



L.G.A.: WAGGA WAGGA	Scale: 1:2500 (A3) 1:1000 (DWG)	LOT 3 DP 834863 FOR: CAMERON ARTHUR DOONER	<div data-bbox="1249 1437 1361 1509">WS</div> <div data-bbox="1382 1430 1883 1533">WAGGA SURVEYORS PTY LTD CONSULTANTS IN SURVEYING, PLANNING AND DEVELOPMENT ACN 655 432 205 33 Blake Street, Wagga Wagga, N.S.W. 2650 Phone: 02 6931 7099 P.O. Box 5497 Wagga Wagga, N.S.W. 2650 Email: admin@waggasurveyors.com.au</div>	Date: 05/02/2024
Locality: MAXWELL	Datum: N/A Origin:			Reference: 23336

Statement of Environmental Effects

922 O'Briens Creek Road Maxwell

Use of Existing Farm Building for Farm
Experience Premises (Functions)

19 February 2024



CAMILLA ROCKS
Town Planner

This Statement of Environmental Effects has been prepared by Camilla Rocks, on behalf of the proponents for the development of 922 O'Briens Creek Road Maxwell.

Material is provided for the assessment of a Development Application only. If material is required for any other use, the user is to contact Camilla Rocks for permission.

Camilla Rocks

camilla@camillarocks.com.au

www.camillarocks.com.au

0419-405-236

Version	Amendments	Date
1	Draft issued to client for review	11.12.23
1.1	Minor corrections	19.02.24

© Camilla Rocks

Contents

1	Introduction	4
1.1	Overview of the Proposal.....	4
1.2	Property Description and Site Analysis	4
1.3	Supporting Documentation.....	7
2	The Proposal	7
2.1	Proposed Development	7
3	Assessment of the Development	10
3.1	NSW Environmental Planning and Assessment Act, 1979.....	10
3.2	Liquor Act 2007	11
3.3	State Environmental Planning Policy – Exempt and Complying Development.....	11
3.3.1	Part 2 Exempt Development Codes.....	11
3.3.2	Part 9 Agritourism and Farm Stay Accommodation Code	11
3.4	State Environmental Planning Policy No. 55 – Remediation of Land	12
3.1	State Environmental Planning Policy (Biodiversity and Conservation) 2021	12
3.1.1	Chapter 3 Koala habitat protection 2020	12
3.2	State Environmental Planning Policy (Primary Production) 2021.....	12
3.3	State Environmental Planning Policy 64 – Advertising and Signage	12
3.1	Wagga Wagga Local Environmental Plan 2010	12
3.1.1	Part 1 Preliminary.....	12
3.1.2	Part 2 Permitted or Prohibited Development	12
3.1.3	Part 3 Exempt and Complying Development.....	15
3.1.4	Part 4 Principal Development Standards.....	15
3.1.5	Part 5 Miscellaneous Provisions	15
3.1.6	Part 6 Urban Release Areas.....	15
3.1.7	Part 7 Additional Local Provisions	15
3.2	Wagga Wagga Development Control Plan 2010	17
3.2.1	Section 1 – General	17
3.2.2	Section 2 – Controls That Apply to All Development.....	17
3.2.3	Section 3 Heritage	21
3.2.4	Section 4 Environmental Hazards and Management	21
3.2.5	Section 5 Natural Resource and Landscape Management	22
3.2.6	Section 8 Rural Development.....	23
4	Assessment of Environmental Impacts	25
4.1	Transport, Access and Parking	25
4.1.1	Entrance	25

4.1.2	Change in Traffic Movements	25
4.1.3	Car parking	25
4.1.4	Accessibility	26
4.2	Noise	26
4.3	Waste	26
4.4	Odour	27
4.5	Social and Economic Impact.....	27
4.6	Physical and Chemical Impacts	27
4.7	Biological Impacts	27
4.8	Environmental Hazards	27
4.9	Heritage	27
4.10	Safety and Security.....	28
5	Conclusion.....	28

1 Introduction

1.1 Overview of the Proposal

This Statement of Environmental Effects (SEE) has been prepared by Camilla Rocks on behalf of the proponent to accompany a Development Application (DA) for the site located at 922 O'Briens Creek Road, Maxwell (the subject site). The DA has been prepared under Part 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act) for submission to Coolamon Shire Council (Council).

The proposed development seeks the use of the existing building on the site for farm experience premises for the purpose of events. A detailed description of the development is included in Section 2 of this report.

This application is not Integrated Development. A development application was required because the site is identified as being environmentally sensitive.

1.2 Property Description and Site Analysis

The subject site is located at 922 O'Briens Creek Road, Maxwell and is legally described as Lots 90 and 115 DP 754565 and Lot 3 DP 834863. It is located on the northern side of O'Briens Creek Road, with the entrance approximately 3.1km east of Holbrook Road. It is in the locality of Maxwell and within the boundaries of Wagga Wagga City Council as identified in Figure 1 below.



Figure 1 Identification of the site (Source: SIXmaps)

The site hosts a dwelling, machinery shed, shearing shed, silos and water tanks, and a number of dams. The site is undulating and there are a large number of creeks and intermittent watercourses flowing through the site. The southern and western sections are largely cropped, as illustrated in Figure 2 and the remainder is grazed. Vegetation is limited to the gullies, concentrated in the northern portion of the site.

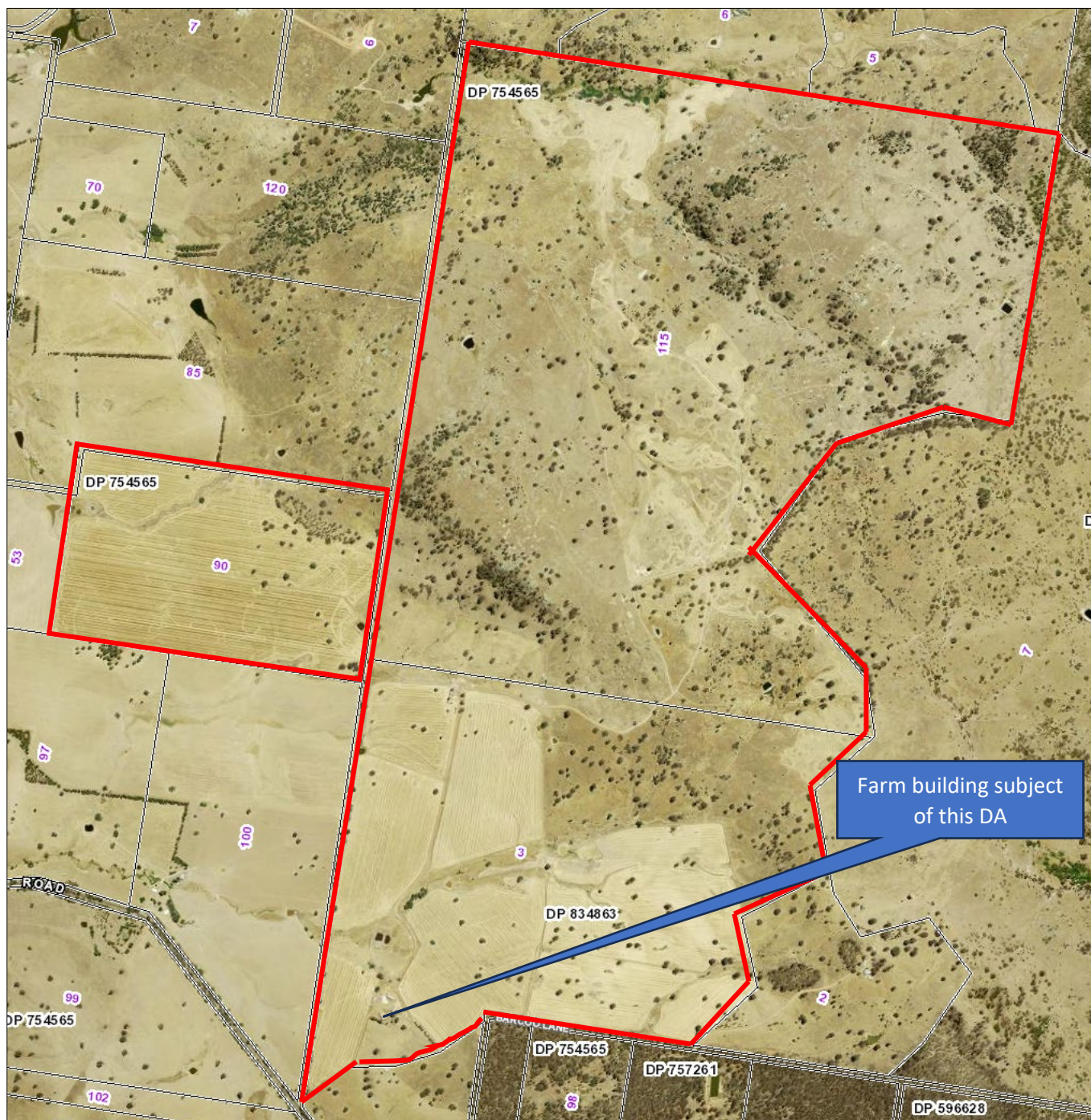


Figure 2 Aerial view of the subject site (Source: SIXmaps)

The site is situated approximately 3km off Holbrook Road. Land adjoining the site in all directions is agricultural land.

The subject lot has an area of approximately 706 hectares, with minimal frontage to O'Briens Creek Road.

The site is noted as being bushfire prone and is not flood prone.

1.3 Supporting Documentation

- Site Plan, prepared by Wagga Surveyors
- Statement of Environmental Effects, prepared by Camilla Rocks

2 The Proposal

2.1 Proposed Development

This application seeks approval to use an existing farm building for a farm experience premises. A parking area and landscaping are also proposed. The building is approximately 7500mm x 25000mm in size (approx. 192m²), and is a farm building with 3 enclosed sides and one open side (north-eastern elevation). It is open plan, with the entrance on the north-eastern side, through newly installed doors. It is approximately 5500mm high, with a skillion roof and painted external metal cladding.

The proposed development is for the site to be used for events (the relevant land use being a farm experience premises, as defined in the WWLEP Dictionary), with a limited number of events per year.

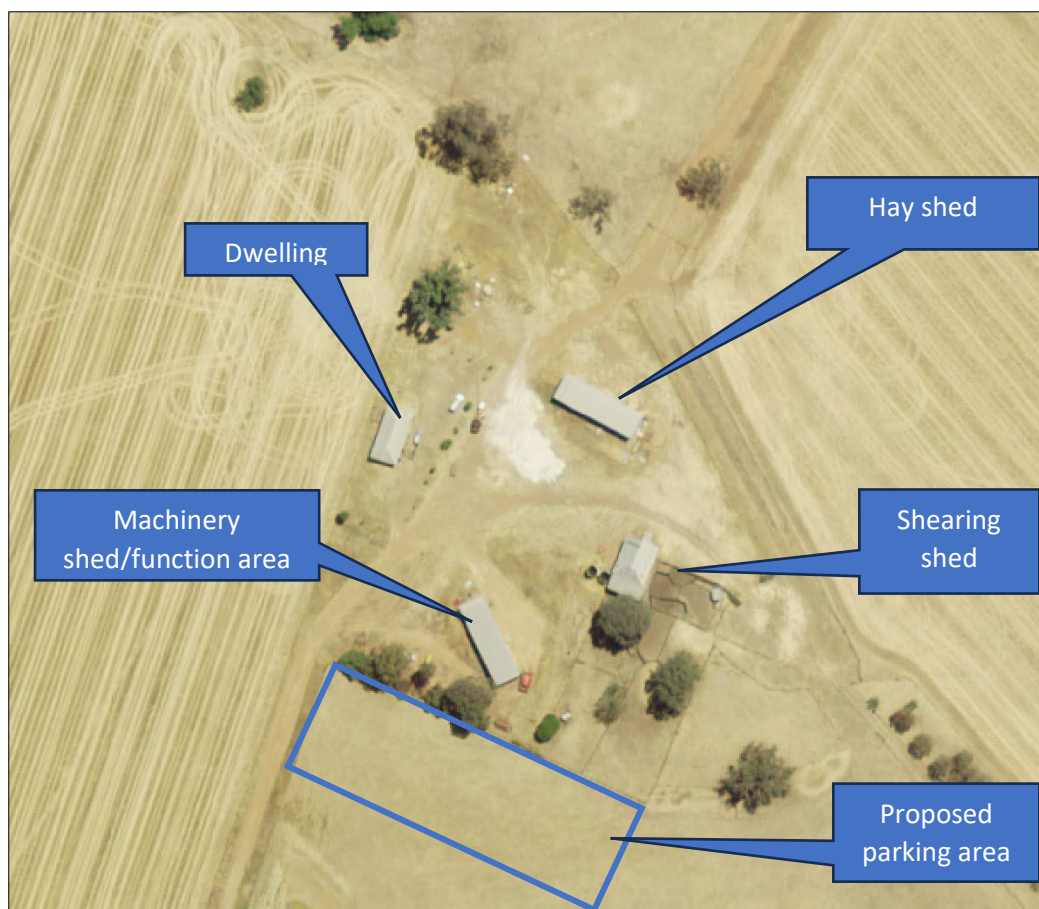


Figure 3 Buildings on the site



Figure 4 View of machinery shed from entrance drive



Figure 5 North-eastern elevation of existing shed

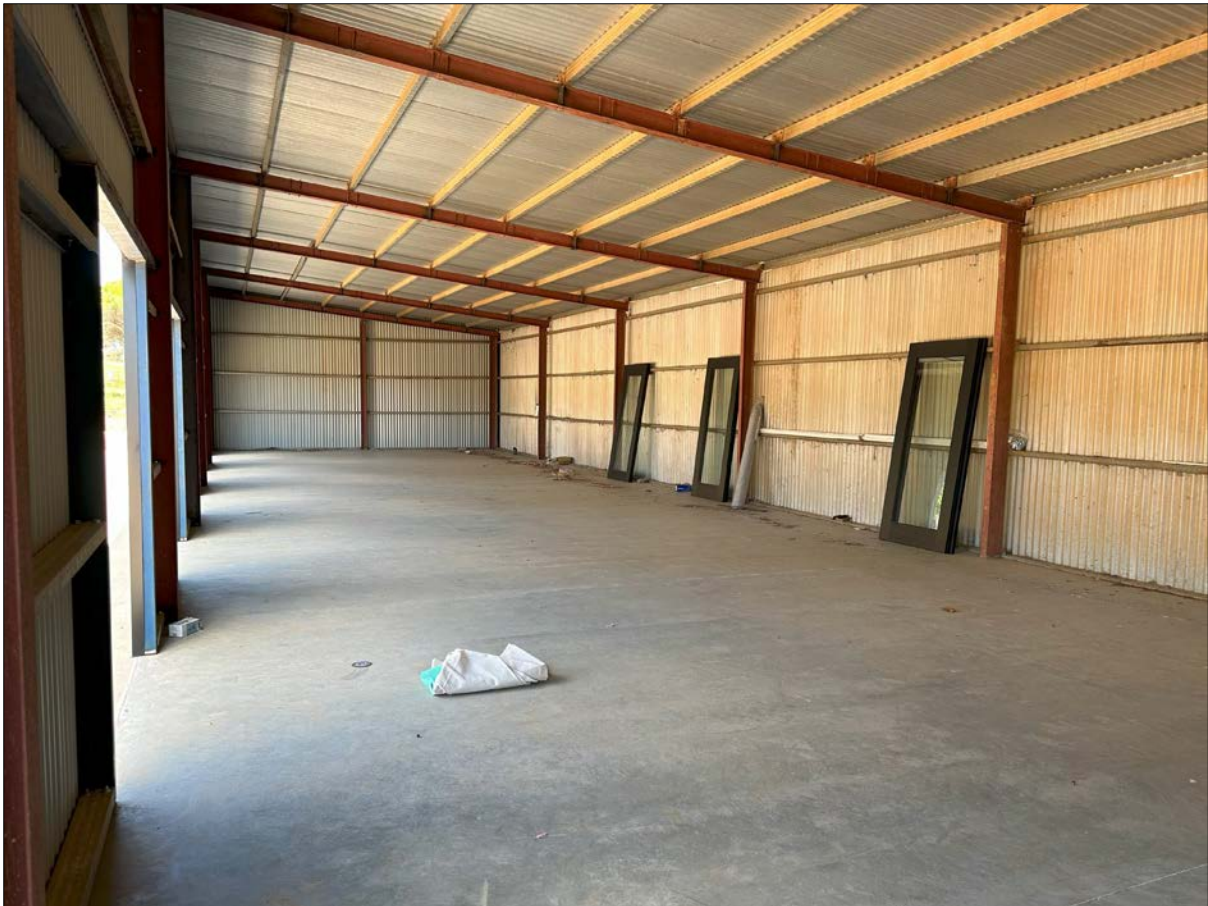


Figure 6 Interior of shed

Works are proposed to include:

- ♦ Grading and compaction of parking area and paths
- ♦ Installation of doors in functions building
- ♦ Landscaping of the forecourt area
- ♦ Connection of power to building

Works already undertaken are a structural engineer check of the building, painting of external cladding, new concrete apron and new rainwater tank.

The proponent seeks to host events on the site within the building. Events would be held throughout the year. Outside these times, the site will continue to be farmed. Events will be timed around sowing and harvest. Capacity would be capped at 150 people, and hours limited, in recognition of the close vicinity of dwellings.

Events are proposed to be held as follows:

- 1) No more than 30 events to be held each year, with the following conditions:
 - a. Monday – Thursday close by 10pm
 - b. Friday – Saturday close by 12am
 - c. Sunday close by 8pm
 - d. Expected functions are private events, with a focus on weddings, and corporate functions.

Events will involve the setting up of chairs and tables in the building and the installation of transportable toilet facilities. Caterers will supply food and drinks for events at the site and will be fully self contained. There are no kitchen facilities supplied at the site.

Event organisers will supply entertainment, which may be a live soloist or band or musical ensemble, recorded music or DJ.

Water will be supplied from existing rainwater tanks that collect roofwater from the existing buildings.

Power will be connected to the shed from the existing grid supply.

Toilets and wash up facilities will be hired for events and will be self contained. There will be no requirement for an onsite sewage management system as toilets will be collected by the hiring company at the conclusion of events. The complying development conditions for farm experience premises do not contain any conditions in relation to the provision of toilet facilities, even though the NCC provides a minimum standard for 9b buildings. This recognises the intermittent use of the site for functions, as an ancillary use to the agricultural use of the land.

The building and paths will be lit at night with all lighting extinguished at the end of the function.

Parking will be provided in the paddock south of the building, indicated in blue in Figure 3. Minor earthworks have been undertaken to smooth the access from the driveway to the paddock. Compaction will be undertaken to ensure all weather access. This area is approximately 32m x 97m and will accommodate a minimum of 90 parking spaces if vehicles park in rows along the longest boundary, with 6m aisles.

The site will be managed by the property owner through a dedicated website, with contact, chat and booking functions. Complaints will also be managed through the website.

3 Assessment of the Development

This section provides our assessment of the proposed development against the relevant matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following plans are applicable to the proposed development:

- ❖ Wagga Wagga Local Environmental Plan (WLEP) 2010
- ❖ Wagga Wagga Development Control Plan (WDGP) 2010

However other legislation and policy is referenced here for clarity.

3.1 NSW Environmental Planning and Assessment Act, 1979

The NSW Environmental Planning and Assessment Act 1979 (EP&A Act) provides the legislative framework for the preparation of State Environmental Planning Policies (SEPPs), Regional Environmental Plans (REPs), and Local Environmental Plans (LEPs). The latter includes the CLEP2011. An assessment against the relevant provisions of the WLEP 2010 is included within Section 3.5 below.

3.2 Liquor Act 2007

The proponent will not be providing or selling liquor and will not require a liquor licence. Any events that propose alcohol be sold and consumed will require that the organiser arranges their own appropriate liquor licence.

3.3 State Environmental Planning Policy – Exempt and Complying Development

Under the provisions of Clause 1.19(6) of the Codes SEPP, the site of the development is mapped biodiversity therefore complying development cannot be undertaken.

3.3.1 Part 2 Exempt Development Codes

Division 2 Advertising and Signage Exempt Development Code

The proponent intends to erect a business identification sign at the front gate to identify the premises for visitors. The sign will identify the property and be fixed to the front gate. Identification signage for agritourism is exempt development under the provisions of this code.

The following standards are specified for the development—

- (a) the development must not cause there to be more than 2 business identification signs facing a road frontage,
- (b) the sign must not be attached to a building that is a heritage item or draft heritage item,
- (c) the sign must be no more than 2m above ground level (existing),
- (d) the sign must have an area of no more than 2m²,
- (e) the sign must be constructed or installed in accordance with—
 - i. AS/NZS 1170.0:2002, *Structural design actions, Part 0: General principles*, and
 - ii. AS/NZS 1170.2:2021, *Structural design actions, Part 2: Wind actions*,
- (f) no more than 1 sign on a landholding may be illuminated,
- (g) an illuminated sign must—
 - i. have its means of illumination, including associated cables, concealed or integrated within the frame of the sign, and
 - ii. not be animated, flashing or moving, and
 - iii. comply with AS/NZS 4282:2019, *Control of the obtrusive effects of outdoor lighting*, and
 - iv. only be illuminated—
 - 1. for a roadside stall—during the opening hours of the stall, or
 - 2. otherwise—between 7am and 10pm each day.

Although the details of the proposed signage have not yet been confirmed, the proponent will ensure that the sign will satisfy the above standards, or else submit a development application. Only 1 sign will be attached to the front gate. The sign will be no higher than the existing gate (1500mm) and the area will be significantly less than the surface area of the gate (4.5m²). There is no intent to illuminate the sign and the site has no heritage significance therefore it is expected that the sign will meet the exempt provisions.

3.3.2 Part 9 Agritourism and Farm Stay Accommodation Code

The erection of a building for farm experience premises is development that is specified for this Code. The proposed development, however, does not satisfy the standards for complying development and a development application to council is required.

3.4 State Environmental Planning Policy No. 55 – Remediation of Land

The information publicly available about former uses of the site indicates that the land was used for farming. This use is likely to have involved the use of herbicides and pesticides, however there is no evidence of dipping sites or other yards in the vicinity of the development. The proposal does not change the use of the site and it is expected to remain as a farm into the foreseeable future.

The site is not listed as contaminated land on Intramaps. There is no evidence of dumping of any materials. Likewise, there is no physical evidence of contamination of the site.

No further assessment of potential land contaminating activities is considered warranted. It is considered that Council can be satisfied that the site is not likely to be contaminated and is suitable in its current state for the proposed use.

3.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

3.1.1 Chapter 3 Koala habitat protection 2020

The land that is subject to this chapter of the SEPP as is it greater than 1 hectare. We understand that the land is not koala habitat or potential koala habitat and it is largely cleared, along with the neighbouring land.

3.2 State Environmental Planning Policy (Primary Production) 2021

This policy applies to the State however there are no provisions relevant to the subject development.

3.3 State Environmental Planning Policy 64 – Advertising and Signage

This policy excludes building and business identification signage, which is the only signage proposed as part of this application therefore the policy does not apply to this development proposal.

3.1 Wagga Wagga Local Environmental Plan 2010

Only clauses relevant to the proposed development have been addressed in this report.

3.1.1 Part 1 Preliminary

This section confirms that the subject site falls under the provisions of this plan and provides administrative information for the application of the WLEP.

3.1.2 Part 2 Permitted or Prohibited Development

The development as proposed would be defined as **farm experience premises**, which means a building or place—

- (a) on a commercial farm, and
- (b) ancillary to the farm, and
- (c) used to provide visitors to the farm, on a commercial basis, with small-scale and low-impact tourist or recreational activities, including the following, but not including motor sports—
 - i. horse riding,
 - ii. farm tours,
 - iii. functions or conferences,

- iv. farm field days.

Note—Farm experience premises are a type of agritourism.

Agritourism means the following—

- (a) farm gate premises,
- (b) farm experience premises.

Note—Agritourism is a type of **agriculture**.

Agriculture means any of the following—

- (aaa) agritourism,
- (a) aquaculture,
- (b) extensive agriculture,
- (c) intensive livestock agriculture,
- (d) intensive plant agriculture.

Land Use Table

3 Permitted with consent

Aquaculture; Artisan food and drink industries; Bed and breakfast accommodation; Cellar door premises; Dual occupancies; Dwelling houses; Extractive industries; Farm buildings; Farm stay accommodation; Hardware and building supplies; Home industries; Intensive livestock agriculture; Intensive plant agriculture; Markets; Open cut mining; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Timber yards; Any other development not specified in item 2 or 4

The proposed development meets the definition of farm experience premises because it is a building on a commercial farm that will be operated on a part time basis and ancillary to the agricultural activities that will provide visitors to the farm with small scale/low impact functions. As the land use falls under the definition of agritourism, which falls under the overarching definition of agriculture, it is permissible with consent in the zone.

The farm is commercially operated by the owner, with a mix of dryland cropping and grazing undertaken. The farm will continue to operate under existing arrangements. The farm is the main source of income for the owners, with anticipation that the farm experience premises will provide supplementary income.

3.1.2.1 Land Use Zone and Permissibility

According to the maps referenced in Part 2 of the WLEP, the site, 922 O'Briens Creek Road Maxwell is zoned RU1 – Primary Production and RU2 Rural Landscape. The lot subject of this application is zoned RU1.

Objectives of RU1 zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

- *To foster strong, sustainable rural community lifestyles.*
- *To maintain the rural landscape character of the land.*
- *To allow tourist and visitor accommodation only where it is in association with agricultural activities.*

Objectives of RU2 zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*

The proposed development is consistent with these objectives.

To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. The proposed development will not harm the natural resource base as it does not proposed extraction or water or other natural resources, does not propose the removal of vegetation and enables the existing sustainable primary industry on site to continue therefore the first objective is satisfied.

To encourage diversity in primary industry enterprises and systems appropriate for the area. The second objective encourages diversity in primary industry enterprises and this proposal does just that by temporarily using the site for events, providing an additional source of income for the owners without taking away from the existing agricultural use.

To minimise the fragmentation and alienation of resource lands. The proposal does not involve subdivision or other works that would fragment the agricultural land therefore the third objective is satisfied.

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

There will be management systems in place to protect the amenity of adjoining uses, in the RU1 and RU2 zones surrounding. The principal land use of the subject site, agriculture, will not change under the proposal. The new use is ancillary to that use. We do not anticipate conflict between the zones, given the management procedures proposed.

To encourage tourist and visitor accommodation that does not have an adverse impact on agricultural activities.

Not applicable, the application is not for accommodation.

To maintain the rural landscape character of the land.

The development site is not within the RU2 land however we note that the development utilises an existing farm building and proposes minor earthworks surrounding the building which will not be detrimental to the rural landscape. Landscaping will provide shade and enhance the site and a parking area will be graded.

To provide for a range of compatible land uses, including extensive agriculture.

The agritourism legislation encourages the use of agricultural land for ancillary and complementary farm experience uses. The scale of the development will ensure it is compatible with the adjoining land uses, which are all agricultural in nature.

3.1.3 Part 3 Exempt and Complying Development

The proposed work is not identified as exempt or complying development under the provisions of this section.

3.1.4 Part 4 Principal Development Standards

The Principal Development Standards in Part 4 of the WLEP are not applicable to the proposed development. There is no intent to vary any development standards.

3.1.5 Part 5 Miscellaneous Provisions

There are no provisions in this section that would be applicable to the proposed development or the subject site.

3.1.6 Part 6 Urban Release Areas

The subject site is not within an urban release area.

3.1.7 Part 7 Additional Local Provisions

3.1.7.1 *Clause 7.1A*

All earthworks are ancillary to the development and within exempt development limits. Earthworks are proposed to level an area adjacent to the building for parking.

3.1.7.2 *Clause 7.3 Biodiversity*

Parts of the site are identified as having biodiversity sensitivity. The site of the shed is one of the mapped areas. There is a row of trees to the south of the shed and it is deduced that the map is intended to protect this area however there are scaling issues that render the map inaccurate. The proposal is for the use of the shed for functions and there is no removal of trees or other vegetation in order to facilitate the development. There are no activities on the site that would detrimentally impact any habitat or community.

The development retains all native vegetation, protecting biological diversity of native flora and fauna. The shed will be used for functions on approximately 30 occasions per year, and does not involve activities that would threaten the continued existence of native flora and fauna. Activities are restricted to the internal area of the shed and ancillary activities such as vehicle movements, lighting and noise will be short term, temporary and intermittent.

3.1.7.3 *Clause 7.5 Riparian lands and waterways*

Part of the site is mapped as waterway, which is the areas of Little Sandy Creek, which runs through the site. The closest point of the creek to the subject development is approximately 214m to the north of the shed.

We do not anticipate any potential adverse impact on any of the following—

- water quality within the waterway,
- aquatic and riparian habitats and ecosystems,
- stability of the bed, shore and banks of the waterway,
- the free passage of fish and other aquatic organisms within or along the waterway,
- habitat of any threatened species, population or ecological community.

The proposed development is limited to the access driveway and use of the existing farm building. Visitors will not be permitted to go beyond the shed area and will not be close to the waterway. The proposed development does not include the extraction or discharge of water into the waterway, nor the use of any substances that would adversely impact the water quality. The development site is over 200m from the creek and does not proposed any structures in or near the creek. Any aquatic

organisms in the creek will continue to have free passage and there is not removal of riparian vegetation that might threaten habitat.

3.1.7.4 Clause 7.6 Groundwater vulnerability

Part of the site, along the aforementioned Little Sandy Creek, is mapped groundwater vulnerability. The development site is not identified as being in this area and the proposed use for farm experience premises is not a prescribed use for the purpose of this clause.

3.1.7.5 Clause 7.9 Primacy of Zone E2

The proposed development is for farm experience premises, which will not detract from the primacy of the Wagga Wagga CBD. Farm experience premises are an ancillary use to agriculture, which is not a permitted use in the E2 zone.

3.1.7.6 Clause 7.11 Airspace operations

The site is not identified as being within the ANEF contour. The proposal is to utilise the existing shed with no additional construction and the contour will not be breached.

3.2 Wagga Wagga Development Control Plan 2010

The WWDCP is addressed as follows:

WWDCP 2015 Chapter	Relevance to this proposed development
Part A	
Section 1 General	Relevant sections of the chapter are discussed below
Part B	
Section 2 – Controls That Apply to All Development	Relevant sections of the chapter are discussed below
Section 3 - Heritage	Relevant sections of the chapter are discussed below
Section 4 Environmental Hazards and Management	Relevant sections of the chapter are discussed below
Section 5 Natural Resource and Landscape Management	Relevant sections of the chapter are discussed below
Part C	
Section 6 - Villages	This chapter is not relevant to this proposal
Section 7 - Subdivision	This chapter is not relevant to this proposal
Section 8 – Rural Development	Relevant sections of the chapter are discussed below
Section 9 – Residential Development	This chapter is not relevant to this proposal
Section 10 – Business Development	This chapter is not relevant to this proposal
Section 11 – Industrial Development	Relevant sections of the chapter are discussed below
Section 12 – Specific Uses & Development	Relevant sections of the chapter are discussed below
Part E	
Section 13 – Bomen Urban Release Area	This chapter is not relevant to this proposal
Section 14 – Boorooma Urban Release Area	This chapter is not relevant to this proposal
Section 15 – Lloyd Urban Release Area	This chapter is not relevant to this proposal
Section 16 – Gobbagombalin Urban Release Area	This chapter is not relevant to this proposal

3.2.1 Section 1 – General

The proposal is consistent with the Guiding Principles outlined in this section. Farm experience premises are not listed in the notification table therefore notification and advertising will be at the discretion of council staff.

The proponent does not intend to vary any controls to permit approval of this application.

3.2.2 Section 2 – Controls That Apply to All Development

Vehicle Access and Movements

The proposal is for use of an existing farm building for temporary events and does not propose any amendment to the existing vehicle access from O'Briens Creek Road.

We do not consider that a Traffic Impact Study should be required due to the existing access road and small scale of the development. Visitors to the site will be in buses or limited single vehicles. Vehicles for events will be accommodated alongside the existing building as indicated.

The proposal is consistent with all the controls relating to vehicle access. The new parking will be compressed gravel topped with road base, in keeping with the rural character of the site. The large area of the site enables all vehicles to enter and leave in a forward direction. The site has sufficient area to enable any delivery vehicles to enter for loading and unloading of goods then depart in a forward direction. Deliveries will take place during normal business hours.



Figure 7 Existing access to the property



Figure 8 Internal access road with shed to left of photo

Off Street Parking

The proposal is generally consistent with the objectives. The existing driveway will not be altered under this proposal. The parking table does not address temporary events however, for function centres, requires 1 space per 10m² GFA or 1 space per 3 seats, whichever is greater. As the events area is approximately 191m², the appropriate number of spaces is 19. Most events would be arranged so that external visitors to the site are transported in a bus, to reduce traffic and the need for additional parking.

As indicated on the submitted plans, a parking area of 2619m² (97m x 27m) is to be provided on the site. In keeping with the rural setting, the proponents will place a small “Parking” sign to direct visitors to the area but otherwise leave the area informally laid out with compressed road base. There is a flat area adjacent to the shed that is suitable for guests with mobility issues to park or be dropped off/picked up.

Landscaping

The site around the shed is undergoing landscape treatment by the owners. An avenue of trees has been planted along the driveway, a low retaining wall has been installed around the shed and low water use plants have been planted on the slope.



Figure 9 Existing landscaping

Signage

A business identification sign is proposed as discussed in Part 3.3 of this report. The proposed signage design has not been finalised however the proponent has only proposed a business identification sign at the entrance to the site. The size of the sign will be finalised prior to the construction. None of the signage types that are prohibited are proposed for the site.

Safety and Security

The proposal is consistent with the objectives of this section. The site layout will clearly define entrance, parking and private areas, with appropriate internal wayfinding to guide visitors.

The development is not of a scale that would require a Crime Safety Assessment. The design does not create any potential areas of entrapment. It is noted that adjoining uses are rural. Lighting will be installed for safe navigation between the shed, parking and amenities area at night but is designed so as not to spill onto neighbouring properties.

Erosion and Sediment Control

Levelling and treatment of the car parking will be undertaken with sediment control to minimise loss of soil from the site.

3.2.3 Section 3 Heritage

The site is not within a heritage conservation area and there is no listed heritage item on site. There are 2 heritage items on the land adjoining the subject site.

Item I167 - Fleetwood and Almond Orchard and Item I168 - Little Sandy Creek Slab Cottage and Woolshed, are located at 1015 O'Briens Creek Road and have local significance.

The proposed development is within an existing farm building and there is no construction that would impact views to or from the items. There is no aspect to the proposed development that would adversely affect the heritage significance of either item.

3.2.4 Section 4 Environmental Hazards and Management

The site is bushfire prone. The development must satisfy the provisions of *Planning for Bush Fire Protection 2019* (PBP), as the relevant policy for building in bushfire prone areas. Under this guideline, the development would be classed as "other development", being a Class 10 – non-habitable structure with additional use as a Class 9 structure – public assembly building. Clause 8.3.2 of the PBP relates to Class 10 structures. There are no bush fire protection requirements for Class 10a buildings located more than 6m from a dwelling in bush fire prone areas.

The farm building is not listed as a Special Fire Protection Purpose under the provisions of the Rural Fires Act 1997 therefore does not require a bushfire safety authority however will be referred to the NSW RFS. As outlined earlier in this report, the development does not fall under the complying development provisions and a Development Application is required. Buildings used for public assembly with a floor space area of greater than 500m² are required to consider bush fire. The proposed development utilises an existing building that is under 200m² in size. Emergency management planning for the developments must account for the total number of occupants and be commensurate with the level of risk. The development must not experience radiant heat levels of greater than 10kW/m² on any part of the building. Due to the variation in risk associated with the occupants of assembly buildings, a variety of bush fire safety solutions may apply based on the merits of the situation.

The site is characterised by open, introduced pasture, with areas of planted trees and shrubs present around the existing dwelling and farm infrastructure. No classifiable vegetation type was recorded within the 140 metre assessment area, with an effective slope of Downslope 0 degrees to the south, east and west, and Upslope 0 to 5 degrees to the north. The assessment area also included low-threat vegetation that consists of slashed lawn, planted windbreaks, cultivated gardens, and non-vegetated areas.

Chapter 8 of PBP outlines the requirements for "other development". This states that in order to comply with PBP the development must:

- satisfy the aim and objectives of PBP outlined in Chapter 1;

- consider any issues listed for the specific purpose for the development set out in this chapter;
- and propose an appropriate combination of bushfire protection measures (BPMs).

The aim of PBP is to provide for the protection of human life and minimise impacts on property from the threat of bush fire, while having due regard to development potential, site characteristics and protection of the environment.

The objectives are to:

- *afford buildings and their occupants protection from exposure to a bush fire;*
- *provide for a defensible space to be located around buildings;*
- *provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent the likely fire spread to buildings;*
- *ensure that appropriate operational access and egress for emergency service personnel and occupants is available;*
- *provide for ongoing management and maintenance of BPMs;*
- *and ensure that utility services are adequate to meet the needs of firefighters.*

The land around the subject site in all directions is agricultural land (dryland cropping). As the proposal is for the use of an existing farm building for events, it is not considered that the development would physically increase the bushfire risk to the site. As the shed is located more than 6 metres away from the house, there are no construction requirements for bush fire protection.

The existing road network and driveway into the site would provide appropriate access and egress for emergency service personnel and occupants. There is an adequate water supply to the site with the existing water tanks and a dedicated fire fighting supply, along with 3 x 10MG dams within 350m from the site. Given the above, we consider that the development will satisfy the aims and objectives of the PBP.

Furthermore, it is important that a defensible space is provided for the size and scale of the development. The building is within the house paddock, which is serviced by a compressed gravel road and forecourt area, providing adequate defensible space. There is sparse vegetation within 140m from the building.

The site is not identified as flood prone.

3.2.5 Section 5 Natural Resource and Landscape Management

The subject site is mapped as a sensitive area and the issue has been addressed in the LEP section of this report. The sensitive areas relate to vegetation that is within the development area but will not be pruned or removed. The proposed use will not contribute to groundwater contamination, loss of habitat or impacts on the waterways in the vicinity.

3.2.6 Section 8 Rural Development

The proposed development will achieve both aims of providing a distinct destination for visitors and we expect that the unique attributes of the proposed farm experience premises will attract visitors to attend functions on the site.

The present use of the land is for extensive agriculture and that use will continue, with the farm experience premises an ancillary use. There is no requirement to remove native vegetation to facilitate the development. It is not close to a natural watercourse and the building will not require any activities that would adversely impact water courses or water storage on the farm. The development will not hinder the future recovery of extractive materials, should they be found on the site, as it can easily be dismantled or converted to another use.

The site is not noted as having high scenic or recreational value and does not have Aboriginal or non-Aboriginal heritage significance.

C1 Uses are to be compatible with the character of the locality in terms of buildings, structures and the nature of operations.

The use will be undertaken within an existing farm building, with minor landscaping and infrastructure works to support the use. The existing rural character will be maintained. The proposed use as farm experience premises is consistent with State legislation for ancillary uses to commercial farms and complies with all relevant standards for complying development, apart from the environmental sensitivity – biodiversity layer that precludes the development from using this planning pathway.

C2 Provide adequate buffer areas and setbacks to minimise potential conflicts with adjoining lawful land uses. Where there is potential for a conflict between land uses, priority will be given to the existing productive use.

The shed is in a central location on the farm and provides sufficient setback to adjoining land uses.

C3 Use landscaping and other screening options to help integrate new uses and developments into the rural landscape.

As the development makes use of an existing farm building, this control is not relevant.

C4 Uses must be capable of operating within capacities of available existing services.

Power is available to the site and can be extended to the shed without significant upgrade. Water is supplied from existing rainwater tanks. The existing road network and access driveway is suitable for the proposed use and will not require upgrading.

C5 Provide adequate facilities for additional traffic in terms of vehicle access and movements, parking areas, and loading and unloading of goods.

There is a central forecourt area available for delivery vehicles and the temporary installation of catering trucks. The paddock to the south of the shed is available for informal parking.

C6 In the case of larger projects Council may require the applicant to demonstrate that the roads in the locality are of satisfactory construction and condition to accommodate the size, weight and volume of vehicles that could be generated by the use, and that the local traffic conditions are suitable.

The development is not of a scale that would require an upgrade to roads.

C7 Provide satisfactory arrangements for storage and disposal of waste.

All waste will be collected on site and delivered to the Gregadoo Waste Transfer Station by the operator. Waste will be stored in lidded receptacles that will exclude rain, vermin and wind until removal.

4 Assessment of Environmental Impacts

4.1 Transport, Access and Parking

Aspects of the impact of the proposed development on transport, access and parking are addressed below:

4.1.1 Entrance

The main vehicular access to the site is from O'Briens Creek Road, in the far southern point of Lot 3. This will be retained as the main farm access. This section of the road is reasonably straight and site distances are good.



Figure 10 Sightlines to north-west and south-east from existing entrance

4.1.2 Change in Traffic Movements

The proposed development is not expected to significantly increase traffic in the area generally however, there will be an increase in traffic on the maximum 30 occasions per year when there is an event and the bump in and bump out period either side.

The road to the subject site is generally low use and we do not anticipate safety concerns with use of the road during events. Patrons will be encouraged to use coach services where possible, in order to reduce the amount of traffic to the site.

4.1.3 Car parking

The WDCP specifies a parking rate for this land use requiring 19 spaces, including 1 accessible space. The NCC requires 1 accessible space per 50 parking spaces. Parking is proposed on the site in an informal arrangement. With dimensions of 97m x 27m, the site would conservatively accommodate 3 rows of 33 vehicles, with 2 aisles for circulation.

Based on a general requirement for function centres (the closest similar land use) of 1 space per 10m², this would far exceed requirements. Many functions will have the guests arrive by coach from surrounding towns, to reduce the amount of traffic and for guests' convenience. There is sufficient room on the site for a bus to enter and exit in a forward direction, with parking in the carpark area.

4.1.4 Accessibility

The existing building is accessible and generally in compliance with the NCC. Landscaping has been designed to provide graded paths suitable for ambulant and non-ambulant patrons.

4.2 Noise

We submit that up to 30 controlled events per year, with the majority being weddings capped at 150 people, can be managed so as not to create adverse impacts on adjoining properties. Noise is defined under the Protection of the Environment Operations Act 1997, and includes sound and vibration.

The Act defines "offensive noise" as noise:

"(a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances

(i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or

(ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or

(b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations."

The proponent has optimized the layout of the event site, with the building designed with openings oriented away from the residential buildings to the south and west. The solid walls will help attenuate sound levels.

Hours will be limited, with music ceasing and patrons directed away from the premises at the conclusion of each event. Music levels will be gradually reduced as it gets later, in order to reduce any adverse impacts. A good proportion of events will be daytime events, which are less likely to be a disturbance to residents in the vicinity as they will not affect sleeping hours.

The number of people is suggested as a maximum, with the majority of functions hosting less than 100 people.

The proponent has developed a management plan for the premises and this includes the provision of contact details to residents in the vicinity so that, in the event of noise they deem unacceptable, they can make contact with the owner who will then deal with the situation appropriately.

Furthermore, we note that the dwelling is close to the shed/event space and it will be in the proponent's interest to minimise noise impacts, given their proximity to the site.

4.3 Waste

The proponent will coordinate waste removal services. The site will be cleaned after every event and all waste removed by a private contractor.

4.4 Odour

The proposed use is not expected to increase odour in the vicinity. Bins containing surplus food will be removed at the end of each event to prevent the build up of odour.

4.5 Social and Economic Impact

Farm experience premises allow a farmer to provide small scale and low impact tourist and recreational activities and events on their farm. This allows visitors to experience farms and farm life through tours, school visits, retreats, weddings, conferences, horse riding and farm field days.

Rural events, especially weddings, have a far-reaching supply chain beyond just the hiring of a venue, that can add to the rural economy. This includes accommodation services, event services (such as photographers, stylists and transport), food and drink services, supporting services (gift shops, child minding) and facilities services (party hire).

4.6 Physical and Chemical Impacts

The proposal is not likely to impact on soil quality or land stability as there is minimal excavation and the land use is not expected to decrease soil quality.

The activity is not likely to affect any waterbody, watercourse, wetland or natural drainage system as stormwater will be collected in tanks and overflow will drain to the ground but will not contaminate receivers.

The proposal does not involve the use, storage, or transport of hazardous substances or the use or generation of chemicals, which may build up residues in the environment.

The proposal does not involve the generation or disposal of gaseous, liquid or solid wastes or emissions.

The works phase may involve the emission of dust, odours, noise, vibration in the proximity of the site however these will be short term and temporary and regulated under the conditions of consent. These impacts are not expected to occur following occupation.

4.7 Biological Impacts

The proposal does not require the clearing of native vegetation. Vegetation on the site will be retained.

4.8 Environmental Hazards

The subject site has been identified as being bushfire prone. The surrounding land is cropped and treated as grasslands under the PBP provisions. There is no vegetation surrounding the building, apart from the crops, which are controlled. There is a water supply in the form of water tanks and a dam in close proximity to the site and there is adequate access and egress for emergency service personnel and occupants.

A small portion of the site in the south-eastern corner is identified as being flood prone, however the access road, parking area and building area are located on a rise and well clear of the flood affected section.

4.9 Heritage

The subject site is not identified as a heritage item and is not within the heritage conservation area.

As addressed in this report, there are 2 heritage items adjacent to the site. The proposal does not entail construction of buildings and will utilise the existing shed for the purpose of functions. The development will have no impact on the heritage significance of the sites adjoining, due to the topography and that there is no construction that would impact views to or from the items.

4.10 Safety and Security

The building will be fitted with smoke alarms in accordance with the regulations. An external Emergency Assembly Point will be signposted.

The venue will be locked when not in use, with key access provided to hirers of the space. Private security may be provided by hirers if appropriate however it is not expected that this will be required for the types of events being sought for the site.

5 Conclusion

The proposal has been considered under the provisions of Section 4.15 of the EP&A Act and is considered acceptable and worthy of approval for the following reasons:

- ❖ The proposal is in keeping with surrounding development and will be managed to have minimal detrimental impact on surrounding amenity.
- ❖ The proposed development has been designed in accordance with the provisions of the WLEP 2010 and WDCP 2010.
- ❖ The proposal is in the public interest. The proposal will supplement the farm income and provide an appropriate use of the site.

Having considered all the relevant considerations under Section 4.15 of the EP&A Act 1979, we conclude that the proposal represents a positive outcome that would result in negligible negative environmental impacts. The proposed development should therefore be recommended for approval.

Response to Request for Additional Information

Property Address: 922 O'Briens Creek Road Maxwell

Development Proposal: Use of Existing Farm Building for Farm Experience Premises (Functions)

1 Council's Request

The development application DA 2024/0070 was submitted to Wagga Wagga City Council on 22 February 2024 and on 6 March, council responded with the following:

An initial review of the development application considers that the proposed development is a nominated prohibited land use under the Wagga Wagga LEP 2010. All land uses must be for a purpose. Whether a development is permitted (with or without consent) or prohibited will depend on the purpose for which the development is being carried out. The purpose of the development is to host weddings and this is the dominant use of the building. Based on the purpose of the use of the building the most accurate land use definition is a function centre. Function centres are specifically listed as prohibited in the RU1 zone. The function centre is not considered to be an ancillary land use as it is not subordinate or subservient to the dominant purpose. The function centre does not serve the primary production (dominant) purpose of the site, rather it is an independent use on the same land. Each land use must be permitted with consent on the land. Based on the above commentary it is recommended that the application be withdrawn.

The application was lodged following a preliminary discussion with one of council's senior planners where the approach to the development was outlined and confirmation sought that this would be an appropriate land use and approval pathway. The application was prepared with reference to the advice that the proposal was defined as farm experience premises therefore permissible with consent.

Whilst the focus will be on 10-15 weddings per year comprising outdoor and indoor ceremonies and receptions, the building lends itself to other events. Events may include but not be limited to:

- Indoor acoustic live music and dinner shows;
- Other corporate/community events and team building exercises;
- Workshops (yoga, clay, painting, writing, music, cooking, beauty, agriculture, craft days for seniors or school children, sculpture etc).

We do not wish to limit the kinds of activities that could occur at the site, within the limits of small-scale, low impact activities that allow visitors to experience the farm. We consider that the proposal is entirely in the spirit of the agritourism provisions and satisfies all the circumstances, aims and objectives. The development application was submitted so that the proponents could be flexible in the activities they offered on site, in particular with regard to the number of people permitted to attend and the hours of operation. The farm forms the central attraction to any of these activities, through the ambience, the views and the educational opportunities.

2 Function Centre vs Farm Experience Premises

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

The definition of function centre uses the examples of convention centres, exhibition centres and reception centres, which indicates large buildings with carparks, meeting rooms, audio-visual equipment, bathrooms, kitchens etc with permanent and constant use for the holding of events. This proposal is for the intermittent use of the existing farm shed, which does not have amenities such as a kitchen or toilets and is less than 200m² in area. All facilities need to be imported for each event. Unlike a conventional function centre that would host events most days of the week, the subject premises is intended to host 10-15 weddings per year and potentially an additional 10-15 other events that are not weddings. Although it could satisfy the definition, being a place used for the holding of events, it is better described as farm experience premises.

farm experience premises means a building or place—

- (a) on a commercial farm, and
- (b) ancillary to the farm, and
- (c) used to provide visitors to the farm, on a commercial basis, with small-scale and low-impact tourist or recreational activities, including the following, but not including motor sports—
 - (i) horse riding,
 - (ii) farm tours,
 - (iii) functions or conferences,
 - (iv) farm field days.

Note— Farm experience premises are a type of ***agritourism***—see the definition of that term in this Dictionary.

(Wagga Wagga Local Environment Plan 2010)

As outlined in the SEE submitted with the DA, the proposal satisfies the definition of farm experience premises because the building is on a commercial farm, the use will be ancillary to the farm and the building would be used to provide visitors small scale and low impact activities. The proponent has indicated the building would be used primarily for 10-15 weddings per year, with other activities that would fall within the definition such as a meeting place for community groups, a base for horse riding tours, especially for Riding for the Disabled with which the proponent has been corresponding, cultural events and the like. As the farm experience premises would be ancillary to the farm, its use will be limited in terms of the time the proponents can commit to planning and hosting activities. They do not intend for the management of the farm experience premises to be a full time occupation that would impact their management of the cropping and breeding activities. Coordinating successful events involves juggling multiple tasks and paying attention to countless details. The proponents are not professional event managers and intend only to hold events that are small scale and manageable within their other professional and personal commitments.

The NSW Department of Planning circular PS 21-008, issued 2 December 2021, *How to characterise development* provides guidance on this matter. Noting the circular has been disputed for some if its interpretation, it does contain the considerations for characterizing development and these are relevant to this proposal:

Considerations for characterisation *A component of a development may have features that are both ancillary and independent. If this is the case, consider the following:*

Consideration	Comment
<i>Is the component going to serve the dominant purpose of the development or is it independent?</i>	The use of the existing farm building for functions serves the dominant purpose of the property for agricultural use as it supplements

Consideration	Comment
	the income from the farm utilizing existing infrastructure. The proposed use will be located within the existing 'homestead' area of the property and will utilise the existing buildings and homestead curtilage. It will not require the clearing of any trees or vegetation, nor the erection of any new structures. The proposed use will not compromise the future development of the land, nor will it detract from the agricultural capabilities of the land.
<i>What is the amount of land to be used for a certain component, relative to the amount of land proposed to be used for other purposes? If the amount of land is relatively small, it is more likely to be ancillary.</i>	The area proposed for use for farm experience premises is approximately 500sqm (approx. 200sqm building plus ceremonial/gathering area on the farm which is 706ha in size.
<i>Evidence of a purpose that is inconsistent with the dominant purpose is likely to undermine a claim that a component is ancillary.</i>	The proposal is consistent with the SI definition of farm experience premises therefore is an ancillary use. The proposed uses will allow for utilisation of the site's visual attributes, as well as providing an educational experience to visitors by maintaining the existing agricultural uses onsite. Farm experiences will provide economic opportunity for local growers, artists, and other businesses to contribute their goods and skills. All potential uses are aimed at increasing local tourism visitation and cultural & agricultural tourism experiences.
<i>If the component is temporary, it is more likely to be ancillary; if it is regular (that is, will constitute an ongoing use for a long period of time), it is likely to be an independent use.</i>	The use will be for a limited number of days per year. The proposal is for a permanent use of the land on an ongoing basis however will be owned and operated by the farm owner, is intended to permit visitors to enjoy the farm experience, does not require significant alterations to the property and utilizes an existing farm building.
<i>If the component goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose, it is likely to be an independent use (regardless of whether it has ancillary qualities).</i>	The proposal makes use of an existing farm building and does not introduce any use or works that would affect the owner's capacity to implement the dominant purpose of agriculture
<i>Related components of a development are likely to have an ancillary relationship, although this is not necessarily determinative of such a relationship.</i>	The proposal is a form of agritourism, which enables farm owners to share the scenic qualities of their properties with visitors whilst still undertaking the dominant purpose of

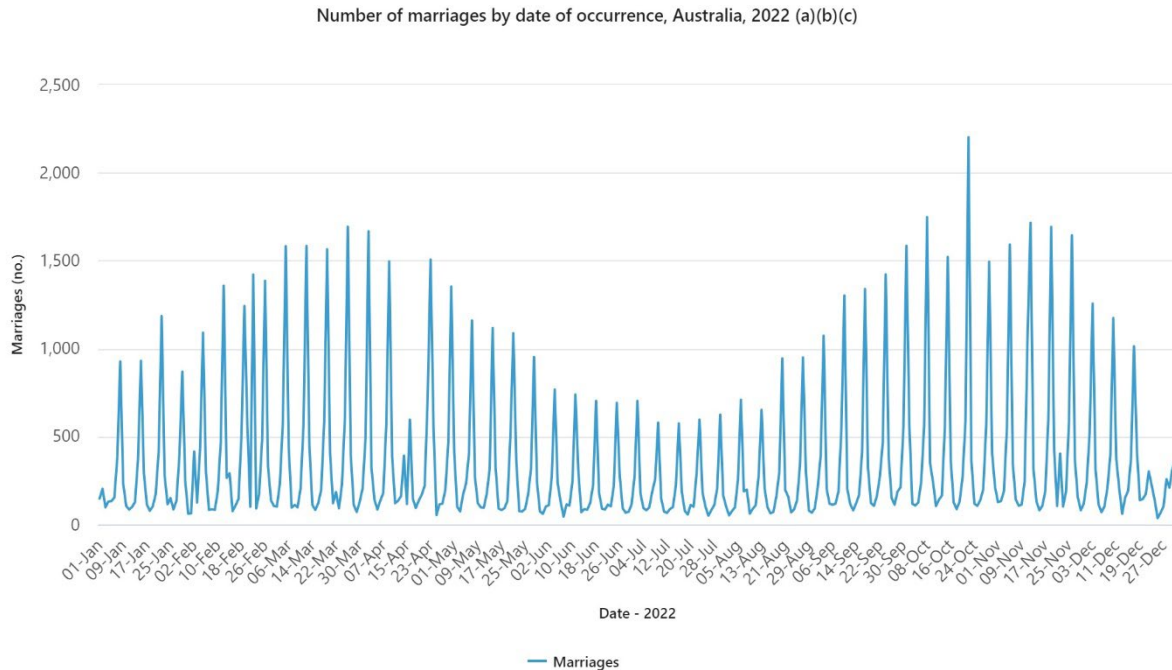
Consideration	Comment
	agriculture. The proposal is for use of an existing farm building for visitors to the farm to attend events (weddings)
<i>Physical proximity of the component to the rest of the development is likely to be evidence of an ancillary relationship, although again not necessarily determinative.</i>	The existing farm building forms part of the group of buildings, including the dwelling, shearing shed, machinery shed, yards and rainwater tanks. Access is from the existing farm access driveway from O'Brien's Creek Road, parking will be in the adjacent paddock in an informal arrangement

The considerations in relation to the proposal indicate that the proposal is indeed ancillary to the agricultural land use, which is the permanent and dominant land use of the site.

As the building will be used to host weddings a maximum of 10-15 times per year, with provision for other functions 10-15 times per year, it will be available as a farm building for over 300 days per year. The farm building will not be sterilized from its intended purpose under this proposal and will continue to be available for storage of agricultural equipment, animal feed and supplies and seasonal items.

The site will have limited attraction in the height of summer, when the grass is dry, the land and roads are dusty, and the risk of bushfire is high and in the depths of winter when it can be wet, muddy, cold and damp. We anticipate that there will be a low demand for weddings in the winter season, based on anecdotal evidence however this does not rule out the possibility of a few occasions. Figure 1 illustrates the weddings dates across the year 2022, as presented by the Australian Bureau of Statistics, which supports the anecdotal evidence that the spring and autumn periods are the most favoured, and less events are held in high summer and winter.

The ABS does not have statistics on the number of attendees at weddings however we have spoken to other operators of wedding venues and they have indicated that the average wedding involves 80-90 guests, noting that this is a reduction in numbers from pre-Covid times when weddings were more likely to have 100-120 guests. The application states that up to 150 people would attend however this is the maximum that could be hosted on site and would not be the typical gathering size.



Source: Australian Bureau of Statistics, Marriages and Divorces, Australia 2022

Figure 1 Australian wedding date statistics

We dispute council’s statement that the use for weddings/functions is the dominant use of the building and that the land use is therefore a function centre. The building is a farm building that will be used for events for a small proportion of the year and will not be quarantined from its original use as farm storage as a result of the proposal.

3 The Commercial Farm

922 O’Brien’s Creek Road – known as “Glenorchy,” currently owned by Cameron Dooner, has been in the Dooner Family since the early 1990’s. It is a fully operational mixed-farming enterprise that is self-sufficient and employs full time staff as well as various contractors.

Across the approximately 1650ha land holding of Cameron Dooner, there is a full annual cropping program that relies on rotationally growing cereal and oilseed crops, legumes for soil regeneration and Lucerne production. Yearly, there is an average mix of 400ha Wheat, 200ha Triticale, 100ha Canola, 50ha of Lupins.

Glenorchy is the primary farm for the livestock breeding program of Cameron Dooner, which currently comprises 920 head of Angus X Charolais cattle. There are 320 breeding cows and 6 mature bulls permanently at Glenorchy. At any one time those cows will have up to 300 calves at foot and when weaned will be ready to have another 300 calves. The weaners are moved to another property within the holding for ease of separation and finishing before being sold locally through Wagga Livestock Marketing Centre in the majority of cases.

Glenorchy has two distinct areas which determine paddock use. The southern most paddocks are

gradually undulating and suitable to annual cropping, whereas the northern most paddocks are more challenging terrain, and comprise excellent cattle grazing country.

As an aside, and in addition to the traditional cropping and grazing operations of the farm, the picturesque nature of the landscape lends itself to be a perfectly suited parcel of land to show off the regions natural beauty through farm experience opportunities (Agritourism) a third form of Agricultural production. It is with this in mind that the use of the existing shed was considered for farm experience premises.

4 NSW Agritourism Provisions and Why a DA was Submitted

The NSW Government (Planning & Environment) published the document “Setting up an agritourism business: A guide to planning approvals” (the guide), which was published in September 2023 and is available on the Planning NSW website. This is the background document for the legislative changes to the Exempt and Complying Development SEPP and Standard Instrument for agritourism uses.

The introduction to the document says:

You might want to provide small-scale and low- impact tourist and recreational experiences such as:

- *tours*
- *functions*
- *field days*
- *demonstrations of best-practice farming methods and innovations*
- *environmental restoration and management programs*
- *horse riding*
- *animal interactions*
- *weddings, events and conferences*
- *school visits*
- *activities such as wellness pastimes, and arts and craft.*

Rural events, especially weddings, have a far-reaching supply chain beyond just the hiring of a venue that can add to the rural economy. This includes:

- *accommodation services*
- *event services (such as photographers, stylists and transport)*
- *catering*
- *supporting services (gift shops or child minding)*
- *facilities services (party hire, mobile toilet hire).*

These types of activities on a farm are called ‘farm experience premises’ in the planning system.

The proposed development is exactly as described in the DPE document, being small scale, low impact experiences on a working farm. The guide specifically mentions weddings and this is the principal proposed use of the farm shed. The shed would also be suitable for other activities as outlined in the introduction and SEE because the openings are oriented towards the beautiful views across the property and provides a flat sheltered space for gathering.

The guideline states the following in regard to zoning:

You can only establish an agritourism business if it is permitted in the land-use zone that applies to your

land. You can find out what is permitted in the zone that applies to your land by contacting your local council, or searching your local environmental plan under ‘Environmental planning instruments’ and referring to the land-use table. Look for terms such as ‘agriculture’, ‘agritourism’, ‘farm stay accommodation’, ‘farm gate premises’, ‘farm experience premises’, ‘cellar door premises’ or ‘roadside stalls’.

Furthermore, the guide contains the following table, defining the various land uses. This clearly states that events and functions fall under the general term of farm experience premises.

Table 15: Activities covered by this guide and their planning system terms

Activity	Planning system term
Camping	Farm stay accommodation
Caravanning	Farm stay accommodation
Cellar door premises	Farm gate premises
Conferences	Farm experience premises
Dining	Farm gate premises
Education (about farm products)	Farm gate premises
Events	Farm experience premises
Farm field days	Farm experience premises
Farm stays	Farm stay accommodation
Functions	Farm experience premises
Horse riding	Farm experience premises
Interest classes	Farm experience premises
Pick-your-own produce	Farm gate premises
Retail	Farm gate premises
Roadside stalls	Retail premises
School visits	Farm experience premises
Tastings	Farm gate premises
Tours	Farm experience premises

As outlined in the SEE submitted with the application, the site is within the RU1 primary Production zone. According to the Wagga Wagga LEP 2010, the uses that are permitted in the zone are as follows:

Permitted without consent

Environmental protection works; Extensive agriculture; Home businesses; Home occupations; Roads

Permitted with consent

Aquaculture; Artisan food and drink industries; Bed and breakfast accommodation; Cellar door

premises; Dual occupancies; Dwelling houses; Extractive industries; Farm buildings; Farm stay accommodation; Hardware and building supplies; Home industries; Intensive livestock agriculture; Intensive plant agriculture; Markets; Open cut mining; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Timber yards; **Any other development not specified in item 2 or 4**

4 Prohibited

Airports; Amusement centres; Camping grounds; Caravan parks; Commercial premises; Crematoria; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Freight transport facilities; Function centres; Health services facilities; Heavy industrial storage establishments; Home occupations (sex services); Industrial training facilities; Industries; Local distribution premises; Mortuaries; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential accommodation; Restricted premises; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wharf or boating facilities; Wholesale supplies

The DPE guideline states: *The new changes mean agritourism is now permitted with consent in all RU1 Primary Production, RU2 Rural Landscape and RU4 Primary Production Small Lots zones in local environmental plans and in other zones councils have nominated.* The State Environmental Planning Policy Amendment (Agritourism) 2023 (Published LW 18 August 2023 (2023 No 458)) intended to amend LEPs to include agritourism as a permissible use in rural zones.

The DPE has published an FAQ document, which states:

Permissibility is also important for development applications. Farm experience premises and farm gate premises are permissible with consent in RU1, RU2 and RU4 zones under each Standard Instrument LEP. They are also permissible with consent in other zones where 'agriculture', 'agritourism' or the specific land use, 'farm experience premises' or 'farm gate premises', is permitted with consent, unless the use is specifically prohibited in the zone.

We note that the Wagga Wagga LEP was not included in the list of amended LEPs and can only speculate that this was an oversight given it is one of the few LEPs that has not included agritourism as a permissible use in the rural zones. We further note that agritourism is not prohibited in the RU1 zone and that it is an innominate use that is permitted with consent in the zone.

The Exempt & Complying Development Codes SEPP 2021 contains provisions relating to agritourism.

Subdivision 16C contains the provisions for exempt development for Farm experience premises. The site complies with all listed standards for use of the site for farm experience premises, however the following limitations place constraints on the use of the site that would curtail most weddings:

- *for premises located within 1km of residential accommodation or a building, including a stable, stock yard or poultry shed, used to house animals on neighbouring land—the development must not involve amplified noise,*
- *the premises must not be open to visitors, excluding visitors participating in farm tours, horse riding tours and school groups, for more than 52 days each year, including no more than 4 events held on a Friday or Saturday after 6pm that involve amplified noise,*

- *the premises must not be open to visitors outside the following hours—*
 - *on Sundays, Mondays, Tuesdays, Wednesdays, Thursdays or public holidays—8am to 6pm,*
 - *on Fridays and Saturdays—8am to midnight,*
- *the number of visitors, excluding visitors participating in farm tours, horse riding tours and school groups, to all farm experience premises on the landholding at any one time must not be more than 50.*

The premises could operate under this provision with up to 52 daytime events or 48 daytime events and 4 evening events annually. The building is located within 1km of dwellings therefore any events could not involve amplified noise. Given that most weddings involve the use of a microphone by the celebrant and host/MC, that the use of recorded music would require a speaker and that many forms of live music would utilise an amplifier, this would place limitations on the events that could be held at the shed.

Part 9 of the SEPP contains the provisions for complying development for farm experience premises. This section has the same restrictions on the number of evening events and number of visitors as Subdivision 16C therefore the development application was submitted in order to cater for additional evening events.

The compliance of the site and the proposed use with the general standards for both exempt and complying development for farm experience premises further reinforces that the proposal falls within the definition of farm experience premises and can be considered under the provisions of the WWLEP.

5 Summary

The land use is *farm experience premises* and not *function centre* and this is made evident in Part 2 of this document.

The NSW Planning department introduced the land use *agritourism* to enable primary producers to supplement the unstable and unpredictable income generated from a farm. This application is made in the spirit of the SEPP and supporting guidelines.

The proposal is to allow visitors to use an existing farm building for various farm experiences but primarily weddings, which is a use specifically addressed in the DPE documents. The use is explicitly defined in these documents as a farm experience premises and is not referenced anywhere as a function centre.

We therefore implore council to consider the application as submitted, for farm experience premises and enable the development to proceed. Suitable conditions of consent such as limitations on hours, number of events and number of visitors will be acceptable to the proponents and we encourage discussion of these prior to determination.



Camilla Rocks
5.4.23