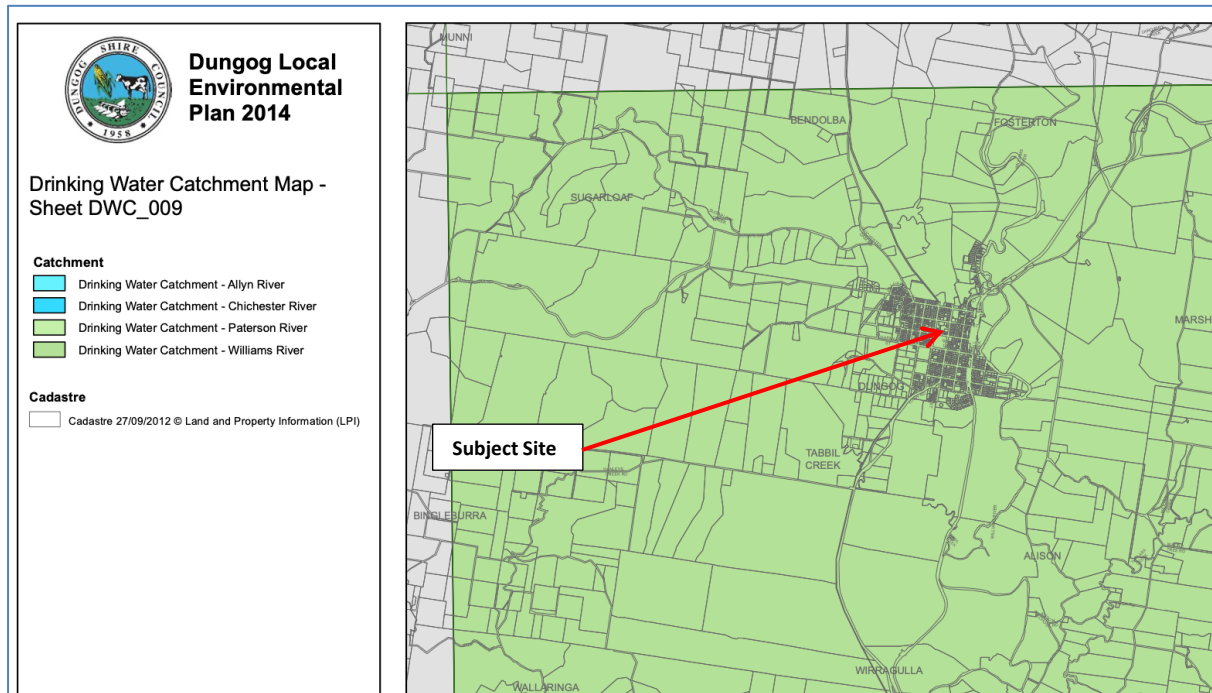
The following is noted in response to this provision:

- The site is not in proximity to a mapped watercourse, and an appropriate stormwater management regime is proposed;
- No chemical use, storage or disposal is proposed on the land;
- No waste water would be generated on-site; and

- Appropriate provision will be made for waste storage and collection during construction and operation.

Pursuant to the above, the proposal is unlikely to have any adverse impact on the quality and quantity of water entering the drinking water storages.

**Figure 34 - DLEP Drinking Water Catchment Map**



#### 4.3.4 Any Draft Environmental Planning Instruments

No draft environmental planning instruments apply to the proposed development.

#### 4.4 Dungog Development Control Plan 2014

The Dungog Development Control Plan 2014 (the DCP) applies to the proposal. Compliance with the relevant controls is addressed in **Table 2** below. Note that satisfaction of the DCP objectives is generally achieved through compliance with the specific controls in each section.

Where control compliance is not appropriate, an explanation of how the proposal still achieves the overall objectives is provided.

**Table 2** demonstrates that the proposal is compliant with the majority of prescriptive controls of the DCP, and more importantly, consistent with all relevant objectives and / or performance-based controls.

Table 2 – Dungog DCP Compliance

DCP Provision	Compliance	Comment
SECTION C.17 – HERITAGE		
3. <i>Matters to be considered in Determining Applications for Development of a Heritage Item or in a Heritage Conservation Area</i>	Yes	<b>Section 4.5.1</b> of this SEE and supporting SoHI includes an assessment of the proposal's potential impact on the HCA and surrounding heritage items, having regard to the statement of significance for the HCA and relevant DCP provisions. The proposal retains the original building façade with the majority of new works positioned to the rear of the site. The front gate feature has been designed to complement the original building, taking cues from the front window and parapet, and provide an attractive and sympathetic streetscape outcome. Overall, no adverse impacts on surrounding heritage values are anticipated.
SECTION C.20 – OFF STREET PARKING		
13. <i>Land-use</i>	Variation sought	<p>For restaurants and reception establishments, Council's DCP provides a rate of one space per 7m<sup>2</sup> of gross floor area, or 1 space per 3 seats, whichever is greater and one space per 20m<sup>2</sup> GFA for the shops. Whilst it is observed that the a square metre calculation would result in a greater number of parking spaces being required for the development, having regard to the historical operating arrangements, a calculation based on seats numbers is considered to offer a better comparison between previous operations, which accommodated 70 seated guests, and the proposed development which seeks to accommodate a maximum of 70 guests. The following parking rates apply:</p> <ul style="list-style-type: none"> <li>• Restaurant and Café: - Maximum of 70 seats = 23.33 spaces</li> <li>• Shop (existing) : 91.23 = 4.55 spaces</li> <li>• Total Requirement: 27.88 spaces, say 28 spaces.</li> </ul> <p><b>Section 4.5.3</b> of this SEE provides a detailed assessment of the proposed parking arrangement against the provisions of this DCP Section. In summary, the proposed historic parking deficiency is considered justifiable and the likely impacts of the proposed development on available on street parking arrangements are considered to be minimal and acceptable.</p>
SECTION C.24 – SITE WASTE MINIMISATION AND MANAGEMENT		
24.9 <i>Documentation to be submitted to comply with the requirements of this chapter</i>	Yes	A Site Waste Minimisation and Management Plan (SWMMP) has been prepared for the proposal and is provided at <b>Appendix 3</b> .

DCP Provision	Compliance	Comment
<i>24.13 Demolition of buildings or structures</i>	Yes	The SWMMP provided at <b>Appendix 3</b> includes appropriate measures to maximise resource recovery and minimise residual waste from demolition activities.
<i>24.14 Construction of buildings or structures</i>	Yes	The SWMMP provided at <b>Appendix 3</b> includes appropriate measures to maximise resource recovery and minimise residual waste from construction activities.
<i>24.17 Commercial developments and change of use (shops, offices, food premises, hotels, motels, licensed clubs, education establishments, entertainment facilities and hospitals)</i>	Yes	As outlined in the SWMMP and provided on the architectural plans, the proposed development makes adequate provision for waste handling (including recycling), storage and collection.

## 4.5 Likely Impacts

The below provides an analysis of the key impacts of the proposal on the surrounding environment.

### 4.5.1 Non-Aboriginal Heritage

The site is located within the 'Dungog Commercial Precinct' heritage conservation area (HCA) and in proximity to a number of items of environmental heritage significance. Nearby heritage items include the Former "Stephensons Inn", which adjoins the site to the north, and House "Coolalie" on the opposite (western) side of Dowling Street. While the site itself is not heritage listed, it is likely that the existing inter-war building with above awning parapet is a contributory item within the HCA.

Section 17, Part C of Council's DCP provides the following statement of significance for the HCA:

*This area is significant for the Lower Hunter region for a built character which has remained largely intact since the Second World War and which reflects the long history of development in Dungog as an important country town within the lower Hunter region. This character is derived particularly from the continuity of facades which are mainly single storeyed with high parapets along Dowling Street, and building styles which are mainly from the first four decades of this century. A lack of pressures for new development (including renovations) has enable the survival of many interwar buildings with original details such as lead-glass shop fronts and post supported verandahs in the northern section.*

The proposal retains the majority of the existing building, including the original decorative parapet and awning fronting Dowling Street. The new restaurant / café addition and detached restaurant are positioned to the rear of the site and would not be noticeably visible from the public domain, including both Dowling Street and Brown Street. The restaurant/ café addition adopts the form and materiality of the existing building, while the restaurant is positioned well below the roofline of the main building. The restaurant adopts a simple, muted material and colour palette that does not compete with the original building, and appears recessive in its setting.

A Statement of Heritage Impact (SoHI) is provided at **Appendix XX**. This report finds the likely impacts of the proposal on the values of the HCA to be wholly positive, observing that through the replacement of compromised and non compliant building fabric by new structure, will allow for the use and maintenance of the existing façade. The following measures are proposed in the SoHI to mitigate impacts associated with the proposed works:

- *Salvage any significant building fabric if discovered during demolition.*
- *Photograph in-situ, document and collect any historical artefacts discovered during works.*
- *Photograph and document stages of work (demolition, footings, slab/flooring, framing, completion) for archival recording.*

The proponent raises no concerns with the imposition of a condition of consent in any Notice of Determination to incorporate the above measures:

A fourth recommendation or mitigation measure is made as follows:

- *While it does not form part of the current proposal, it is recommended that the front awning is reconstructed at later stage utilising historically appropriate form, colour and material palette.*

Having regard to the scope of works proposed under this application, this recommendation cannot be practically implemented as part of the approved development. It is therefore recommended that it does not form part of any Notice of Determination.

Overall, having regard to the above, no adverse impacts on surrounding heritage values are anticipated.

#### **4.5.2 Aboriginal Heritage**

The results of an AHIMS search are attached at **Appendix 4**. Results indicate no Aboriginal objects or places have been identified within a 200m radius of the site. The site is already disturbed and the likelihood of uncovering Aboriginal artefacts during the limited earthworks proposed is low. However, if artefacts were to be found during construction, work would cease immediately until the relevant authorities could be notified.

#### **4.5.3 Traffic and Parking**

For restaurants and reception establishments, Council's DCP provides a rate of one space per 7m<sup>2</sup> of gross floor area, or 1 space per 3 seats, whichever is greater. Whilst it is acknowledged that applying the rate of one space per 7m<sup>2</sup> would require a greater number of spaces, having regard to the proposed operating arrangements and historical seating arrangements / capacity, it is considered that the rate of 1 space per 3 seats is a more reasonable and appropriate measure.

The proposal seeks to maintain the historic parking arrangement at the site utilising existing on-street parking available for patrons and staff.

Section C.20, Part 3 of the Dungog DCP provides the following relevant objectives for the provision of car parking:

*To ensure that a balance is achieved between current standards and the capacity of existing buildings in existing retail and commercial centres to accommodate change.*

*To provide reasonable measures to encourage continued use of existing commercial retail centres whilst preserving heritage values in heritage precincts consistent with the aims and zonings of related planning instruments.*

The DCP also provides that *'The Council shall determine the extent of the parking provisions required in each case, having regard to the extent of the alteration, extensions and/or remodelling and the nature of the altered land use.'*

For restaurants and reception establishments, Council's DCP provides a rate of one space per 7m<sup>2</sup> of gross floor area, or 1 space per 3 seats, whichever is greater and one space per 20m<sup>2</sup> GFA for the shops. The following parking rates apply:

- Restaurant and Café: - Maximum of 70 seats = 23.33 spaces

- Shop (existing) :  $91.23 = 4.55$  spaces
- Total Requirement: 27.88 spaces, say 28 spaces.

Having regard to the above considerations, it is considered that the historic parking arrangement is appropriate for the proposal for the following reasons, as specified in the TIA found at **Appendix XX**.

Overall, having regard to the site's town centre location, and the availability of on-street parking, the likely impacts of the proposed development on available on street parking arrangements are considered to be minimal and acceptable.

In terms of traffic impacts, based on the above factors, any impacts on the adjoining road networks would be negligible. The local road network appears to have sufficient capacity to accommodate the vehicle movements likely to be generated by the proposal.

#### **4.5.4 Acoustic Impact**

The site is located within the Dungog town centre and is adjoined by commercial development in all directions. It is understood that adjoining 207 Dowling Street is used for the following purposes:

*commercial, retail, home office and residential purposes;*

Other commercial landuses are found directly adjacent to the subject site, and in between the subject site and the nearest residence. The rear of the existing shed / proposed restaurant building, combined with a 2.0m high timber lapped and capped 'acoustic' fence to part of the northern boundary adjacent to the courtyard would act as a physical barrier between any noise generated from activities on the subject site and the nearest residence.

The proposed restaurant has been designed with minimal openings along the external facades – doors and courtyard are orientated internally within the site. The proponent does not seek to include or allow for live or amplified music with only ambient background music proposed. Provision is also made for the management of noise from guest while attending and leaving the restaurant during the evening.

Minimal level changes are proposed to the courtyard and restaurant which would not reduce the effectiveness of the timber lapped and capped fence to the northern shared boundary with 207 Dowling Street.

Overall, given the site's commercial context, it is anticipated that any impacts from the proposal on the surrounding noise environment will be negligible. Notwithstanding, any consent granted is likely to include a standard condition regarding the creation of offensive noise having regard to the NSW Industrial Noise Policy.

#### **4.5.5 Waste Management**

A review of the architectural plans indicates that sufficient provision has been made for waste storage, handling and collection.

Prior to the commencement of operations, the proponent would arrange with for a private contractor to collect waste generated from the development. A waste management plan is provided at **Appendix 3**.

#### **4.5.6 Hazardous Building Materials (Asbestos)**

Having regard to the age of the building there is an increased likelihood of asbestos being found within the building. Notwithstanding, the proponent has previously engaged a suitably licensed contractor to remove any identified building materials containing asbestos. A clearance certificate is provided at **Appendix 9**.

As the possibility remains for additional materials to be found during works approved under the subject application, it is recommended that any Notice of Determination include an appropriate condition of consent to facilitate the safe identification, removal and disposal of any hazardous building materials, including but not limited to Asbestos.

#### **4.5.7 Accessibility for People with Disabilities**

The proposal has been designed to accommodate persons with a disability, including through the provision of step-free access to the café and restaurant and the provision of accessible amenities. The suitability of the proposed arrangements has been evaluated in the BCA compliance report found at **Appendix 5**.

Appropriate conditions of consent can be incorporated into any Notice of Determination to ensure appropriate accessibility measures are implemented during the construction phase of the project.

#### **4.5.8 BCA and Fire Safety**

The design of the alterations and additions has been undertaken with input from a registered certifier (Newcert) to ensure that building is capable of achieving compliance with the BCA through addressing the mandatory requirements. Where applicable, compliance is capable of being achieved either through the pathway of a 'deemed to satisfy' solution or a performance solution. Full details would be provided as part of any construction certificate application.

Notwithstanding, based on the findings and recommendations made within the Newcert Report (**Appendix 5**), it is not anticipated that significant design changes will arise during the assessment of any subsequent construction certificate application.

#### **4.5.9 Social and Economic**

The proposed development is likely to result in a number of positive social and economic impacts, including the following:

- The diversification of the night time economy in the Dungog town centre and supporting the local tourism industry;
- The provision of additional socialising opportunities for the general public in a well-served and easily accessible location;
- Additional activity generated by the proposal, which will provide more opportunities for passive surveillance of the adjoining public domain during the evening and night time period;
- Additional employment opportunities during the construction and operational phases; and

- Flow-on economic impacts to the local economy through purchases by staff and patrons.

The proposal is not anticipated to result in any detrimental amenity impacts for surrounding development. The proposed use is entirely compatible with the existing retail and commercial activities undertaken in the locality.

Overall, the proposal is considered to have a net positive social and economic impact and is compatible with existing site activities.

#### 4.5.10 CPTED

CPTED is a recognised model which provides that, if development is appropriately designed, it can reduce the likelihood of crimes being committed. It is anticipated that introducing CPTED measures within the design of the development will assist in minimising the incidence of crime and will contribute to perceptions of increased public safety.

The proposal involves additional activity within the site, offering a high level of casual surveillance and ultimately visitor and community safety within the site and surrounding area. It will also provide appropriate lighting and security measures to protect the safety of staff, patrons and the local community.

The safety and security of all staff and patrons (including the perception of safety and security that the development will provide) is of paramount importance to the amenity of the development.

The 4 principles which guide CPTED are considered below. Based on the below measures, it is envisaged that the development can be appropriately managed to minimise the potential risk of crime and to maximise public safety.

Principle	Measures proposed
<u>Surveillance:</u> <i>Crime targets can be reduced by effective surveillance, both natural and technical.</i>	<ul style="list-style-type: none"> <li>▪ Increased physical presence on the site, including on weekend evenings when the site is not currently used, will increase natural surveillance of the surrounding area. This will assist in prevention and also to promote detection of antisocial activity and opportunistic criminal activity.</li> <li>▪ Promotes increased activity within the locality during weekdays and weekends.</li> <li>▪ Use of the rear access for servicing ensures regular movements and opportunities for casual surveillance to the rear of the site.</li> <li>▪ Provides uninterrupted sight lines and limited visual barriers and hiding spots to reduce potential for undetected criminal and / or unsocial activity.</li> <li>▪ CCTV will be utilised as appropriate for the entrances to the site and buildings and will be further considered in later detailed design stages.</li> <li>▪ Effective lighting will be provided as a part of the detailed design process to ensure that an appropriate balance for lighting public areas and internal spaces within the building without creating excessive glare or opportunities for concealment.</li> </ul>
<u>Access Control:</u> <i>Barriers to attract/restrict the movement of people minimises opportunities for crime and increases the effort required to commit crime.</i>	<ul style="list-style-type: none"> <li>▪ Electronic security mechanisms will be provided to control access as appropriate to the site, including at the front entry gate.</li> <li>▪ Ensuring all service areas are appropriately monitored and gated where necessary to prevent unauthorised access.</li> <li>▪ Pedestrian accesses are clearly defined and easily identifiable to channel people directly into the site and buildings and minimise opportunities for crime.</li> </ul>

Principle	Measures proposed
<u>Territorial Reinforcement:</u> <i>Well-used places reduce opportunities for crime and increase risk to criminals.</i>	<ul style="list-style-type: none"> <li>▪ Clear distinction is provided between public and private areas of the development.</li> <li>▪ Providing clear visual distinction to appropriately demarcate entrances will ensure the public, semi public and private realm are clearly distinguishable.</li> <li>▪ Use of signage and other physical cues to help people find their way around the development easily.</li> </ul>
<u>Space Management:</u> <i>Space which is appropriately utilised and well cared for reduces the risk of crime and antisocial behaviour.</i>	<ul style="list-style-type: none"> <li>▪ Development of space management strategies by the site manager to include ongoing site maintenance, landscaping, graffiti removal etc.</li> <li>▪ The by-laws shall include specific measures to ensure the site is appropriately managed, delineating between the obligations of the manager and staff.</li> <li>▪ CCTV footage should be recorded or monitored, as appropriate.</li> </ul>

## 4.6 Suitability of the Site

The subject site is considered suitable for the proposed development for the following reasons:

- The scale and intensity of the development is compatible with the built form and land uses established within the locality, and the character strategically envisioned for the heritage conservation area under Council's DCP;
- This SEE has demonstrated that the likely impacts of the proposal on the surrounding environment will be minimal. Environmental impacts can be mitigated during detailed design and construction and ongoing management;
- The site is in proximity to a local residential and employment base, and easily accessible by passing trade and visitors to the area; and
- The proposal is generally compliant with the statutory planning framework applicable to the site and ongoing restaurant / café use.

## 4.7 The Public Interest

Pursuant to case law of *Ex Gratia P/L v Dungog Council* (NSWLEC 148), the question that needs to be answered is "Whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development".

There are no unreasonable impacts that will result from the proposed development, as outlined within this SEE. The proposal will provide additional employment opportunities, and help strengthen Dungog's tourist and night-time economy. Therefore, the benefits of approving the development outweigh any disadvantage and, as such, the proposed development will have an overall public benefit and therefore approval is thought to be in the public interest.

## 5 Conclusion

This report provides an assessment of the proposed alterations and additions to a restaurant / café at 205 Dowling Street Dungog in accordance with the provisions of Section 4.15 of the EP&A Act. In this respect this report has addressed all relevant environmental planning instruments including Dungog LEP 2014, and relevant guidelines including the Dungog DCP 2014.

In evaluating the proposed development against the relevant statutory planning framework applicable to the site and proposed development, it is evident that the likely impacts of the

proposed development will be acceptable. Additionally, in considering the environmental characteristics of the site and scale the proposed development, the site can suitably accommodate the proposal.

On this basis the proposal is considered to be in the public interest and can be approved.