

# STATEMENT OF ENVIRONMENTAL EFFECTS

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**PROPOSED CHANGE OF USE  
NEIGHBOURHOOD SHOP AND ANCILLARY  
FOOD AND DRINK SERVICES**

**3 LILLY PILLY CLOSE CLARENCE TOWN  
NSW 2321  
(LOT 441 DP 1176953)**

**PREPARED FOR MARK AND TRACY KALISZ**

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## EXECUTIVE SUMMARY

Perception Planning has been engaged by Mark and Tracy Kalisz (the client) to prepare a Statement of Environmental Effects (SEE) for a change of use from an ancillary structure to neighbourhood shop with an ancillary food and drink premises (**the proposed development**) at 3 Lilly Pilly Close, Clarence Town 2321 (**the site**).

The property is legally identified as LOT 441 / DP 1176953 and measures approximately 2.17 ha in size. The site is located in Clarence Town, within the Dungog Local Government Area and is accessible via Lilly Pilly Close. No new access roads will form part of this Development Application (DA). The proposed Neighbourhood Shop is permissible with consent in the R5 Large Lot Residential zone under the Land Use Table within the Dungog Local Environmental Plan 2014 (LEP).

The proposed development seeks to gain consent for a proposed neighbourhood shop with ancillary food and drink premises. This proposed development will not remove the residential function of the existing dwelling onsite which is occupied by the owners, rather seeks to add a complimentary use to the site. The neighbourhood shop will be located in an existing ancillary structure (shed) onsite with the ancillary food and drink premises (café-like design) working in conjunction to the neighbourhood shop to provide an additional service and experience in the proposed development. The proposed neighbourhood shop will respect and comply with the maximum retail floor area of 80m<sup>2</sup> while also adhering to the relevant objectives of the zone. The owners of the property have identified a real 'gap' in the market where residents and visitors in Clarence Town are after basic items and foodstuff such as milk, bread or the newspaper without having to rely on a chain supermarket. The neighbourhood shop will provide convenience for the community and creating a sense of place for locals and visitors to utilise for their everyday needs. The neighbourhood shop will be called 'Boatfall's Treasures' and will be cross marketed for full commercial and practical integration.

In conjunction with the commercial aspect of the proposed development, the ancillary food and drink premises will be contained with the counter area in a café style arrangement (food in display in front counter, coffee machine behind the counter) with an outdoor seating area 55m<sup>2</sup> available for customers to utilise. The café will operate in conjunction with the neighbourhood shop and will provide food and drink services to customers whilst visiting the store. The primary functioning neighbourhood shop will include the necessary retail space used to contain merchandising, shelving/storage for the purpose of basic foodstuff (milk, bread, lollies) and household items (newspaper, personal care products). The neighbourhood shop will provide the necessary amenity facilities and storage space to store items associated with the proposed operations. Three carparking spaces are proposed including disabled carparking to provide dedicated accessible access to the neighbourhood shop.

The general operations of the neighbourhood shop will operate as per below trading hours:

- 7:30am – 2pm Wednesday to Friday
- 9am – 2pm Saturday and Sunday.

During these operating hours it is anticipated that only one (1) or two (2) employees will be working at any given time, most the time only one (1). Service during these hours will include managing of stock, servicing customers, retail of general foodstuff/household items and preparation and sale of basic foodstuff associated with a small café (coffee, cakes and sandwiches).

The development will also involve associated signage with this development. However, the client will apply for this under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* – Division 2 Advertising and Signage and it be carried out as exempt development. Any signage that is not deemed exempt development, a DA will be lodged for.

The proposed development will provide a well-coordinated and sustainable development while retaining and protecting the rural amenity of the area. The SEE will expand on those matters that have been summarised above to assist Dungog Council in completing a detailed assessment of the proposed development.

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## ABBREVIATIONS

AHIMS	Aboriginal Heritage Information Management System
ASS	Acid Sulphate Soils
BAR	Bushfire Assessment Report
BPL	Bushfire Prone Land
DA	Development Application
DCP	Development Control Plan
EP&A Act	Environmental Planning & Assessment Act 1979
EPI	Environmental Planning Instrument
FPL	Flood Planning Level
FFL	Finished Floor Level
RoW	Right of Way
SEPP	State Environmental Planning Policy
SoEE	Statement of Environmental Effects

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## SUPPORTING DOCUMENTATION

This SEE is supported by the following plans and documentation provided under separate cover.

Appendix	Document	Prepared by	Reference
1	EP&A Regulation Compliance Table	Perception Planning	N/A
2	DCP Compliance Table	Perception Planning	J003220 and dated 18/10/2022
3	Owners Consent	Landowner	
4	Deposited Plan	Terrain	
5	AHIMs Search Results	Environment NSW	
6	Before You Dig Australia (BYDA) Results	BYDA	
7	Architectural Plans	Talyama Pty Ltd	
8	Hunter Water Stamped Plans	Hunter Water	



## 1.0 INTRODUCTION

Perception Planning has been engaged by Mark and Tracy Kalisz (the client) to prepare a Statement of Environmental Effects (SoEE) for a change of use from an ancillary structure to neighbourhood shop with an ancillary food and drink premises (the development) at 3 Lilly Pilly Close, Clarence Town 2321, (Lot 441, DP1176953) (the site).

This SoEE has been prepared in coordination with the client to demonstrate the relevant matters associated with in the proposed development. The SoEE examines the existing development and site location, how the 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 suitable 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 DPE) guide to the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) (s4.15). This SoEE has been prepared pursuant to the EP&A Act 1979 (s4.12 (9)) and accompanying regulation. 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;
- 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.

## 1.1 SITE DETAILS

### 1.1.1 SITE PARTICULARS

The following information describes the site, location and context.

<b>Lot/DP</b>	Lot: 441 DP1176953
<b>Address</b>	3 Lilly Pilly Close Clarence Town 2321 ( <b>'the site'</b> )
<b>Area</b>	2.17ha
<b>Zoning</b>	R5 – Large Lot Residential
<b>Consent Authority</b>	Dungog
<b>Current Use</b>	Residential
<b>Site Constraints</b>	Minimum Lot Size: 8000 m <sup>2</sup> Drinking Water Catchment: Special Area – Williams Local Provisions: Williams River Catchment Area Bushfire Prone Land: Vegetation Buffer

### 1.1.2 SITE DESCRIPTION

The site is located at 3 Lilly Pilly Close, Clarence Town, NSW, 2321 **Figure 1**, which is situated within the Dungog Local Government Area (LGA). The site particulars are summarised in the table above, with site constraints obtained from the NSW Planning Portal.

The site is currently zoned R5 - Large Lot Residential under the Dungog Local Environmental Plan 2014 ('the LEP') and is located within an existing residential area. The site adjoins R5 development to the north, east, south and west. The site is bound by Lilly Pilly Close to the east which is a local government road and is the responsibility of Dungog Council.

The site comprises residential dwellings and ancillary structures with one of the existing structures recently being retrofitted as a neighbourhood shop.

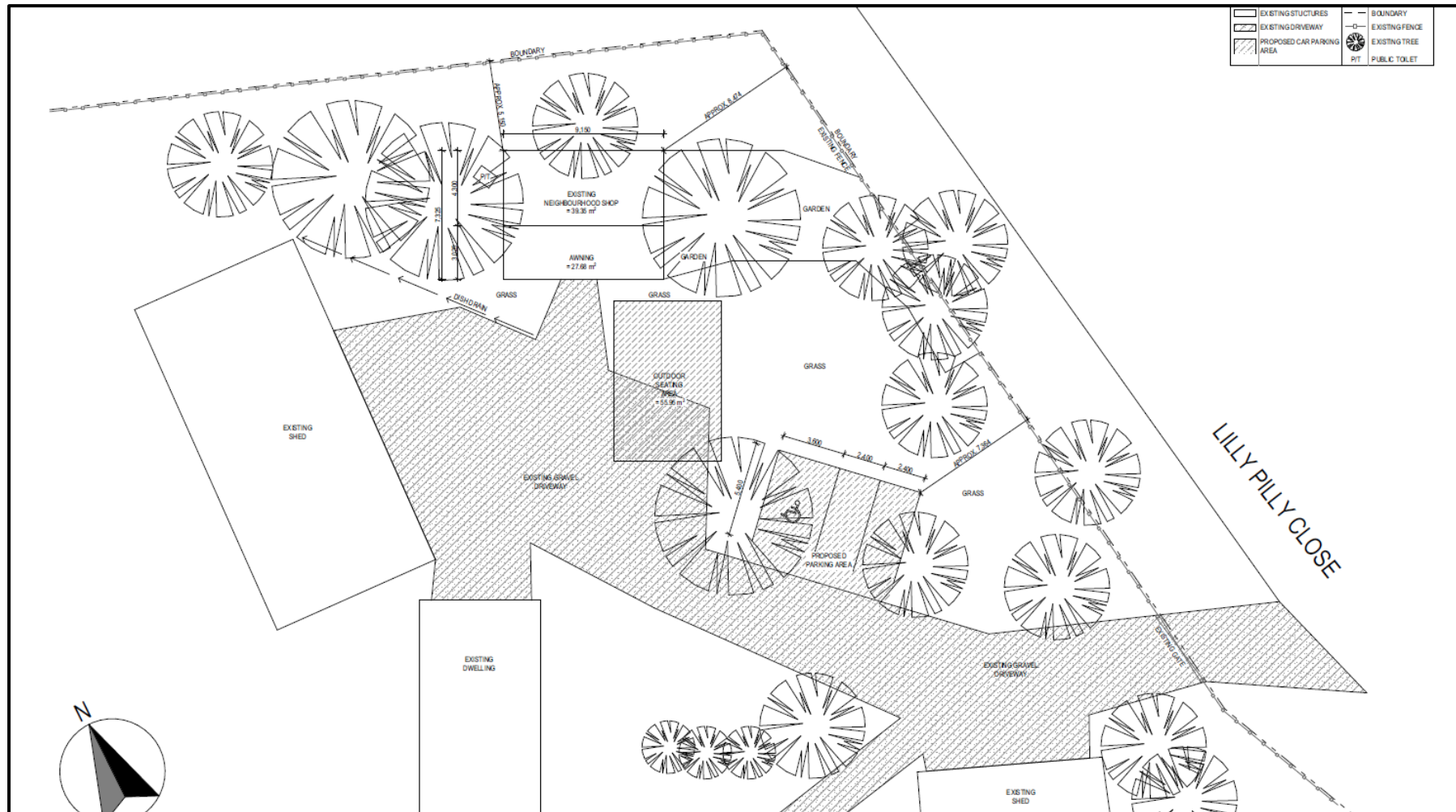
### 1.1.3 SITE HISTORY

The site is currently occupied by a dwelling house and ancillary structures under historic approval. The Dungog Council Application Tracker website does not identify any recent or historic approvals and therefore it is assumed that approval was granted pre-dating 1 January 2019.

Figure 1: Site Plan (Mecone Mosaic 2022)



**Figure 2: Site Plan (Talyama Pty Ltd, 2022)**





## 2.0 DESCRIPTION OF THE DEVELOPMENT

### 2.1 PROPOSED DEVELOPMENT

The objective of the proposed development is to seek consent for proposed neighbourhood shop with ancillary food and drink premises (café) arrangement at 3 Lilly Pilly Close Clarence Town. This development is enabled through the Dungog LEP 2014. The characteristics of the proposed development include:

- Neighbourhood Shop including undercover awning area for displaying merchandise and covered outdoor measuring 67m<sup>2</sup> in size
- Portable toilet adjacent to the neighbourhood shop
- Ancillary food and drink premises within the structure, to support the neighbourhood shop
- Outdoor seating area measuring 55m<sup>2</sup>
- Three carparking spaces including one accessible carpark space.

A neighbourhood shop is identified as permitted with consent in R5 large lot residential zone, defined under the Dungog LEP as:

***Neighbourhood shop*** means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area but does not include neighbourhood supermarkets or restricted premises.

The key reasons why the proposed development is acceptable are as follows:

- The proposed development is permissible under the provisions of the Dungog LEP
- The proposed development will provide facilities and services to meet the day to day needs of the local community
- The proposed development will continue to respect and enhance the existing amenity and character of the area

It is considered that the proposal will have no significant impacts on the surrounding properties, nor it is likely to adversely affect their enjoyment or amenity. The development will be used in conjunction with the proposed ancillary café arrangement to allow for a well-rounded neighbourhood shop for the Clarence Town community.

### 2.2 DEVELOPMENT OPTIONS

A review of the alternative uses for the site identified the following:

#### 1. Do nothing and leave the site as is

If the development application cannot be progressed, it means the business will not be able to proceed and the site will remain for residential purposes only. The owner would need to look into purchasing a premises at a different location within Clarence Town. However, this is not a practical or economic solution, when the owner already has a site that attributes to

permitting this proposed use and has sufficient space to undertake this proposal. It makes logical sense to allow the neighbourhood shop to progress on the site. This would mean the community would not miss out on such a unique and exciting neighbourhood shop in the Clarence Town precinct.

## **2. Lodge an application for a neighbourhood shop without the ancillary café**

It is anticipated that applying for a neighbourhood shop without the proposed ancillary café will minimise public interest to a lower threshold. Delivering café like service provides an additional layer of depth to a niche family run local business that will gain public interest due to the community ties it will have. Applying for a neighbourhood shop to provide general goods without a form of 'take away or dine in cafe services' limits the potential and convenience this service will provide to the Clarence Town community. It is the applicant's vision to create a sense of space for the community to utilise for everyday need's whilst benefiting from food and drink services to enhance the customers overall experience and convenience. Consequently, limiting the need to travel to next closest suburb over 20km away to a supermarket chain store.

## **3. Lodge an application for a neighbourhood shop and ancillary café**

This third option is reflective of the landowners' interests and considers the relevant planning regulations and features of the site. The applicant will utilise the existing structure onsite to reflect a neighbourhood shop.

In relation to the ancillary café use, it is argued that the overall use of the development is to be served by this component. As mentioned throughout the report the intension of the development is to provide a neighbourhood shop to benefit the Clarence Town community. The café component will exist to ensure a greater range of services are provided in the neighbourhood shop, while working fluently with the intended use of the development.

Further consideration on the characterisation of the development and ancillary use is looking at the site in a holistic sense. It is argued that the ancillary use will not serve as the dominate purpose of the site. As noted, the neighbourhood shop will be located within an existing structure onsite with the café only being incorporated behind the counter area. The overall area that the café will cover equals to a relatively small amount of space compared to the whole of the neighbourhood shop. An outdoor area outside of the neighbourhood shop measuring 55m<sup>2</sup> is proposed for customers to utilise in conjunction with the café services provided.

The test for characterising whether a use is ancillary was identified in *Lizzio v Ryde Municipal Council* where the High Court approved the statement of Glass JA in *Foodbarn Pty Ltd v Solicitor-General* that:

*“where a part of land is used for the purpose which is subordinate to the purpose for which another part is used, the whole of the land is regarded as being used for the dominant purpose. The subordinate purpose is merely incidental or ancillary to the dominant purpose.*

*Where the whole of the land is used for more than one purpose, but the other purposes are subordinate, the whole of the land is regarded as being used for the dominant purpose.*

*Where the whole of the land is used for more than one purpose, none of which subserves the others, it is irrelevant to ask which of the purposes is dominant. If any one of the purposes is operating in a way which is independent and not merely incidental to others and it is prohibited, it is “immaterial that it is overshadowed by others”.*

Further to this, consultation with the landowner and review of the requirements set out in the Dungog DCP (**APPENDIX 2**), has ensured that the proposed development will be designed accordingly and justifiably.

The proposed development is designed to cater for the local community by providing a ‘boutique like’ feel and charm to the area with a neighbourhood shop that also provides coffee and food services. Further, the development is not anticipated to disturb the existing rural character of the area, nor will it be a development that will have any long or short term impacts on the environment.

The nature of the overall development complies with the relevant objectives of the R5 zoning requirements. The development will continue to respect and enhance the rural amenity and will not impact the environmental sensitive location and scenic quality of the surrounding land. The proposal will improve the convenience and accessibility the local township currently lacks by developing a neighbourhood shop to assist the day-to-day needs of people who live or work in the local area.

## **3.0 PLANNING CONTROLS**

### **3.1 ACTS**

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

- *Environmental Planning and Assessment Act 1979*
- *Biodiversity Conservation Act 2018*
- *Hunter Water Act 2000*
- *Water Management Act 2000*
- *Rural Fires Act 1997*

#### **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?**

This section of the EP&A Act defines integrated development as matters which require consent from Council and one or more approvals under related legislation. In these circumstances, prior to granting consent, Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development.

The proposed development is not nominated as an integrated development at this stage.

**Table 1 : Integrated development**

<b>Integrated development</b>	<b>Proposed Development</b>	
Fisheries Management Act 1994	<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
Heritage Act 1977	<ul style="list-style-type: none"> <li>○ s 58</li> </ul>	N/A
Coal Mine Subsidence Compensation Act 2017	<ul style="list-style-type: none"> <li>○ s 22</li> </ul>	N/A – not identified as being located within a Mine Subsidence Area.
Mining Act 1992	<ul style="list-style-type: none"> <li>○ s 63, 64</li> </ul>	N/A
National Parks & Wildlife Act 1974	<ul style="list-style-type: none"> <li>○ s 90</li> </ul>	N/A
Protection of the Environment Operations Act 1997	<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
Roads Act 1993	<ul style="list-style-type: none"> <li>○ s 138</li> </ul>	N/A
Rural Fires Act 1997	<ul style="list-style-type: none"> <li>○ s100B</li> </ul>	N/A – The site is identified as bushfire prone land (western portion). The area in which the existing structure is located is <u>not</u> bushfire prone. The western portion of the site is vegetation buffer however this is located 150m away from the proposed neighbourhood shop.



Water Management Act 2000	o ss 89, 90, 91	N/A
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### **Section 7.11 – Development contributions**

Development contributions will be required to be calculated and charged in accordance with the Dungog Council's Contributions Plan (CP) where applicable.

#### **3.1.2 BIODIVERSITY CONSERVATION ACT 2016**

The purpose of the Biodiversity Conservation Act 2016 (BC 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 development proposal is for change of use only and does not include physical external works, it is noted the site is not mapped on the NSW Biodiversity Values Map and does not occur within an Area of Outstanding Biodiversity Value (ABOV).

The subject site does not contain area identified on the Biodiversity Values Map as land with high biodiversity value and sensitive to impacts from development and clearing. The proposal requires no removal of vegetation within an area mapped as biodiversity value. Accordingly, no further assessment of the proposal with regard to the Biodiversity Conservation Act is required.

#### **3.1.3 HUNTER WATER ACT 1991**

The Hunter Water Act 1991 provides due consideration to water assets and the protection of water quality. The subject site is located within a Drinking Water Catchment (DWC) – Williams, however the development does not trigger referral to HW under Section 51 of the HW Act as it is not identified as a development type listed within the HWC Guideline for Development in DWC.

Stamped plans are provided within **APPENDIX 8** in accordance with Section 49 of the HW Act.

#### **3.1.4 RURAL FIRES ACT 1997**

The western portion of the site is identified as bushfire prone land being Vegetation Buffer under the Environmental Planning & Assessment Act 1979 (s10.3). It is noted the Vegetation Buffer is 150 metres from the proposed development and 250 metres distance from Vegetation Category 1 located outside of the subject site. No physical works are proposed, and no vegetation removal is required in this development proposal. The site and surrounds are managed farmland and vegetation. The effective slope and vegetation within 100 metres and 140 metres respectively are taken into consideration when assessing the proposed development and it is noted the vegetation is beyond 150m that is mapped in the fire prone land. Consequently, it is considered a bushfire assessment is not warranted for this development application at this stage.

### **3.1.5 WATER MANAGEMENT ACT 2000**

The subject site is located within a Drinking Water Catchment. Physical works are to occur greater than 40m away from a mapped waterway. The site does not contain a watercourse and it is noted the proposed application is for change of use only with no physical works proposed. Therefore, no physical works will occur within 40m from a mapped waterway. It is considered that referral to NRAR is not required pursuant to S89, 90 or 91 of the Water Management Act 2000.

### **3.1.6 FOOD ACT 2003**

The objective of the *Food Act 2003* is to ensure food for sale is both safe and suitable for human consumption, to prevent misleading conduct in connection with the sale of food and to provide for the application in this State of the Food Standards Code. The premises will be used for the retail sale of pre-packaged food and drinks for immediate consumption on the premises.

Pursuant to Section 100 of the *Food Act 2003* the proprietor of a food business must give notification to the appropriate enforcement agency before the business is conducted. Notification to the Food Authority is required. The activity is to meet the requirements of the Food Safety Schemes as described in the *Food Regulation 2015*.

## **4.0 STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)**

All SEPPs have been considered in the preparation of this SEE. An assessment of the applicable SEPPs is provided below, including:

- SEPP (Infrastructure) 2007
- SEPP (Resilience and Hazards) 2021
- SEPP (Coastal Management) 2018
- SEPP (Biodiversity and Hazards)

### **4.1 SEPP (RESILIENCE AND HAZARDS) 2021 – Chapter 4 – Remediation of Land**

This Chapter applies to the whole state. Under Section 4.6, a consent authority must not grant consent to the carrying out of any development unless they have considered whether the land is contaminated.

The site is currently zoned for residential purposes. It is not expected or known that surrounding locality has the potential to be contaminated. To this extent, the future allotment is land considered suitable for the proposed development.

## 4.2 SEPP (RESILIENCE AND HAZARDS) 2021 – Chapter 2 – COASTAL MANAGEMENT

The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

The subject site is not mapped as being subject to a coastal use or coastal environment area, nor is it in proximity to coastal wetland or littoral rainforests.

Further assessment of this Policy is not warranted.

## 4.3 SEPP (BIODIVERSITY AND CONSERVATION) – Chapter 4 – 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 City of Dungog is a local government area to which to policy applies, which is listed under Schedule 1 of the SEPP, therefore this SEPP applies. The proposed development does not seek to remove koala feed trees; thus impact is negligible, and compliance with the SEPP is expected.

## 5.0 LOCAL ENVIRONMENTAL PLAN

An assessment of the applicable Clauses of the Dungog LEP 2014 is provided below.

- **Clause 2.3 – Zone objectives and land use table**

The subject land is zoned R5 - Large Lot Residential. The proposed development is defined as a neighbourhood shop which is defined as and permissible with consent in this zone:

***neighbourhood shop** means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area but does not include neighbourhood supermarkets or restricted premises.*

### Permissibility

Under the Land Use Table – Zone R5 of the DLEP, a ‘food and drink premises’ is not a defined use, thus is considered ancillary to the primary / dominant use on-site being ‘neighbourhood shop’. The ancillary use is proposed to ensure a greater range of services are provided in the neighbourhood shop, while working fluently with the intended use of the development. Planning Circular No. PS 13-001 issued by the NSW Government on 21 February 2013 explains the ancillary use doctrine as follows:

*The integral relationship between the various components means it is appropriate to characterise the entire development as being for the dominant purpose.*

It provides the following relevant considerations:

- Is the component going to serve the dominant purpose of the development or is it independent?

**Comment:** The proposed café is not independent of the neighbourhood shop. It only exists because of the dominant use and is proposed to further support this use.

- What is the amount of land to be used for a certain component, relative to the amount of land proposed to be used for other purposes? If the amount of land is relatively small, it is more likely to be ancillary.

**Comment:** The neighbourhood shop occupies 67m<sup>2</sup> of the overall site area of 2.17ha. The proposed café will be located within the neighbourhood shop with café only being incorporated behind the counter area. An outdoor area outside of the neighbourhood shop measuring 55m<sup>2</sup> is proposed for customers to utilise in conjunction with the café services provided.

- Evidence of a purpose that is inconsistent with the dominant purpose is likely to undermine a claim that a component is ancillary.

**Comment:** There is no inconsistency between the proposed café and the dominant neighbourhood shop. The proposed structure is completely consistent with the operation and intent of the dominant use. The café component will exist to ensure a greater range of services are provided in the neighbourhood shop, while working fluently with the intended use of the development.

- If the component goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose, it is likely to be an independent use (regardless of whether it has ancillary qualities).

**Comment:** The proposed development consists of the café being located within the neighbourhood shop, resulting in the front counter of the neighbourhood shop being used for the café component therefore being consistent with the operation of the dominant use.

- Related components of a development are likely to have an ancillary relationship, although this is not necessarily determinative of such a relationship.

**Comment:** The proposed café depends on use of the neighbourhood shop. The cafe is an important component of the dominant use and are interrelated.

- Physical proximity of the component to the rest of the development is likely to be evidence of an ancillary relationship.

**Comment:** The proposed café will be located wholly within the neighbourhood shop. The café will only operate whilst the neighbourhood shop is open and will exist to ensure a greater range of services are provided in the neighbourhood shop, while working fluently with the intended use of the development.

### Zone objectives

The objectives of the R5 - Large Lot Residential include:

*To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*

*To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*

*To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*

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

*To isolate housing from existing intensive agriculture or future intensive agricultural areas.*

The proposed development meets the objectives of the zone by the nature of the overall development complies with the relevant objectives of the R5 zoning requirements. The development will continue to respect and enhance the rural amenity and will not impact the environmental sensitive location and scenic quality of the surrounding land. The proposal will improve the convenience and accessibility the local township currently lacks by developing a neighbourhood shop to assist the day-to-day needs of people who live or work in the local area.

To this extent, the proposed development is consistent with the objectives of the zone.

- **Clause 4.3 – Height of Buildings**

The maximum building height is not applicable under the DLEP.

- **Clause 4.4 – Floor Space Ratio**

Floor space ratio is not applicable under the DLEP.

- **Clause 5.4 – Controls relating to Miscellaneous Permissible Uses**

Part 7 of this clause stipulates:

*(7) Neighbourhood shops - If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 80 square metres.*

The proposed neighbourhood shop has a total retail floor area over 67m<sup>2</sup> and therefore does not exceed the 80 square metres.

To this extent, the proposed development is consistent with this control.

- **Clause 5.10 – Heritage Conservation**

The objective of this clause is to conserve the environmental heritage of Dungog, including heritage items and heritage conservation areas, associated fabric, settings and views, to conserve archaeological sites, Aboriginal objects and Aboriginal places of heritage significance. An Aboriginal Heritage Information System Search (AHIMS) dated 18 October 2022 is provided at **APPENDIX 5**.

The site is also not identified within Schedule 5 of the LEP as containing any items or places of heritage significance. In this regard, the proposed development is consistent with the requirements of clause 5.10.

- **Clause 7.1 – Acid sulfate soils**

This subject site is not identified as containing Acid Sulfate Soils. It is noted no physical works are proposed in this development application; Therefore, an ASS management plan is not required, and the objectives of this clause have been met.

- **Clause 7.2 – Earthworks**

The application does not propose any earthworks.

- **Clause 7.21 – Essential Services**

This clause specifies that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required.

A Dial Before You Dig (DBYD) request was completed with the results provided at **APPENDIX 6**. Essential services including electricity, water and sewer are connected to the site. Access to the site will continue to be via a formalised driveway direct from Lilly Pilly Close. To this extent, the development is adequately serviced and meets the requirements of Clause 7.6.

## **6.0 DEVELOPMENT CONTROL PLAN**

Consideration of compliance and/or consistency with the relevant provisions of the Dungog DCP 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.

## **7.0 LIKELY IMPACTS**

The likely impacts of the proposed development and constraints affecting the subject site have been explored throughout this SEE. 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. The assessment of the DCP has identified the following likely impacts associated with the development.

### **7.1 BUILT ENVIRONMENT**

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

The proposed development is designed to cater for the local community by providing a 'boutique like' feel and charm to the area with a neighbourhood shop that also provides coffee and food services. The development is not anticipated to disturb the existing rural character of the area, nor will it be a development that will have any long or short term impacts on the environment.

The development will continue to respect and enhance the rural amenity and will not impact the environmental sensitive location and scenic quality of the surrounding land. The proposal will improve the convenience and accessibility the local township currently lacks by developing a neighbourhood shop to assist the day-to-day needs of people who live or work in the local area. The neighbourhood shop will be located in an existing onsite structure and incorporates the rural landscape and desired character of the area. Given no external alterations are proposed there are no anticipated adverse visual impacts on the built environment as a result of the proposal

#### **7.1.2 ACCESS, TRANSPORT AND TRAFFIC**

The proposed development will be accessed via Lilly Pilly Road with designated parking onsite permitting three carpark spaces including one accessible carpark. Due to the locality of the proposed development, it is not considered to create any considerable traffic impacts to the premises. It is expected majority of customers visiting the neighbourhood shop will only be on the premises for a short period of time to purchase their items for their day to day needs along with majority of customers generated is anticipated to be people who live or work in the local area. As such provisions have been made with onsite parking to cater for customers visiting the premises. Service vehicles and deliveries will access the site through the current driveway arrangement accessible via Lilly Pilly Close.

#### **7.1.3 PUBLIC DOMIAN**

The proposed development will have no impact on the public domain. The proposed neighbourhood shop will be operating out of an existing structure onsite which matches the rural character and aesthetics of this locality. No proposed works are proposed to the

existing structure in this development application therefore the public domain of the site will be maintained in its current state.

#### **7.1.4 SERVICES**

Electricity, telephone, physical, legal, and emergency services are available to the site. The proposed development will not unreasonably increase demand on these services.

#### **7.1.5 NOISE AND VIBRATION**

Standard operating hours for the proposed neighbourhood shop are as stated below:

- 7:30am – 2pm Wednesday – Friday
- 9am – 2pm Saturday - Sunday

No noise impacts have been identified due to the sites due to the site's rural locality of this proposed development and operating hours being within standard business of operations. It is noted the neighbouring properties are located over 170m away from the proposed development therefore any noise anticipated to be created from the premises is not considered to unduly impact surrounding residents during proposed operating hours.

### **7.2 NATURAL ENVIRONMENT**

#### **7.2.1 ECOLOGICAL**

The site does not contain significant vegetation and no tree removal is proposed in this development application. As such there will be no ecological impacts as a result of the proposed development.

#### **7.2.2 LANDSCAPING**

Landscaping is not included in this DA.

#### **7.2.3 ARCHAEOLOGY**

A search of the Aboriginal Heritage Information Services (AHIMS) database (18 October 2022) did not identify the subject site as containing any Aboriginal sites or places as shown in **APPENDIX 5**. Should any Aboriginal objects be uncovered during works, all works will cease in that location and contact shall be made with the appropriate person.

#### **7.2.4 STORMWATER**

All existing stormwater arrangements will be maintained, and no physical works are proposed that would attribute to any additional stormwater run off, therefore there will be no adverse impact on receiving environmental or adjoining properties attributable to the proposal.



### **7.2.5 SOCIAL AND ECONOMIC**

The proposed development is considered to have a positive social and economic outcome. The development is not expected to create any adverse social impacts and will have a positive impact on the community wellbeing. The neighbourhood shop is minor in nature and will be a great asset for the local community assisting with their daily needs. The proposed development makes good use of the existing structure with no anticipated negative impacts on the locality as a result of the development. To this extent., the site is suitable for this development proposal.

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

No safety, security for crime prevention measures are required as a result of the proposed development. The proposed development will not create any safety, security or crime concerns on or around the site. It is noted the owners of the premises live onsite and the neighbourhood shop can be seen from their dwelling to ensure the passive surveillance is present throughout the site and between buildings and structures. This will limit the opportunity for criminal activities to be undertaken.

## **8.0 SUITABILITY OF THE SITE**

The site had access to all relevant service and the proposed development makes good use of the available land and existing structure onsite. This development is permissible under the LEP and has addressed any relevant concerns through this SEE. The proposal is considered to be within the public interest and would be a great asset to the Clarence Town community.

## **9.0 ANY SUBMISSIONS AND CONSULTATION**

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

## **10.0 CONCLUSION**

This proposal represents a neighbourhood shop and ancillary food and drink service premises to accommodate commercial development 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 proposed development retains the rural nature of the land and is in the public interest creating a great asset to the local community.

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. The benefits provided by the proposed development outweigh any potential impacts that can't otherwise be mitigated, and therefore an approval is recommended.

We look forward to Councils determination of this matter. If we can provide any further information or clarity, please don't hesitate to contact us.



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