



LAND DEVELOPMENT
SOLUTIONS

**STATEMENT OF
ENVIRONMENTAL
EFFECTS**

**MODIFICATION TO APPROVED DA OF
ROADSIDE STALLS**

**229 GLENARVON ROAD, LORN
Lot 1 in DP 739641**

SURVEYING • PLANNING • ENGINEERING

PO Box 853, The Junction NSW 2291 • 02 4963 5520 • mail@lds.net.au • www.lds.net.au

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1.0 INTRODUCTION

This Statement of Environmental Effects has been prepared to support a Section 4.55(2) Modification Application to undertake modifications to approved consent DA/2020/1437. The original consent was for Roadside Stall and Markets.

Following approval of the original DA owners decided to make some changes to improve the original decision.

Land Development Solutions Pty Ltd lodges this application on behalf of our client Mrs Denise Duffield-Thomas, pursuant to Section 4.12 of the Environmental Planning and Assessment (EP&A) Act 1979, as amended. The proposal has been prepared in accordance with the provisions of Part 4 Division 4.3 Section 4.15 of the EP&A Act 1979, the Maitland City Council Local Environment Plan 2011, and Maitland City Council Development Control Plan 2011.

Section 4.15(1) of the EPA Act, 1979 provides the assessment criteria which a consent authority is to take into consideration, where relevant, when considering a development application. An assessment of the proposal relative to the matters prescribed under Section 4.15(1) is provided in this report.



2.0 SITE DESCRIPTION

2.1 LOCATION & PROPERTY DESCRIPTION

The title details of the parcels subject to this Development Application are Lot 1 in Deposited Plan Number 739641.

The subject site is currently occupied by a single storey weatherboard dwelling, a separate single storey building (dual occupancy approved under CCP/17/0328), pool area, sheds, green houses and horse arena. There are no immediate neighbouring dwellings and the site is surrounded by vast open landscapes. The site sits on a parcel of 9.9 acres (4Ha), has a frontage of 245.465 metres to Glenarvon Road and has a very slight fall from west to east (towards Glenarvon Road) of 0.78%, with a range in levels of 6.58AHD to 5.42AHD.

3.0 APPLICATION HISTORY

Consent was granted for the proposed development on 9th November 2021.

4.0 PROPOSED MODIFICATIONS

The purpose of this application is to modify DA/2020/1437 under Section 4.55(2).

Condition 3

3. No loudspeakers or amplification (such as speakers playing amplified recorded or live music) are approved under this consent.

The revised acoustic by Spectrum Acoustics (August 2022) details, there could be a band without speakers (e.g. Jazz band or string quartet) and volume-controlled PA system for background / event music and speeches, via low range bluetooth speaker or similar. Spectrum Acoustics has recently taken measurements at a wedding venue where the sound power level of Bluetooth speakers at a volume near distortion was 85 dB(A).

Proposed:

3. Loudspeakers or amplification are to be in accordance with Spectrum Acoustics Noise Impact Statement (August 2022).



Condition 4

4. This consent is limited to 3 years from the date of the first markets event. Should operations continue beyond 3 years from the date of determination, a new Development Application (DA) or modification to DA 2020/1437 will need to be lodged with Council.

Any new DA or modification to DA 2020/1437 will need to reasonably consider any impacts resultant from event operations, including but not limited to traffic, acoustics and operational requirements (occupancy, car parking, hours, etc.), at the time of lodgement.

Proposed:

4. This consent is limited to 5 years from the date of the first markets event. Should operations continue beyond 5 years from the date of determination, a new Development Application (DA) or modification to DA 2020/1437 will need to be lodged with Council.

Any new DA or modification to DA 2020/1437 will need to reasonably consider any impacts resultant from event operations, including but not limited to traffic, acoustics and operational requirements (occupancy, car parking, hours, etc.), at the time of lodgement.

Condition 5

7. The hours of operation of the markets be confined to within 7am till 9pm Thursday- Friday and 8am to 9pm Saturday to Sunday (including public holidays). Activities including, but not limited to, cleaning, preparation, administration, and market set up activities and pack up activities by stall holders must be undertaken within these hours and must not disturb the amenity of the neighbourhood.

Proposed:

7. The hours of operation of the markets be confined to within 7am till 9pm Thursday- Friday and 8am to 9pm Saturday to Sunday (including public holidays). Activities including, but not limited to, cleaning, preparation, administration, and market set up activities and pack up activities by stall holders must be undertaken within these hours and must not disturb the amenity of the neighbourhood.



Setting up and removal of stores can be undertaken by store holders one hour before and after the above mentioned times.

Condition 32

32. The internal driveways, parking areas and vehicles turning areas shall be constructed with either an all weather surface treatment (gravel) or bitumen or reinforced concrete in accordance with the approved design and Council's Manual of Engineering Standards. The parking areas are specified in Condition 25 and 26 of this consent. Where gravel is used, this must be suitably stabilised, with dust suppression methods employed where necessary.

Proposed:

To be removed. With respect to temporary car parking areas 1 and 3. As previously detailed the temporary nature of the approval must ensure that viable farm land is not lost and providing this parking pavement structure will contravene this LEP clause.

Condition 34

34. All work required to be undertaken within a public road reserve must make separate application to, and gain approval by Council, under Section 138 of the Roads Act 1993.

Engineering construction plans must be prepared and designed by a suitably qualified professional, in accordance with approved plans/documents, Council's Manual of Engineering Standards and relevant Austroads Guides. The Roads Act Approval from Council should be applied for at the same time as any works/construction Certificate within the site to avoid delays at the end of the project.

The required road works to be designed and constructed are as follows:

a) Glenarvon Road shall be upgraded for BAR/BAL turn treatment at the proposed site access.

b) Relocate existing utility services as required to facilitate the upgrade of the intersection.

c) Adequate sight distances shall be provided at the proposed vehicular accesses for vehicles entering and exiting the site in accordance with the Austroads Guide and relevant Australian Standards.

d) Prior to issue of the approval for road works, detailed engineering plans are to be provided of all signage and line marking, and traffic facilities shall be submitted to and approved by Council.

e) Prior to approval of the works within the road reserve, detailed engineering plans are to be provided of all signage and line marking, and traffic facilities for consideration by the Local Traffic Committee.



f) All works associated with the subject development shall be undertaken at full cost to the developer and at no cost to Council.

g) Prior to issue of an Occupation Certificate written confirmation that the Roads Act approval works have been satisfactorily completed, shall be obtained from Council's Subdivision Engineers.

Proposed:

To be removed. As detailed in [Appendix C](#) in correspondence with Council's Scott Page the alternate solution is a rural driveway crossing in accordance with MCC SD013 shown in [Appendix D](#). Traffic control plans prepared by TTC Australia are to be implemented accordingly ([Appendix E](#)).

5.0 SECTION 4.55(2)

Section 4.55(2) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.



Subsections (1) and (1A) do not apply to such a modification.

As explained in [Section 4](#) of this report, the proposed modifications are minor and these alterations enhance the proposed development and will not negatively impact the surrounding neighbourhood or local area, nor will they have any adverse environmental impacts. Therefore, council should look favourably upon the proposed minor modifications for the development and as they are within the original approvals intent.

5.1 SECTION 4.55(2) ASSESSMENT

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

(a) the provisions of:

(i) any environmental planning instrument, and

(ii) 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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

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

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

(v) (Repealed)

that apply to the land to which the development application relates,

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

(c) the suitability of the site for the development,

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

(e) the public interest.

The above provisions and requirements have been addressed in the original SEE. The proposed modifications will not depart from any of the requirements listed above. A summary of the changes to the conditions are outlined below.



5.2 LIST OF DOCUMENTS SUPPLIED

Plan Ref No.	Sheet No.	Revn No.	Revision Date	Prepared By
Acoustic Report			August 2022	Spectrum Acoustics
Car Parking Plan		R2	27 th July 2022	Land Development Solutions
Rural Driveway Crossing		R3	26 th April 2022	Land Development Solutions
Traffic Control Plans	1-5		19 th October 2022	TTC Australia



6.0 CONCLUSION

The above assessment of the proposed roadside stall and market addresses the requirements of Maitland City Council's Development Application guidelines. The proposed modification provides minimum impact upon the existing neighbourhood.

The proposal will also contribute a positive economic impact to the local community by generating employment opportunities and selling of local produce. The proposal constitutes an appropriate form of development that is consistent with the character and uses of the surrounding area.

The proposal is reasonable and appropriate when considered under the relevant heads for consideration in Part 4 Division 4.3 Section 4.15 of the EP&A Act 1979, as amended, and is worthy of favourable consideration by Council.



APPENDIX A

Development Consent



APPENDIX B

Traffic Report



APPENDIX C

Email Correspondence



APPENDIX D

Rural Driveway Crossing



APPENDIX E

TCP and TMP



229 Glenarvon Road, Lorn – Roadside Stalls and Markets

