

# COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	<b>PPSWES -198</b>
<b>DA Number</b>	<b>2023/273</b>
<b>LGA</b>	<b>Bathurst Regional</b>
<b>Proposed Development</b>	<b>Construction of a Community Facility for the purposes of providing a creative and performing arts space and ancillary accommodation.</b>
<b>Street Address</b>	<b>Chifley Dam Road, The Lagoon</b>
<b>Applicant/Owner</b>	<b>Eleanor Peres of Sibling Architecture on behalf of Bathurst Regional Council Site owned by Bathurst Regional Council</b>
<b>Date of DA lodgement</b>	<b>23 August 2023</b>
<b>Total number of Submissions Number of Unique Objections</b>	<b>Zero</b>
<b>Recommendation</b>	<b>Approval</b>
<b>Regionally significant Development (Schedule 6 of the SEPP (Planning Systems) 2021</b>	<b>Capital investment value (CIV) of the development is \$6,913,500.00. This exceeds the CIV threshold of \$5 million for private infrastructure or community facilities for Council to determine the DA pursuant to Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021.</b>
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Biodiversity and Conservation Act 2016</li> <li>• Bathurst Regional Local Environmental Plan 2014</li> <li>• State Environmental Planning Policy (Planning Systems) 2021.</li> <li>• State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• Environmental Planning and Assessment Regulation 2021</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Statement of Environmental Effects</li> <li>• DA Plans</li> <li>• Survey Plan</li> <li>• Title Search</li> <li>• New Access Road Civil Road Drawings</li> <li>• External Materials and Finishes</li> <li>• Plan of Management</li> <li>• Aboriginal Cultural Heritage Assessment Report</li> <li>• Archaeological Report</li> <li>• Geotechnical Investigation</li> <li>• Preliminary Arborist Assessment Report</li> </ul>

	<ul style="list-style-type: none"> <li>• Crime Prevention Through Environmental Design (CPTED) Report</li> <li>• Vegetation Assessment</li> <li>• Summary of Ecological Constraints</li> <li>• Accessibility Assessment Report</li> <li>• Sedimentation and Erosion Control Plan</li> <li>• BCA Compliance Report</li> <li>• Section J Compliance Report</li> <li>• Draft Notice of Determination</li> </ul>
Clause 4.6 requests	Not applicable.
Summary of key submissions	Not applicable.
Report prepared by	Emma Castle – Development Control Planner, Bathurst Regional Council with Myles Lawrence – Civil Design and Project Engineer and Richard Denyer – Manager Development Assessment
Report date	30 September 2023

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

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**Legislative clauses requiring consent authority satisfaction** **Yes**  
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?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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**Clause 4.6 Exceptions to development standards** **Not applicable**  
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?

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**Special Infrastructure Contributions** **No**  
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*

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**Conditions** **Yes**  
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*

## PURPOSE OF REPORT

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The purpose of this report is to seek the Western Regional Planning Panel's (The Panel's) determination of a Development Application (DA) for a community facility at Chifley Dam Road, The Lagoon.

The Panel is the consent authority for this DA as the capital investment value (CIV) of the development is \$6,913,500.00. This exceeds the CIV threshold of \$5 million for private infrastructure or community facilities for Council to determine the DA pursuant to Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021.

## SUMMARY OF RECOMMENDATION

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That the Western Regional Planning Panel determine DA 2023/273 for a community facility pursuant to Section 4.16 of the *Environmental Planning and Assessment Act, 1979*, by granting consent subject to the conditions attached to this report.

## SUMMARY OF ATTACHMENTS

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The follow plans and documents are submitted for consideration with this report:

Attachment No.	Description
1	Statement of Environmental Effects
2	DA Plans
3	Schedule of External Finishes
4	Survey Plan
5	Title Search
6	Aboriginal Cultural Heritage Assessment Report
7	Archaeological Report
8	Geotechnical Investigation
9	Preliminary Arborist Assessment Report
10	Crime Prevention Through Environmental Design (CPTED) Report
11	Vegetation Assessment
12	Summary of Ecological Constraints
13	Accessibility Assessment Report
14	Sedimentation and Erosion Control Plan
15	BCA Compliance Report
16	Section J Compliance Report
17	Draft Notice of Determination

## EXECUTIVE SUMMARY

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Bathurst Regional Council has received a Development Application (DA) for a community facility at Chifley Dam Road, The Lagoon.

The DA has been assessed against the *Biodiversity and Conservation Act 2016*, *Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation, 2021*, relevant environmental planning instruments, development control plans and policies.

A summary of the assessment of all relevant environmental planning instruments is provided below with a detailed assessment provided later in the report.

State Environmental Planning Policy	Comment
Biodiversity Conservation Act 2016	<p>Whilst there are threatened species identified on or in the vicinity of the site, the proposed activity would not have an adverse effect on the life cycle of the species to the extent that a viable local population of the species is likely to be placed at risk of extinction, nor result in fragmentation or isolation from other areas of habitat.</p> <p>The Biodiversity Offsets Scheme (BOS) threshold in this location is 1ha. The area of native vegetation impact is 3,370m<sup>2</sup>, and therefore the proposed development does not trigger the BOS.</p>
State Environmental Planning Policy (Planning Systems) 2021.	<p>The Panel is the consent authority for this DA as the development has a CIV of \$6,913,500.00 (excluding GST) which exceeds the CIV threshold of \$5 million (private infrastructure or community facilities) for Council to determine the DA.</p>
State Environmental Planning Policy (Biodiversity and Conservation) 2021	<ul style="list-style-type: none"> <li>• The land is not identified as core Koala Habitat in accordance with Chapter 3 of the BC SEPP.</li> <li>• The land does not require a KPOM in accordance with Chapter 4 of the SEPP.</li> <li>• The area of native vegetation impact is 3,370m<sup>2</sup>, which does not exceed the BOS threshold of 1ha.</li> <li>• The development was assessed against the Threatened Species Test of Significance, and it was concluded that that impacts on threatened species from the proposal are not significant and do not require a Species Impact Statement nor referral under the EPBC Act.</li> </ul>
State Environmental Planning Policy (Resilience and Hazards) 2021	<p>In accordance with the requirements of Chapter 4, there is no evidence of contamination on the site. The land is zoned for agricultural activities, however as the site forms part of the Chifley Dam land, the land has been vacant grassland since the late 1940's.</p> <p>There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.</p>
Bathurst Regional Local Environmental Plan 2014	<p>The subject site is zoned RU1 Primary Production. Community facilities are permitted with consent within the RU1 zone. There is no maximum height of buildings applicable to the subject land.</p> <p>1 AHIMS site were previously identified within the proposed zone of works for the proposal. A subsequent Archaeological report which found that the identification of</p>



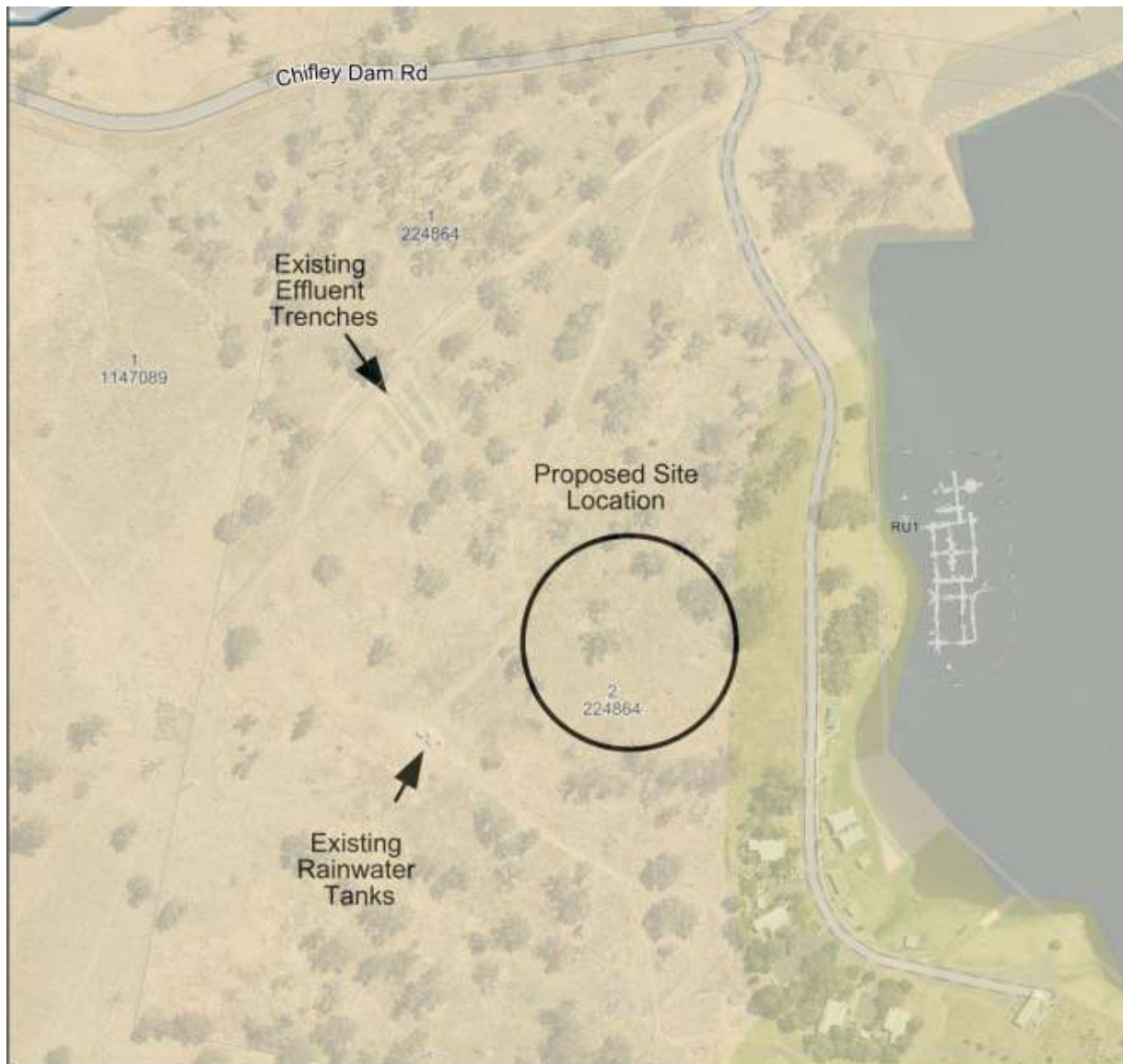


Figure 2: Aerial photo of development site (source: Bathurst Regional Council)

## THE SITE

The site is legally known as Lot 2 in DP224864. The site is located at Chifley Dam Road, The Lagoon.

The subject site is zoned RU1 Primary Production and has a total area of 72.79 hectares. The site forms part of the land holding containing Ben Chifley Dam. The Ben Chifley Dam and Campbell River form the eastern boundary of the Bathurst Region Local Government Area.

Ben Chifley Dam is a Council owned and controlled facility providing the primary water source for the City of Bathurst. It also serves an important tourist and recreation function. The subject allotment contains various improvements including tourist and visitor accommodation cabins,



rainwater tanks, a seasonal aquatic park and an onsite effluent disposal system to service the surrounding developments.

The subject site has frontage to Chifley Dam Road. The proposed development site is accessed via an informal access track from Chifley Dam Road

Adjacent land in all directions is zoned RU1 Primary Production, consisting of large vacant allotments exceeding 100ha.

## ZONING

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The subject site is zoned RU1 Primary Production.

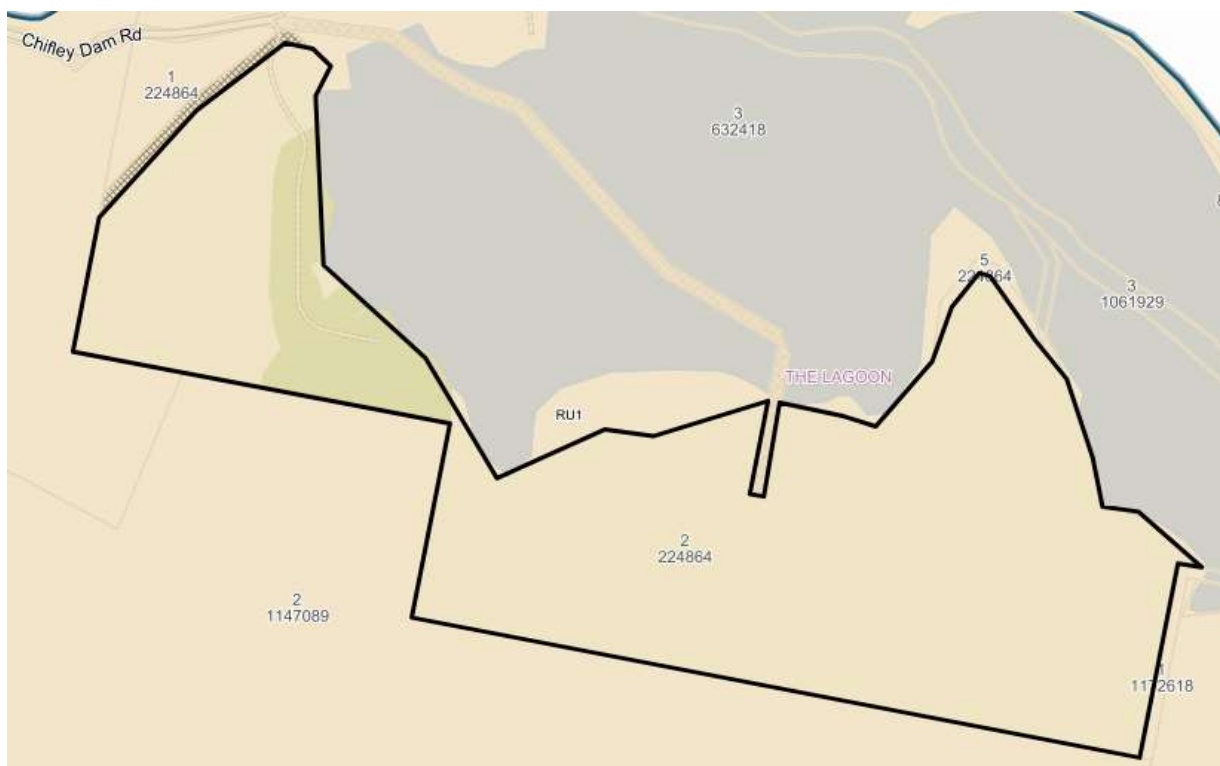


Figure 2: Land Zoning Map (source: NSW Department of Planning & Environment)

## **Zone RU1 Primary Production**

### **1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural and scenic character of the land.
- To provide for a range of compatible land uses that are in keeping with the rural character of the locality, do not unnecessarily convert rural land resources to non-agricultural land uses, minimise impacts on the environmental qualities of the land and avoid land use conflicts

### **2 Permitted without consent**

*Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Home occupations; Intensive plant agriculture; Roads*

### **3 Permitted with consent**

*Aquaculture; Artisan food and drink industries; Cellar door premises; Dwelling houses; Extractive industries; Farm buildings; Food and drink premises; Funeral homes; Garden centres; High technology industries; Home industries; Hostels; Intensive livestock agriculture; Landscaping material supplies; Markets; Neighbourhood shops; Open cut mining; Plant nurseries; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Any other development not specified in item 2 or 4.*

### **4 Prohibited**

*Amusement centres; Commercial premises; Exhibition homes; Exhibition villages; Heavy industrial storage establishments; Home occupations (sex services); Industries; Local distribution premises; Public administration buildings; Residential accommodation; Restricted premises; Sex services premises; Storage premises; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wholesale supplies.*

## **BACKGROUND**

The relevant Development Application background of the site is summarized in the table below:

<b>Year</b>	<b>Application No.</b>	<b>Development</b>
2007	DA 2007/523	Construction of shelters
2008	DA 2008/278	Construction of a toilet block
2008	DA 2008/285	Construction of a shade structure
2008	DA 2008/311	Construction of 8x BBQ shelters
2010	DA 2010/780	Construction of a compound for boat storage



2010	DA 2010/851	Installation of shipping container to be used as storage shed
2013	DA 2013/247	Construction of storage shed and installation of water tank
2014	DA 2014/398	Construction of a roof over existing compound
2018	DA 2018/141	Outdoor recreation facility (Aqua Park)

## EXISTING INFRASTRUCTURE/SITE CONFIGURATION



Figure 3 Existing part site layout (source: Bathurst Regional Council)

Building/Structure	Description
A	Rainwater tanks
B	Holiday cabins
C	Aqua Park (seasonal installation)
D	Toilet facilities
E	Playground and shade structures
F	BBQ shelters
G	Boat Storage Sheds
H	Effluent disposal area

## THE PROPOSAL

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This Development Application seeks approval for:

### **Construction of a multi-purpose Community Facility.**

The components of the Community Facility development are summarised as follows:

- Construction of three (3) community facility buildings:
  - Building 1 is proposed to be a rehearsal space with a floor area of 280m<sup>2</sup> and a maximum height of 9.1m.
  - Building 2 is proposed to be a flexible use space to contain a dining facility which can be easily converted to a breakout space, with a floor area of 186m<sup>2</sup> and a maximum height of 5m. It is proposed to contain a kitchen, storeroom, office, laundry and accessible bathroom facilities. The maximum capacity is 60 people.
  - Building 3 is proposed to be a flexible use breakout space with a floor area of 80m<sup>2</sup> and a maximum building height of 7.2m. It is proposed to contain two rooms.
- Construction of four (4) x three-bedroom accessible accommodation cabins with a floor area of 51.7m<sup>2</sup> and a maximum height of 4.7m above ground level. The cabins will have a maximum capacity of 24 people. They are proposed to be connected by a 2.7m wide walkway
- The removal of one (1) existing tree;
- Cut of approximately 1.6m and fill of approximately 1m;
- Construction of a new two-way single lane paved access road;
- Construction of 12 car parking spaces, including 2 accessible spaces;
- Construction of a coach / bus parking area and a three-point turning zone for a heavy rigid vehicle; and
- Landscaping, site works and required infrastructure upgrades.

An excerpt of the proposed site plan is shown below:

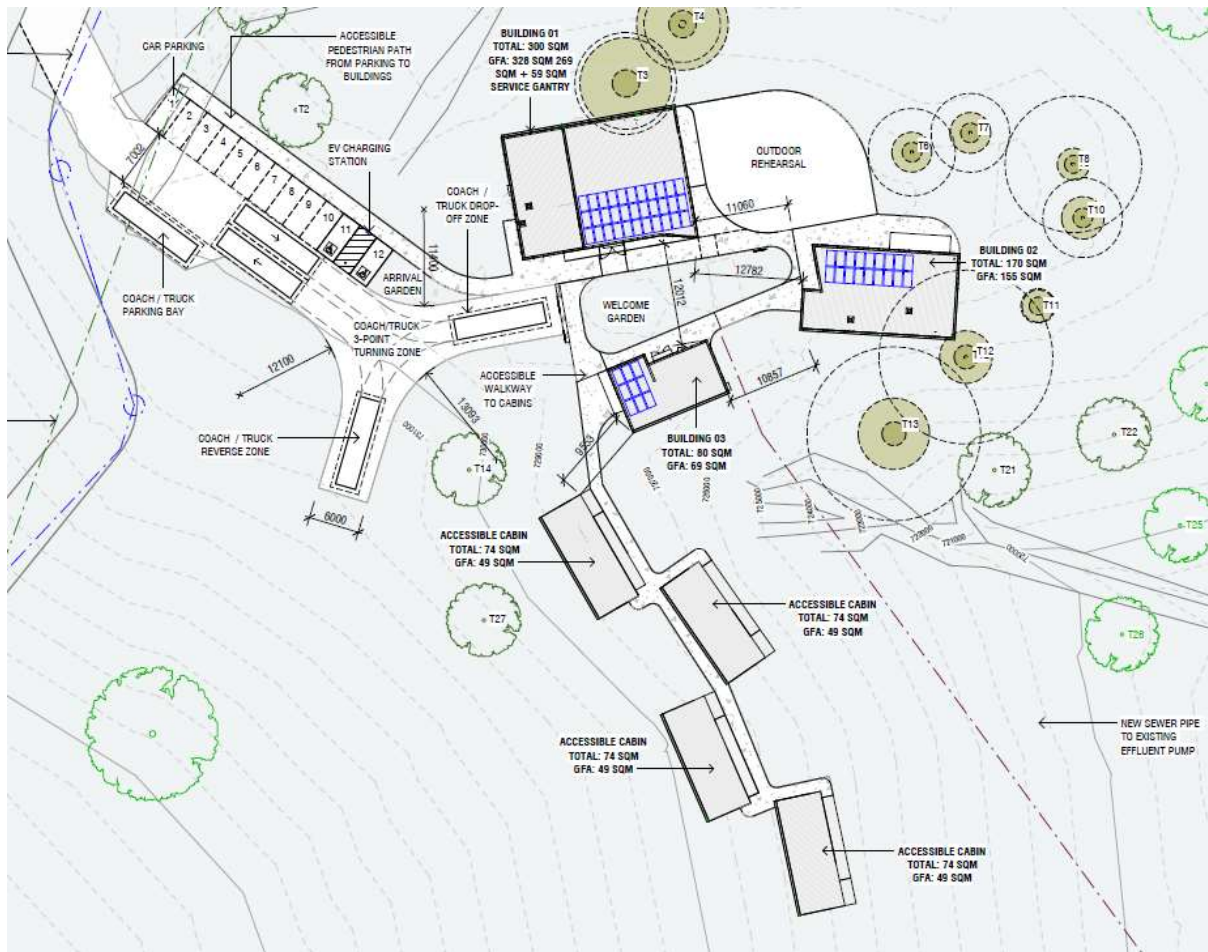


Figure 4 Part Site Layout (source: Sibling Architecture)

## PANEL BRIEFING

Council representatives briefed the Western Regional Planning Panel on 31 October 2023 via video conference.

The Panel did not request additional information from the applicant.

## ASSESSMENT

### ***Biodiversity Conservation Act 2016***

#### ***Part 7 Biodiversity assessment and approvals under Planning Act***

In accordance with Section 7.2 of the Biodiversity and Conservation Act, it must be determined whether a proposed development is likely to significantly impact threatened species according to the test in Section 7.3. The application has been supported by a Vegetation Assessment prepared by KHS Ecology and Fire and Preliminary Aborist Assessment Report and Summary of Ecological

Constraints prepared by Applied Ecology. The Assessment concluded that there is some potential habitat for several threatened bird and mammal species including the White-bellied Sea Eagle, Hooded Robin (south-eastern form), Scarlet Robin, Koala, Large-eared Pied Bat, Southern Myotis.

Given the mobility of each of these species and the availability of better habitat elsewhere in the area, it is considered that development of the subject site would not result in a local extinction of this species. Therefore, the proposed activity would not have an adverse effect on the life cycle of the species to the extent that a viable local population of the species is likely to be placed at risk of extinction, nor result in fragmentation or isolation from other areas of habitat.

The threshold that triggers entry into the Biodiversity Offsets Scheme for the subject land is 1ha of clearing, as the minimum lot size applicable to the land is between 40ha and 1000ha, being 100ha in this location. The area of native vegetation impact is 3,370m<sup>2</sup>, and therefore does not exceed the BOS threshold.

No further assessment is required under this Act.

### ***Environmental Planning and Assessment Act 1979 – Section 4.15(1)***

In determining a DA, the consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the DA:

#### ***(a)(i) the provisions of any environmental planning instrument***

The environmental planning instruments that apply to the proposed development are:

- State Environmental Planning Policy (Planning Systems) 2021.
- State Environmental Planning Policy (Resilience and Hazards) 2021.
- State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- Bathurst Regional Local Environmental Plan 2014.
- Bathurst Regional Development Control Plan 2014.

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

The aims of State Environmental Planning Policy (Planning Systems) 2021 are to identify development that is State significant development, to identify development that is State significant infrastructure and critical State significant infrastructure and to identify development that is regionally significant development.

#### ***5 Private infrastructure and community facilities over \$5 million***

*Development that has a capital investment value of more than \$5 million for any of the following purposes—*

- (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*

- (b) *affordable housing, child care centres, **community facilities**, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

Pursuant to Schedule 6 of the SEPP, the Panel is the determining authority for this DA as the proposed development has a CIV of \$6,913,500.00 (excluding GST) which exceeds the CIV threshold of \$5 million (private infrastructure or community facility) for Council to determine the DA.

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

State Environmental Planning Policy (Resilience and Hazards) 2021 requires the consent authority to be satisfied that the site is suitable for its intended use without remediation prior to granting consent.

A Preliminary Site Investigation is not considered to be warranted in this instance, given that the land is vacant rural land, forming part of the larger Chifley Dam landholding. Occasional grazing has occurred on the land, however there are no records intensive agriculture or other potentially contaminating activities having occurred on site.

The land is considered to be suitable for the proposed use without remediation.

### **State Environmental Planning Policy (Biodiversity and Conservation) 2021**

#### *Chapter 3 – Koala Habitat Protection 2020*

This chapter applies to the proposed development as Bathurst Local Government Area is specified in Schedule 1 of *State Environmental Planning Policy (Koala Habitat Protection) 2021*, and the land is zoned RU1 Primary Production.

As noted in the Applied Ecology Summary of Ecological Constraints the has the moderate habitat potential for koalas and there are sightings in the vicinity. The site contains three species of Eucalypt that are identified as koala feed trees. Targeted searches were undertaken for koala scats at the base of all trees on site, and for koala claw marks or scratching on the trunks of trees. There was no evidence of koala use of the trees within the vicinity of the development.

The land is not identified as potential koala habitat as trees of the types listed in Schedule 1 do not constitute at least 15% of the total number of trees in the upper or lower strata of the tree component in accordance with Section 3.6 of this SEPP. Similarly, the site does not contain core koala habitat i.e., there is no evidence of a “resident population of koalas, evidenced by attributes such as breeding females, being females with young, and recent sightings of and historical records of a population”. A Koala Plan of Management is not required.

#### *Chapter 4 – Koala Habitat Protection 2021*

This chapter applies to the proposed development as Bathurst Local Government Area is specified in Schedule 2 of the Biodiversity and Conservation SEPP as being located within the Central and Southern Tablelands Koala Management Area.

Clause 4.9 requires Council to be satisfied that the development is likely to have low or no impact on koalas or koala habitat where there is no approved koala plan of management for land.

The Summary of Ecological Constraints prepared by Applied Ecology states that targeted searches were undertaken for koala scats at the base of all trees on site, and for koala claw marks or scratching on the trunks of trees. There was no evidence of koala use of the trees within the subject site. One koala sighting has been recorded within 2km of the subject site – recorded in 2019. The report concludes that the subject site is not considered core koala habitat, and removal of koala feed trees is not likely to have a significant impact on the species.

Council is therefore satisfied that the development is likely to have low or no impact on koalas or koala habitat, and consent may be granted to the development application in accordance with this Chapter.

### **Bathurst Regional Local Environmental Plan 2014**

## **2.2 Zoning of land to which Plan applies**

The subject site is zoned RU1 Primary Production.



Figure 2: Land Zoning Map (source: NSW Department of Planning & Environment)

## **2.3 Zone objectives and Land Use Table**

### ***Zone RU1 Primary Production***

#### ***1 Objectives of zone***



- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural and scenic character of the land.
- To provide for a range of compatible land uses that are in keeping with the rural character of the locality, do not unnecessarily convert rural land resources to non-agricultural land uses, minimise impacts on the environmental qualities of the land and avoid land use conflicts.

2 Permitted without consent

*Environmental protection works; Extensive agriculture; Home-based child care; Home businesses; Home occupations; Intensive plant agriculture; Roads*

3 Permitted with consent

*Aquaculture; Artisan food and drink industries; Cellar door premises; Dwelling houses; Extractive industries; Farm buildings; Food and drink premises; Funeral homes; Garden centres; High technology industries; Home industries; Hostels; Intensive livestock agriculture; Landscaping material supplies; Markets; Neighbourhood shops; Open cut mining; Plant nurseries; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Any other development not specified in item 2 or 4*

4 Prohibited

*Amusement centres; Commercial premises; Exhibition homes; Exhibition villages; Heavy industrial storage establishments; Home occupations (sex services); Industries; Local distribution premises; Public administration buildings; Residential accommodation; Restricted premises; Sex services premises; Storage premises; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wholesale supplies*

The use is defined as a 'community facility':

**community facility** means a building or place—

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community,

*but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.*

As community facilities are not specified in item 4, the proposed use is permitted with consent.

In order to be considered a "community facility" for the purposes of BRLEP three preconditions apply. Firstly, the facility must be owned or controlled by a public authority, secondly used for the physical, social, cultural or intellectual development or welfare of the community and lastly, not

be an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

#### *Ownership and control*

For the purposes of the Environmental Planning and Assessment Act a public authority includes a local authority constituted by or under an Act. Bathurst Regional Council is a public authority for the purposes of the Act.

The subject land is owned by Bathurst Regional Council, as demonstrated by the title search included as part of the documentation for this application. The land is classified as “operational” land for the purposes of the Local Government Act.

BARN will be owned and controlled by Bathurst Regional Council under the umbrella of the Bathurst Memorial Entertainment Centre (BMEC) and will be a bookable and affordable creative hub for all strands of the performing arts and the activities that support them.

#### *Social and Cultural development of the community*

The facility will provide a venue for the furtherance of performing arts. It will be used for the social and cultural development of the community.

*Not include educational establishment, hospital, retail premises, place of public worship or residential accommodation*

The proposed community facility includes an accommodation component, being four (4) x three-bedroom cabins with a maximum capacity of 24 people associated with the community facility. The purpose of the accommodation, as reflected in the Plan of Management by Sibling Architecture is to allow users of the BARN facility to stay on-site “at an idyllic regional Australian site where the surrounding landscape can inspire their creation and rehearsal of new works of performing art”. When the existing tourist cabins are also utilized as additional accommodation to support the BARN facility, the maximum capacity of the facility increases to 60 people.

The vision of BARN as specified in the Plan of Management states:

*“The vision for the project is to offer the facilities for performing arts groups to travel to and stay at an idyllic regional Australian site where the surrounding landscape can inspire their creation and rehearsal of new works of performing art.”*

*This space, along with the existing cabin accommodation, can be made available for performing arts companies nationally for residential rehearsal and development periods to create and develop new performing arts projects, circus, and street performances, etc. The residency program would be managed by BMEC.” - Excerpt from ‘Bathurst Region – A Cultural Vision 2036, Page 50*

The accommodation component will not be available to be booked separately to the rest of the facility, thereby affirming the ancillary nature of the accommodation to the community facility.

## 5.10 Heritage Conservation

The site does not contain a heritage item, an aboriginal object, nor is it located in a heritage conservation area.

An Aboriginal Due Diligence Assessment undertaken over the study area in February 2023 identified an area of Potential Archaeological Deposit (PAD) within the study area, which was registered on the Aboriginal Heritage Management Information Systems (AHIMS) as site CD-PAD-01 (AHIMS #44-6-0125). It was recommended that further Aboriginal archaeological investigation should be undertaken in the form of test excavation.

An Aboriginal Cultural Heritage Assessment Report was submitted for consideration as part of this development application. As part of the field work undertaken for this assessment report, subsequent test excavations on the PAD were completed in July 2023, with no cultural Aboriginal objects identified within the test pits excavated. Although quartz was noted to be present within the area, this was of very poor quality with regard to flaking and was unsuitable for knapping purposes. As a result, site CD-PAD-01 was confirmed to be an invalid site, and the site card updated with the AHIMS register to reflect this.

No other Aboriginal heritage constraints were identified for the study area as part of the assessment. A condition of consent to control the event of unexpected archaeological finds is recommended to be imposed as part of any approval.

The proposal is considered to satisfy the requirements of clause 5.10.

## 7.5 Essential services

- (a) **the supply of water** – There are two existing 30,000L rainwater tanks located on the site that serve the existing tourist cabins and will also be connected to the proposed community facility. One (1) 50,000L rainwater tank is proposed to be installed as part of the development adjacent to the existing rainwater tanks, plus another 10,000L capacity tank adjacent to proposed building 3.
- (b) **the supply of electricity** – Electricity connections are existing on site. Electricity infrastructure will be augmented to connect to the proposed development as part of the construction works.
- (c) **the disposal and management of sewage** – There is an existing on-site effluent system located on the site that serves the existing tourist cabins and public amenities. This system consists of a pumping station and rising main with capacity to handle 29,200L/d. The system includes a 10,000L precast concrete well with cast in gas tight manhole covers, dual pumps for redundancy, a float switch alarm and 5000L of emergency surge volume. The rising main connects to 4 x 27m Ecomax absorption trenches, which are designed to accommodate a peak load of 17400L/d. This system was installed in 2004 and has functioned to date without issue.

The system was designed with additional capacity to that required at the time to allow for growth in the “Aquatic Recreation Area”. The design also included an option for future stages to expand the capacity of the absorption trenches to 29,200L/d by adding an additional 2 trenches at the current location. The location of the absorption trenches is 220m west of the edge (high water mark) of Ben Chifley Dam.

This system currently operates at a maximum of 63% of its current capacity during peak usage times, with an average usage during summer being 26%. The maximum calculated load for the proposed facility is equal to 26% of the current system capacity based on an event or function coinciding with the residency operating. If the peak use for the new facility coincides with peak use for the existing infrastructure, the combined peak maximum load is 90% of the current system capacity. The on-site effluent system is therefore sufficient to service the proposed development without augmentation.

- (d) **stormwater drainage or on-site conservation** – Stormwater from the proposed development is proposed to be conserved on site for water supply.
- (e) **suitable vehicular access** – The subject site has direct access to Chifley Dam Road, with a new internal access road to the proposed development site proposed.

The proposal is considered to satisfy the requirements of Clause 7.5.

#### **7.14 Drinking Water Catchments**

The subject land is identified on the Drinking Water Catchment map. The proposed development is located approximately 100m west of the Chifley Dam foreshore.

Given the nature of the proposed development, the type of chemicals likely to be stored and disposed of are household in nature, and able to be utilized in an on-site effluent disposal system.

With regard to solid waste generated at the proposed facility, the Council operated garbage service currently services the existing facilities located on the site on an as-required basis. This arrangement is proposed to continue as indicated in the Plan of Management. There is considered to be sufficient capacity within the bins proposed to be provided for this facility and unforeseen spillover can be accommodated by the other bins located around the precinct.

As detailed under Clause 7.5 above, the existing on-site effluent disposal system has capacity exceeding the maximum load of all development currently connected and proposed to be connected to the system. There is also design capacity to expand the existing system if that is considered to be required in the future. The absorption trenches for the system are located 220m west of the high-water mark of Ben Chifley Dam.

The above measures are considered to appropriately minimize or mitigate the impacts of the development on the drinking water catchment. The proposal is considered to satisfy the requirements of Clause 7.14.

***(a)(ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)***

None applicable.

**(a)(iii) the provisions of any development control plan**

**Bathurst Regional Development Control Plan 2014**

**Chapter 6 – Rural and Rural Lifestyle Development**

Standard	Comment
6.2 Siting	<p>The subject land is identified as containing high or moderate biodiversity sensitivity. The proposal complies with the requirements of this part as follows:</p> <ul style="list-style-type: none"><li>• Key existing natural features are shown on the site plan;</li><li>• Proposed buildings are considered to be sited so as to have minimal disturbance to the existing native habitat and existing tree cover. One tree is proposed to be removed, with the other 14 in the vicinity of the proposed development site to be retained.</li></ul>
6.3 Access, entrances and fencing	<p>The proposal complies with the requirements of this part as follows:</p> <ul style="list-style-type: none"><li>• The proposed property access from Chifley Dam Road is not located within 20m of an intersection.</li><li>• The entrance is set back a minimum of 10m from the boundary of the subject land to Chifley Dam Road in accordance with Council's Guideline to Engineering Works.</li><li>• Standard conditions of consent will be imposed to ensure that the entrance is constructed to Council's standards.</li><li>• No fencing is proposed as part of the development. Standard conditions of consent will be imposed to ensure that any fencing installed at a later date is rural in character and fauna friendly.</li><li>• Conditions of consent will be imposed to ensure that the property access road complies with Council's guidelines</li></ul>
6.4 On site effluent disposal	<p>The community facility is proposed to be connected to the existing on-site sewage management system located on the site. As discussed under Clause 7.5 above, the existing system has capacity exceeding the requirements to support this proposed development. The proposal is considered to comply with the requirements of this part.</p>
6.5 Water supply requirements	<p>The proposal complies with the requirements of this part as follows:</p> <ul style="list-style-type: none"><li>• A combined total of 60,000L capacity rainwater tanks are proposed to be installed to support the development in addition to the existing 60,000L capacity rainwater tanks which supply the existing tourist cabins located on the site.</li></ul>
6.6 Building form and design	<p>The proposal complies with the requirements of this part as follows:</p> <ul style="list-style-type: none"><li>• The proposed materials consist of powdercoated metals, fibre cement cladding, concrete and sandstone blocks. The proposed colour scheme consists of earthy tones as well as reds, blues and yellows. These are considered to be sympathetic to the natural environment and consistent with the rural character of the area.</li><li>• The height of the proposed buildings is considered to relate to the topography of the land and is not considered to be excessive in bulk or scale.</li><li>• The proposed development will not adversely impact the visual amenity from other significant locations in the region.</li></ul>

## Chapter 9 – Environmental Considerations

Standard	Comment
9.2 Land Resources	The subject site is not identified on DCP Map 29. No further assessment is required.
9.3 Riparian land and waterways	The subject land is not identified as a sensitive waterway, and the proposed development is located in excess of 40m from an identified sensitive waterway.
9.4 Biodiversity	<p>Sections of the subject land are identified as containing high biodiversity sensitivity. A summary of ecological constraints and vegetation assessment was submitted as part of the development application, which indicates that the proposed development, whilst it will impact approximately 3370m<sup>2</sup> of Critically Endangered Ecological Community.</p> <p>The vegetation assessment states that <i>“the small size of the development and low quality of the groundcover means the proposal is not expected to result in a significant impact to the community, in the context of surrounding similar woodland to be retained”</i>.</p> <p>Management and mitigation measures recommended in the Summary of Ecological Constraints will be imposed as conditions of consent to ensure appropriate management of the site during construction and use once completed.</p>
9.5 Groundwater	<p>The land is identified as having high or moderately high groundwater vulnerability.</p> <p>As the on-site effluent disposal system is existing and does not require augmentation to facilitate the proposed development, no further assessment under this part is required.</p>
9.6 Flooding	The land is not identified as flood prone.
9.7 Bushfire prone land	The land is not identified as bushfire prone.
9.8 Flora and fauna surveys	<p>A Summary of Ecological Constraints was submitted as part of this development application in accordance with this part.</p> <p>Management and mitigation measures recommended in the Summary of Ecological Constraints will be imposed as conditions of consent to ensure appropriate management of the site during construction and use once completed.</p>
9.9 Sustainable building design and energy efficiency	A Section J Compliance report prepared by Marline was submitted as part of the development application, demonstrating compliance with the energy efficiency requirements. The proposal is considered to satisfy the requirements of this part.
9.10 Vegetation Management and Biodiversity	<p>One tree is proposed to be removed and approximately 3370m<sup>2</sup> of Critically Endangered Ecological Community will be disturbed to facilitate this development. The proposal satisfies the requirements of this part as follows:</p> <ul style="list-style-type: none"> <li>• A vegetation assessment, summary of ecological constraints and an arborist report have been provided as supporting documentation as part of this development application.</li> <li>• The clearing associated with the proposed development does not exceed the Biodiversity Offsets Scheme threshold.</li> </ul>



	<ul style="list-style-type: none"> <li>• The impact on biodiversity is considered to be appropriately quantified in accordance with the requirements of this part and the impacts are considered to be acceptable.</li> <li>• Mitigation measures recommended in the summary of ecological constraints report are recommended to be imposed as conditions of consent.</li> </ul>
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#### Chapter 14 – Parking

Standard	Comment
14.3 Car parking	<p>1 car parking space per 50m<sup>2</sup> is required in accordance with this part. The combined GFA of the three main buildings forming the community facility is 552m<sup>2</sup>, and therefore 11 car parking spaces are required for the proposed development. As the accommodation cabins are ancillary to the community facility and will not be utilised separately to the community facility, these have not been included in the calculations. The development provides 12 car parking spaces, which complies with the requirements of this part.</p> <p>Further, facilities for bus parking and manoeuvring are proposed as part of the development which will increase the transport options for the facility.</p>
14.4 Bicycle parking	There is sufficient space on site to allow for bicycle parking. It is however noted that due to the location of the facility, being 22km from Bathurst, it is unlikely that users of the facility will travel by bicycle. Shower and changing facilities are provided in each of the facility buildings.

#### Chapter 15 – Crime Prevention Through Environmental Design

A CPTED assessment completed by The Design Partnership was submitted as part of the supporting documentation for the development application. The proposed development is considered to apply the principles of CPTED in the design. The recommendations made in this report are recommended to be imposed as conditions of consent.

#### Chapter 16 – Earthworks

Standard	Comment
16.2 Soil and water management	The proposed development will result in disturbance area of 3370m <sup>2</sup> . A standard condition of consent requiring a soil and water management plan is recommended to be imposed in accordance with this part.

***(a)(iia) the provisions of 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***

None applicable.

**(a)(iv)the regulations (to the extent that they prescribe matters for the purposes of this paragraph)**

The *Environmental Planning and Assessment Regulation, 2021* prescribes several matters that are addressed in this report and the Draft Conditions attached to the report.

**Demolition of the building (clause 61 EPAR 2021)**

**61 Additional matters that consent authority must consider**

- (1) *In determining a development application for the demolition of a building, the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures.*

Not applicable.

**Upgrading of the building (clause 64 EPAR 2021)**

**64 Consent authority may require upgrade of buildings**

- (1) *This section applies to the determination of a development application that involves the rebuilding or alteration of an existing building if—*
- (a) *the proposed building work and previous building work together represent more than half of the total volume of the building, or*
  - (b) *the measures contained in the building are inadequate—*
    - (i) *to protect persons using the building, if there is a fire, or*
    - (ii) *to facilitate the safe egress of persons using the building from the building, if there is a fire, or*
    - (iii) *to restrict the spread of fire from the building to other buildings nearby.*
- (2) *The consent authority must consider whether it is appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.*
- (3) *In this section—*  
**previous building work** *means building work completed or authorised within the previous 3 years.*  
**total volume of a building** *means the volume of the building before the previous building work commenced and measured over the building's roof and external walls.*

Not applicable.

- (b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

**Design**

The design of the proposed community facility is considered to appropriately respond to the rural landscape in which it is proposed to be sited. The three separate community facility buildings of varying height joined by a central welcome garden and the additional cabin buildings are considered to be sympathetic to the rural locality and the natural environment, minimizing the disturbance to the landscape as far as practicable.

### **Solar Access**

The proposed community facility buildings are orientated to the north, maximizing solar access and appropriately separated to avoid overshadowing. The proposed cabins are orientated to the north-east, also maximizing solar access.

### **Views (to and from the surrounding land)**

The proposed community facility will be visible from adjoining land to the north. Given the topography of the land in this location and the adjoining land across the dam, the views are not considered to be significantly adversely affected as they are distant. The community facility is set into the side of the hill and will not protrude above the ridgeline.

### **Potential overshadowing of the surrounding land**

Not applicable.

### **Privacy of surrounding land**

Not applicable.

### **Potential for noise transmission to the surrounding land**

While some noise will be generated during the construction phases, conditions will be imposed to ensure that such work is undertaken during standard work hours (between 7.00 am and 8.00 pm on weekdays and 8.00 am and 8.00 pm on weekends and public holidays).

### **Streetscape/Visual Impact Landscape or scenic quality**

The proposed community facility has been designed to be set into the landscape and not protrude above the ridgeline of the hills in the locality. Views of the facility will be distant. The proposed development is not considered to cause significant adverse scenic quality impacts on the locality.

### **Landscaping**

The proposed landscaping is an integral feature of the development, with a central welcome garden being a focal point of the development, in addition to the existing trees and grasslands in which the development is set. The proposed landscaping will consist of all native species.

### **Compatibility with adjoining and surrounding land uses**

The proposed community facility is located on Council owned land. The site was selected as the vision of the facility is to encourage the development of the creative arts deriving inspiration from the natural landscape. The proposed community facility is considered to be compatible with the other existing community uses of the land, being public recreation uses.

### **Safety, Security and Crime**

The proposed development is considered to be acceptable in relation to safety, security and crime. Recommendations from the CPTED assessment completed for the proposal are recommended to be imposed as conditions of consent.

### **Fencing**

No fencing is proposed as part of this development.

### **Drainage**

The landscape naturally drains to Chifley Dam to the north-east of the development site. Stormwater is proposed to be conserved on site for water supply. Standard conditions of consent will be imposed regarding the disposal of excess stormwater

### **Site Access**

Access to the subject land is existing via Chifley Dam Road. The existing internal access road is proposed to be formalized and upgraded as part of the proposed development. Standard conditions of consent will be imposed to ensure that the upgrades are in accordance with Council's Guideline for Engineering works.

### **Parking / Maneuvering Areas**

12 car parking spaces are proposed to be provided in accordance with Council's DCP requirements. Parking and maneuvering areas for buses is also proposed to be provided to support the development. These arrangements are considered to be satisfactory for the development.

### **Traffic Generation**

The proposed facility has a maximum capacity of 60 people when the existing tourist cabin accommodation is used to support the proposed community facility development. The traffic generated from the proposal is not likely to be substantial to the locality given the function of the facility as a place to stay whilst working on creative projects, thereby limiting traffic movements to and from the site during the duration of a stay.

### **Potential lighting impacts on night sky**

A condition will be imposed to ensure that any exterior lighting is installed in accordance with AS 4282 *Control of the Obtrusive Effects of Outdoor Lighting*.

### **Aboriginal Heritage**

The subject site is identified as being of High Sensitivity under the Bathurst Regional Local Government Area Aboriginal Heritage Study. No Aboriginal sites or places have been identified on or in the vicinity of the subject site, as the previously identified PAD site has since been further investigated and was concluded to be incorrectly identified. A condition

will be imposed in relation to the preparation of an Unexpected Finds Protocol addressing both Aboriginal and European archaeology.

### **Environmental Impacts including Flora and Fauna**

The proposed development will impact on 3370m<sup>2</sup> of Critically Endangered Ecological Community. This has been identified as low-quality groundcover, and the proposal is not expected to result in a significant impact to the community. The proposed development is not likely to significantly adversely impact on flora and fauna species. The impact is considered to be acceptable in the context.

### **Erosion & Sediment Control**

A condition will be imposed to ensure that appropriate erosion and sediment control measures are implemented. It is acknowledged that there will be minimal natural ground disturbance involved in the proposal.

### **Social Impacts**

The provision of a community facility that focusses on supporting the creative arts is considered to be a positive social impact.

### **Economic Impacts**

The provision of a community facility that focusses on supporting the creative arts will have a positive economic benefit on Bathurst.

### **Pollution / Trade Waste**

Given that the proposed works include the installation of a commercial kitchen, conditions will be imposed to ensure that appropriate trade waste treatment equipment is installed and that a Trade Waste approval is obtained from Council.

#### ***(c) the suitability of the site for the development***

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development as it is a proposed community facility located on public land, and is a facility proposed to support the creation of creative arts whilst drawing inspiration from the natural landscape.

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

No submissions were received.

#### ***(e) the public interest***

The public interest is served through the detailed assessment of this DA under the *Environmental Planning and Assessment Act, 1979*, the *Environmental Planning and Assessment Regulation, 2021*, environmental planning instruments, development control

plans and policies. Based on the assessment, the development is consistent with the public interest.

## **EXTERNAL REFERRALS**

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No external referrals were required.

## **FINANCIAL IMPLICATIONS**

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Partial funding for the project amounting to \$4,780,489 has been obtained via a Creative Capital Grant provided by Create NSW.

An application for a Growing Regions grant has been submitted and is currently being assessed.

In the interim, Council has contributed \$2,175,000 in kind to the BARN development, by providing the land for the development and access to the existing Chifley Cabins as an additional source of accommodation for larger groups.

There has been no monetary contribution required from Council and at this stage it's anticipated that no monetary contribution will be required to complete the project.

## **CONCLUSION**

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The DA has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979* and all relevant instruments, plans and policies. The DA is recommended for approval subject to the conditions attached to this report.

## **RECOMMENDATION**

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That the Western Regional Planning Panel determine DA 2023/273 for a community facility at Chifley Dam Road, The Lagoon pursuant to Section 4.16 of the *Environmental Planning and Assessment Act, 1979*, by granting consent subject to the conditions attached to this report.