

# COUNCIL ASSESSMENT REPORT

Panel Reference	PPSHCC-268
DA Number	8.2023.559.1
LGA	Singleton
Proposed Development	Amending Development Application for partial demolition, the change of use of Casuarina Manor to a storage facility, alterations and additions to the restaurant and themed-suites tourist accommodation buildings, a new outdoor pool and pool house, new tourist accommodation buildings, a new cellar door, a new dwelling, driveways and 186 parking spaces, and other ancillary works
Street Address	1023 HERMITAGE ROAD POKOLBIN 2320
Applicant/Owner	Gannon Cuneo
Date of DA lodgement	13 December 2023
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> <li>Zero Submissions</li> </ul>
Recommendation	Approval
Regional Development Criteria State Environmental Planning Policy (Planning Systems) 2021 – Schedule 6	<b>2 General development over \$30 million</b>  <b>Development that has an estimated development cost of more than \$30 million.</b>
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>Singleton Local Environmental Plan 2013 (SLEP), State Environmental Planning Policy (Resilience and Hazards) 2021, and State Environmental Planning Policy (Building Sustainability Index) 2022. State Environmental Planning Policy (Primary Production) 2021, State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (Planning Systems) 2021.</li> <li>2014 (SDCP).</li> <li>Fees paid 13 December 2023</li> <li>Public exhibition 14 days</li> </ul>
List all documents submitted with this report for the Panel's consideration	i.e. any: <ul style="list-style-type: none"> <li>Plans</li> <li>Planner assessment report</li> <li>Draft conditions</li> <li>Contributions calculation</li> <li>RFS GTAs</li> <li>Water NSW Response</li> <li>Waste management plan</li> <li>Waste water repor</li> <li>Visual impact assessment</li> <li>Traffic impact assessment</li> <li>Flora and fauna report</li> <li>Response ecology report</li> <li>Bushfire report</li> <li>Landscape plan</li> </ul>
Clause 4.6 requests	<ul style="list-style-type: none"> <li>nil</li> </ul>
Summary of key submissions	<ul style="list-style-type: none"> <li>nil</li> </ul>
Report prepared by	Benjamin Pogson
Report date	23 May 2024

## Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

## Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not applicable**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Not applicable**

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**Conditions**

Have draft conditions been provided to the applicant for comment?

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

**No**

## Development Application Assessment Report

**Officer:** B Pogson  
**Peer Review:**

**Date of Assessment:** 21/5/24  
**Date of Peer Review:**

### 1. Application Details

<b>Application No.</b>	8/2023/559/1
<b>Property Address</b>	1023 Hermitage Road POKOLBIN 2320
<b>Lot and DP</b>	Lot: 18 DP: 878376
<b>Parcel No.</b>	19741
<b>Description of development</b>	Amending Development Application for partial demolition, the change
<b>Applicant</b>	Zhong Commercial Properties Pty Limited
<b>Date lodged</b>	Wednesday, 13 December 2023
<b>Owners Consent</b>	Provided
<b>Capital Investment Value</b>	\$48,745,000
<b>Zoning</b>	RU4 Primary Production Small Lots

### 2. Detailed Description of the Development

Development Application No. 8.2023.559.1 seeks approval for Amending Development Application for partial demolition, the change

*The proposed development is defined as an amending development application, which seeks to amend the consent granted by 8.2021.449.1 (as modified). In summary, the proposal for an amending development application seeks consent for:*

- Demolition of various structures,
- Alterations and additions to the restaurant and themed-suites tourist accommodation buildings,
- Construction of a new outdoor pool and pool house,
- Construction of four new tourist and visitor accommodation buildings,
- Construction of a new cellar door,
- Construction of a dwelling,
- Change of use and alterations and additions to the existing Casuarina Manor to a storage facility, and
- Construction of footpaths, driveways, and 186 car parking spaces.
- The proposed physical works and operational measures are detailed under the following sub-sections.

See table below for details:

APPROVED DA 8.2021.449.1	PROPOSED WORKS	COMMENTS
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Demolition of workshop and carport shed	Demolition of workshop, sheds, rainwater tanks, paths, driveways and retaining walls	The scope and extent of structures being demolished has expanded. Some structures, such as driveways and rainwater tanks will be reconstructed and formalised in various locations on the property where deemed more appropriate from a functional and aesthetic perspective. Refer to drawing number DA 103 for an overview of the demolition works proposed.
Partial demolition and alterations and additions to existing restaurant	Partial demolition and alterations and additions to existing restaurant	The proposal incorporates several changes to the restaurant/function room building including an extension to the existing approved building comprising reception areas, meeting rooms and amenities. Refer to drawing number DA 200 to DA 214 for a comparison of the existing, approved and proposed changes to the building.
Alterations and additions to existing guesthouse themed suites	Alterations and additions to existing guesthouse themed suites	The proposal incorporates amendments to the interior and exterior design of the building. There is an increase in floor area by 10m <sup>2</sup> from the existing approval due to a discrepancy in the surveyed floor areas from the original approval (Refer to drawing DA 309). There is no increase in the number of suites. Refer to drawing number DA 300 to DA 311 for a comparison of the existing, approved and proposed changes to the building.
Alterations and additions to existing Casuarina Manor and change of use from dwelling house to tourist and visitor accommodation	Alterations and additions to existing Casuarina Manor and change of use to storage and construction of new Casuarina Manor as a tourist and visitor accommodation building	The existing approval changes the use of the building from a dwelling to a tourist and visitor accommodation building. The proposal seeks to amend the internal layout of the building and change the use of the building to storage and plant room associated with the restaurant and function room. The building will be used for storage, electrical and mechanical plant, and the restaurant building office. Refer to drawing DA 406 which confirms the demolition of a portion of the building will result in a reduced gross floor area. Refer to drawing number DA 400 to DA 407 for a comparison of the existing, approved and proposed changes to the building. The proposal includes the construction of a new building for Casuarina Manor to replace the existing building. The new Casuarina Manor will be used for tourist and visitor accommodation. Refer to drawing number DA 600 to DA 606 for a detailed overview of the proposed building.
	Reconstruction of the site access including construction of an entry gate, utilities pump house, signage and landscaping	The proposal incorporates new components at the entrance to the site. Refer to drawing number DA 500 to DA 502 for details.
Alterations and additions to	Demolition of existing Vineyard Lodge (Le Petit Maison) and	The proposal seeks to demolish the existing Vineyard Lodge (Le Petit Maison) and Main Cottage Residence (Hamptons

existing Vineyard Lodge (Le Petit Maison) and Main Cottage Residence (Hamptons Loft)	Main Cottage Residence (Hamptons Loft) and Construction of two new buildings being Le Petit Maison and Hamptons Loft	Loft) which will be replaced by two new buildings on the site. Refer to drawing number DA 700 to DA 708 for details.
	Construction of a new guesthouse containing 32 suites	The proposal seeks consent for construction of a new building to be used as tourist and visitor accommodation. Refer to drawing number DA 800 to DA 807 for details.
	Construction of a cellar door and associated parking	The proposal seeks consent for construction of a cellar door and associated parking. Refer to drawing number DA 900 to DA 906 for details.
Retention of existing pool and poolhouse	Demolition of existing pool and poolhouse and construction of a new pool and poolhouse	The proposal seeks consent for construction of a new pool and poolhouse. Refer to drawing number DA 1000 to DA 1006 for details.
	Construction of a new dwelling house	The proposal seeks to construct a new dwelling house. This will replace the demolition and construction of a new dwelling house under development consent granted by 8.2022.105.1. Refer to drawing number DA 1100 to DA 1107 for details.

#### Demolition

*“proposed demolition works include the removal of:*

- *Driveways and parking spaces,*
- *Casa Del Vinedo tourist accommodation building,*
- *Vineyard Lodge (La Petit Maison) tourist accommodation building,*
- *Main Cottage Residence (Hamptons Loft) dwelling house,*
- *Outdoor pool and pool house,*
- *Rainwater tanks,*
- *Sheds,*
- *Tennis court,*
- *Various other structures including driveways, footpaths, stormwater infrastructure, and retaining walls,*
- *Trees and vegetation.”*

#### Construction

*The proposed construction works are identified on the site in Figure 5 and includes:*

- *Alterations and additions to the existing restaurant and approved function room with amendments to the internal layout and extension to provide reception areas, meeting rooms and staff amenities,*
- *Alterations and additions to the existing guesthouse themed-suites tourist and visitor accommodation building,*
- *Construction of a new outdoor pool and pool house,*
- *Construction of new tourist and visitor accommodation buildings, as follows:*  
*Casuarina Manor (single occupancy with 5-bedrooms),*  
*La Petit Maison (4-bedrooms),*  
*Hamptons Loft (4-bedrooms),*  
*Turnkey Suites (32 suites including 2 accessible suites),*
- *Construction of a single dwelling (8-bedrooms),*
- *Construction of a new cellar door,*
- *Construction of a new entry gate and signage,*
- *Alterations to existing Casuarina Manor and change of use from a dwelling to storage; and*

- Construction of civil works new driveways, footpaths, landscaping, car parking and landscaping.

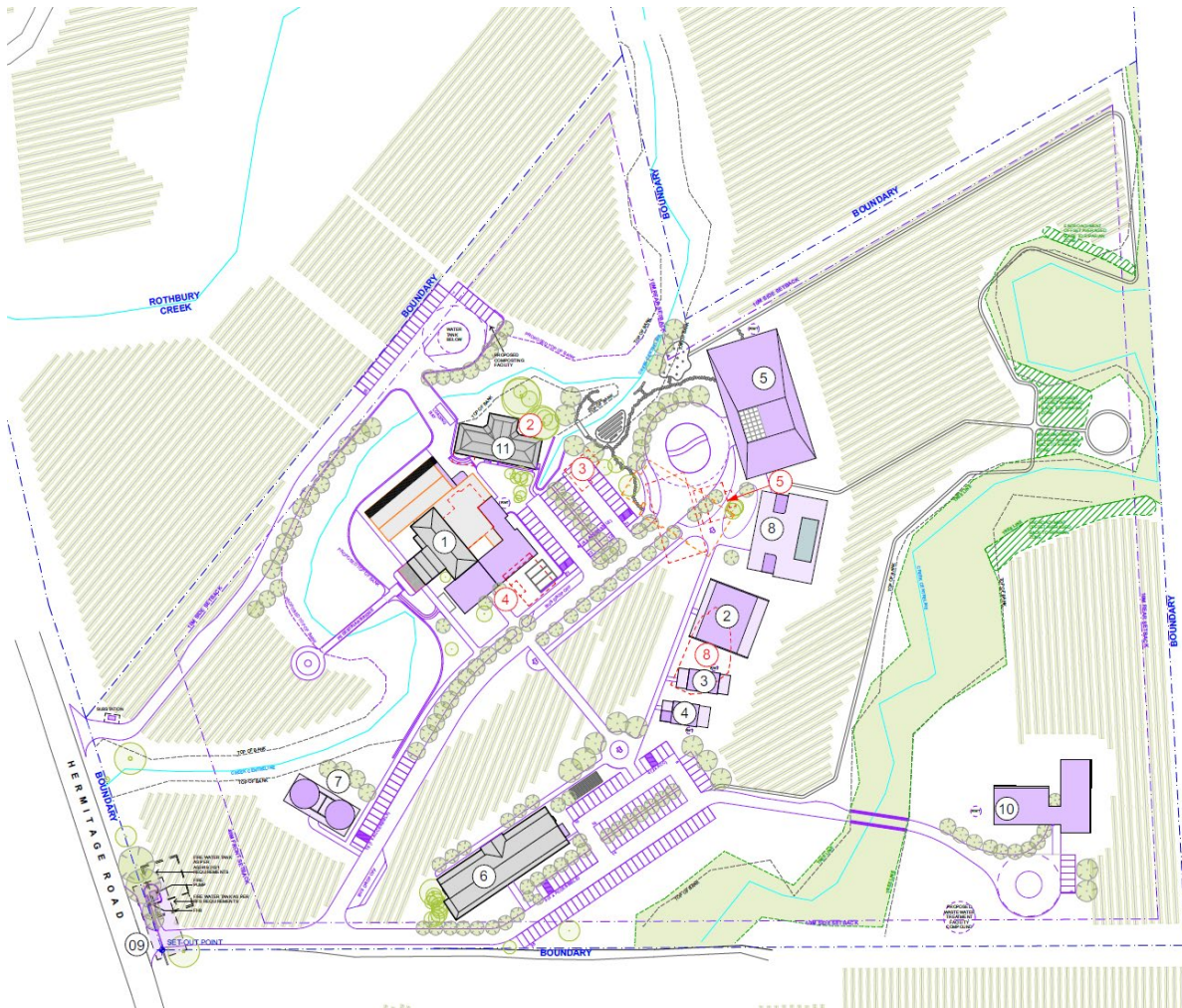
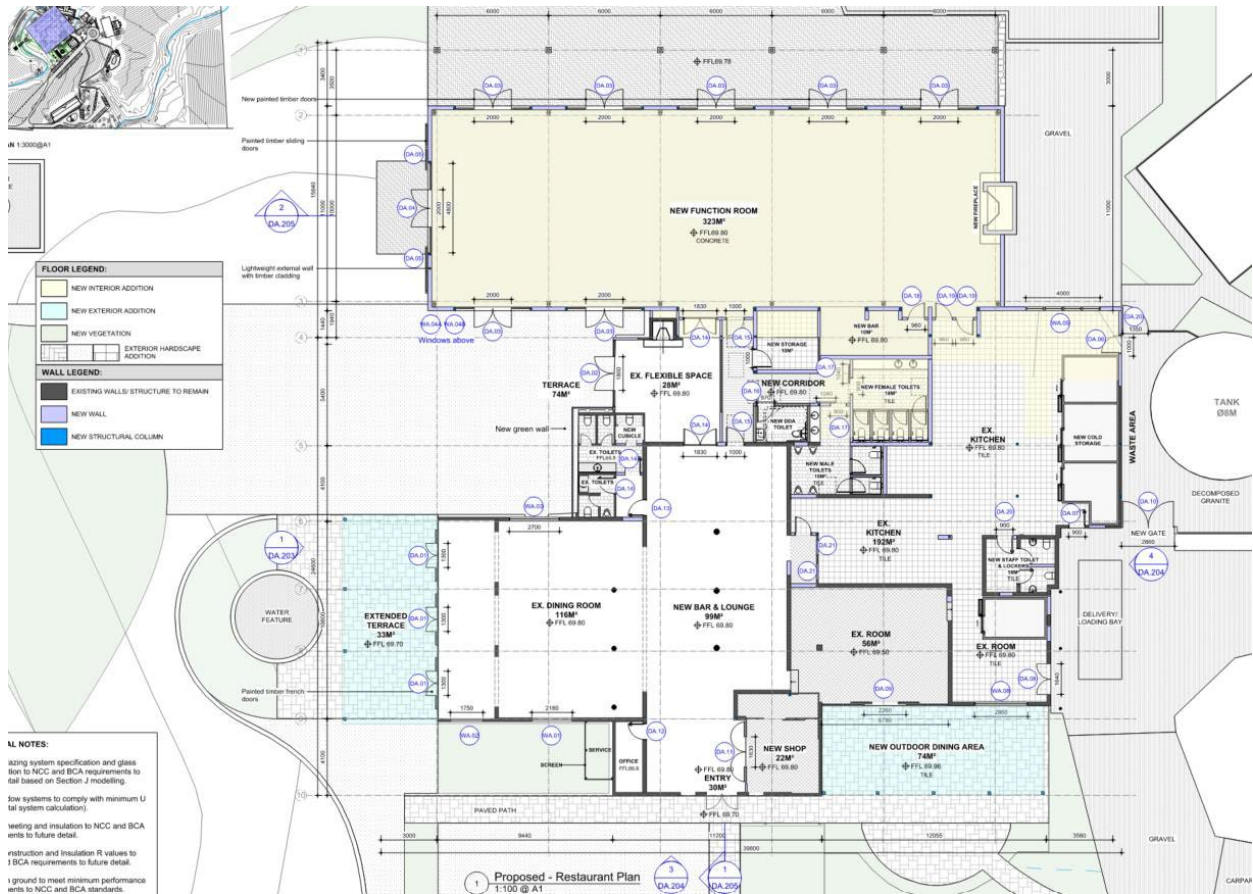


Figure 1 – Site Plan

#### Restaurant and Function Room

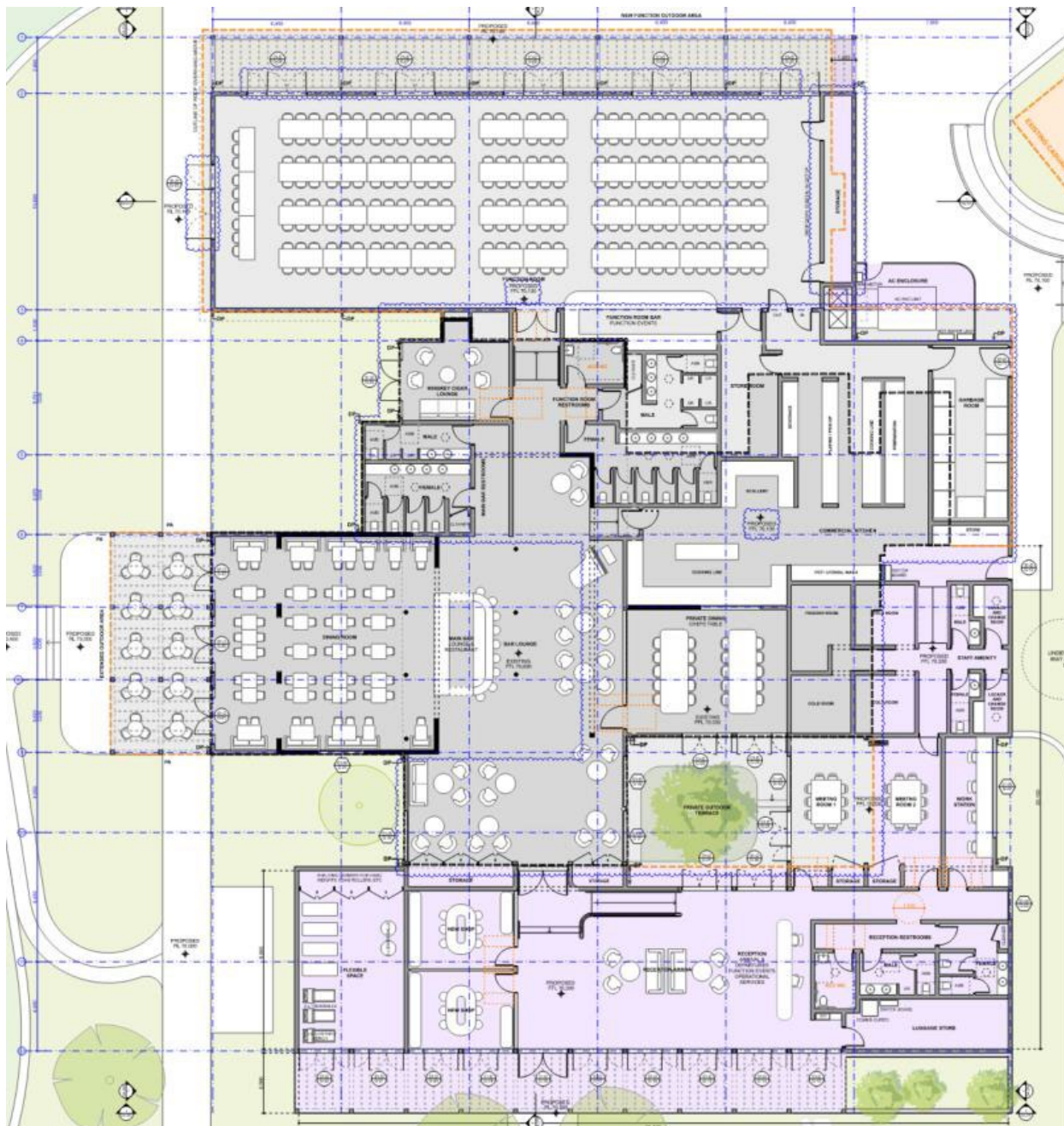
The proposal seeks to expand on the existing approved alterations and additions to the restaurant under DA 8.2021.449.1. Figure 2 below provides an extract of the plan approving the alterations and additions to the restaurant with the new structures shown by yellow highlight.





**FIGURE 2: APPROVED RESTAURANT AND FUNCTION ROOM PLAN**

Figure 3 below illustrates the proposed alterations and additions that extend beyond the scope of the existing approval. The proposed additions are shown by the areas highlighted purple.



**FIGURE 3: PROPOSED RESTAURANT AND FUNCTION ROOM PLAN**

*The proposal seeks to retain the majority of the alterations and additions approved under DA 8.2021.449.1 (as modified).*

*The subject application seeks to increase the floor area of the building through the demolition of the Hamptons loft and removal of vegetation. The additional floor space will comprise a reception area with amenities, a flexible space, two shops for sale of merchandise, gifts and snacks, and other utility rooms and storage areas.*

*The area of the building remains generally as per the approved layout and floor plan under DA 8.2021.449.1 with amendments to the layout/floor plan, windows, doors and roof form.*

### **Tourist and Visitor Accommodation**



The proposed amending development application seeks consent for alterations and additions and change of use

to tourist and visitor accommodation on the site. The proposed amendments include the following:

- Demolition of existing La Petit Maison, Hamptons Loft, and Casa Del Vino,
- Construction of new La Petit Maison, Hamptons Loft, Manor House (to replace existing La Petit Maison, Hamptons Loft and Casuarina Manor as tourist and visitor accommodation buildings), Turnkey Suites (32 suites including 2 accessible suites),
- Alterations and additions to the existing guesthouse themed suites, and
- Construction of a pool and poolhouse.

The existing La Petit Maison, Hamptons Loft, and Casa Del Vino will be demolished to make way for new structures to replace them in a logical and practical location. The proposed new La Petit Maison and Hamptons Loft will be three storeys in height to capitalise on the views to Brokeback Mountain Ranges and grouped with the other tourist and visitor accommodation facilities.

#### La Petit Maison

The proposal seeks amendment to the existing approval for demolition of the existing La Petit Maison and construction of a new La Petit Maison. The existing La Petit Maison has a gross floor area of 79m<sup>2</sup> and the new La Petit Maison has a gross floor area of 242m<sup>2</sup>. The new building is three storeys in height to take advantage of the views across the vineyards to the Brokeback Mountain Ranges. The location of the existing and new La Petit Maison are illustrated in Figure 4 below.

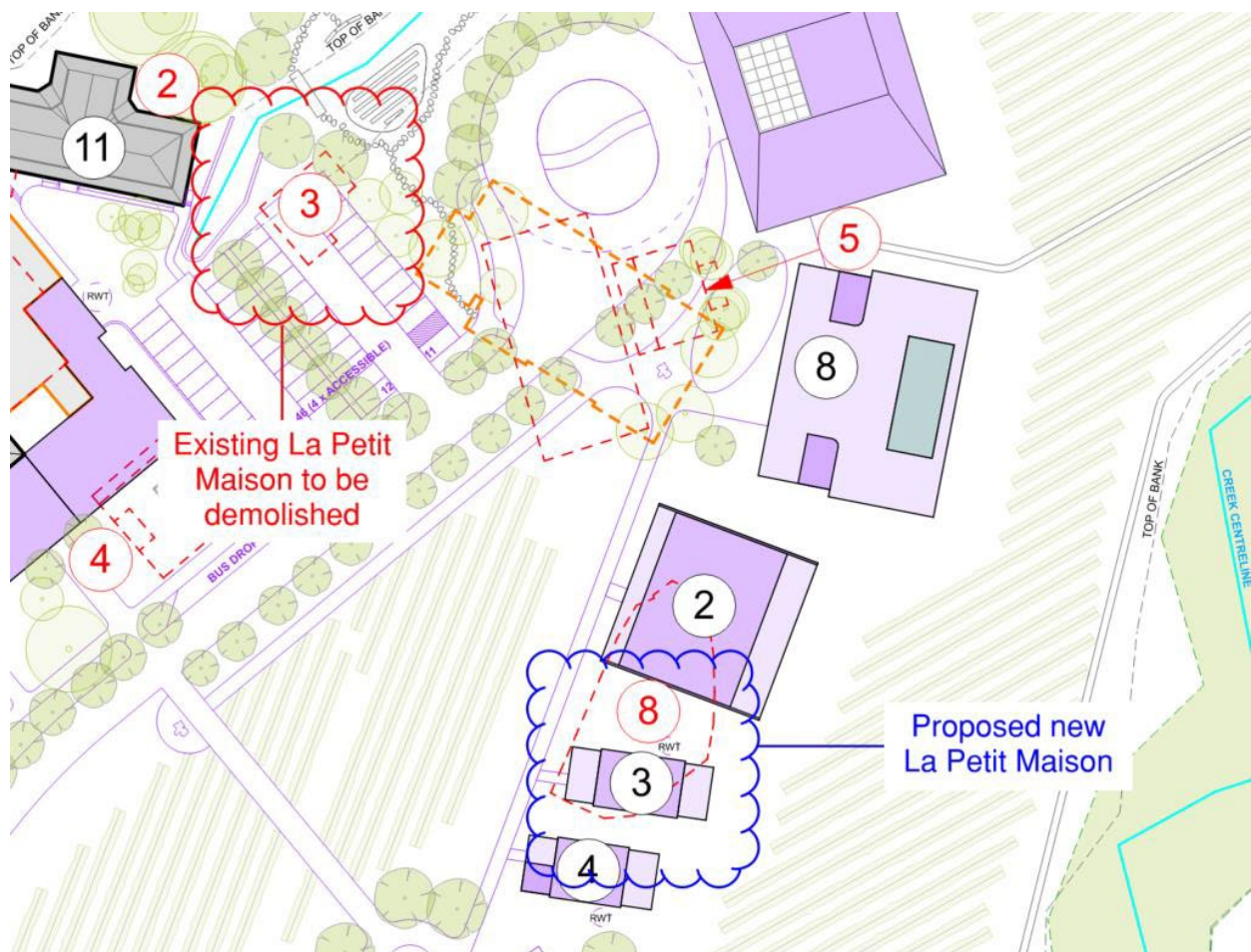


FIGURE 4: LA PETIT MAISON LOCATION PLAN

### Hamptons Loft

The proposal seeks amendment to the existing approval for demolition of the existing Hamptons Loft and construction of a new Hamptons Loft. The existing Hamptons Loft has a gross floor area of 203m<sup>2</sup> and the new Hamptons Loft has a gross floor area of 215m<sup>2</sup>, representing a minor increase in floor area. The new building is three storeys in height to take advantage of the views across the vineyards to the Brokeback Mountain Ranges.

The location of the existing and new Hamptons Loft are illustrated in Figure 5 below.



FIGURE 5: HAMPTONS LOFT LOCATION PLAN

### Manor House

The proposal seeks to supersede DA 8.2021.449.1 (as modified) which approved the change of use of Casuarina Manor from a dwelling house to tourist and visitor accommodation. As a result, this proposal seeks amendment to the existing approval for change of use of Casuarina Manor to storage, and construction of a new Manor House as illustrated in Figure 6 below.



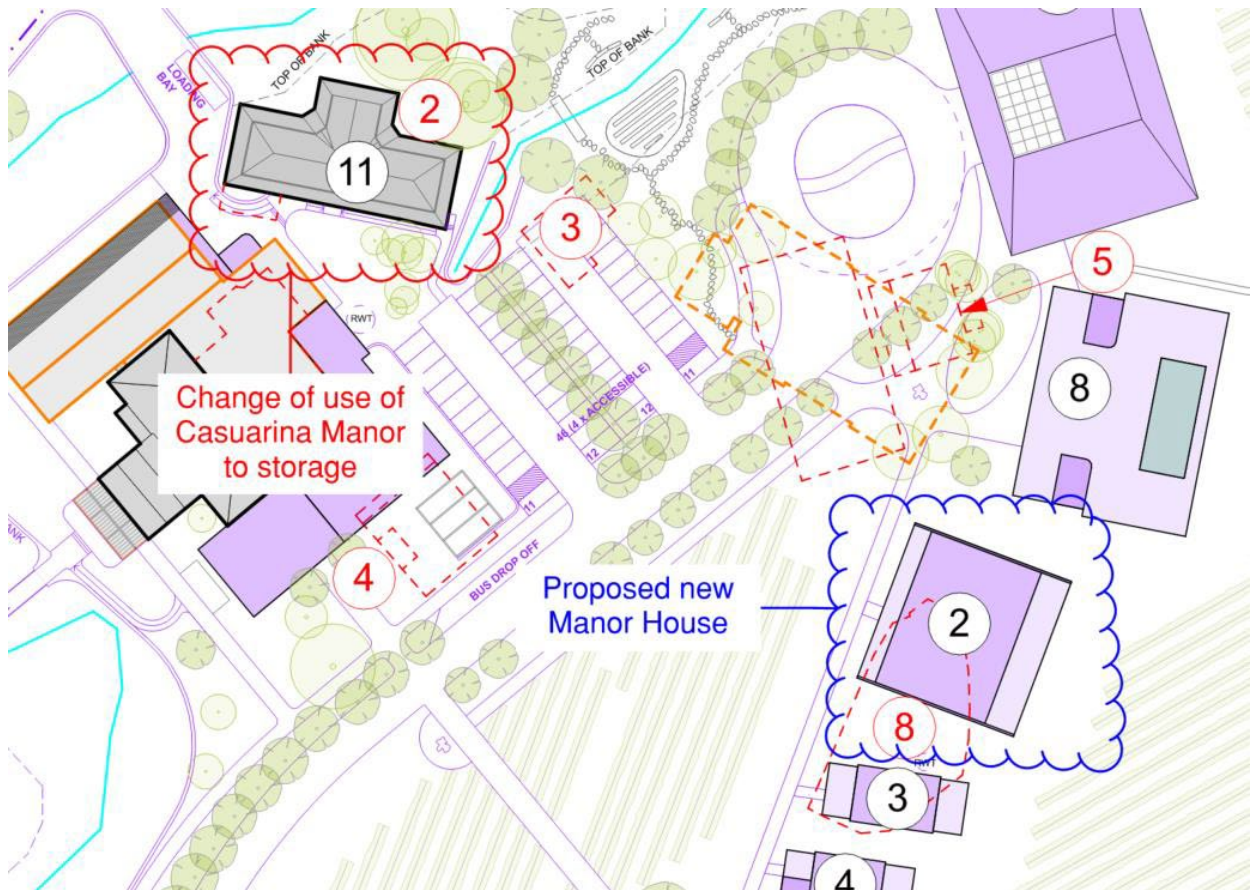


FIGURE 6: MANOR HOUSE LOCATION PLAN

### Turnkey Suites

The proposed development includes the construction of a new building comprising 32 turn-key suites. The suites aim to provide short term accommodation for guests, with rooms only containing a bed and ensuite.



FIGURE 7: TURN-KEY SUITES LOCATION PLAN

### Themed Suites

*The proposed development seeks consent for alterations and additions to the existing themed suites on the site.*

*The building will be retained, with alterations and additions including replacement of awnings and roof, replacement of internal fit out (bathrooms and storage) and other minor internal/external works. The existing building has a gross floor area of 615m<sup>2</sup> and the proposed alterations and additions will result in a gross floor area of 638m<sup>2</sup>.*





FIGURE 8: THEMED SUITES LOCATION PLAN

#### Pool and Poolhouse

The proposal seeks consent for the demolition of the existing pool and poolhouse, and construction of a new pool and poolhouse with amenities including storage, deck area, bathrooms and an outdoor shower as illustrated in Figure 9 below.



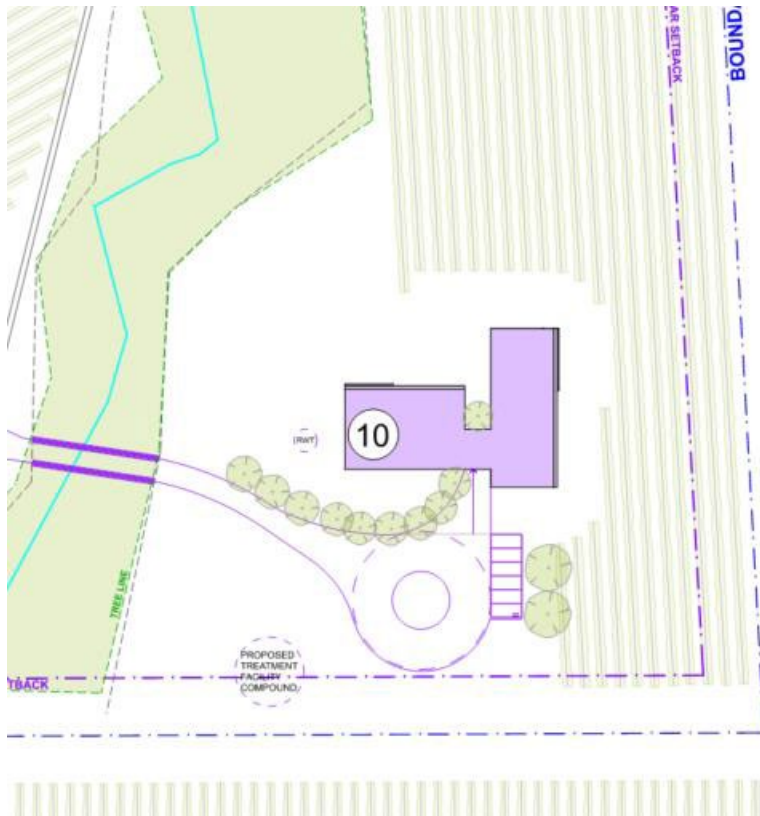


FIGURE 10: NEW DWELLING LOCATION PLAN

### Cellar Door

*The proposed development includes the construction of a cellar door for wine tasting and sales. The subject site will be operated as a commercial vineyard as well as containing ornamental vines near the residential and tourist and visitor accommodation buildings. The cellar door will operate from 10am to 5.30pm on weekdays, weekends and public holidays. The building comprises two areas for over-the-counter/casual wine tasting, male, female and accessible amenities, a store room, and a central dining area for group bookings and tastings.*

*Adjacent to the cellar door premises is parking for 15 vehicles (including 1 accessible space) and a bus drop off area as illustrated in Figure 11 below.*



FIGURE 11 - CELLAR DOOR LOCATION

### Entry Gate and Signage

The proposal incorporates construction of an entry gate and signage at the front boundary of the site. There are two existing driveways/access points to the site – an informal northern access driveway which is for back of house and staff, and the southern access driveway which is the main entry to the site where the proposed entry gate and signage is located.

The entry gate includes construction of a 2.23m high wall to conceal the fire pump housing and underground water tanks behind. The wall will be finished with stacked stone to provide a natural aesthetic in keeping with the existing character of the locality. The wall will also incorporate a gated hydrant booster to comply with the relevant fire safety requirements.

The wall will comprise two metal *building identification signs* – one measuring 2.4m high x 2.4m wide with 'Casuarina Estate' written on metal mesh, with a smaller sign measuring 0.6m high x 0.6m wide with details of hours of operation and identification of buildings on the site

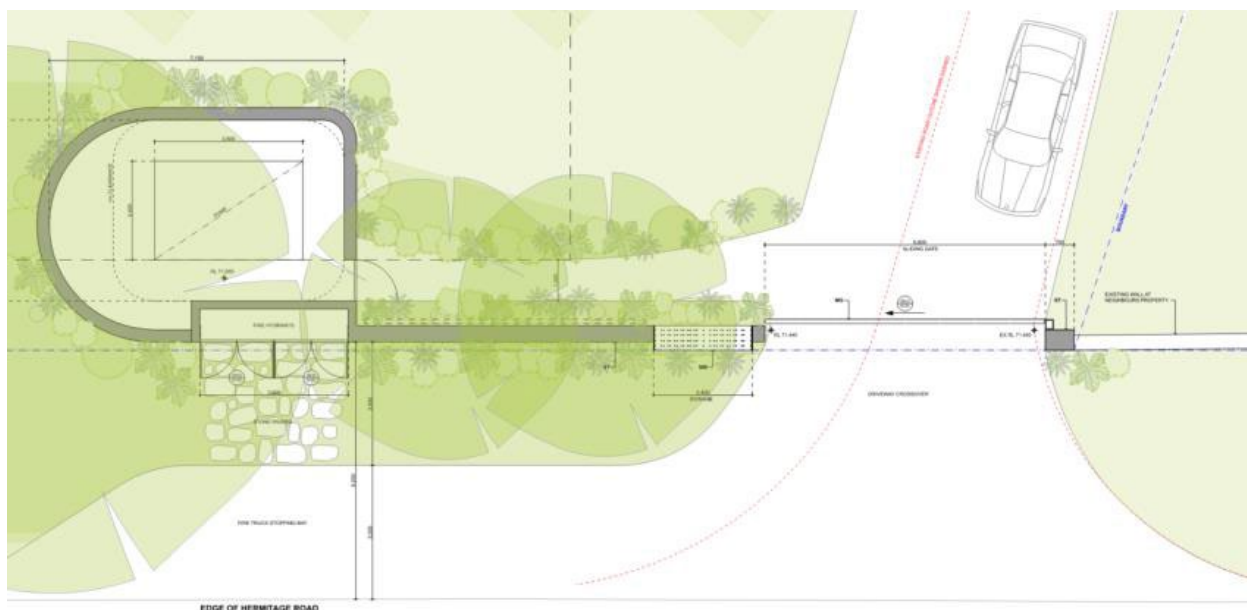


FIGURE 12: ENTRY GATE



### 3. Site Constraints

The subject site is affected by the following constraint(s):

- *Bushfire*

These constraints *are not* considered to cause the site to be unsuitable for the proposed development. Appropriate conditions of consent are recommended to mitigate the potential impacts in relation to *bushfire* – See RFS GTAs 24/8595

### 4. Site History

The subject site has historically been used for tourist accommodation.

The following applications have been lodged over the subject land:

- 8.2022.105.1 – *Demolition of Dwelling*
- 8.2021.229.1 – *Demolition of roof structure (including modification)*
- 8.2001.355.1 - *Verandah*
- 8.2001.354 – *alterations and additions*
- 8.1999.2.1 – *workshop*
- 8.1999.1 – *tourist accommodation.*

### 5. 88B Instrument and Deposited Plan

The following matter(s) have been identified on the 88B instrument / deposited plan:

- Covenant W796640 - The covenant in question was actually created in association with the previous superseded subdivision DP740485. It is a private Covenant created by the then owners Solicitor to remove any fencing cost obligation, see copy attached. Council would have had no say in its creation. It remains on the Title but has no Development or Town Planning implications

These matters are / are not considered to be detrimental to the proposed development.

### 6. Site Inspection

A site inspection was not undertaken.



FIGURE 13 – AERIAL IMAGERY OF SITE

## 7. Environmental Planning and Assessment Act 1979

Classification of development	Yes	No
Is the development proposal <u>Local</u> Development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is notification necessary?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Have all adjoining and affected owners been notified (two week period)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the development proposal <u>Advertised</u> Development?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Have adjoining and affected properties been notified?	<input type="checkbox"/>	<input type="checkbox"/>
Has an advertisement been placed in local newspaper?	<input type="checkbox"/>	<input type="checkbox"/>
Is the development proposal <u>Nominated Integrated</u> Development or captured under <u>Threatened Species</u> Act?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Has the development been advertised for 30 days	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the development proposal of <u>Regional Significance</u> ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the development proposal <u>State Significant</u> Development?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Designated Development	Yes	No
Is the development proposal <u>Designated</u> Development?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the proposal for alterations or additions to development (whether existing or approved) that fits the definition of designated development?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Designated Development	Yes	No
If yes above, will the alterations or additions significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has an Environmental Impact Statement been submitted?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has the application been notified for a period of 30 days?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Have adjoining and affected properties been notified?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has a notice been displayed on site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Have copies of plans been placed at Council, Department and Consent Authorities Office (i.e. if JRPP).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has an advertisement been placed in local newspaper on at least two occasions?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Integrated Development

### Rural Fires Act 1997 (Section 100B)

The development occurs on bushfire prone land and is for residential purposes/a special fire protection purpose as defined in Section 100B of the *Rural Fires Act 1997*. As such the application has been referred to the NSW Rural Fire Service for comment. General terms of approval have been provided dated 7/2/24. See 24/8595.

### Water Management Act 2000 (Sections 89, 90 and 91)

Development proposed by the application requires was referred to WaterNSW. On the 31/1/24 a response was provided as follows:

*It should be noted that other agencies are responsible for assessing matters under the Water Management Act 2000. WaterNSW response does not exempt this matter from requiring consent from other agencies.*

*If groundwater is encountered during the development and requires removal, the proponent should contact WaterNSW immediately and apply for a dewatering water supply work approval. Failure to do so may result in NRAR taking compliance action under the Water Management Act 2000.*

See 23/33196

### Fisheries Management Act 1994 (Sections 144, 201, 205, 219)

Development proposed by the application requires was referred to WaterNSW. On the 22/12/24 a response was provided as follows:

No referral required.

See 24/836

## Internal Referral Assessment

### Engineering

#### **Engineering Referral Response –9/1/24**

The application is considered to be satisfactory subject to conditions being imposed on the notice of determination. See AD23/69719

#### ***Building Referral Response –21/5/24***

The application is considered to be satisfactory subject to conditions being imposed on the notice of determination. See AD23/69714

#### ***Health Officer Referral Response –23/1/24***

The application is considered to be satisfactory subject to conditions being imposed on the notice of determination. See AD23/69715

#### ***Environmental Compliance Referral Response –9/1/24***

The application is considered to be satisfactory subject to conditions being imposed on the notice of determination. See AD23/69716

#### ***Traffic Engineer Referral Response –9/1/24***

The application is considered to be satisfactory subject to conditions being imposed on the notice of determination. See AD23/69723

#### ***Ecology Referral Response – First response 20/2/24***

The application is considered to be satisfactory subject to conditions being imposed on the notice of determination. See AD23/69731

The Council requested further detail regarding

*“Although the proposed design appears to avoid and minimise impacts to existing available habitats and integrate biodiversity aspects into the overall design, a total of 0.26 hectares of planted native trees are proposed to be removed under the Ecological Assessment. No Plan showing the proposed impact areas has been included in the Assessment.*

*The report also identified that an Asset Protection Zone (APZ) will encroach into existing riparian corridors. The use of the averaging rule can be applied under the Water Management Act 2000. In order to appropriately assess the proposed impacts to riparian corridors, a Plan showing the proposed encroachment areas and proposed offset areas under the averaging rule is to be provided.*

*Additional information is required to enable appropriate assessment to occur. The following information is requested:*

- Provide a Plan showing the proposed impacts to native vegetation, including riparian habitats and planted native vegetation.*
- Provide a Plan showing the proposed new riparian corridors using the averaging rule to offset riparian impacts”*

The applicant provided the following response which is deemed adequate:

*“One of the key objectives of the proposed development is to maintain the existing native vegetation and riparian functions of the site, and enhance areas that are degraded. Whilst it is noted there is some native vegetation being removed around the existing structures in the centre of the site, the majority of vegetation is not naturally occurring and has been planted with the construction/occupation of the buildings. The areas around the creeks traversing the site are to be retained and significantly enhanced, particularly the western creek which is significantly degraded.*



*In response to Council's query, the PEAR prepared by Abel Ecology has been updated to include Figure 8 (extract below) which indicates the impacts to native vegetation on the site. This figure includes both planted and remnant vegetation.*

*As can be identified on the plan, the vegetation along the creek corridor is being retained and enhanced through additional planting where there is no impact to APZs.*



*The PEAR and BPA have been updated to ensure consistency across both reports, with both consultants reviewing the others report and confirming there are no inconsistencies. The PEAR now also includes Figure 9 which is an overlay of the APZs with the riparian corridors and confirms there is no vegetation within the riparian corridors impacted by APZs and therefore no vegetation is required to be removed.*

*The APZ and riparian corridor overlay is illustrated on Drawing No. DA 105 submitted with this response. The proposed planting within the riparian corridor to offset the vegetation being removed is illustrated on Drawing No. DA 108.*

*As identified in Council's request, a total of 0.26 hectares of native vegetation is proposed to be removed which equates to 1.3% of the total site area. The vegetation being removed comprises a majority planted species, with approximately 0.109 hectares being isolated from the riparian corridor as illustrated in Figure 11 below from the PEAR.*

*The proposal includes approximately 0.12 hectares of revegetation of the third order stream as also illustrated Figure below.*



*Based on the above figure, the revegetation of the site exceeds the offsetting requirements in the Water Management Act 2000. All areas of potential revegetation have been explored and provided. The areas proposed for revegetation are the extent of possible revegetation due to the impacts of bushfire and APZ requirements.*

*Any additional vegetation planting across the site will cause issues for APZs and will also not form any riparian function as it is not along the riparian corridor and would therefore be rendered unsuitable and unfit for purpose.*

*Further, Water NSW has reviewed the proposal and confirms no further investigation is required. Compliance with the requirements of the Water Management Act 2000 will be confirmed with the detailed design and adhered to throughout construction where required.*

*It is worth noting the revegetation and upgrades proposed in the creek next to the function centre. The proposed works will significantly improve the condition of the creek which will result in a better outcome for the site overall.*



*Based on the above, the proposed development and additional information provided with this response clearly identifies the areas of vegetation proposed to be removed and the impact of APZs on vegetation. The proposed development results in a substantial improvement from the existing development on the site from an ecological perspective and should be supported on this basis."*

Council supports the findings and recommendations of the Ecological assessment.

#### External Referral Assessment

##### Rural Fire Service

As such the application has been referred to the NSW Rural Fire Service for comment. General terms of approval have been provided dated 7/2/24. See 24/8595.

##### Water NSW

Development proposed by the application requires was referred to WaterNSW. On the 31/1/24 a response was provided as follows:

*It should be noted that other agencies are responsible for assessing matters under the Water Management Act 2000. WaterNSW response does not exempt this matter from requiring consent from other agencies.*

*If groundwater is encountered during the development and requires removal, the proponent should contact WaterNSW immediately and apply for a dewatering water supply work approval. Failure to do so may result in NRAR taking compliance action under the Water Management Act 2000.*

See 23/33196

##### NSW Fisheries

Development proposed by the application requires was referred to WaterNSW. On the 22/12/24 a response was provided as follows:

No referral required.

See 24/836

#### Section 7.11 – Contributions

Having regard for Section 1.7 of the *Environmental Planning and Assessment Act 1979*, and subject to the provisions of Part 7 of the *Biodiversity Conservation Act 2016* consideration must be given to whether development or activity that is "likely to significantly affect threatened species" as defined by section 7.2 of the *Biodiversity Conservation Act 2016*.

Additionally, subject to the Part 7A of the *Fisheries Management Act 1994* consideration must be given to the provisions of Division 12, in particular section 221ZV as to whether the proposal is likely to significantly affect threatened species, population or ecological community.

The application does not propose to removal of any native vegetation and is will not have any impact upon the life cycle of the any species at risk of extinction or threatened/endangered species or their habitat. The proposed development is not considered to be a threatening process.

Section 4.14 – Bushfire Prone Land		Applicable				Bushfire report supplied Ad23/62748. Updated AD24/46807
		Y	<input checked="" type="checkbox"/>	N	<input type="checkbox"/>	
Performance criteria	Acceptable solutions		Complies			
APZ	In accordance with Appendix 2		Complies			
Siting and design	<ul style="list-style-type: none"><li>• Avoid ridgetops</li><li>• Level ground</li><li>• Avoid elevated floors</li><li>• Locate near property entrance</li><li>• Reduce building bulk</li><li>• Simplified design</li><li>• Simplified roofline</li></ul>		Complies			
Construction standards	BAL assessment		Complies			
Access requirements	Complies with s 4.1.3 property access roads and 4.2.7 for internal roads		Complies			
Water & utilities	Complies with s 4.1.3		Complies			
Landscaping	Complies with Appendix 5		Complies			

## 8. Planning Assessment

In determining a Development Application, the consent authority is to take into consideration the following matters as detailed in Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979* as follows:

(a)(i) the provisions of any environmental planning instrument (EPI)

### State Environmental Planning Policies

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

The aim of the policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Chapter 4 is relevant to the assessment of this Development Application.

Chapter 4 requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be 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.

The subject site has historically been used for *tourist accomodation, dwelling house and vineyard*.

There may be asbestos in the structures to be demolished. Hazardous Material Survey will be required prior to demolition work

#### State Environmental Planning Policy (Sustainable Buildings) 2022

A BASIX certificate has been submitted in support of the application, demonstrating compliance with energy, thermal comfort and water requirements.



## State Environmental Planning Policy (Primary Production) 2021

*Applies to Dwellings on RU4 land* - The development is located on land to which the EPP applies. Development proposed by this application is not inconsistent with the rural planning principles of the SEPP.

Having regard to the matters for consideration under clause Schedule 4, Part 2, the development is consistent with uses in the vicinity of the subject site (5(a)), will not impact upon preferred land uses within the area (5(b)) and is compatible with preferred and surrounding land uses (5(c)). The development is considered satisfactory.

## State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 'Advertising and Signage' applies to the development. The proposed development complies with the requirements of the SEPP

## State Environmental Planning Policy (Planning Systems) 2021

The proposed development is Regionally Significant under schedule 6 of the SEPP. The Hunter and Central Coast Regional Planning Panel have conducted a preliminary briefing on the 31/1/24. A number of items were raised. These have since been addressed by the applicant as outlined below and satisfy council's requirements.

PANEL'S REQUEST FOR INFORMATION 31 JANUARY 2024		
Item No.	Panel Comment	Response
1	The Panel notes the site constraints of bushfire and biodiversity and will need to understand the interaction and impacts between these two issues and expects consistency between the supporting documents.	<p>Additional information has been provided with this response from both the bushfire and ecological consultants. Concern was raised by Council (discussed in the table below) in relation to the removal and offset of native vegetation on the site. Both consultants have prepared letters in response to the Panel's and Council's requests for information and have reviewed each other's reports/documents. Both have confirmed there are no inconsistencies and confirm the additional information and amendments satisfy the Panel's and Council's requests.</p> <p>The Preliminary Ecological Assessment Report (PEAR) prepared by Abel Ecology has been updated to reflect the Asset Protection Zones (APZ) designated in the Bushfire Protection Assessment (BPA) prepared by EcoLogical.</p> <p>The BPA has also been updated to clarify and confirm the adequacy of the secondary (emergency) access, however the RFI response letter (dated 17 May 2024) confirms that the PEAR has been reviewed and there are no inconsistencies with between the two reports.</p> <p>Based on the above, it is considered the preparation, coordination and review of the PEAR and BPA by both consultants ensures consistency between the supporting documents and the Panel can be satisfied the environmental constraints and biodiversity outcomes have appropriately been considered.</p>
2	The Panel needs to understand the rationale and controls for the setbacks being proposed in accordance with the Council's DCP controls.	<p>A full assessment of the controls in the DCP was undertaken against the proposed development. It is confirmed as per the DCP table that the proposal complies with all DCP setback requirements, with the exception to the setback to vines. This is discussed against point 6 below.</p> <p>In summary, there are no specific setback requirements for the land uses proposed, however there are general setback controls that apply to the zone. A minimum 40m front setback is required from the property boundary (front boundary) to the building line. A minimum side and rear setback of 10m applies to the site as per the DCP. There are no existing or proposed buildings within 10m of the side or rear boundaries. Refer to drawing DA 102 prepared by MHNDU which illustrates the setback requirements and confirms there are no buildings within 40m of the front boundary or 10m of the side and rear boundaries.</p> <p>Internal building separation has been determined based on the proposed use and environmental constraints. As per the DCP and supporting technical reports, the proposed building separation and setbacks are appropriate and suitable based on the proposed development.</p>
3	Clarification of proposed signage and compliance with the DCP controls is required.	<p>An assessment of the proposed signage has been undertaken against the requirements in Chapter 3 'Advertising and Signage' of <i>State Environmental Planning Policy (Industry and Employment) 2021</i> and Section 2.32 'Outdoor signage' in Singleton Development Control Plan (DCP). The assessment against the SEPP and DCP confirms the proposed signage complies with the relevant requirements, is a suitable size and is appropriate in the context of the Hunter Valley Wine Country with precedence established with nearby and adjoining developments.</p>

4	Clarification of the secondary access road and any necessary upgrading for emergency vehicles and land ownership arrangements is also required.	<p>All access to/from and within the site is entirely within the subject site and access is not required from any other property. All access is from Hermitage Road.</p> <p>The secondary access road at the northern boundary of the site is suitable for emergency vehicles, particularly RFS fire fighting vehicles which is confirmed in the response letter dated 17 May 2024 prepared by EcoLogical. The provision of access within the site is identified in the BPA, was discussed with the RFS (23 June 2023) and pre-DA advice was issued by the RFS on 27 June 2023 (provided in Appendix A of the BPA).</p> <p>The proposed access was assessed for its adequacy of meeting the performance criteria of Planning for Bushfire Protection 2019 (PBP) and recommendations were made for upgrades to the main access road (to the south), and the north and south perimeter access. The BPA outlines a performance solution for site access that demonstrates compliance with PBP. The RFS has issued General Terms of Approval (dated 7 February 2024) and notes the access to the site is suitable for their vehicles subject to compliance with Table 6.8b and Table 7.4a of PBP, which will be confirmed with the detailed design of the development.</p> <p>Based on the above, access to the site is suitable and is entirely within the subject site.</p>
5	It is noted that there are some inconsistencies in documentation in relation to Function Centre and Restaurant opening hours and the provision of geotechnical specifications.	<p>There are varying hours of operation for the various components of the development. The hours of operation sought for approval are discussed in the Statement of Environmental Effects and to form part of the conditions of consent are as follows:</p> <p><u>Cellar Door</u></p> <p>Weekdays: 10:00am – 5:30pm</p> <p>Saturday: 10:00am – 5:30pm</p> <p>Sundays and Public Holidays: 10:00am – 5:30pm</p> <p><u>Function Room and Restaurant</u></p> <p>Monday – Thursdays: 7:00am – 11:00pm</p> <p>Fridays and Saturdays: 7:00am – 12:00am</p> <p>Sundays and Public Holidays: 7:00am – 11:00pm</p> <p>The Plan of Management submitted is draft and for reference only. The above hours of operation will be reflected in the final Plan of Management and will be monitored and managed by the operator of the site/development.</p> <p>It is noted the Geotechnical Report prepared by EP Risk made several references to Cessnock City Council. This report has been updated to correctly refer to Singleton Council.</p>
6	The Panel needs to understand the interfaces between ornamental and working grape vines and the use of any proposed vegetation buffers.	<p>The proposal includes provision for a 10m buffer from residential accommodation on the site to the ornamental vines. Strict compliance with the 50m buffer control is not warranted in this instance as the land use conflicts can be appropriately managed through operational measures which are discussed and will be confirmed in the final Plan of Management. Additionally, the 10m buffer to vines has previously been approved with a 8.713m setback to residential accommodation under DA.8.2022.105.1.</p> <p>Buffers between vines on the subject site and adjoining properties will remain as per the current arrangements. There is sufficient distance and management practices in place to ensure there is no impact on the working grape vines in the locality. As noted above, the Plan of Management will incorporate appropriate management practices to ensure a reasonable outcome and balance is maintained through the provision of a high quality tourism facility, as well as protecting and maintaining the health and quality of working vines.</p> <p>Detailed justification for the setbacks and separation distances between vines is provided in the Statement of Environmental Effects.</p>
7	Traffic impacts on Hermitage Road need to be considered and assessed.	<p>Traffic impact on Hermitage Road were considered in the Traffic Impact Assessment prepared by EMM which accompanied the lodgement of the application. The report considered the traffic movements to and from Hermitage Road, as well as the number of existing traffic movements along Hermitage Road, and determined that the proposed entry/exit arrangements are appropriate. The access to and from the site is not limited to left in/left out given the suitable site distances in both directions. Further, the number of vehicles travelling along Hermitage Road do not warrant a dedicated turning lane in either direction.</p> <p>The TIA was assessed by Council's traffic engineer who raised no concerns with the findings of the report and is supportive of the proposal. On this basis, it is considered the traffic impacts on Hermitage Road have been appropriately considered and assessed.</p>

## Singleton Local Environmental Plan 2013

The *Singleton Local Environmental Plan 2013* (SLEP 2013) applies in this instance.

### Zoning

The subject site is zoned RU4 Primary Production Small Lots under the provisions of SLEP 2013. The proposed development consists of *tourist accomodation, cellar door, restaurant, dwelling house* and is permissible with consent in the RU4 Primary Production Small Lots zone.

## Part 1 Preliminary

## Clause 1.9A Suspension of covenants

In accordance with the provision of this clause, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose. The requirements of this clause do not apply in the following circumstances:

- a) *to a covenant imposed by the Council or that the Council requires to be imposed, or*
- b) *to any prescribed instrument within the meaning of section 183A of the Crown Lands Act 1989, or*
- c) *to any conservation agreement within the meaning of the National Parks and Wildlife Act 1974, or*
- d) *to any Trust agreement within the meaning of the Nature Conservation Trust Act 2001, or*
- e) *to any property vegetation plan within the meaning of the Native Vegetation Act 2003, or*
- f) *to any biobanking agreement within the meaning of Part 7A of the Threatened Species Conservation Act 1995, or*
- g) *to any planning agreement within the meaning of Division 6 of Part 4 of the Act.*

Further, this clause does not affect the interests of a public authority. The application proposes to vary the following restrictions against the title of the land:

## **Part 2 Permitted or prohibited development**

### Clause 2.7 Demolition requires consent

The application seeks consent to demolish the existing structure on the site in order to facilitate the proposed development. Demolition shall be undertaken in accordance with the relevant Australian Standards.

## **Part 4 Principal development standards**

### Clause 4.2A Erection of Dual Occupancies and Dwelling Houses on Land in certain Rural and Environmental Protection Zones

This clause applies to the erection of a dwelling house on land zoned as RU4. The subject land has dwelling entitlement under SLEP4.2A (5)

The proposed development meets the requirement of clause 4.2A.

## **Part 5 Miscellaneous provisions**

### Clause 5.16 – Subdivisions or Dwellings on certain rural, residential or environmental protection zones

The development (dwelling) located on land (RU4) to which this clause applies. Having regard to the matters for consideration under this clause, the development is consistent with uses in the vicinity of the subject site (4(a)), will not impact upon preferred land uses within the area (4(b)) and is compatible with predominant land uses in the vicinity and surrounding land uses (4(c)). The development is considered satisfactory.

## **Part 7 Additional local provisions**

### Clause 7.1 Earthworks

Clause 7.1 seeks to ensure that any earthworks do not result in an adverse impact on the environment, neighbouring properties or heritage items. Earthworks proposed are considered to be minor/reasonable and will not result in any detrimental impact upon the surrounding environment, quality of material to be removed or brought to the site, amenity of adjoining neighbours, the drinking water catchment, environmentally sensitive areas or relics.

### Clause 7.3 Floor Height Restrictions for Residential Accommodation and Tourist or Visitor Accommodation

The subject site is not identified in the flood planning map, therefore this clause does not apply.

### Clause 7.4 Development within a Designated Buffer

The subject land is identified on the Buffer Map as being located within close proximity to the *Singleton Military Area* \. In this instance, the proposed development will not be impacted by noise or any other emissions (a). The following measures are proposed to mitigate any potential impacts (b):

*The site already accommodates a variety of land uses including a restaurant, tourist and visitor accommodation, residential dwellings, and a function centre was approved under the previous development application. This application does not propose additional land uses that do not already exist on the site or have been considered for their compatibility under a previous approval. The application is supported by an Acoustic Report which confirms the proposed development is not expected to be adversely impacted by, nor adversely impact, the Singleton Military Area.*

Development is appropriately sited on the land. It is not considered necessary to relocate the development in order to minimise potential impacts (c). Development proposed by this application will not restrict development for the purposes on the *Military Area* (d). The proposed development is consistent with the requirements of this clause.

### Clause 7.10 Essential Services

Suitable arrangements *have been made for the site to be connect* for water supply, electricity, sewage disposal, stormwater drainage and vehicular access to be connected to the site.

(a)(ii) the provisions of any proposed environmental planning instrument (EPI)

There are no draft EPI's applicable to the subject site or proposed development.

(a)(iii) any development control plan

The Singleton Development Control Plan (DCP) 2014 applies to the land with the following chapters of particular relevance to the proposal:

Part 1: Preliminary

Chapter 1.13 Alternative solutions

This section of the DCP provides for flexibility in the application of standards prescribed by the DCP in order to achieve better outcomes. Any variation to the requirements of this plan are required to demonstrate that:

- Compliance is unreasonable or unnecessary,



- The application can be justified on planning merit, and/or
- The proposed development meets the objectives of the standard.

The application proposes to vary chapter:

- 2.33 – *Viticulture Buffers*

In support of the variation, the applicant has submitted a written request in accordance with this section. A discussion of the proposed variation is provided within the relevant section below. Where the assessment provides that the development is satisfactory, it is considered that the variation is not unreasonable and will not cause any hardship.

#### Chapter 1.14 Minimum information for development applications

Suitable information has been submitted with the application in accordance with Schedule 1 of the *Environmental Planning and Assessment Regulation, 2000* and Schedule 5 of the DCP.

### Part 2: Principal Design

#### Chapter 2.1 Public Roads

#### Chapter 2.4 Stormwater drainage system

The objectives of this section aim to ensure that stormwater can be disposed in a suitable manner without causing nuisance to adjoining properties or over load the existing stormwater system. Suitable measures have been proposed to control stormwater leaving the site in accordance with the provisions in accordance with Council Engineering Design Specifications. Stormwater quality meets the requirements of the DCP.

The application is consistent with the provisions of section 2.4.

#### Chapter 2.5 Lot shape and dimensions for certain rural and environmental living subdivision

#### Chapter 2.9 Maximum building height

The objective of this clause is to ensure building heights are appropriate having regard to the character of the area, whilst minimising potential impacts associated with building height.

The subject land is identified on the map as having a building height of 11m. Development proposed by this application proposes a height of 9.77m, consistent with the requirement of the DCP. The proposed development is consistent with the character of the area, is sympathetic to the aesthetics of the locality, will not result in an overlooking or overshadowing of adjoining properties and will not impact upon any heritage values.

The application is consistent with the provisions of section 2.9.

#### Chapter 2.10 Building line for land in certain rural, residential, business and industrial zones

The objectives of this section are maintain a consistent streetscape, encourage landscaping within the front setback and minimise road noise by requiring suitable setbacks.

The subject land is zone *RU4*, as such the provisions of this section apply.

In accordance with the DCP, the following building line setback is required:

- 40m for land zoned *RU4*.

All walls with a height of 10m or greater are setback at least 3m behind the building line.

The application is consistent with the provisions of section 2.10.

#### Chapter 2.11 Side and rear setbacks for buildings in certain rural and environmental living zones

The objectives of this section aim to maintain privacy and amenity and minimise land use conflict.

The subject land is zone *RU4*, as such the provisions of this section apply.

In accordance with the DCP, a minimum side and rear setback of 10m is required. All buildings in the proposed development will be setback more than 10m to any boundary

The application is consistent with the provisions of section 2.11.

#### Chapter 2.13 Density of residential accommodation

The objectives of this section aim to restrict density of accommodation, maintain the amenity of the locality and to minimise visual impact, traffic congestion, social impact and noise.

The application seeks consent for a dwelling house as such the provisions of this section apply.

The subject land has a lot size >1,200sqm, as such a FSR of 0.50:1 applies.

Proposed FSR is 0.005:1

The application is consistent with the provisions of section 2.13.

#### Chapter 2.14 Density of short-term accommodation in certain rural zones

The objectives of this section aim to protect and enhance the amenity of the rural zones, minimise visual impact, ensure development is suitably located and provide flexibility in density controls where landscape screening is provided.

The subject land is zone *RU4* and proposes *hotel or motel accommodation*, as such the provisions of this section apply.

In accordance with the DCP, the density of all buildings on the site should not exceed a FSR of 0.03:1. The application proposes an FSR of *0.03:1*.

The application is consistent with the provisions of section 2.14.

#### Chapter 2.16 Environmental outcomes

The objectives of this section aim to avoid impact, maintain biodiversity, minimise land degradation and encourage environmentally responsible design.

The proposed development is suitably located and designed so as to avoid impacts on biodiversity, prevent land degradation and salinity, maintain water quality and minimise clearing.

The application is consistent with the provisions of section 2.16.

## Chapter 2.18 Landscaping

The objectives of this section aim to ensure high quality landscaping, improve the appearance of development, ensure landscaping is safe and appropriate and ensure good urban design outcomes.

Development proposed by this application involves *construction of a car park, outdoor area, and erection of a building visible from a public road*, as such the provisions of this section apply.

Landscaping proposed as part of this application is satisfactory; enhancing the streetscape appearance of the development, is an appropriate scale, is appropriate to the development type, is consistent with landscaping in the area and will not cause harm, increase the bush fire risk or restrict sight lines.

The application is consistent with the provisions of section 2.18.

## Chapter 2.21 Earthworks and retaining

The objectives of this section are to avoid excessive cut/fill and to encourage design to suit topography.

Cut/fill proposed as part of this application will not impact upon the structural integrity of any adjoining buildings.

No retaining walls exceeding 600mm will be located within 1m of the boundary.

Councils Development Engineer has assessed the application.

The application is consistent with the provisions of section 2.21.

## Chapter 2.23 Building appearance

The objectives of this section are to ensure good urban design outcomes, protect the visual amenity of the streetscape, encourage design to build to the site and ensuring development does not detract from the visual amenity of the area.

Development proposed by this application does not detract from the visual amenity of the streetscape, is of a suitable bulk and scale and the building has been integrated into the site having regard to the topography and site features. Blank walls are avoided through the use of windows and/or material variation and appropriate articulation of the wall surface. Building materials and colours are compatible with the character of the area and where relevant reflect heritage values.

The application is consistent with the provisions of section 2.23.

## Chapter 2.25 Accessible design

The objective of this section is to ensure suitable arrangements are made for people with a disability.

As the proposed development is accessible to the public, the provisions of this section apply.

The application was referred to Council's Building Surveyor for comment, who has confirmed that development is satisfactory having regard to the requirements of the *Disability Discrimination Act, 1992* and the *Disability (Access to Premises – Building) Standards 2010*.

The application is consistent with the provisions of section 2.25.

#### Chapter 2.26 Driveway access

The objective of this section is to ensure driveways are suitably located and have an appropriate surface treatment.

Council's Development Engineer has reviewed the application, confirming the proposed driveway is consistent with the requirement of this section.

#### Chapter 2.27 Minimum number of car parking spaces

A total of 186 car spaces and allowance for a delivery truck as well as 9 accessible spaces have been provided. This has been

The development is compliant with the rates set out under Schedule 1. Refer to Table 3.3 of the accompanying Traffic Impact Assessment prepared by EMM which demonstrates compliance with the relevant car parking rates and requirements.

A total of 186 car spaces and allowance for a delivery truck as well as 9 accessible spaces have been provided. This has been deemed acceptable by the Council Development Engineer

The application is consistent with the provisions of section 2.27.

#### Chapter 2.28 Design of car parking areas, loading docks and vehicle manoeuvring areas

The objectives of this section are to ensuring car parking areas, loading docks and manoeuvring areas are suitably designed and to minimise the visual impact of hard stand areas.

The application was referred to Council's Development Engineer for comment. No concerns/issues have been raised. It is considered that the car parking area, loading dock and manoeuvring areas comply with the requirements of the DCP and relevant Australian Standards.

The application is consistent with the provisions of section 2.28.

#### Chapter 2.29 Waste storage and collection areas

This section aims to ensure that suitable waste storage and collection areas are provided on site in convenient locations, reduce illegal dumping maintain hygiene standards and reduce potential impacts on amenity associated with the collection and storage of waste.

Appropriate provisions have been made for the storage and collection of waste in accordance with the DCP. The collection/storage area if suitably located, is sheltered from the weather, is able to be cleaned and is located in an area which is not visible from the street.

The application is consistent with the provisions of section 2.29.

#### Chapter 2.32 Outdoor signage



The objectives of this section is to limit outdoor signage, protect the visual amenity of the public domain, minimise clutter and ensure signage is of a high quality.

In this instance, the proposed signage is not considered to detract from the quality of the public domain, is appropriately located, the information on the sign is appropriate to the audience, has solid foundations, will not result in a risk to health or safety and is of an appropriate scale.

Colours, materials and finishes are considered to be appropriate having regard to the building design. Signage will be located within the site boundaries, which will not cause any distraction to passing motorists. All signage proposed as part of this application related to development proposed by this application or an existing development on the land.

The advertising area of the sign does not exceed 20m<sup>2</sup>.

As the sign is located within a rural zone, a 1m setback to lot boundaries is required. Setbacks of more than 6m are proposed.

The application is consistent with the provisions of section 2.32.

### Chapter 2.33 Viticultural buffers

The objective of this section is to minimise potential impact of viticulture on residential and tourist accommodation, ensure appropriately designed buildings, and provide buffers where appropriate.

This section applies as the application proposed *residential accommodation and tourist and visitor accommodation*.

The following justification has been provided by the applicant in relation to the non-compliance:

*"The proposed buildings have a minimum 10m setback from viticulture. However, the viticulture within the site will be ornamental species only and will not bear fruit for consumption. Furthermore, the accompanying Plan of Management prepared by Mecone specifies mitigation measures to reduce spray drift.*

*The proposal includes provision for a 10m buffer from residential accommodation on the site to the ornamental vines. Strict compliance with the 50m buffer control is not warranted in this instance as the land use conflicts can be appropriately managed through operational measures which are discussed and will be confirmed in the final Plan of Management.*

*Additionally, the 10m buffer to vines has previously been approved with a 8.713m setback to residential accommodation under DA.8.2022.105.1.*

*Buffers between vines on the subject site and adjoining properties will remain as per the current arrangements.*

*There is sufficient distance and management practices in place to ensure there is no impact on the working grape vines in the locality. As noted above, the Plan of Management will incorporate appropriate management practices to ensure a reasonable outcome and balance is maintained through the provision of a high quality tourism facility, as well as protecting and maintaining the health and quality of working vines.*

*Detailed justification for the setbacks and separation distances between vines is provided in the Statement of Environmental Effects."*

In this case the variation request is deemed satisfactory. The objective of the control can be met and the precedent has been set already on this site.

## Chapter 2.34 Views and visual impact

The objectives of this section aim to achieve good urban design outcomes, minimise impact on the local amenity and ensure development is appropriate having regard to development in the local area.

Development proposed by this application will not have any significant impact on the visual quality of the locality, landscape or streetscape. Having regard to the matter listed in section 5, the application meets the requirements of section 2.34.

## Part 4: Miscellaneous provisions

### Chapter 4.1 Operational details

The objective of this section is to ensure that land uses are suitably managed.

Operational details associated with the development include the following:

#### **Hours of Operation**

##### Cellar Door

Weekdays: 10:00am – 5:30pm

Saturday: 10:00am – 5:30pm

Sundays and Public Holidays: 10:00am – 5:30pm

##### Function Room and Restaurant

Monday – Thursdays: 7:00am – 11:00pm

Fridays and Saturdays: 7:00am – 12:00am

Sundays and Public Holidays: 7:00am – 11:00pm

#### **Employee and Customer Numbers**

*“Specific employee and patron numbers for the development are not identified in this application. However, the development is designed to provide adequate parking provision in accordance with the DCP controls. Moreover, the maximum building occupancy limits are established by the Building Code of Australia. As such, flexibility in the operation of the various land uses is appropriately considered. It is also noted parking is calculated based on the capacity of patrons for the restaurant and function room. Refer to Table 3.3 of the Traffic Report.”*

#### **Waste management**

The application is accompanied by aWMP prepared by Dickens Solutions

#### **Traffic**

The application is accompanied by a Traffic Impact Assessment prepared by EMM.

#### **Chemical use/storage**

Management of spray drift is set out in the accompanying Plan of Management prepared by Mecone.

Information submitted with the application is satisfactory, having regard the provisions within section 4.1.

### Chapter 4.3 Site planning

The objectives of this section are to ensure that development is sited having regard to the characteristics of the land, adjoining development, site constraints and infrastructure.

The subject land is considered suitable to accommodate the proposed development. Development proposed by this application has been suitably sited having regard to constraints over the land, topography, potential impacts on adjoining development, bulk, scale, pedestrian networks, streetscape and skyline.

The application is consistent with the provisions of section 4.3.

(a)(iiia) - any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There is no draft planning agreement/planning agreement that a developer has offered or enter into under section 7.4 of the Act that relates to the subject land or proposed development.

(a)(iv) any matters prescribed by the regulations

#### **Division 1 of Part 4**

Division 1 of Part 4 of the *Environmental Planning & Assessment Regulation 2021* applies to the proposal.

The proposal fulfils the fire safety and structural adequacy requirements of the regulations and is therefore considered appropriate. In accordance with the requirements of the regulation, a condition of consent is included requiring the submission of annual fire safety statement from the applicant.

(b) the likely impacts of the development

The proposed development is not expected to result in any significant impacts on the natural and built environment, or detrimental social or economic impacts in the locality. There are no additional impacts anticipated outside of those already addressed elsewhere in this report. The proposal is consistent with the established development pattern in the area.

(c) the suitability of the site for the development

The site is considered suitable for the type, scale and nature development and is not overly constrained. The development can be integrated into the locality without any significant adverse impacts. The site is therefore considered suitable for the proposed development.

(d) any submissions made in accordance with this Act or the regulations

#### **Public Submissions**

The development application and accompanying information were placed on public exhibition for a period of 14 days from 11/1/24 to 24/1/24. As a result of the notification process a total of 0 submissions were received.

(e) the public interest

The proposed development is in the public interest.

#### Section 4.17 Considerations

Having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979*, there are no additional matters which require further consideration.

#### Section 7.11 - Contributions

Are contributions required for the provision, extension or augmentation of public amenities and public services?	Yes	No
Are Section 7.11 Contributions payable on the proposed development?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is a VPA relevant?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

See 24/33232

#### Contributions Calculation

*The following items are a calculation to see if contributions are applicable. There can be no charging of development already approved under a different DA. These calculations are for changes to this DA only*

<b>Restaurant and Function room</b>	
<b>Plus</b>	m2
Restaurant and Function room extention	209
<b>Minus</b>	
Existing Manor Restaurant - As this is changed to storage so not calculated in the cost	304
<b>Total - No contributuons as the GFA is in the minus</b>	<b>-95</b>

<b>Casuarina Manor</b>	
No change to the number of rooms. No contributions applicable	n/a

<b>La Petit Mansion</b>	
No change to the number of rooms. No contributions applicable	n/a

<b>Hambton Loft</b>	
No change to the number of rooms. No contributions applicable	n/a

<b>Themed Suites</b>	
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<b>Plus</b>	No
New	10
<b>Minus</b>	
Exisitng	10
<b>Total - No contributuons as no new units</b>	<b>0</b>

<b>Turnkey Site</b>	No
New Units - 1x Bed	30
New Units - 1x Bed (including mezzanine)	2
<b>Total</b>	<b>32</b>

<b>Cellar Door</b>	m2
New	96
total	96

*There is a rural roads calculation which is based on an equivalent tenement calculation. This is calculated in the table below*

<b>Equivalent Tenement</b>	<b>ET</b>	<b>Unit</b>	<b>Total</b>
Turnkey Site - Tourist accomodation - per unit	0.3333333 per 1 bedroom unit	32	11
Cellar Door	0.0666667 per m2 GFA	96	7

<b>Cost</b>	<b>Capital Cost</b>	<b>Per \$200k</b>
Turnkey Site	\$9,996,452	49
Cellar Door	\$2,232,829	11

*The following items are the contributions payable for this Development Application*

#### **Catchment Type 1.2 - Rural Non-Residential Development Contribtuion Rates**

<b>Turnkey Units</b>				
Facility Type	Method	Contribution Rate	Item	Total
Bushfire services	For every \$200,000 of capital cost	\$4,048	49	\$198,352
Rural Roads	Per Equivalent Dwelling or Lot serviced by a sealed Council road	\$2,857	11	\$31,427

Preparing and Administering Plans	per dwelling or lot	\$195	11	\$2,145
			<b>Total</b>	<b>\$231,924</b>

<b>Cellar Door</b>				
Facility Type	Method	Contribution Rate	Item	Total
Bushfire services	For every \$200,000 of capital cost	\$4,048	11	\$44,528
Rural Roads	Per Equivalent Dwelling or Lot serviced by a sealed Council road	\$2,857	7	\$19,999
Preparing and Administering Plans	per dwelling or lot	\$195	7	\$1,365
			<b>Total</b>	<b>\$65,892</b>

## Section 4.65 – Existing Use Rights

The proposed development is not prohibited under the SLEP 2013.

### 9. Council Policies / Council Resolutions

There are no Council Policies and/or Council resolutions relevant to the assessment of the application.

### 10. Development Assessment Guidelines

There are no guidelines published by the NSW Planning and Environment that are relevant to the proposed development.

### 11. Land & Environment Court Planning Principles

There are no planning principles required to be considered in the assessment of the development application.

### 12. Recommendation

An assessment of the application has been carried out in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. The proposed development is considered satisfactory in terms of the matters for consideration under the Act. Accordingly, the development application is approved subject to conditions of consent.

### 13. Delegations

This application has been approved under delegated authority as no objections have been received and the proposal complies with Council's standards. The undersigned has delegations to determine the application.

**Officer:** B Pogson

**Position:** Senior Development Planner

**Date:** 21/5/24