

# Statement of Environmental Effects

68 Phoenix Park Road  
Phoenix Park NSW 2321

**Development Application for:**

Temporary Use of Land – Function Facility, associated amenities building and car parking area

*21 March 2024*

**Prepared by:** Krstyna Ennis at Council Approval Group

**Email:** [krstyna@councilapproval.com.au](mailto:krstyna@councilapproval.com.au)

**Phone:** 1300 008 138 Extension 30001

Checked By:	RE
-------------	----



# Contents

<b>1</b>	<b><i>Introduction.....</i></b>	<b>1</b>
<b>2</b>	<b><i>The Subject Site and Locality.....</i></b>	<b>1</b>
	2.1 Description of site and surroundings .....	1
	2.2 Summary environmental mapping constraints.....	4
	2.3 Site zoning .....	5
	2.4 Temporary Use of the Land.....	6
	2.5 Permissibility by way of Clause 2.8 .....	6
	2.6 Development history .....	7
<b>3</b>	<b><i>The Proposed Development.....</i></b>	<b>8</b>
	3.1 Description of proposed development .....	8
	3.2 Details of the proposed development .....	8
<b>4</b>	<b><i>Environmental Assessment.....</i></b>	<b>12</b>
	4.1 State Environmental Planning Policies .....	12
	4.2 Local Environmental Plan .....	12
	4.3 Development Control Plan.....	16
	4.4 Section 4.15 Considerations .....	21
<b>5</b>	<b><i>Summary and Conclusion.....</i></b>	<b>22</b>
	5.1 Recommendation .....	22

## Appendix

- Appendix A. Cost Estimate Report
- Appendix B. Site Waste Management Report
- Appendix C. DA Plans
- Appendix D. Notification Plans
- Appendix E. Detailed Survey
- Appendix F. Traffic Management Report
- Appendix G. Acoustic Assessment Report

# 1 Introduction

Council Approval Group has been engaged by Cindy Modderman to prepare and submit a Development Application for Temporary Use of Land for a Function Centre, associated amenities building and car parking area at 68 Phoenix Park Road, Phoenix Park.

Once determined, the temporary use will enable the use of the privately owned property for the purpose of hosting community events, weddings and other private functions in a location where there is significant demand. The proposed use would operate on a temporary basis up to 52 days per year with the primary use of the property remaining as lucerne farming.

Specifically, this Statement of Environmental Effects (SoEE) includes:

- an analysis of the subject site and the surrounding locality;
- a description of the proposed development;
- an analysis of the proposal against the provisions of the *Maitland Local Environmental Plan (LEP 2011)*, relevant SEPPs and deemed SEPPs, and other relevant statutory controls that apply to the site; and
- conclusion.

This SoEE is submitted in accordance with the requirements of the Environmental Planning and Assessment Act and Part 3 of the *Environmental Planning and Assessment Regulation 2021* for the purposes of

- demonstrating that the environmental impact of the development has been considered; and
- outlining the steps to be undertaken to protect the environment and to mitigate any potential harm, if necessary.

This SoEE concludes that the proposal is consistent with the objectives and provisions of the *LEP 2011*. We are pleased to present this SoEE for Temporary use of the land for a function centre which, once approved, will enable the use of the privately owned property for the purpose of hosting community groups, weddings and other private events on a temporary basis.

## 2 The Subject Site and Locality

### 2.1 Description of site and surroundings

Phoenix Park is located less than 1km north of the township of Morpeth and approximately 6km northeast of the main shopping districts of Maitland and East Maitland. The surrounding development is predominantly rural consisting of small-scale agricultural pursuits, lucerne farming and grazing being the primary activities, with residential dwellings scattered sparingly throughout the surrounding area.

The nearest rural dwelling is located approximately 140m from the proposed temporary function venue, with the next closest located at least 500m away. Despite its rural setting, the property is located only 650 metres from the main street of Morpeth which includes numerous food and drink establishments, retail, and commercial uses, including licenced venues which operate up to 11pm on weeknights and 12am on weekends.

The subject site is square in shape, comprising approximately 6.1 hectares within a largely cleared area of agricultural land. The site is predominantly used for rural purposes associated with Lucerne farming, as well as daytime use as a rural lifestyle property for recreational purposes. The property currently contains several farm buildings, used for storage of farm equipment, vehicles and other domestic activities. The property is connected to reticulated power and has on-site water supply and waste management system.

The site is accessed from Phoenix Park Road being a sealed rural road, via a compacted gravel driveway to an existing informal parking area. The existing driveway and vehicle manoeuvring areas are constructed to a high standard. The vegetation along the frontage of the property has predominantly been planted by the current owners in an effort to rehabilitate the previously neglected property.

The lot is legally described as follows:

Address	Title Details	Site Area	Site Frontage
68 Phoenix Park Road, Phoenix Park NSW 2321	Lot 1, DP997701	61,037.42 sqm (approx.)	215.05 metres (approx.)

Details of the site are provided below. The location of the subject property is shown on the location and aerial maps at **Figures 1** and **2**. A Google street image of the property is included at **Figure 3** and **4**.



Figure 1: Site location (Source: Landchecker)



Figure 2: Site aerial (Source: Landchecker)



Figure 3: Google street view

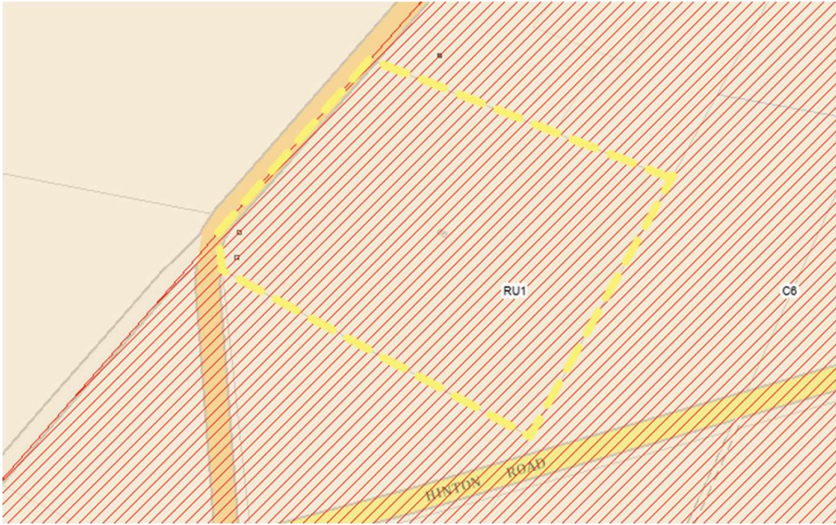





Figure 4: Google street view

## 2.2 Summary environmental mapping constraints

Environmental Constraint	Comment
<p><b>Acid Sulfate Soils – Class 4</b></p> 	<p>The subject site is identified as containing Class 4 Acid Sulfate Soils.</p> <p>The proposed temporary use of the land does not involve excavation. No further assessment is required.</p>

<p><b>Heritage – Morpeth Heritage Conservation Area</b></p> 	<p>The subject property is identified as being located within the Morpeth Heritage Conservation Area.</p> <p>The proposed temporary use of the land as a function centre will utilise the existing farm buildings located on the property which have previously been approved by Council. The main farm building will be utilised on a temporary basis for hosting functions.</p> <p>The only new building proposed includes the small amenities building which is located behind the main farm building. It is not readily visible from the road so there will be no impact on the character of the area.</p> <p>The proposed temporary use of the land will not result in any changes to the character of the area and remains consistent with the rural setting.</p>
<p><b>Bushfire Prone Land – Vegetation Category 3</b></p> 	<p>The subject site is identified as being Bushfire prone land with a Vegetation Category 3.</p> <p>The proposed temporary use of the land for a function centre will utilise the existing buildings and infrastructure already on site. Any risk associated with bushfire would be limited to grass fires as the property is largely clear of mature vegetation.</p> <p>The proposed temporary use will not result in any increase in the risk of bushfire impacting the property.</p>

### 2.3 Site zoning

The site is zoned under Maitland Local Environmental Plan 2011 (LEP) as Zone RU1 – Primary Production.

The Objectives for this zone are as follows:

- 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.

Within the RU1 – Primary Production Zone, a Function Centre is not listed as a permitted use. However, Clause 2.8 of the Maitland LEP allows for Temporary use of land for up to 52 days within any period of 12 months, regardless of whether the temporary use is otherwise permitted within the zone.

## 2.4 Temporary Use of the Land

Clause 2.8 allows for the temporary use of land in any zone, for any use as long as it is temporary, for a maximum of 52 days, whether or not consecutive days, in any 12-month period. The term 'In any 12-month period', means not limited to just one 12 month period, but in any 12-month period. The correct interpretation of the reading of Clause 2.8 is that the 12-month period is not a 'one off' period of 12-month period but is an ongoing and rolling 12 month period.

This is supported by a decision of the Land and Environment Court of NSW, EMRR Pty Ltd v Murray Shire Council [2016] NSWLEC 144, which discusses the definition of 'temporary use of land' in the relevant Local Environmental Plan (LEP). EMRR Pty Limited (Applicant) sought development consent to erect a marquee on an existing slab for the purpose of mainly weddings. The site was situated on land near the Murray River, zoned "R3 River Management.

On 1 June 2016, the Applicant and Murray Shire Council agreed on terms for an agreement under section 34 of the Land and Environment Court Act 1979. A condition under the agreement was that the temporary use of the land for a function centre was for a maximum of fifty-two (52) days per year. This case supports the legal interpretation that Clause 2.8 does not restrict a temporary use of land to a particular time period. It allows a use, including a function or an event to operate on land in any zone for a maximum period of 52 days, whether or not consecutive, in any 12-month period.

## 2.5 Permissibility by way of Clause 2.8

Clause 2.8 of Maitland Local Environmental Plan 2011, reads as follows:

### ***2.8 Temporary use of land***

*(1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.*

*(2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*

*(3) Development consent must not be granted unless the consent authority is satisfied that—*

*(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*



*(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*

*(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*

*(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.*

*(4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.*

*(5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).*

Clause 2.8 overrides any prohibition of a development in the zone, because it allows development in any zone for a temporary use whether that use is prohibited in the zone, as long as 2.8(3)(a) – (d) is satisfied.

The Maitland LEP 2011 identifies that despite some land uses being deemed prohibited in certain zones, there is opportunity for a temporary use of land where such uses are allowable under the proviso that they are deemed a temporary use of the land. Therefore, any perceived or potential impacts that such a development might usually include can be minimised through the infrequent nature of it or limited occurrence within any given 12-month period. This is enabled through the provision of Clause 2.8 'Temporary Use of Land' within the Maitland LEP 2011 and is addressed in further detail in the later sections of this report.

Therefore, with the subject proposals ability to comply with the Temporary Use of Land provisions as detailed in later sections of this report, development for the purpose of a function centre as a temporary use is permissible with consent, by way of Clause 2.8 alone.

## 2.6 Development history

A search of Council's online database reveals the following:

Reference No.	Description of Works	Decision & Date of Decision
SM2020/13	Sewerage Management Facility	Approved 02/09/2020
DA/2020/367	Farm Building and Earthworks (Flood Mound) and Alterations to Existing Shed	Approved 21/07/2020
DA/2020/367:1	S4.55 Modification to size and location of flood mound	Approved 22/12/2020
CC/2021/721	Construction Certificate	Approved 08/09/2021
DA/2020/367:2	Section 4.55(2) Modification to internal walls in shed	Approved 10/03/2023

Council Development Consent DA/2020/367 for Farm Building and Earthworks was approved on 21/07/2020 and subsequently modified 10/03/2023.

At the time construction commenced on the partially completed amenities building, it was the applicants understanding that the proposed amenities building constituted exempt development under the SEPP for

Exempt and Complying Development as a farm associated building. Construction has since halted pending confirmation of its exempt status and/or the outcome of this Development Application.

An application was submitted to Council to alter the existing waste management system to include additional fixtures associated with the amenities building. The application has since been withdrawn and is pending resubmission subsequent to obtaining approval for the amenities building to be used in association with the temporary use of the land.

## 3 The Proposed Development

### 3.1 Description of proposed development

The development proposal is most appropriately described as a temporary use of the land for a function centre. It is intended that the property be used no more than 52 days per 12-month period to host functions such as weddings, private parties, high teas, community events and meetings. The maximum capacity for the functions will be capped at 80 patrons at any one time.

Whilst the property will only be used a maximum of 52 days per 12 month period, flexibility is sought to allow for function bookings 7 days per week to accommodate various types of events. Hours of operation would be between 9am to 11pm with any live entertainment to cease by 10pm. Types of entertainment will include a combination of pre-recorded and live amplified music (soloists and small group acts) based on the needs of each event. Food and drink for the events will be BYO or external catering.

The proposed temporary use of the property for functions will utilise the existing farm building for hosting of the events. Car parking for the temporary use will be located between the existing building and front boundary in the existing compacted gravel area. The proposed amenities building is located behind the main building and is conveniently located for use by patrons. The temporary use requires minimal modification to the property and can easily be restored to its primary use once the temporary use is no longer operating.

The event manager will manage each function and ensure that carparking, waste and noise is managed effectively to ensure that the temporary use of the property does not cause nuisance to residents or other uses in the surrounding area.

### 3.2 Details of the proposed development

#### 3.2.1 Operation & Management

Clause 2.8 Temporary Use of Land within the Maitland LEP 2011 enables such uses to occur for up to 52 days (whether or not consecutive) within a given period of 12 months. It is the intent of the current proposal that it will accommodate a maximum capacity of 80 guests. The events will be for weddings, parties, high teas, community events, meetings and other similar events. Events will include self-catering or mobile catering via an approved catering contractor. This will ensure that it remains at a scale which is considered subservient to the predominate use of the land and maintains compliance with clause 2.8 which enables this land use to be considered as a permissible use, with consent.

A summary of the operation and management includes the following:

- **Hours of operation:** It is proposed that each event will be confined to the hours of 9am to 11pm 7 days per week, with set up and pack down to occur within these hours. The event manager will be on call for emergencies.

- **Number of staff:** The property owner will be managing the facility in conjunction with an events management company. They will remain responsible for maintenance of the property and undertaking or organising maintenance and cleaning between events.
- **Maximum patron numbers:** Maximum capacity for functions will be 80 guests.
- **Waste management:** Please refer Site Waste Management Report.
- **Traffic generation:** It is anticipated that the maximum traffic generated would be approximately 24 vehicles per event. Refer to *Traffic Report* submitted with this application.
- **Emissions:** It is anticipated that there will be limited emissions which will mostly come from visitor vehicles. Noise emissions will be minimised by containing the functions and associated music within the existing building.
- **Type, size and quantity of goods to be made, stored or transported:** Not applicable.
- **Loading and unloading facilities that will be available:** Not applicable.

All food preparation will be completed off site, and as such no commercial kitchen facilities are provided. A food service/catering area is provided for use by guests and caterers. All events including pack-up will cease before 11pm. Any amplified music is intended to cease by 10pm.

The following measures will be undertaken to minimise potential adverse impacts on the surrounding amenity and natural environment, including:

- A noise limiter device can be used for any recorded or live amplified music.
- Music will only be played within the existing building whilst the doors are closed.
- All functions will cease operating, including pack-up by 11pm, with any live music to cease by 10pm.
- All guests will be instructed to enter and leave the site in an orderly manner, and not to loiter in the carparking area after 11pm. Patron behaviour will be monitored and managed by the responsible event organiser/manager.
- Recommended noise management measures outlined in the submitted *Acoustic Report* will be implemented and maintained on an ongoing basis.

### 3.2.2 Acoustics

The development is located within a rural area with the nearest residential receivers located approximately 140m away. Having regards to the property's location and proposed internal area to host the functions, ample physical separation exists to adjoining sensitive noise receptors to ensure no disturbance is caused through noise after hours.

RAPT Acoustics was engaged to prepare an Acoustic Report for the temporary use of land, which is attached to this development application. The report outlines the anticipated noise levels and recommendations to ensure the proposed temporary use will not impact on the amenity of the surrounding area.

### 3.2.3 On-site sewage management system

The only source of wastewater generation associated with the functions will be from toilet and hand basin use in the proposed amenities building and sink in the catering area. There is already an existing on-site waste management system in place. The proposed amenities building is to be connected to the existing on-site wastewater management system.

An application to amend/alter the existing wastewater system to accommodate the additional fixtures in the amenities building is pending and will be resubmitted upon receipt of a development approval for the temporary use.

### 3.2.4 Ongoing Waste Management

The subject site is currently serviced by Council's Waste Services. The existing waste and recycling bins will continue to be used primarily for agricultural, domestic and minor administrative waste. All excess waste generated during events will be collected and removed from the site by the event manager, organiser or mobile catering company.

Adequate bins will be placed around the function area for guests to dispose of rubbish. At the end of each event, the event manager will be responsible for ensuring that all waste at the site is properly disposed of in bins. Excess waste will be disposed of offsite at the nearest registered waste disposal and management centre.

Please refer to Site Waste Management Plan submitted with this application.

### 3.2.5 Access, Traffic and Parking

The proposal seeks the temporary use of land for the purpose of hosting functions. Given the proposed use is not permanent but only a temporary use of land, it is considered that the parking and access requirements should be assessed on merit, as provided in this DA. The proposed use, whether temporary or permanent does not fit into any category of uses in Council's DCP parking rates. The DCP states that sufficient parking should be provided to meet requirements of the use, to Council's satisfaction.

The submitted site plan identifies the proposed area for guest parking which will not be formally line marked, in order to maintain the proposed small scale and 'temporary use' requirements. Upon arrival, guests will follow temporary signage directing them to the allocated parking area. It is anticipated that only 27 spaces would be required as guests will usually be part of family groups and travel to the property together. Given the size of the property and the area identified, the parking area can comfortably provide sufficient parking.

The site currently has an existing compacted gravel driveway with a crossover flare of approximately 12 metres, sufficient to allow for two vehicles to pass on the driveway. Patrons will be able to park their vehicles in the designated parking area and then access the temporary function building on foot.

Access to the site from Phoenix Park Road is via sealed road with sufficient sight distances in both directions to ensure safe entry and exist for unfamiliar guests. There is also adequate space for manoeuvring within the carparking area.

### 3.2.6 Bushfire

The property is identified as a Bushfire Prone Land – Category 3 Vegetation. There is limited vegetation on site such that any risk of bushfire would be limited to grass fires. As the proposed use is temporary and will be contained within the existing building, no further bushfire mitigation measures are deemed necessary.

An emergency evacuation plan will be prepared and displayed during events to ensure that event organisers and patrons are aware of evacuation procedures in the event of an unexpected bushfire or other fire event. Any scheduled functions would be cancelled in the event of an active bushfire warning to ensure there is no risk to patrons.

### 3.2.7 Flooding

The property is identified as Flood prone land and a previous Flood Assessment was prepared by DRB Consulting Engineers on 2 October 2020 in relation to the construction of the existing farm building. The



report concluded that the site is located within a Flood Storage Area and the existing building was consequently located atop a flood mound, to achieve compliance with the Maitland City Council DCP 2011. The flood mound and existing building has a finished RL of 7.18m which is in accordance with the requirements for a 1% Annual Exceedance Probability (AEP) storm event. As the proposed development is for a temporary use within the existing building, no further flood management measures are deemed necessary.

An emergency evacuation plan will be prepared and displayed during events to ensure that event organisers and patrons are aware of evacuation procedures in the event of unexpected flooding or severe weather event. Any scheduled functions would be cancelled in the event of an active flood or severe weather event effecting the area, where evacuation or do not travel warnings are in place or expected.

### **3.2.8 Privacy and Amenity**

A favourable determination of this application will not result in any detrimental impacts associated with loss of privacy or amenity to residential uses. It is the owners desire that each function operate harmoniously with the surrounding landowners and be of a small scale, and this can be a condition of the DA should it be supported. The closest dwelling is located approximately 150m from the proposed function area with the majority of sensitive receivers well separated from the proposed temporary venue. It is further anticipated that any approval granted by Council will include conditions of consent in this regard which will be abided by.

An Acoustic Assessment Report has been prepared by RAPT and submitted with this application. The report outlines the anticipated noise levels and recommendations to ensure that noise from the temporary use does not impact on the amenity of residential uses.

### **3.2.9 Food, Beverage and Licensing**

The proposal does not seek to prepare food or beverages onsite for the events. All food and beverages will be provided by external professional catering companies or self-catered by patrons. A catering service is defined under the Liquor Act 2007 as a *'service to supply food or liquor (or both) for consumption at a function, occasion or event'*. A function is also defined within the Act and can include weddings, parties, balls, dinners, corporate events, arts events, marketing events and other similar occasions of limited duration.

#### **Food**

Any catering company used for functions will need to hold a Food Authority Licence to operate in NSW. The NSW Government Food Authority advises that caterers who prepare food that will be served direct to the end user need to meet the same food safety requirements as other retail food businesses.

When a food business or caterer sells direct to the final customer, local Council's will regulate the business. The business needs to notify the local Council of their business and food activity details. Notification is satisfied via applications to local council for services, permits and approvals. Any catering to be used will meet these legislative requirements.

#### **Beverages and Licencing**

The NSW Department of Liquor & Gaming (L&GNSW) advises, if alcohol is intended to be sold as part of a catering service at functions, occasions or events, the most appropriate liquor licence is an on-premises licence that relates to a catering service. That is, the catering business will need to have such a license to sell liquor for consumption on the premises. This is known as a *Sale on other premises authorisation*.

The licensee (i.e. caterer) must provide written notice to L&GNSW, the local police and the local council of proposals to provide catering services at an event to be held off premises unless it is a small, private event for 100 or fewer people, to be held on a private property or residence.

Any catering company used will be required to hold the required licenses if intending to serve alcohol, noting that the proposed events will include fewer than 100 people.

### **3.2.10 Heritage Conservation**

The property is located within the Morpeth Heritage Conservation Area. However, the property does not contain any heritage buildings, items, or matters of heritage significance. The proposed use is temporary in nature and maintains the existing rural aesthetic and character of the area.

The proposed temporary use does not propose any external changes to the existing buildings. The proposed amenities building to be constructed in association with the temporary use for functions, is located behind the existing farm building so will not be readily visible from the street or result in any change to the streetscape appearance of the property. The proposed temporary use of the property will not have any impact on the heritage significance or values of the Morpeth Heritage Conservation Area.

## **4 Environmental Assessment**

### **4.1 State Environmental Planning Policies**

#### **State Environmental Planning Policy (Rural Lands) 2008**

The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The policy applies to local government areas of NSW, generally in rural locations.

Its relevance, however, is limited to matters that need to be considered in determining DAs for rural subdivision and construction of rural dwellings. This is because the aim of the SEPP is to preserve productive rural land from inappropriate subdivision and construction of dwelling houses on rural land that would have the effect of permanently removing land from agricultural production.

The proposed temporary events and associated facilities will be compatible with the property's continued use for agricultural purposes, including lucerne farming. The DA does not involve rural subdivision, and hence the proposed development is not inconsistent with this SEPP.

#### **State Environmental Planning Policy (Infrastructure) 2007 (SEPP 2007)**

The State Environmental Planning Policy (Infrastructure) 2007 applies to the state and therefore must be addressed in any planning proposal.

The proposed development does not qualify as a traffic-generating development with relevant size and/or capacity under Clause 104 of SEPP 2007. Therefore, formal referral to the Roads and Maritime Services is unnecessary, and the consent authority can determine this proposal.

The proposed development also does not qualify as a sewerage system or stormwater management system as defined under the SEPP, and referral to any other agency for approval is not required.

### **4.2 Local Environmental Plan**

#### 4.2.1 Maitland Local Environmental Plan 2011

Maitland Local Environmental Plan 2013 (LEP) applies to the subject site. The following provides an assessment of the proposed development against the relevant provisions of the Plan.

#### Relevant Clauses

LEP Clause / Provision	Comment
<b>Clause 2.8 Temporary use of the land</b>	
<p>2.8 Temporary use of land</p> <p>(1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.</p> <p><b>(2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.</b></p> <p>(3) Development consent must not be granted unless the consent authority is satisfied that—</p> <p>(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and</p> <p>(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and</p> <p>(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and</p> <p>(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.</p> <p>(4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.</p> <p>(5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).</p>	<p><b>Complies</b></p> <p>This development application seeks consent under clause 2.8 for a Temporary use of the land as a function centre for hosting events such as weddings, parties, high teas, community events, meetings and the like.</p> <p>The temporary use will be limited to 52 days in any rolling 12-month period (whether or not consecutive).</p> <p>The proposed temporary use will not prejudice the continued use of the land for agricultural purposes, including lucerne farming.</p> <p>The existing farm building will be utilised for hosting events on a temporary basis. Minimal modification to the land is required to accommodate the temporary use such that it can be easily restored to its previous condition should the temporary use cease.</p>
<b>4.2A Erection of dwelling houses on land in certain rural and conservation zones</b>	
<p>4.2A Erection of dwelling houses on land in certain rural and conservation zones</p> <p>(1) The objectives of this clause are as follows—</p> <p>(a) to minimise unplanned rural residential development,</p> <p>(b) to enable the replacement of lawfully erected dwelling houses and dual occupancies in certain rural and conservation zones.</p> <p>(2) This clause applies to land in the following zones—</p> <p>(a) <b>Zone RU1 Primary Production,</b></p> <p>(b) Zone RU2 Rural Landscape,</p> <p>(c) Zone C3 Environmental Management,</p> <p>(d) Zone C4 Environmental Living.</p> <p>(3) Development consent must not be granted for the erection of a dwelling house or dual occupancy on land to which this clause applies unless the land—</p> <p>(a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or</p> <p>(b) <u>is a lot created before this Plan commenced and on which the erection of a dwelling house or dual occupancy was permissible immediately before that commencement,</u> or</p> <p>(c) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or dual occupancy would have been permissible if the plan of subdivision had been registered before that commencement, or</p> <p>(d) would have been a lot or a holding referred to in paragraph (a), (b) or (c) had it not been affected by—</p> <p>(i) a minor realignment of its boundaries that did not create an additional lot, or</p> <p>(ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or</p>	<p><b>Not applicable</b></p> <p>Whilst a dwelling house is permitted with consent on the land, there is no existing dwelling nor intention to establish a dwelling at the present time. The primary use of the property is currently, and will remain, agricultural purposes, specifically lucerne farming.</p>

LEP Clause / Provision	Comment
<p>(iii) a consolidation with an adjoining public road or public reserve or for another public purpose. Note— A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2. (4) Development consent must not be granted under subclause (3) unless— (a) no dwelling house or dual occupancy has been erected on the land, and (b) if a development application has been made for development for the purpose of a dwelling house or dual occupancy on the land—the application has been refused or it was withdrawn before it was determined, and (c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed. (5) Development consent may be granted for the erection of a dwelling house or dual occupancy on land to which this clause applies if there is a lawfully erected dwelling house or dual occupancy on the land and the dwelling house or dual occupancy to be erected is intended only to replace the existing dwelling house or dual occupancy. (6) Subclause (3) (b) and (c) do not apply to any lot created by consolidation. (7) (Repealed)</p>	
<b>Clause 4.3 Height of Buildings</b>	
<p>4.3 Height of buildings (1) The objectives of this clause are as follows— (a) to ensure that the height of buildings complements the streetscape or the rural character of the area in which the buildings are located, (b) to protect the heritage character and significance of buildings and avoid an adverse effect on the integrity of heritage items, (c) to ensure that the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views. (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p>	<p><b>Complies</b> There temporary use utilised the existing approved farm building. The associated amenities building is small in scale, well within the height limit.</p>
<b>Clause 4.4 Floor Space Ratio</b>	
<p>4.4 Floor space ratio (1) The objectives of this clause are as follows— (a) to ensure development is compatible with the streetscape and character of the area by providing an appropriate correlation between the size of a site and the extent of any development on that site. (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p>	<p><b>Not applicable</b> The Floor Space Ratio map does not nominate a specific floor space ratio for the property. Notwithstanding, the increase in floor area is limited to the amenities building associated with the temporary use.</p>
<b>Clause 5.4 Controls relating to miscellaneous permissible uses</b>	
<p>(2) Home businesses If development for the purposes of a home business is permitted under this Plan, the carrying on of the business must not involve the use of more than 50 square metres of floor area.</p>	<p><b>Not applicable</b> The proposed use is a temporary use of land as a function centre, not a home-based business.</p>
<p>(5) Farm stay accommodation If development for the purposes of farm stay accommodation is permitted under this Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms in buildings.</p>	<p><b>Not applicable</b> The temporary use of the land does not involve any accommodation.</p>
<b>Clause 5.10 Heritage conservation</b>	
<p><b>(1) Objectives</b> The objectives of this clause are as follows— (a) to conserve the environmental heritage of Maitland, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance. <b>(2) Requirement for consent</b> Development consent is required for any of the following— (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)— (i) a heritage item, (ii) an Aboriginal object,</p>	<p><b>Complies</b> The property is located within a heritage conservation area, being Morpeth Conservation Area. However, the proposal does not involve any changes to a heritage item and there are no heritage items or buildings with heritage significance located on the property. The proposal is for a temporary use within the existing farm building and does not propose any external changes to the existing building.</p>



LEP Clause / Provision	Comment
<p>(iii) <b>a building, work, relic or tree within a heritage conservation area,</b>            (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,            (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,            (d) disturbing or excavating an Aboriginal place of heritage significance,            (e) <b>erecting a building on land—</b>            (i) on which a heritage item is located or that is <b>within a heritage conservation area,</b> or            (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,            (f) subdividing land—            (i) on which a heritage item is located or that is within a heritage conservation area, or            (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p> <p><b>(3) When consent not required</b></p> <p>However, development consent under this clause is not required if—</p> <p>(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—</p> <p>(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and            (ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or</p> <p>(b) the development is in a cemetery or burial ground and the proposed development—</p> <p>(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and            (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or</p> <p>(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or</p> <p>(d) the development is exempt development.</p>	<p>The proposed temporary use does involve construction of a small associated amenities building behind the existing farm building. As the property is located within a heritage conservation area, Clause 5.10 applies to the construction of the amenities building only. However, the proposed building work is of a minor nature and will not adversely impact on the heritage conservation area as it will not be readily visible from the street. On this basis a heritage impact statement is not required.</p>
<p><b>5.11 Bush fire hazard reduction</b></p>	
<p>Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.            Note—The Rural Fires Act 1997 also makes provision relating to the carrying out of development on bush fire prone land.</p>	<p><b>Complies</b></p> <p>The property is identified as Bushfire Prone Land. However, there is minimal vegetation located on the property, other than recently planted along the front boundary. Any risk of bushfire would be limited to grass fires and does not necessitate the clearing of any vegetation.</p>
<p><b>5.21 Flood Planning</b></p>	
<p>(1) The objectives of this clause are as follows—            (a) to minimise the flood risk to life and property associated with the use of land,            (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,            (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,            (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.            (2) Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—            (a) is compatible with the flood function and behaviour on the land, and</p>	<p><b>Complies</b></p> <p>The property is identified on the Flood Planning Map as being wholly located within a Flood Planning Area.</p> <p>A Flood Impact Report was prepared for the property in 2020 (see attached) and the existing farm building subsequently located atop a flood mound. The existing flood mound achieved a FFL above 7.18m AHD which meets the flood planning requirements.</p>

LEP Clause / Provision	Comment
<p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.</p>	<p>As the use is temporary and located within the existing building atop the flood mound, no further flood mitigation measures are required. Further, in the event of flooding and/or severe weather functions would not be held on the property.</p>

## 4.3 Development Control Plan

### 4.3.1 Maitland Development Control Plan 2011

Maitland Development Control Plan 2011 applies to the subject site. The following provides an assessment of the proposed development against the relevant provisions of the Plan, being the following:

#### Part B – Environmental Guidelines

- B.3 Hunter River Floodplains

#### Part C – Design Guidelines

- C.4 Heritage Conservation
- C.11 Vehicle Access and Parking

#### Part E – Special Precincts

- E.3 Heritage Conservation Areas
  1. Morpeth Heritage Conservation Area

DCP Clause / Provision	Comment
<b>B2. Hunter River Floodplains</b>	
<p>2. Flood hazards, costs, and risks to life</p> <p><b>Development controls</b></p> <p>1. An application for development below the FPL must demonstrate:</p> <p>a. the proposed development will not increase the flood hazard or flood damage or adversely increase flood affectation on other properties, as assessed by a suitably qualified hydraulic engineer;</p> <p>b. the design of the proposed development is such that the risks of structural failure or damage in the event of flooding (including damage to other property) up to the FPL would be minimal, as assessed by a suitably qualified structural engineer;</p> <p>c. the proposed development has been designed to withstand the effects of inundation of floodwaters up to the FPL, with contents or fittings susceptible to flood damage being located above this level;</p> <p>d. if levees are proposed to protect a development, the impact of the levees on flood behaviour must be assessed and the habitable floor level of the proposed development behind the levee must still be set at or above the FPL (assuming no levee is in place);</p> <p>e. the proposed measures to allow the timely, orderly and safe evacuation of people from the site (these measures should be permanent and maintenance free), and the measures proposed to safeguard goods, material, plant and equipment in a</p>	<p><b>Complies</b></p> <p>The proposed development does not involve filling or any new building works below the flood level. As such, there will be no change in flood hazard, flood storage capacity or impact on flows to adjoining properties.</p> <p>The existing farm building and proposed amenities building is located above the FP as outlined in the attached Flood Impact Report prepared in 2020 for the existing building.</p> <p>An emergency response plan will be prepared for the property and displayed when the temporary use is operating. This will include procedures in the event of unexpected flooding or severe weather whilst an event is in progress. In the event of a known flooding or severe weather event, where evacuation or no travel recommendations are in place, any scheduled event at the property would be cancelled.</p>

DCP Clause / Provision	Comment
<p>flood. These measures should be compatible with the SES' Maitland City Local Flood Plan (including vol 1 The Maitland City Flood Emergency Sub Plan);</p> <ol style="list-style-type: none"> <li>i. in rural areas, the proposals for the evacuation of any livestock in a flood;</li> <li>ii. the measures to reduce the risks that the development will allow the accumulation and build-up of debris being carried by floodwaters (particularly associated with fences in flood liable areas);</li> <li>iii. the design complies with the Table 1: Flood Aware Design Requirements for Residential Development on Flood Prone Land (in this DCP section); and</li> <li>iv. Details of any proposed filling to be provided.</li> </ol> <p>2. Survey plans shall be dimensioned in metres with levels to Australian Height Datum (AHD), prepared and signed by a Registered Surveyor.</p> <p>3. The type and extent of survey information likely to be required to support a development in a flood liable area is as follows:</p> <ol style="list-style-type: none"> <li>a. the location of the site relative to other features such as roads, bridges, etc;</li> <li>b. the assessed flood levels at the site (for the 1:100 ARI as a minimum and PMF where critical infrastructure is proposed), the origin of that level and how it was derived;</li> <li>c. the position of existing buildings (if any) and proposed buildings and works on the site;</li> <li>d. the existing and proposed floor levels of buildings on the site;</li> <li>e. the existing ground levels around all existing buildings on the site, or if the site is vacant, ground levels on the site and on adjacent properties within approximately 30 metres of the boundary of the site;</li> <li>f. the locations should be shown of any structure of the Hunter Flood Mitigation Scheme (such as levee banks, spillways, floodgates etc.), which are inside or within 100 metres of the subject property site; and</li> <li>g. the position and floor and ground levels of buildings on adjacent properties, and the use of the properties within 100 metres of the subject site.</li> </ol>	
<p>2.3 General building requirements</p> <p>Development Controls</p> <ol style="list-style-type: none"> <li>1. All habitable finished floors shall be no lower than the FPL.</li> <li>2. Parts of buildings and structures at or below the FPL shall be constructed in accordance with Table 1: Flood Aware Design Requirements for Residential Development on Flood Prone Land. The development shall be certified by a qualified Structural Engineer that the building has been designed to withstand the depth of inundation, buoyancy and flow velocity forces (including potential for debris impact) at the development site for a 1:100 ARI event.</li> <li>3. Flood-free access shall be provided from the development to an appropriate evacuation facility (as identified in the Maitland Local Flood Plan), at the 1:20 ARI flood level or higher.</li> <li>4. Provision shall be made for the safe evacuation of people from the development in accordance with the Maitland Local Flood Plan.</li> <li>5. Sufficient storage space for household effects shall be provided above the FPL.</li> <li>6. Electrical fixtures such as light fittings and switches shall be sited above the FPL unless they are on a separate circuit (with earth leakage protection) to the rest of the building.</li> <li>7. Requirements 1, 3, 4 and 6 do not apply to the following development: <ul style="list-style-type: none"> <li>• The extension of an existing dwelling house by no more than 50% of its internal floor area,</li> <li>• An addition to an existing dwelling house with an area of no more than 50% of the internal floor area of that dwelling to be used for the purpose of a dual occupancy.</li> </ul> </li> </ol>	<p><b>Complies</b></p> <p>The existing floor level of the building to be utilised for the temporary events is located above the FPL as it is located on top of a flood mound at 7.18m AHD.</p> <p>In the event of flooding whilst the temporary use is operating, safe evacuation of people from the property will be enacted as a matter of priority in accordance with an Emergency evacuation plan prepared and displayed at the property in accordance with the Maitland Local Flood Plan.</p>

DCP Clause / Provision	Comment
<ul style="list-style-type: none"> <li>• Tourist and visitor accommodation.</li> </ul> <p>2.9 Mitigating Circumstances</p> <p>Development controls</p> <p>1. Council may consent to a development where:</p> <ol style="list-style-type: none"> <li>The land use is permitted in the zone; and</li> <li>Full compliance with the flood-related development controls is impossible or unreasonable.</li> </ol> <p>Note: Examples of circumstances where an alternative merits-based assessment may be considered include:</p> <p>Rural Dwellings where:</p> <ol style="list-style-type: none"> <li>An owner is required to live on-site in order to manage an agricultural enterprise and</li> <li>The dwelling is located on the landholding on which the major operational part of the enterprise is located; and</li> <li>A dwelling is permitted on the land</li> </ol> <p>2. Any application will be subject to a comprehensive merits-based assessment against the objectives of the DCP and Clause 7.3 of the LEP.</p> <p>3. Any application under this clause must be supported by detailed justification including any relevant studies.</p>	<p><b>Complies</b></p> <p>The proposed use is a Temporary Use of Land under Clause 2.8 which is permitted in any zone where satisfying the requirements of Clause 2.8. As such the proposed use is permitted in the zone.</p> <p>The existing farm building was previously assessed in relation to in relation to B2 of the DCP and found to comply with the requirements as outlined in the attached Flood Impact Report for the building.</p>
<b>C4. Heritage Conservation</b>	
<p><b><i>[Clause C4 Heritage Conservation – outlines the assessment requirements for alterations to existing buildings in a heritage conservation area and construction of new buildings in the heritage conservation area] – refer to details in the Maitland DCP]</i></b></p>	<p><b>Complies</b></p> <p>The proposed temporary use does not propose to alter an existing building located in a heritage conservation area.</p> <p>The proposed temporary use involves construction of an associated amenities building on land within a heritage conservation area. The objectives of C4 are achieved as the associated amenities building is located behind the existing building on the property, is not readily visible from the street and is of a small scale relative to the other existing buildings located on the property.</p> <p>Given the proposed use is temporary in nature and utilises the existing building and infrastructure, there is no visual impact on the significance of the conservation area, rural aesthetic or character of the surrounding area.</p>
<b>C11. Vehicle Access and Parking</b>	
<p>1.2 Calculation of Parking Requirements</p> <ol style="list-style-type: none"> <li>Development Generally</li> </ol> <p>The minimum number of parking spaces to be provided for a particular development is to be calculated in accordance with <b>Appendix A</b> of this policy.</p> <ol style="list-style-type: none"> <li>Mixed Uses</li> </ol> <p>Ancillary components of a land use (for example an office within an industrial building that occupies less than 20% of the total floor space) will be assessed according to the rate required for the principal land use.</p> <p>For developments incorporating different categories of uses, a separate calculation will be made for each component and then added together to provide the total parking requirement. Any departure from this method will only be considered where it is demonstrated that the peak demand for each land use component of the development is staggered. In this regard the applicant should submit a parking profile showing the cumulative parking demand by time-of-day.</p> <ol style="list-style-type: none"> <li>Calculation of Numbers</li> </ol>	<p><b>Complies</b></p> <p>Appendix A does not specify parking rates for a function centre, whether or not a temporary use. Appendix A states that "<i>Parking must be provided to satisfy the peak cumulative parking requirements of the development as a whole. For this purpose a comparison survey or similar developments, in similar locations should be provided with the development application</i>"</p> <p>In our experience the car parking demand rate for function centres, regardless of whether temporary or permanent, is 0.3 spaces per patron. This takes account for a large number of patrons traveling to functions together in shared transportation, as family, friend or groups of associates. Where a maximum of 80 patrons are proposed to attend the premises at any time, it is suggested that a</p>



DCP Clause / Provision	Comment
<p>Where the calculation results in a fraction of a space, the total number of parking spaces required will be the next highest whole number. d. Change of Use</p> <p>Where the use of an existing building is to be changed, or where an existing building is to be replaced with a new building, the following method of calculation shall apply:</p> <ol style="list-style-type: none"> <li>I. The parking requirements of the previous or existing premises is to be determined in accordance with Appendix A of this policy;</li> <li>II. The parking requirement of the proposed development is to be determined in accordance with Appendix A of this policy;</li> <li>III. Subtract the number of spaces determined in (a) above from the number of spaces calculated in (b) above;</li> <li>IV. The difference calculated in (c) above represents the total number of parking spaces to be provided in addition to the existing of-street carparking. Where an existing building is to be replaced by a new building which has a floor area not exceeding the floor area of the existing building, and no</li> </ol>	<p>maximum of 27 spaces would be required to allow for 24 spaces for patrons, 2 catering staff and 1 event manager/organiser.</p> <p>There is a large informal carparking area proposed within the existing compacted gravel area in front of the existing farm building. Whilst it is not proposed to formally line mark the area, the site plan demonstrates that there is sufficient area to accommodate additional car parking beyond anticipated demand.</p>
<p>2.1 Access To The Site</p> <p>A development should be designed to provide adequate on-site manoeuvring and circulating areas to ensure that all vehicles can enter and leave the site in a forward direction.</p> <p>Access to or from a site shall be located where it causes the least interference to vehicular and pedestrian traffic on the road frontage. Access will generally not be permitted in the following locations:</p> <ol style="list-style-type: none"> <li>a. close to traffic signals, intersections or roundabouts where sight distance is considered inadequate by Council;</li> <li>b. opposite other developments generating a large amount of traffic (unless separated by a median island);</li> <li>c. where there is heavy and constant pedestrian movement along the footpath;</li> <li>d. where right turning traffic entering the facility may obstruct through traffic; and</li> <li>e. where traffic using the driveways interferes with, or blocks the operations of bus stops, taxi ranks, loading zones or pedestrian crossings.</li> <li>f. Direct access onto a major road is to be avoided wherever possible. Auxiliary lanes, (deceleration and acceleration lanes), may need to be provided to minimise conflicts between entering/leaving traffic with through traffic. In many cases, right turn movements into a site are unlikely to be supported, unless an exclusive right turn bay is provided.</li> </ol> <p>Council may designate areas over the street frontage of the development where no stopping or no parking sign posting is to be installed to facilitate the entry/exit of vehicles and the safe movement of cyclists and pedestrians. Any on-street signage would be required in accordance with Australian Road Rules requirements as identified by Council's Local Traffic Committee</p>	<p><b>Complies</b></p> <p>The proposed access and carparking provides sufficient area for on-site manoeuvring to allow vehicles to enter and exit in a forward gear and pass each other.</p> <p>The temporary use will utilise the existing 12m wide driveway crossover.</p> <p>The property is not located adjacent another traffic generating use or high pedestrian environment.</p> <p>Council may as they deem necessary apply conditions to ensure safe movement and parking of vehicles.</p>
<p>2.2 Sight Distances</p> <p>Consideration must be given to maintaining adequate sight distances for all access driveways. Any vehicle entering or leaving the driveway must be visible to approaching vehicles and pedestrians. AS 2890.1 Off Street Car Parking gives minimal and desirable sight distances for a range of road frontage speeds.</p>	<p><b>Complies</b></p> <p>Refer to Traffic Report.</p>
<p>2.3 Entrance / Exit to the Site</p> <p>The entry and exit requirements for parking areas may vary in relation to:</p> <ul style="list-style-type: none"> <li>• the size of vehicles likely to enter the proposed development;</li> <li>• the volume of traffic on the streets serving the proposed development; and</li> <li>• the volume of traffic generated by the development.</li> </ul> <p>The driveway standards recommended by the Roads and Traffic Authority of NSW Guide To Traffic Generating Developments (the guide) are adopted for the purpose of this Plan.</p>	<p><b>Complies</b></p> <p>The existing driveway was designed to accommodate larger vehicles and allows for passing of vehicles in the driveway. The existing access arrangements are suitable for the amount of traffic that is likely to be generated by the temporary use, as outlined in the attached Traffic assessment report.</p>

DCP Clause / Provision	Comment
<p>Requirements specified within 'the guide' are summarised in Tables 1 and 2 in Appendix B, and in general the following shall apply:</p> <ul style="list-style-type: none"> <li>• separate entrance and exit driveways should be provided for developments requiring more than 50 car parking spaces or where the development generates a high turnover of traffic such as a service station or other drive- in retail facilities;</li> <li>• entry and exit driveways shall be clearly signposted;</li> <li>• the number of access points from a development site to any one street frontage should be limited to one ingress and one egress; and</li> <li>• the potential for on-street queuing should be minimised by ensuring that adequate standing areas are available for vehicles entering the car park and loading areas.</li> </ul>	<p>Entry/exit and car parking area can be clearly signposted during events, in accordance with any conditions deemed necessary.</p>
<p><b>2.4 Location of Parking Areas</b></p> <p>Parking facilities for visitors and customers shall be provided where clearly visible from the street so their use is encouraged.</p> <p>Parking spaces for employees and for longer duration parking may be located more remotely from the street.</p> <p>Within the development site, the location of the parking area should be determined having regard to:</p> <ol style="list-style-type: none"> <li>a. site conditions such as slope and drainage;</li> <li>b. visual amenity of the proposed and adjacent development;</li> <li>c. the relationship of the building to the parking area; and</li> <li>d. the proximity of the parking area to any neighbouring residential areas.</li> </ol>	<p><b>Complies</b></p> <p>The proposed parking facilities are clearly visible from the street and in close proximity to the proposed function venue. The parking area is appropriately located on the site and in relation to the proposed activities.</p>
<p><b>2.7 Landscaping</b></p> <p>Parking areas shall be appropriately landscaped to achieve a satisfactory appearance, particularly for those car parks with large areas of bitumen, to provide shade and to provide a buffer between neighbouring land uses.</p> <p>Landscaping should be used throughout the car park and on the perimeters. In general, there should be no more than 10 parking bays before a break with planting.</p> <p>Species should be selected and located to avoid maintenance problems, so that they do not hinder visibility at entry or exit points and so that they do not cause damage to paved areas by root systems or create excessive leaf or branch litter. Trees with large surface roots, excessive girth, brittle limbs, fruits which drop and trees which attract large numbers of birds should be avoided in parking areas. In most cases landscaping can be integrated into parking layouts without the need for additional area or loss of car parking spaces.</p> <p>Wheel stops are to be provided along the front of parking bays to prevent vehicles from damaging landscaped areas, buildings and/or fencing and other vehicles.</p>	<p><b>Partial Compliance/ Alternative Solution</b></p> <p>Landscaping has recently been planted along the front boundary which improves the overall streetscape appearance of the property and once mature will assist in breaking up the visual prominence of the carparking area from the road.</p> <p>Due to the temporary nature of the use, it is proposed not to formalise, or line mark the proposed carparking area. As such, it is not considered appropriate to landscape within the car parking area.</p> <p>It is understood that Council may condition additional landscaping around the perimeter of the carparking area should they deem it necessary for a temporary use.</p>
<p><b>2.8 Directional Signs and Marking</b></p> <p>Parking areas are to be clearly signposted and line-marked. Entry and exit points are to be clearly delineated and parking spaces for specific uses (disabled, visitors, employees etc) clearly signposted. "One way" markings must be clearly set out on the pavement in such a manner as to be easily readable and understandable to users of the car park.</p> <p>Council may designate areas within the car park where no stopping or no parking signposting is to be installed to facilitate the free movement of vehicles and pedestrians.</p>	<p><b>Partial Compliance/ Alternative Solution</b></p> <p>Whilst the temporary use is operating, temporary directional signage can be installed to direct patrons to access and parking area.</p> <p>As discussed above, it is not proposed to line-mark the car parking area due to the temporary nature of the use. There is ample area available for parking such that strict line marking is not necessary.</p> <p>It is understood that Council may condition directional signage or designate no stopping or no parking areas as they deem necessary.</p>
<p><b>E.3 Heritage Conservation Areas – 1. Morpeth Heritage Conservation Area</b></p>	
<p><b>Rural Outskirts Precinct</b></p> <p>The specific characteristics of this precinct can be summarised by the following:</p> <ul style="list-style-type: none"> <li>• Rural surrounds which features barns and farm-houses and evidence of floods.</li> <li>• Open farming plains that provide clear views to the township of Morpeth from surrounding areas.</li> </ul>	<p><b>Complies</b></p> <p>Council's heritage statement for Morpeth Heritage Conservation Area outlines the intent to maintain the open rural character of the 'Rural Outskirts</p>

DCP Clause / Provision	Comment
<ul style="list-style-type: none"> <li>Incorporates the floodplains and meandering Hunter River.</li> <li>Rural approaches to the Morpeth township with landmark transition Avenue plantings at Morpeth Road (Fig Tree Hill) and Duckenfield Road.</li> </ul> <p>Views Toward the Town from Approach Roads and Outlying Areas Aim: To maintain the setting of the village within an open rural landscape. Requirements:</p> <ol style="list-style-type: none"> <li>There should be no non-rural (ie residential or commercial) development on surrounding rural and vacant land. Areas directly adjoining the urban township are affected by this policy and include but are not limited to the vacant land on the corner of Tank and Close Street, allotments on the southern edge of the town ship, allotments to the east of Edward Street, and holdings on the northern side of the River.</li> <li>Reference should be made to the View Corridors - Map A (Morpeth) showing view corridors towards the town which should not be obstructed by new development.</li> <li>Planting and enhancement of the 'green belt' approaches to Morpeth is encouraged.</li> <li>The approaches to the township should remain informal in character avoiding formal footpaths along the primary access routes (ie Metford Rd and Fig Tree Hill).</li> </ol>	<p>Precinct' surrounding Morpeth township and discourages the development on non-rural uses.</p> <p>The predominant character of the property will remain as farm buildings and open farming plains. The temporary use, primarily undertaken inside the existing farm building would not detract from the rural character. The property would appear largely unchanged, particularly when the temporary use is not operating.</p> <p>Whilst commercial uses are not typically intended for the Primary Production Zone and rural intent of the Morpeth Heritage Conservation Area outskirts, the proposal is for a temporary use only. The proposal will not alter the primary use of the property for agricultural purposes, being lucerne farming and associated farm buildings, which will remain unaltered by the temporary use of the land.</p> <p>Permitting the temporary use of the land for functions up to 52 days per year will not impact on the character of the Rural Outskirts Precinct.</p>

## 4.4 Section 4.15 Considerations

### 4.4.1 Suitability of the site

The previous sections of this report have demonstrated the suitability of the site for the proposed temporary usage, particularly in terms of:

- The proposal is consistent with the existing development within the locality.
- The proposal is consistent with the objectives and development standards applying to the land.
- Overall the development is considered an appropriate temporary usage of the site.

### 4.4.2 Public interest

The proposal is considered to accord with the wider public interest in that:

- It provides an appropriate temporary use of the site;
- It provides a service to meet the needs of the community; and,
- It is consistent with all relevant LEP aims and objectives

### 4.4.3 Section 4.15 of the Environmental Planning and Assessment Act, 1979

Matters for Consideration	Considered?
Section 4.15 (1) (a)(i) – Has consideration been given to all relevant provisions of any relevant environmental planning instrument?	Yes
Section 4.15 (1) (a)(ii) – Has consideration been given to 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)?	Yes
Section 4.15 (1) (a)(iii) – Has consideration been given to all relevant provisions of any provisions of any development control plan?	Yes

Matters for Consideration	Considered?
Section 4.15 (1) (a)(iii) – Has consideration been given to all relevant 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?	N/A
Section 4.15 (1) (a)(iv) – Have you considered all relevant provisions of the Regulations (to the extent that they are prescribed for the purposes of this paragraph)?	Yes
Section 4.15 (1) (b) – Are the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality acceptable?	Yes
Section 4.15 (1) (c) – Is the site suitable for the development?	Yes
Section 4.15 (1) (d) – Has consideration been given to any submissions made in accordance with the EPA Act or EPA Regulations?	TBA by Council
Section 4.15 (1) (e) – Is the proposal in the public interest?	Yes

## 5 Summary and Conclusion

Council Approval Group is pleased to submit this Statement of Environmental Effects and accompanying information for Temporary Use of Land for a Function Centre at 68 Phoenix Park Road, Phoenix Park.

This Statement of Environmental Effects for the proposed development has considered:

- the circumstances of the case;
- an analysis of the subject site and the surrounding locality;
- an analysis of the proposal against the provisions of the *LEP 2011*, as well as relevant DCPS, SEPPs and deemed SEPPs, and other relevant statutory controls that apply to the site; and
- Section 9.1 Directions.

This report concludes that the proposal will substantially complement the objectives and vision of the Plan, Zone, and DCP in particular:

- It will encourage an employment, recreation and appropriately located tourism-related development that will meet the existing and future needs of residents and visitors;
- It will provide a much needed venue in the locality for residents and community groups to host events;
- It allows for other appropriate land uses that are not suited to urban zones while maintaining the predominant rural use and character of the land;
- It will facilitate the orderly and economic development of the land whilst assisting in maintaining the financial viability of agricultural activities on the land;
- It will establish an employment generating development.

We are pleased to present this SoEE for Temporary Use of the Land for a Function Centre, which, once approved, will provide a positive impact to the community as a social venue and meeting place for residents, visitors and community groups to host events.

### 5.1 Recommendation

Under all the circumstances of the case, it is therefore recommended to Council for favourable consideration.

- Appendix A. Cost Estimate Report
- Appendix B. Site Waste Management Report
- Appendix C. DA Plans
- Appendix D. Notification Plans
- Appendix E. Detailed Survey
- Appendix F. Traffic Management Report
- Appendix G. Acoustic Assessment Report