

# DEVELOPMENT ASSESSMENT REPORT – DA114/19

## FARM STAY ACCOMMODATION

### Lot 104 DP 1205799

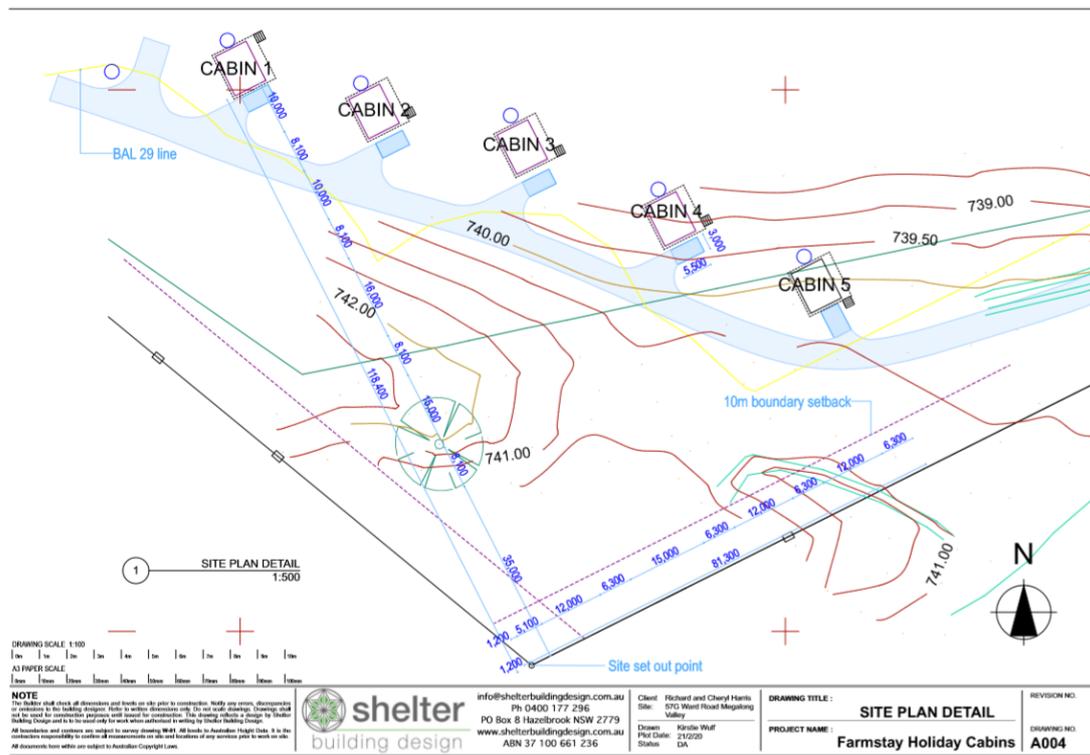
### 165 Caloola Halt Road, Megalong Valley

## 1. PROPOSAL

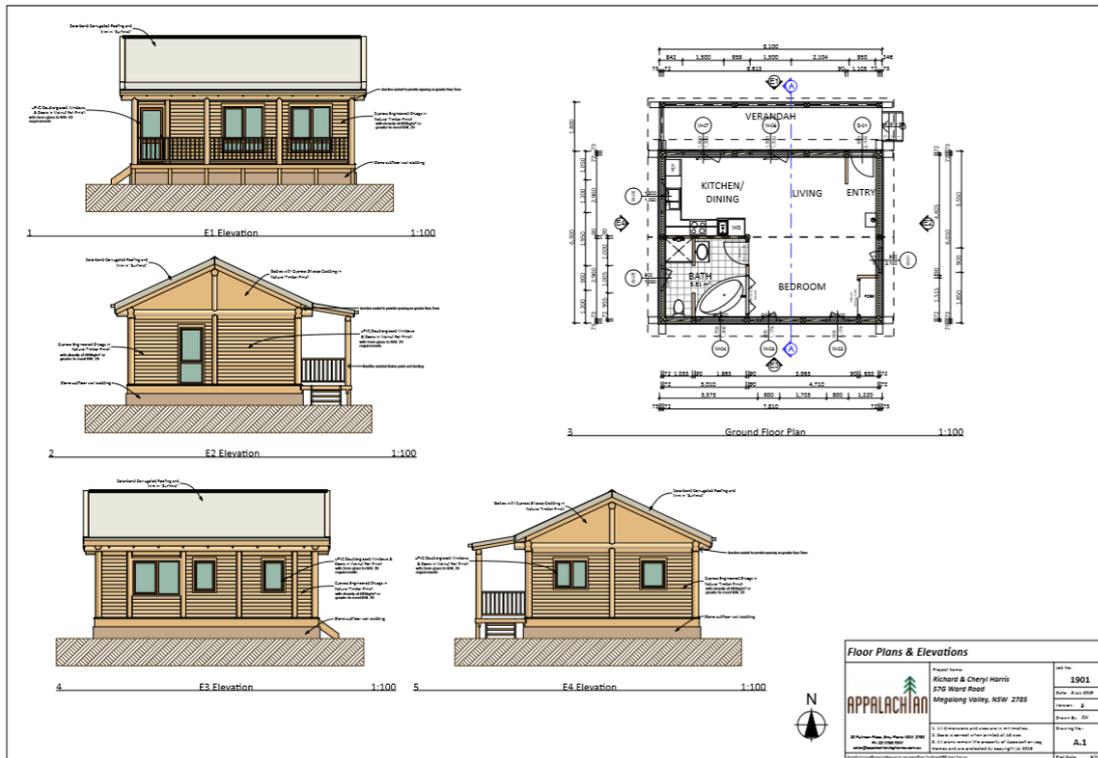
Council has received a development application (DA114/19) from Kirstie Wulf C/- Shelter Building Design that seeks consent for the use of land at 165 Caloola Halt Road, Megalong Valley (Lot 104 DP 1205799) for the purposes of farm stay accommodation. The proposal involves the erection of 5 x 49 square metre cabins each containing one bedroom, bathroom and small living area. The cabins will have maximum capacity of 2 adults each with the site having capacity for a maximum of 10 guests.

The development application was originally lodged in July 2019 seeking consent for an "eco tourist facility". The applicant formally amended the DA details in December 2019 and changed the proposal to "farm stay accommodation". The proposed accommodation is intended to be low-impact, low-scale rural accommodation for couples.

Details of the proposal are summarised in the plan extracts below.



**Site plan showing location of cabins relative to site boundaries**



**Floor plans and elevations for proposed cabins**

## 2. SUMMARY

This assessment considers the merits of the proposal and its likely impacts. It recommends that DA 114/19 be approved subject to conditions.

## 3. LOCATION OF THE PROPOSAL

Legal Description : Lot 104 DP 1205799  
 Property Address : 165 Caloola Halt Road, Megalong Valley

The land comprises a large rural property currently used predominantly for agricultural grazing. It is part of a cluster of large rural lots that obtain access via a private shared rural carriageway (identified as Caloola Halt Road) which is accessed off Wards Road in the Megalong Valley. The right of way access traverses Lot 103 DP 1205799 and provides shared access to seven other properties in the immediate vicinity. The owners of the land over which the right of way passes, as well as the other affected landowners are not parties to this development application. Some of the affected landowners have raised objections to the proposal which are addressed further later in this report. The land subject to the proposal in its context with the surrounds is illustrated on the aerial images below.

The land has an overall area of 111.54 hectares and is split over two separate sections. The part of the land subject to the proposal has an area of 24.82 hectares and comprises mainly cleared elevated grazing land on the edge of an escarpment. Current improvements on the land include a farm dam, basic agricultural infrastructure, a small-scale market garden, a small agricultural shed/farm building constructed as exempt development and a small "temporary site shed" which the landowner states will be removed following the approval of the farm stay application. The temporary

shed and farm shed are both connected to an unauthorised wastewater treatment system that will be regularised as part of this development application. Further to this, following the lodgement of this development application, a separate application was lodged and subsequently approved by Council for a dwelling house on the land in DA 118/20 on 3 August 2020. This dwelling is identical to the cabins proposed and will be located close to the existing shed. The dwelling is intended to be occupied by the landowner and to function as a manager's residence for the farm stay accommodation.

The land holding also includes a separate area of 86.72 hectares which is connected by a right of carriageway across several other properties. This separate part of the land holding is not affected by the proposal

The proposed farm stay accommodation will comprise five small 1-bedroom cabins just below the ridgeline near the main entrance to the property close to the existing buildings on the site. The elevated nature of the site will allow the cabins to enjoy sweeping views both to the south east and north west as illustrated in the images below.



**Subject land and location of cabins in context of wider surrounds**



**Location of cabins on subject land**



**Location of proposed cabins from vehicular entry to site**



**Location of proposed cabins facing towards existing rural shed and site entrance**



**View towards the north from location of proposed cabins**



**View to the southeast from location of proposed cabins**

## 4. ZONING

The land is zoned RU1 Primary Production under the provisions of the *Lithgow Local Environmental Plan 2014* (see map extract below).

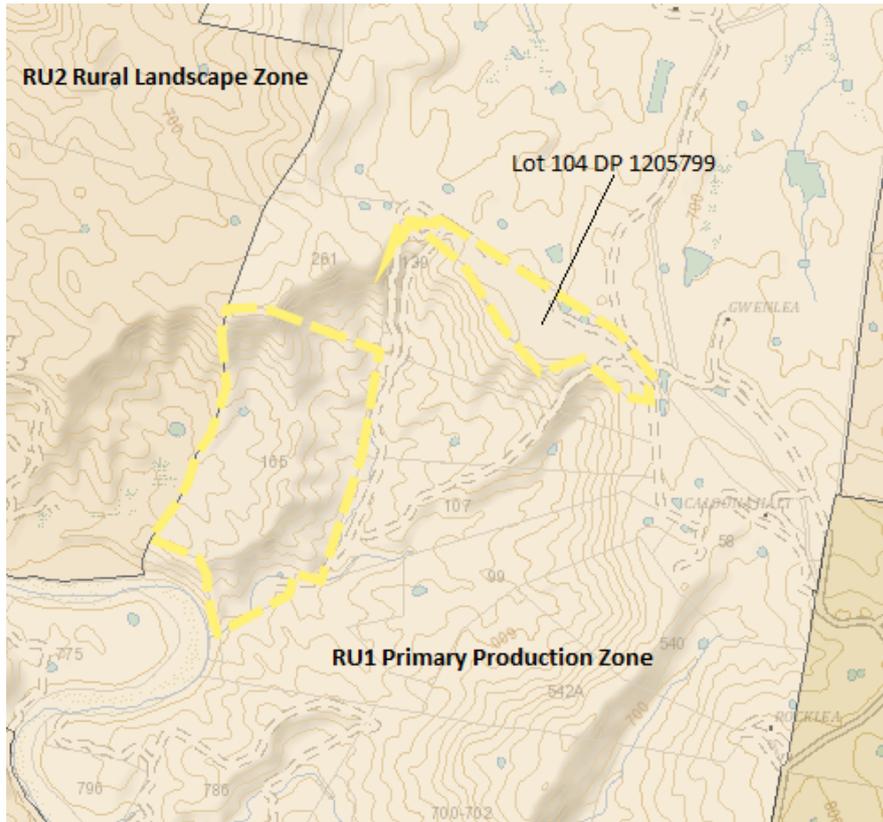
The objectives of the RU1 zone are:

- *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 minimise the environmental and visual impact of development on the rural landscape.*
- *To provide for recreational and tourist development and activities of an appropriate type and scale that do not detract from the economic resource, environmental or conservation value of the land.*
- *To maintain or improve the water quality of receiving water catchments.*

Of relevance in the assessment of this proposal is to ensure the development will:

- Not result in unreasonable land use conflict between the proposed use and the existing prevailing rural residential and agricultural uses in the locality,
- Not create unacceptable visual or amenity impacts on the surrounding locality, and
- Be of a scale that is appropriate for the locality.

It is considered that the proposed development can be undertaken subject to appropriate regulatory and land use management controls that will minimise its potential impact while allowing the landowner to undertake an appropriately scaled land use outcome that is provided for and facilitated by the *Lithgow Local Environmental Plan 2014*. The location of the proposal is sufficiently separated from the surrounding land uses to not result in any unreasonable land use conflicts. Due to the scale of the proposal it is not expected to impact adversely on the agricultural uses in the surrounding locality. The cabins will have a low impact visually, being located below the ridgeline on the site and oriented towards the northwest.



Lithgow LEP Zoning map extract

## 5. PERMISSIBILITY

The development application seeks consent for the use of the land for the purposes of “farm stay accommodation” in five 1-bedroom cabins. “Farm stay accommodation” is permitted with consent in the RU1 Primary Production zone and is defined in the *Lithgow Local Environmental Plan 2014* as:

***farm stay accommodation** means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.*

To be permissible, the proposed development must be consistent with the above definition. In this regard, while the property remains a “working farm” and the cabins are “a secondary business to primary production” the proposal can be permitted on the land. Should approval be granted, it is recommended that consent conditions be imposed to ensure the ongoing use of the land for farm stay accommodation remains consistent with the above definition and that the use of the farm stay cabins remains a secondary business to primary production.

The primary use of the land is cattle grazing with some small-scale market gardening undertaken on the site. The land is rated as farmland and the applicant has stated that the primary purpose of the land will remain cattle grazing if the farm stay cabins are approved. Council has also recently approved a dwelling on the land.

## Consistency with Zone Objectives

In addition to the above, development permitted with consent must also be consistent with the zone objectives. An assessment of the proposal's consistency with the zone objective is contained in the table below:

<b>Objective</b>	<b>Comments</b>
<i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i>	The proposed farm stay accommodation will occupy a small area of the land and will not compromise the capacity of the land for sustainable agriculture or the natural resource base.
<i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i>	The proposed farm stay accommodation will not negatively affect the potential diversity in primary industry enterprises and systems for the area. The proposal will provide small scale tourist accommodation that will facilitate the appreciation of the rural and scenic character of the locality.
<i>To minimise the fragmentation and alienation of resource lands.</i>	The proposal will not fragment or alienate resource lands and will not compromise the capacity of the land or its surrounds for primary production.
<i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i>	The proposal will have the potential to cause land use conflict between existing primary production and rural residential uses on adjoining and nearby properties. Appropriate management approaches can be taken by the operators of the farm stay accommodation to avoid and mitigate these impacts. This aspect of the proposal is addressed separately in this report.
<i>To minimise the environmental and visual impact of development on the rural landscape.</i>	The proposal will have an overall minimal environmental impact and has been designed to reduce the visual impacts on the surrounding landscape. The proposed buildings are of minimal scale and timber construction and are set just below the ridgeline on the site. The buildings are generally of a lesser scale to the prevailing built form in the locality (rural dwellings and farm sheds) and will have a negligible impact on the overall visual landscape.
<i>To provide for recreational and tourist development and activities of an appropriate type and scale that do not detract from the economic resource, environmental or conservation value of the land.</i>	The proposed development allows for the landowner to provide tourist development that, subject to appropriate regulation, will not unreasonably impact on or detract from the economic

	resource, environmental or conservation value of the land.
<i>To maintain or improve the water quality of receiving water catchments.</i>	The proposal has been assessed with regard to water quality and receiving catchments and subject to regulation will have a neutral or beneficial impact on water quality.

## 5.1 POLICY IMPLICATIONS (OTHER THAN DCPs)

### **Lithgow Community Participation Plan**

The development proposal was subject to community consultation in accordance with the above plan. Adjoining and affected landowners were notified of the proposal and its details were made available for public viewing. Notification was made to all adjoining and adjacent landowners. The land is in close proximity to the boundary with the Blue Mountains local government area with public road access (Wards Road) being located within the City of Blue Mountains. Blue Mountains City Council was consulted as part of the community participation process and given the opportunity to make a submission on the proposal. In addition, several adjoining landowners within the Blue Mountains local government area were also notified.

Five submissions objecting to the proposal on a variety of grounds were received from adjoining landowners. The issues raised in the submissions are addressed later in this report. A written response was also submitted by Blue Mountains City Council.

## 5.2 FINANCIAL IMPLICATIONS

### **Section 94A (Section 7.12) Development Contributions Plan 2015**

The development proposal is subject to the provisions of Council's contributions plan and will be subject to the payment of a levy of 1% of the estimated development cost. The development application identifies an estimate development cost of \$293,260. Should approval be granted, a consent condition will be imposed to require the payment of \$2,932.60 prior to the issue of a construction certificate.

## 5.3 LEGAL IMPLICATIONS

### ***Rural Fires Act 1997***

The proposed development is on bushfire prone land and as a form of tourist and visitor accommodation is categorised as a "special fire protection purpose" and requires approval from the NSW Rural Fire Service under section 100B of the *Rural Fires Act 1997*. Because of this, the proposed development is "integrated" under the *Environmental Planning and Assessment Act 1979* and requires RFS approval prior to the issue of development consent.

The application was referred to the RFS for integrated approval which was issued subject to conditions on 3 March 2020. If the development application is supported, the RFS approval consent conditions will be applied to the development consent.

### ***Public Health Act 2010***

The proposed development will provide accommodation to the public via a private reticulated water supply system and is subject to the provisions of this act in relation to safety measures for drinking water. Should approval be granted, relevant consent

conditions can be imposed requiring compliance with the relevant public health requirements for drinking water under this Act.

***Environmental Planning and Assessment Act 1979***

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These matters for consideration are as follows:

5.3.1 Any Environmental Planning Instruments

***Lithgow Local Environmental Plan 2014***

LEP 2014 – Compliance Check		
Clause		Compliance
<b>Land Use table</b>	RU1 Primary Production	Yes
<b>5.4</b>	Controls relating to miscellaneous permissible uses (B&B, home business, home industries, industrial retail outlets, farm stay accommodation, kiosks, neighbourhood shops, roadside stalls and secondary dwellings)	Yes
<b>7.4</b>	Terrestrial biodiversity	Yes
<b>7.7</b>	Sensitive lands	Yes

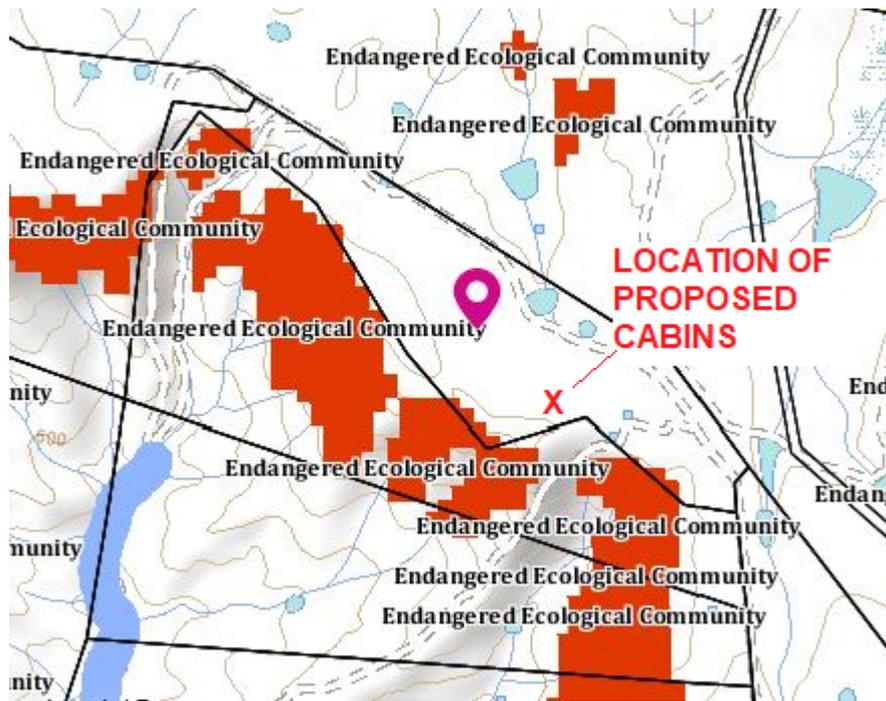
The subject land is within the RU1 Primary Production zone under the *Lithgow Local Environmental Plan*. As identified earlier in this report, the proposed farm stay accommodation is permitted with consent in the zone. Consistency with the zone objectives can be achieved subject to an adequate consideration of the impacts of the proposal and appropriate regulatory controls to avoid and mitigate likely impacts. These aspects of the assessment are addressed in further detail below.

Clause 5.4 of the LEP contains specific controls relating to certain permitted land uses. For farm stay accommodation, clause 5.4 provides the following:

***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 5 bedrooms.*

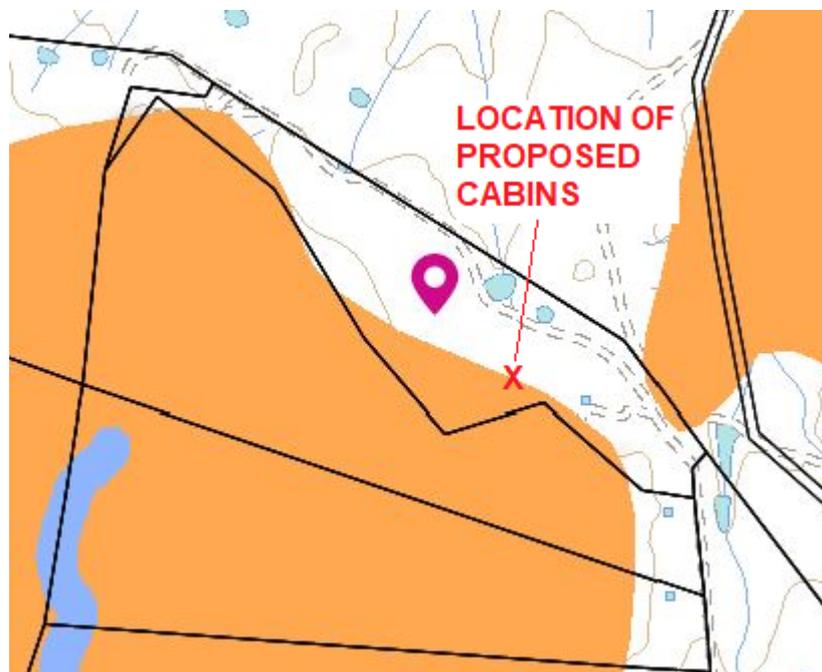
The proposal complies with this restriction and provides 5 x 1-bedroom cabins.

Clause 7.4 of the LEP contains provisions relating to the protection of terrestrial biodiversity and identifies affected land on the Biodiversity Overlay Map. The land adjoining the site contains areas identified as containing terrestrial biodiversity as illustrated on the map extract below. The location of the proposed cabins is not mapped and is sufficiently separated from the mapped areas to not result in any negative impacts on terrestrial biodiversity thereby achieving consistency with the provisions of this clause.



**Biodiversity Overlay Map Extract**

Clause 7.7 of the LEP applies to land identified as having certain physical sensitivities and constraints and requires the assessment of development proposals to consider the impacts of the development on these sensitive landscapes as well as the suitability of the site for the development proposed. The subject land is partially mapped as having sensitivity as illustrated in the map extract below.



**Sensitive Land Overlay Map Extract**

The area mapped above identifies land subject to steep slopes and shallow soils which is generally considered unsuitable for development. The location of the cabins is below the ridgeline of the site and setback from the escarpment edge. The location of the cabins is highly stable (with underlying granite) and slopes gently away from the

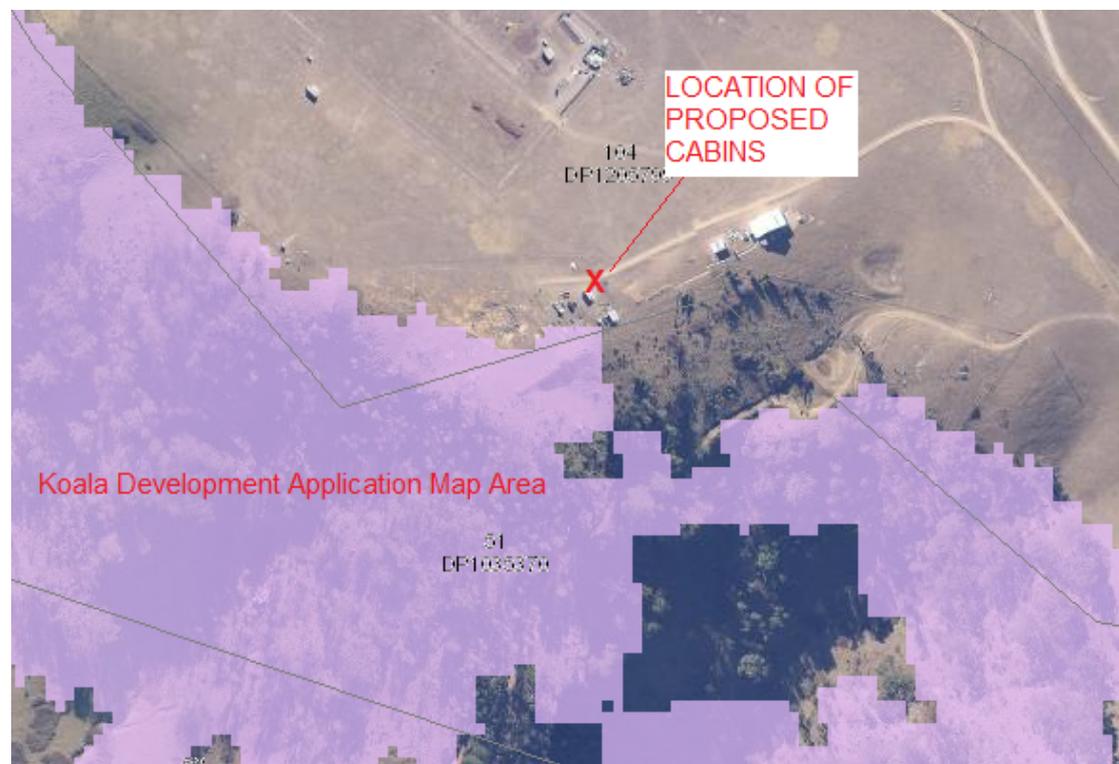
escarpment towards the northwest. In this regard, the proposal is not located on sensitive land and the proposal will not be unreasonably impacted. Compliance with the requirements of LEP clause 7.7 is achieved.

***State Environmental Planning Policy No 55—Remediation of Land***

This SEPP requires the assessment of a development application to consider the potential contamination of land and whether remediation is required to make the land suitable for the proposed use. The subject land is largely undeveloped and has not been subject to any past uses that would have resulted in its contamination. In this regard, the land is considered suitable for the proposed use.

***State Environmental Planning Policy (Koala Habitat Protection) 2019***

The provisions of this SEPP apply to land with an area greater than 1 hectare and mapped on the “Koala Development Application Map”. The land is partially affected by the map as illustrated in the extract below although the location of the proposed cabins is well separated from forested areas on adjoining land and outside any areas of potential koala habitat.



Clause 9 of the SEPP requires the assessment of a development application to which the SEPP applies to take into account the requirements of the Koala Habitat Protection Guidelines. Development is classified as Tier 1 – Low or No Impact Development in the guidelines where it meets all of the following criteria:

- 1. indirect impacts that will not result in clearing of native vegetation within koala habitat*
- 2. the development is below the Biodiversity Offsets Scheme threshold under the BC Act*
- 3. there is no native vegetation removal*
- 4. the development footprint will not impede movement between koala habitat*

*5. adequate mitigation measures such as those listed in Table 1 of the guidelines are implemented as necessary*

The proposed development will take place on land cleared of native vegetation and no further clearing is required or proposed. The proposal will not impede movement between koala habitat and will be generally consistent with the recommendations in Table 1 of the guidelines. Based on the above, the proposal is consistent with the requirements of this SEPP.

***State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011***

The land is located within the Sydney Drinking Water Catchment and is subject to the provisions of this SEPP. The development is required to achieve a neutral or beneficial effect on water quality. The proposal has been referred to Water NSW as the responsible authority for the catchment who have provided concurrence to the approval of the proposal subject to conditions.

5.3.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Nil.

5.3.3 Any Development Control Plan

Nil.

5.3.4 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?

Nil.

5.3.5 Any matters prescribed by the regulations that apply to the land

The proposal was referred to Council's building officer for review and comment to ensure relevant regulatory requirements have been addressed. Conditional approval can be granted to ensure compliance with applicable building and public safety standards.

5.3.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

**Context, Setting and Adjoining Landuses**

The proposed farm stay accommodation is located in an area dominated by rural land uses comprising farming properties and rural residential lifestyle lots. The land is within the Greater Blue Mountains area known for its high scenic and environmental values and attraction to tourists and visitors. The site of the development is located on the edge of the Megalong Valley and is elevated with extensive views in all directions, notably to the southeast over the Megalong and Coxs River valleys and to the north west. Access to the area is via Blackheath and the Blue Mountains City local government area. The proposed farm stay accommodation will be the first development of its kind in the surrounding area, although there are existing low scale tourist and visitor facilities in the Megalong Valley area (approximately 5km east of the

site within the Blue Mountains local government area). The proposal is considered to be of a scale that is appropriate for the locality and context of the site and is consistent with the LEP zone objectives. As development permitted with consent in the LEP, the impacts of the proposal can be adequately mitigated through consent conditions to regulate the use. The site of the proposal and its surrounds are illustrated in the images on the following pages.

### **Land Use Conflict**

The proposal has the potential to create land use tensions and conflict between uses due to the nature of the development and the characteristics of the site. Access to the site via a shared right of way which passes several rural residences, the location of the proposal within and amongst working farms and the introduction of tourists and visitors to such an environment are issues of relevance. One of the objectives of the RU1 Primary Production zones is that land uses must not result in unreasonable land use conflict between the proposed use and the existing prevailing uses in the locality. It is recommended that as a condition of consent, should approval be granted, that the applicant prepare a Plan of Management for the farm stay accommodation in collaboration with the affected adjoining landowners to address potential issues of conflict that may arise during the use and occupation of the cabins and to outline measures to address these issues.





### **Visual and Amenity Impacts**

The potential visual and amenity impacts of the proposal are relevant to this assessment. The zone objectives require that land uses not create unacceptable visual or amenity impacts on the surrounding locality. The proposed built form is of a modest scale and comprises five small cabins of wood construction in a rural environment. The cabins are located just below a ridgeline on the property and in the wider context of the site and locality will not be highly visually prominent. The nearest rural dwellings that may have visibility of the cabins are located 440m southeast, 570m north and 670m northeast respectively. In this context, given the scale of the cabins and the distances involved, as well as having regard for the nature of the topography of the valley, the potential visual impact created by the cabins will be minimal.

Tourist and visitor accommodation by nature has the potential to result in amenity impacts on the locality due to traffic generation and noise generated by occupants of the accommodation. Each cabin in the proposed farm stay accommodation has one bedroom and will have a maximum capacity each of two persons. It is not intended that the farm stay accommodation be occupied by families or large groups. The maximum permissible occupancy of the cabins would be 10 persons. It is recommended that, should approval be granted, a Plan of Management be implemented, with a copy provided to adjoining landowners, that will outline how the use of the cabins will be managed and to provide a system of self-regulation to avoid or reduce unreasonable amenity impacts. In addition to the above, should approval be granted, it is recommended that appropriate consent conditions be imposed to regulate the use with regard to occupancy, noise generation and visitor numbers. The farm stay accommodation is intended to provide for short term tourist and visitor accommodation only and is not for permanent or regular occupancy. To ensure the farm stay accommodation is utilised for short term accommodation only, it is recommended that if approval is granted, a consent condition be imposed restricting the occupancy of the cabins. There are no standard guidelines specifying what is a reasonable accommodation timeframe or maximum occupancy. A review of development controls in other local government areas (see table below) has revealed a range of occupancy limits based on a maximum number of consecutive days stay combined with a minimum interval between occupancy (by the same person) and a maximum cumulative occupancy over a 12-month period (by the same person). In the circumstances of the case it is recommended that an occupancy restriction be applied to the development consent that limits occupancy to a period of 14 days per person with a minimum 14 day interval per person for future occupancy.

### Comparison of accommodation occupancy limits in other jurisdictions

LGA	Controls	Source
Ballina	Maximum occupancy 42 consecutive days with 14-day interval between stays, total maximum stay 90 days in 12-month period	Ballina Shire Council Development Control Plan 2012, Chapter 4 Residential and Tourist Development
Blue Mountains	No occupancy restrictions	Blue Mountains Development Control Plan 2015, Part F4 Tourist Development
Central Coast (formerly Gosford)	Maximum stay 14 days in any 28-day period	Gosford Development Control Plan 2013, Part 3, Section 3.8 Bed and Breakfast and Farm Stay Accommodation
Shoalhaven	Maximum occupancy 42 consecutive days not exceeding 150 days in 12-month period	Shoalhaven Development Control Plan 2014, Chapter G15 Tourist and Visitor Accommodation

#### Services

The land is serviced by reticulated electricity supply that will be sufficient for the proposed farm stay accommodation. Water services will be provided to the cabins via an on-site water capture, treatment and reticulation system. This will be regulated by consent conditions, should approval be granted, that will require compliance with the relevant public health regulations. The cabins will also be serviced by an on-site wastewater treatment system that will be subject to Council approval under the provisions of the *Local Government Act 1993*.

#### Access and Traffic

The Megalong Valley is accessed from the Blue Mountains (Blackheath) via Megalong Road and Peach Tree Road. The land to which the proposal applies is accessed via Caloola Halt Road (a private road) which is essentially a continuation of Wards Road (a public road located within the Blue Mountains local government area). Wards Road is 580m long (off Peach Tree Road), has recently been sealed, and is maintained by Blue Mountains City Council (see image below).



**Wards Road (facing east at the commencement of Caloola Halt Road) - note: this road has been upgraded and sealed since this photograph was taken**

Caloola Halt Road not a public road and provides private vehicular access to 8 separate properties via a basic right of way arrangement. Caloola Halt Road is privately maintained by the owner of the land with no formal arrangement for maintenance and upkeep currently in place. Caloola Halt Road is essentially a single lane carriageway with limited passing opportunities. It also crosses operational farmland and is often subject to grazing of stock by the landowner. Images of Caloola Halt Road are provided below.

The land subject to the farm stay proposal is located 1.6km along Caloola Halt Road from the entrance gate at the end of Wards Road.

While the current access arrangements are generally considered acceptable for the proposed development, it is a reasonable requirement to expect access to the farm stay accommodation is safe, practical and designed in a way that minimises environmental impacts (see further comments below in relation to traffic generation). Council's engineer has considered the proposal and current conditions and given the relatively low traffic numbers generated, considers the existing public road access sufficient and has not recommended any necessary road upgrade works to the public road system.

Although the proposed farm stay accommodation will result in a relatively low level of traffic generation, it represents a significant increase in traffic above the current levels for the site. Additional traffic will result in some additional impacts on surrounding residents and will increase the level of use of the shared right of carriageway. The shared right of carriageway over the existing access track is not a public road and not subject to any formal maintenance regime. Furthermore, the owner of the land over which the right of carriageway passes is not a party to the development application and has submitted a written objection to the proposal (see further discussion below).

There are no specific standards used to calculate traffic generation for low scale tourist accommodation such as that proposed in this application. Research into assessment requirements in other local government areas identifies a potential numeric benchmark 1.5 traffic movements per day per cabin (providing accommodation for up to 2 persons) (Source: Shoalhaven Development Control Plan, Chapter G15 Tourist Development in Rural Areas). This means, at full capacity, the farm stay accommodation could potentially generate an additional 7.5 vehicle movements per day which represents a significant increase to the current use of the shared, private right of carriageway access to the site.

In the circumstances it is reasonable to expect the operator of the farm stay accommodation provide and contribute to the upgrade and ongoing maintenance of the access road over the shared right of carriageway. Upgrade works are typically undertaken at the applicant's cost and ongoing maintenance responsibilities and costs could be apportioned based on the level of use by all affected properties. The proposed development has also received conditional approval from the NSW Rural Fire Service, which requires the access to comply with minimal bushfire road access standards, and from Water NSW who have imposed consent conditions to ensure impacts on water quality and runoff within the Sydney drinking water catchment are mitigated. If approval is granted to the proposal, it is recommended the requirement to provide for the upgrade and maintenance of the access road over right of carriageway be addressed as part of the development consent. At a minimum, the following expectations for access are proposed to be addressed in consent conditions:

- a Plan of Management (copy provided to all affected properties) is to be implemented for the farm stay accommodation which is to include details of the use and maintenance of the right of carriageway;
- the trafficable surface along the access and right of carriageway from Wards Road to the farm stay accommodation is to consist of a 4-metre-wide gravel pavement with 0.5 metre shoulders and associated drainage;
- a minimum vertical clearance of 4 metres to any overhanging obstructions including tree branches is provided;
- the trafficable pavement may be reduced to 3 metres where there are environmental constraints or limited options for access;
- curves are to have a minimum inner radius of 6 metres;
- the minimum distance between inner and outer curves is 6 metres;
- maximum grades do not exceed 15 degrees and average grades are not more than 10 degrees;
- crossfall of the pavement is not more than 10 degrees;
- suitable privacy and environmental screening is to be provided immediately adjacent to the dwelling on Lot 103 DP 1205799 and extend along the carriageway for a minimum length of 20 metres on either side of the dwelling; and
- the applicant is to enter a formal agreement with the owner of Lot 103 DP 1205799 over which the right of carriageway passes and the owners of the other lots that benefit from the right of carriageway (being Lot 101 DP 1205799, Lot 102 DP 1205799, Lot 53 DP 1061006, Lot 52 DP 1035370, Lot 51 DP 1035370 and Lot 55 DP 1061006) that authorises the upgrade works

specified above and details the apportionment of ongoing maintenance costs and responsibilities.



**Entrance to Caloola Halt Road (private road) from end of Wards Road**



**Caloola Halt Road (private road) – (location of proposed cabins not visible)**



**Caloola Halt Road (private road) showing access conditions to the land**



**Entrance gate to subject land (Caloola Halt Road)**

Details of the driveway upgrade works were not included in the application for farm stay accommodation and the owner of the land over which the right of carriageway passes is not a party to the development application. Although not specifically proposed in the development application, the applicant has provided a report by a consulting engineer that assesses the condition of the access road and provides an estimate of works required to upgrade it to Council's acceptable standard.

These works are considered acceptable and can be required of the applicant as a consent condition should approval be granted. These works will require the consent of the owner of the land over which the access passes and will need to be satisfactorily addressed by the applicant prior to the issue of a construction certificate. This will include the applicant submitting details of the intended design of the upgrade works, details of the proposed management arrangements and obtaining landowners consent prior to construction works commencing.

The question of whether the land containing the right of carriageway is part of the development application was raised at the time of lodgement and advice was obtained from Council's solicitors in this regard. The advice received confirms in established planning law that because the applicant is not proposing works on the right of carriageway or on Lot 103, it is not necessary for the owner of Lot 103 to consent to the lodgement of the development application. Furthermore, it has been confirmed it is appropriate to impose consent conditions on the development consent that require the upgrade of the access over the right of carriageway and that the applicant will be obliged to obtain consent of the owner of Lot 103 to undertake these works.

There are further legal issues relating to the access arrangements to the land and the identified upgrade works necessary for the access road over the right of carriageway. These legal issues are beyond the scope of this assessment but would need to be satisfactorily addressed as part of any arrangements the applicant needs to make for the upgrade works to the access road. The access to the subject land is via a "right of carriageway over track in use" identified on Deposited Plan 1205799 and in the associated instrument created under section 88B of the *Conveyancing Act 1919*. This authorises access to Lot 104 (the subject land) over the "track in use" over Lot 103 (the access road). This matter is subject to separate legal interpretation and may require the amendment or review of the existing access arrangements provided in the above 88B instrument.

### **Flora and Fauna**

The proposed farm stay accommodation cabins are located on land cleared of existing vegetation. The proposal will not result in any negative impacts on flora or fauna habitats.

### **Social and Economic Impacts**

The proposed farm stay accommodation is development permitted in the zone and is generally consistent with the zone objectives. Some positive social and economic impacts on a wider scale are expected through the diversification of rural land uses and the provision of additional tourist accommodation infrastructure in the area. It is expected that there may be some minor potential negative social and economic impacts on a smaller scale to the existing landowners in the locality through increased traffic and visitor numbers in a relatively isolated rural location. These impacts are minor and are generally considered not unreasonable subject to appropriate mitigation and management in the circumstances.

### **Soils**

The location of the farm stay cabins is over an area of poor soils with high granite content. No significant impacts on soils are expected and standard sediment and erosion controls will be imposed on consent should approval be granted.

### **Water**

No unreasonable negative impacts on water quality is expected. Runoff from the roofs of the cabins will be harvested for treatment and use on the site. Wastewater will be treated in an authorised on site wastewater treatment system. The land is located within the Sydney Drinking Water Catchment and has been subject to concurrence of Water NSW.

### **Air and Microclimate**

There will be no impacts on air or microclimate.

### **Waste**

No significant issues with waste generation have been identified. Construction waste will be subject to standard conditions should approval be granted. A site waste minimisation and management plan was submitted with the original application and can be included in the approval documents. Waste minimisation and management during the use of the farm stay accommodation will be regulated in the recommended Plan of Management should approval be granted.

**Natural Hazards:** The land is bushfire prone and the development is identified as a "special fire protection purpose" (as a form of tourist and visitor accommodation) under the provisions of the *Rural Fires Act 1997*. Because of this, the development is "integrated" in accordance with section 4.46 of the *Environmental Planning and Assessment Act 1979*.

The development application was referred to the NSW Rural Fire Service for integrated approval which was granted subject to conditions on 3 March 2020.

**Noise and Vibration:** There are no nearby sources of noise or vibration that would impact detrimentally the proposal. The occupation of the farm stay accommodation by visitors may result in noise generation that could impact on surrounding residents. If approval is granted to the proposal, a standard noise limitation condition can be imposed. It is also recommended that in the Plan of Management proposed that appropriate provisions be included detailing how noise impacts from the use will be managed and minimised. To minimise noise nuisance and loss of privacy to adjoining residents, as well as for guests of the proposed tourist development it is recommended that consent conditions be imposed to regulate noise. This can require the operator of the farm stay accommodation to actively monitor noise generation and ensure noise levels measured at the property boundary does not exceed background levels by more than 5 dba as a standard measure.

**Land Resources:** The proposed farm stay accommodation will not negatively impact on land resources. The cabins are located on part of the site with rock outcrops and rocky subsoil that is unsuitable for grazing and cannot be used for productive agricultural purposes. The proposal will not compromise or prevent the ongoing use of the land or the surrounding area for agricultural purposes.

#### 5.3.7 The Suitability of the site for the development

The land subject to the proposal is within a relatively isolated rural area with surrounding land uses predominantly comprising agricultural activities (primarily cattle grazing) as well as scattered rural lifestyle residential uses. The proposed cabins will be separated from the nearest rural dwellings by 440m to the southeast, 570m to the north and 670m to the northeast respectively.

A significant issue for the proposal and its suitability is the access to the site which relies on a right of carriageway across private land of approximately 1.6km from the nearest public road. The owner of the land over which the right of carriageway passes has raised concerns with the proposal and have objected to the proposal for a number of reasons, one of which is their view that the right of carriageway in its current physical form is unsuitable for access to the proposal.

Because of the above, the recommended consent conditions include requirements that the access road upgrade arrangements and owners consent are adequately addressed prior to the issue of a construction certificate.

#### 5.3.8 Any submissions made in accordance with this Act or the Regulations

The proposed development was referred to Council's building officer and engineer for review and comment. No objections are raised from a building perspective subject to consent conditions. Council's engineer reviewed the proposal and raises no objections.

External referrals were made to Water NSW (Sydney Drinking Water Catchment) and the NSW Rural Fire Service (integrated approval) with approvals granted by these agencies subject to consent conditions.

Because of the location of the proposal and the reliance of public road access through the Blue Mountains local government area, the proposal was referred to Blue Mountains City Council for review and comment who raised no objection to the proposal.

Copies of the responses from Water NSW, the NSW Rural Fire Service and Blue Mountains City Council are provided in Schedule B.

### **Response to Public Exhibition**

The development application was placed on public exhibition and surrounding landowners were notified of the proposal in accordance with Council's Community Participation Plan. Arrangements were also made to notify potentially affected landowners in the nearby Blue Mountains local government area.

In response to the public exhibition, five written submissions were received each objecting to the proposal for a number of reasons. Each of the objections were received by landowners adjoining the proposal, some of whom share the right of carriageway access on which the proposal will rely.

The issues raised in the objections received are summarised in the table below.

<b>ISSUE RAISED</b>	<b>ASSESSMENT COMMENTS</b>
Development will overlook adjoining properties	The proposed farm stay cabins are located just below a southwest to northeast aligned ridgeline on the site. The cabins are oriented with the verandah and primary viewing area to the northwest across the site. The nearest dwelling in this direction is over 600m away and screened by vegetation. The proposed orientation of the cabins means the other dwellings within 400-500m to the southeast of the cabins are sufficiently separated from the proposal to not be unreasonably overlooked.
Not farm stay accommodation, no farm house, inconsistent with farm stay definition	The proposal can satisfy the definition of "farm stay accommodation" as defined in the Lithgow LEP and as discussed in this report. Development consent can be conditioned to ensure the proposed use remains consistent with this definition. There is no requirement for a farm house or

	permanent dwelling to satisfy the definition of farm stay accommodation.
Five dwellings looking directly into main living areas	The cabins are located below the ridgeline on the site and are oriented primarily to the north-northwest. The nearest dwelling in this direction is over 600m away and separated by vegetation. The occupants of the cabins will not be able to look directly into main living areas of any adjoining dwellings.
Potential for permanent residents to occupy cabins	The proposal seeks approval for the use of the cabins as "farm stay accommodation" as defined in the Lithgow LEP and as a form of short-term tourist and visitor accommodation. If approval is granted, development consent will be conditioned to ensure consistency with the farm stay accommodation definition is maintained during the use of the cabins and that an appropriate limitation on occupation is imposed. Farm stay accommodation cannot be occupied for permanent residential accommodation.
Condition of access road, particularly in wet	The use, condition and maintenance of the access road (right of carriageway) is a significant issue and has been addressed in this report. If approval is granted, it is recommended that consent conditions adequately address the needs for the upgrading, maintenance and ongoing use of the right of carriageway.
Access road not suitable for additional demand, impacts of additional traffic	An increase in traffic levels is expected as a result of the development (see further detailed discussion in this report). If approval is granted, the impacts of this can be regulated by conditions limiting the number of vehicles entering/exiting the site and also through regulated occupancy rates/limits. Management of traffic can be included in the recommended Plan of Management for the proposal.
Insufficient water supply for consumption and fire fighting	The proposal will be required to comply with the RFS requirements for the provision of water supply for firefighting purposes as well as the provision of a

	<p>water supply system for human consumption within the cabins in accordance with NSW Health standards. If approved the development will be required to provide a 20,000-litre tank dedicated for firefighting and a 10,000-litre tank for each cabin for the provision of potable drinking water.</p>
<p>Concern over wastewater system and drainage into catchment, runoff on to adjoining sites and into dam</p>	<p>The proposal has been assessed by WaterNSW as the responsible authority for the Sydney Drinking Water Catchment. WaterNSW have approved the proposal subject to conditions. The proposed wastewater treatment system will require Council approval under the requirements of the <i>Local Government Act 1993</i> and will be required to comply with WaterNSW requirements.</p>
<p>Visitors will enter adjoining land and leave gates open etc., threats to bio security and farming operations</p>	<p>The recommended Plan of Management required if the development is approved can address this risk. Visitors to the site will be confined to the area of the cabins and the right of carriageway only. The issue of development consent does not authorise nor reduce the obligations of individuals with regard to unlawful behaviour.</p>
<p>Inappropriate location for farm stay accommodation</p>	<p>Farm stay accommodation as defined in the Lithgow LEP is permitted in all rural land use zones and is envisaged as a low scale form of tourist and visitor accommodation to enable visitors to experience the rural environment. The proposal is generally consistent with the defined use as envisaged in the LEP.</p>
<p>Reduced amenity of the surrounds as a result of heavier use and denser population</p>	<p>The proposal involves five small, low scale cabins for short term tourist accommodation. A moderate increase in use is expected but it will not increase population density.</p>
<p>Right of carriageway passes within 25m of dwelling, unreasonable additional impact</p>	<p>Issues relating to the right of carriageway are addressed in this assessment report. Conditions will be imposed if approval is granted to address issues of management and maintenance of the right of carriageway and to reduce impacts of the increased use.</p>

<p>The development is excessive relative to the size of the land</p>	<p>The subject land is currently largely undeveloped and contains an existing farm shed and temporary outbuilding. The proposal will increase the built form on the site. The proposed buildings are minimal and are located such that their visual prominence will be reduced. The scale of the proposal complies with the regulatory limits on the size of farm stay accommodation as specified in the Lithgow LEP.</p>
<p>No on-site management, an unregulated and unsupervised tourist facility</p>	<p>The proposal does not include provision of any permanent on-site accommodation for a site manager. However, since the application was lodged, the landowner has obtained consent for a separate dwelling house on the land that is expected to be used for on-site management. Although desirable, there is no obligation or requirement for farm stay use to include permanent on-site management/residence.</p>
<p>Unauthorised, inappropriate use of shared right of carriageway</p> <p>Rights of other landowners and users of the right of carriageway have not been considered</p>	<p>The applicant is relying on the current general legal terms of the right of carriageway which authorises access by the landowner and persons authorised by the landowner over the right of carriageway to access the land. The applicant will have the responsibility to contribute to and provide for the upgrade, maintenance and management of the right of carriageway as discussed above. If this development proposal is approved, any development consent issued does not reduce the applicant's legal responsibilities and obligations with regard to the right of carriageway.</p>
<p>Concern over potential use of separated part of land</p>	<p>The proposal does not seek to use the separated part of the land and it is not formally part of the proposal.</p>
<p>Building construction materials and fire risk</p>	<p>The development application has been submitted with a bushfire risk assessment and has been assessed and approved by the NSW Rural Fire Service under the <i>Rural Fires Act 1997</i>. The RFS conditions of approval will be</p>

	imposed on development consent if approval is granted.
Management of occupants and bushfire risk	It is recommended that a Plan of Management be required as consent conditions to address this issue. Bushfire risk has been assessed and conditional approval has been provided by the NSW Rural Fire Service.
Occupants will behave as tourists and may not have sufficient regard for amenity of surrounding residents	It is recommended that a Plan of Management be required as consent conditions to address this issue.
Visual prominence of cabins, out of keeping with prevailing built form, no screening	The cabins are located below the ridgeline on the site and will be oriented towards the northwest. The cabins are small structures that will not be highly visually prominent.
Noise generation, large groups socialising, group parties	Noise generation and management has been addressed above. If approval is granted, appropriate regulatory consent conditions can be imposed. The development will be limited to a maximum of occupancy of 10 persons (2 in each cabin) and no group events will be authorised.
Access to river not possible, impacts of crossing private land	It is not anticipated occupants of the cabins will seek access to the Coxs River. Granting approval to the development does not limit or diminish the legal obligations of individuals with regard to trespass.

### 5.3.9 The public interest

The public interest is best served by the orderly and economic use of land for permissible uses in a form which is cognisant of and does not impact unreasonably on the use and development of surrounding land.

Subject to appropriate regulation and conditions, the proposed development will result in an orderly and economic use of the land without unreasonably compromising the future and ongoing use of the land and its surrounds. Because of this, the proposed development is considered to be in the public interest.

## **6. DISCUSSION AND CONCLUSIONS**

The proposal generally complies with the relevant provisions of all applicable environmental planning instruments and regulations. With appropriate consent conditions, the proposal is not expected to have any significant negative impacts upon the natural environment and impacts on the ongoing use and amenity of the

surrounding land will not be unreasonably impacted. One of the primary issues with this proposal is the access to the site via a privately maintained access track over a separately owned land that directly impacts a number of other landowners. The issue of the necessary upgrades to and ongoing maintenance and upkeep of the access to the development has not been fully addressed in the application. Due to the complexities of the access arrangements and the identified need for upgrades and an ongoing maintenance regime for the access road, it is recommended that development consent is issued subject to the conditions in Schedule A.

## 7. ATTACHMENTS

Schedule A – Draft conditions of consent  
Schedule B – Referral agency responses

## 8. RECOMMENDATION

**THAT** development application DA 114/19 is approved subject to conditions set out in Schedule A.

Report prepared by: Lachlan Sims

Reviewed by: Jessica Ramsden

Signed:.....

Signed:.....

Dated:.....

Dated:.....

### REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure that adequate road and drainage works are provided.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure there is no unacceptable impact on water quality.
- To ensure compliance with the requirements of the Rural Fire Service.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

## **Schedule A**

### **Conditions of Consent (Consent Authority) and General Terms of Approval (Integrated Approval Body)**

**Please Note:** It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

#### **ADMINISTRATIVE CONDITIONS**

1. The development is to be carried out in accordance with the development application, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.
2. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
3. The cabins shall be located wholly within the confines of the property boundaries in accordance with the approved site plan.
4. The five cabins are approved for use as short-term tourist and visitor accommodation only. This consent does not authorise the use of the cabins for the purposes of permanent residential accommodation (dwellings).
5. The existing farm building on the land is to remain ancillary to the agricultural use of the land and is not authorised for any other use (including residential occupation or use in conjunction with the farm stay accommodation).
6. The development is approved as **farm stay accommodation** as defined in the *Lithgow Local Environmental Plan 2014* applicable at the time of development consent, being "a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production". The farm stay accommodation approved in this development consent is to remain as temporary or short-term accommodation and the use of the land is to remain as a working farm with the farm stay accommodation a secondary business to primary production. If the farm stay accommodation ceases to be a secondary business to primary production on the land, the use must cease, and the five cabins are to be removed from the site unless separate development consent is obtained for their use.

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

##### ***Development contributions***

7. Prior to the issue of a Construction Certificate the applicant shall pay to Council a Section 94A (Section 7.12) contribution of **\$2,932.60** in accordance with the Lithgow City Council Section 94A (Section 7.12) Development Contribution Plan 2015. It is advised that the level of contribution in this plan may be adjusted at the time of actual payment, in accordance with the provisions of the Lithgow City Council Section 94A Development Contribution Plan 2015.

##### ***Road upgrade requirements***

8. Prior to the issue of a construction certificate, a detailed design for the upgrade of the access road is to be prepared to the satisfaction of the principal certifying authority and with a copy provided to Lithgow City Council. The detailed design for the upgrade to the access road is to include and be supported by the following:

- Written authorisation from the owners of the land affected by the access road upgrade providing consent to any upgrade works on their land;
- Design plans, drawn to scale, of the access road and proposed upgrade works prepared by a qualified consultant detailing the relevant dimensions of the upgraded access road, its location relative to all nearby property boundaries, cross sections, gradients, drainage measures, sediment and erosion controls etc.;
- The design is to provide for a trafficable surface for the full length of the access from Wards Road to the farm stay accommodation is to consist of a 4-metre-wide gravel pavement with 0.5 metre shoulders and associated drainage;
- The design is to demonstrate that a minimum vertical clearance of 4 metres to any overhanging obstructions including tree branches can be achieved;
- The design is to ensure construction will be consistent with the requirements of Unsealed Roads Manual: guidelines to good practice (ARRB Transport Research Ltd 3rd edition 2009);
- The design is to include provisions for drainage and runoff management that includes vegetated swales or a grassed buffer, as appropriate, on both sides of the entire length with appropriately spaced level spreaders, sills and mitre drains that divert water onto a stable surface capable of accepting concentrated water flow and providing efficient sediment trapping and energy dissipation;
- The trafficable pavement may be reduced to 3 metres where there are environmental constraints or limited options for access and where these are sufficiently justified;
- Any curves in the access road design are to have a minimum inner radius of 6 metres;
- The design is to provide a minimum distance between inner and outer curves of 6 metres;
- The design is to provide for a maximum grade not exceeding 15 degrees and average grades are not more than 10 degrees;
- The design is to provide a pavement crossfall of not more than 10 degrees;
- Details of a suitable privacy and environmental screen is to be provided immediately adjacent to the dwelling on Lot 103 DP 1205799 and extend along the carriageway for a minimum length of 20 metres on either side of the dwelling; and
- Details of a formal agreement with the owner of Lot 103 DP 1205799 and the owner of any other land over which the right of carriageway passes that authorises the upgrade works specified above and details the apportionment of ongoing maintenance costs and responsibilities.

## **PRIOR TO CONSTRUCTION COMMENCING**

### ***Regulatory compliance***

9. A construction certificate is required prior to the commencement of any site or building works. This certificate can be issued either by Council as the consent authority or by an accredited certifier.
10. Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 are to be complied with:
  - a) a Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act, and

- b) a Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and Form 7 of the Regulations, and
- c) Council is to be notified at least two days prior of the intention to commence building works, in accordance with Section 81A(2)(c) of the Act in Form 7 of Schedule 1 of the Regulations.

11. Prior to the commencement of any works on the land, a sign/s must be erected in a prominent position on the site:

- a. Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person can be contacted outside working hours.
- b. Stating that unauthorised entry to the work site is prohibited and
- c. Showing the name, address and telephone number of the principle certifying authority for the work.

The sign/s are to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

### ***Protection of adjoining areas***

12. A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works—
- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
  - (b) could cause damage to adjoining lands by falling objects, or
  - (c) involve the enclosure of a public place or part of a public place.

### ***Toilet facilities***

13. (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (2) Each toilet must—
- (a) be a standard flushing toilet connected to a public sewer, or
  - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
  - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

### ***Waste management***

14. (1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.
- (3) The garbage receptacle is to be removed from the site and emptied at a lawful waste disposal facility at the completion of construction activities.

### ***Run-off and erosion controls***

15. Stormwater run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by—
- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
  - (b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
  - (c) preventing the tracking of sediment by vehicles onto roads, and
  - (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

### ***Hydraulic design***

16. Prior to commencement of work, hydraulic plumbing and drainage drawings prepared by a practising Hydraulic Engineer must be submitted to and approved by Council. These drawings must indicate:
- a) Sanitary plumbing and drainage systems including location of drains, diameter of pipework, material and
  - b) Fixture and fitting details; and
  - c) Backflow prevention devices (e.g. RPZ valves); and
  - d) Temperature control devices (e.g. thermostatic mixing valves and tempering valves).
  - e) location of the subsurface land application area as per WaterNSW conditions of approval including:
    - Location of zones, main supply line and irrigation lines/sub lines, flush lines, drip line depth and spacing, pipe type (must be suitable for wastewater) and size.
    - Flush lines, sequencing valves, pressure regulator, filters.
    - Dosing system.
    - Pump type (suitable for wastewater) and capacity
    - Location of nutrient assimilation area
    - Location of stormwater diversion systems such as bunding, surface drains and the like.
    - Plans and specifications of NSW Health compliant AWTS system

### **DURING CONSTRUCTION WORKS**

#### ***Standard hours for construction***

17. Construction may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no construction is to be carried out at any time on a Sunday or a public holiday.

#### ***Compliance with plans***

18. Works must be carried out in accordance with the plans and specifications to which the development application and associated construction certificate relates.

#### ***Maintenance of site***

19. (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then removed for disposal at a waste management facility.
- (3) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (4) During construction—
  - (a) all vehicles entering or leaving the site must have their loads covered, and
  - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (5) At the completion of the works, the work site must be left clear of waste and debris.

### ***Earthworks, retaining walls and structural support***

20. (1) Any earthworks (including any structural support or other related structure for the purposes of the development)—
  - (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
  - (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
  - (c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and
  - (d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- (2) Any excavation must be carried out in accordance with Excavation Work: Code of Practice, published in July 2012 by Safe Work Australia.

### ***Archaeology discovered during excavation***

21. If any object having interest due to its age or association with the past is uncovered during the course of the work—
  - (a) all work must stop immediately in that area, and
  - (b) the Office of Environment and Heritage must be advised of the discovery.

*Note: Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the Heritage Act 1997 may be required before further the work can continue.*

### ***Aboriginal objects discovered during excavation***

22. If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work—
  - (a) all excavation or disturbance of the area must stop immediately in that area, and
  - (b) the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

*Note: If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the National Parks and Wildlife Act 1974.*

***Plumbing and drainage inspections***

23. All plumbing and drainage works shall be carried out by a licensed plumber and drainer and conditions outlined in S68 approval for onsite wastewater disposal.

**PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

***Provision of private water supply***

24. A Quality Assurance Program is required from a suitably qualified person to be submitted to and approved by NSW Health and a copy of the NSW Health approved document/approval submitted to Council for its records, prior to the issue of an Occupation Certificate.
25. The Private Water Supply for the Development shall comply with the requirements of the Public Health Act and Public Health Regulation and the suppliers of the drinking water and Private Water Supply shall adhere to the approved NSW Health Quality Assurance Program and NSW Health requirements for the life of the development.
26. The water supply system for the farm stay accommodation is to provide a minimum quantity of 10,000 litres for each cabin.

***Access, facilities and parking for people with disabilities***

27. Access, facilities and parking for people with disabilities shall comply with the Building Code of Australia, current Australian Standard 1428.1-4: Design for access and mobility and AS2890.6: Offstreet Parking for people with disabilities.

***Regulatory compliance***

28. An Occupation Certificate must not be issued until Lithgow City Council, as the certifying authority for water and sewer inspections, has undertaken and approved the final installation of all plumbing and drainage fixtures and a Certificate of Compliance has been supplied by the licensed installer.
29. Prior to the issue of any Occupation Certificate an Approval to Operate for the On-Site Sewerage Management System is to be issued by Council in accordance with Section 68 of the Local Government Act 1993.
30. Prior to issue of an Occupation Certificate, the essential fire safety measures services listed in a Fire Safety Schedule for the buildings must be certified by a competent person. Evidence of certification is to be submitted to Lithgow City Council stating that the essential fire and other safety measures have been installed and comply with the relevant standard specified below.
- a. Once the building is occupied, an Annual Fire Safety Statement must be submitted to Council and the NSW Fire Brigades, PO Box A249, SYDNEY SOUTH NSW 2001, and a copy retained on site certifying that:
  - b. The essential fire and other safety measures have been maintained and serviced at regular intervals in accordance with the appropriate maintenance specified below and are still operable; and
  - c. That the path of travel is clear of anything which would impede free passage of any person at any time.

**NSW RURAL FIRE SERVICE CONDITIONS**

### **Asset protection zones**

*The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:*

31. At the commencement of building works and in perpetuity, the property around the proposed cabins 1 to 5 shall be managed as shown in Figure 9 of the Bushfire Assessment Report dated 5 Nov 2019 prepared by Bushfire Consulting Services Pty Ltd (Ref: 19/0761) as follows:
- North, northeast and east for a distance of 11 metres as an asset protection zone;
  - South, southwest and west for a distance of 27 metres as an asset protection zone;

### **Construction standards**

*The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:*

32. New construction of the proposed cabins 1 to 5 must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of Planning for Bush Fire Protection 2006'.

### **Access - Internal Roads**

*The intent of measures is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:*

33. Property access road must comply with following requirements of section 5.3.2 of 'Planning for Bush Fire Protection 2019':
- A minimum 4 metre carriageway width;
  - A minimum vertical clearance of 4 metres to any overhanging obstructions, including tree branches, is provided.
  - Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.
  - The minimum distance between inner and outer curves is six metres. Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.
  - Maximum grades do not exceed 15 degrees and average grades are not more than 10 degrees.
  - Crossfall of the pavement is not more than 10 degrees.

### **Water and Utility Services**

*The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:*

34. Water, electricity and gas must comply with the following:
- A 20,000 litre static water supply tank must be provided for fire fighting purposes.

- The tank must be located / designed so that a connection for fire fighting purposes is located within the inner protection area (IPA) or on the non-hazard side away from the building.
- Aboveground tanks must be manufactured of concrete or metal. Raised tanks must have their stands protected.
- Tanks on the hazard side of a building must be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for firefighters.
- A standard 65mm metal Storz outlet with a gate or ball valve must be provided to the tank. The gate or ball valve, pipes and tank penetration of any tank must be adequate for full 50mm inner diameter waterflow through the Storz fitting and made of metal.
- All associated fittings to the tank must be metal.
- Pumps where provided to supply water for fire suppression activities, must be a minimum 5hp or 3kW and petrol or diesel powered. The pump must be shielded from the direct impacts of bush fire. Any hose and reel must have an internal diameter of 19mm.
- An SWS marker must be obtained from the local NSW RFS and positioned for ease of identification by fire fighting personnel and other users of the SWS. Markers must be fixed in a suitable location so as to be highly visible and be positioned adjacent to the most appropriate access for the static water supply.
- All aboveground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
- Electrical transmission lines should be located underground where possible. Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- Gas must be installed and maintained as set out in the relevant Australian Standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.
- Fixed gas cylinders must be kept at least 10 metres clear of flammable materials and be shielded on the hazard side. Connections must be metal. Cylinders near to a building must be have safety valves directed away from the building and be at least 2 metres from combustible materials.

### ***Landscaping Assessment***

*The intent of measures is for landscaping. To achieve this, the following conditions shall apply:*

35. Landscaping of the site should comply with following principles of Appendix 5 of 'Planning for Bush Fire Protection 2006':
- Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways.
  - Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
  - Planting is limited in the immediate vicinity of the building.

- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
- Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.
- Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
- Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.
- Planting of deciduous species is avoided which may increase fuel at surface/ ground level (i.e. leaf litter).
- Climbing species are avoided to walls and pergolas.
- Combustible materials such as woodchips/mulch and flammable fuel are stored away from the building.
- Combustible structures such as garden sheds, pergolas and materials such timber garden furniture are located way from the building.
- Low flammability vegetation species are used.

### ***Emergency and Evacuation Planning Assessment***

*The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:*

36. A Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.

### **WATER NSW CONDITIONS**

#### **General**

*Reason for Condition - Water NSW has based its assessment under the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

37. The works and layout of the development shall be as specified in the Statement of Environmental Effects (dated 6 May 2019) and shown on the Location Plan (Dwg No. A002 and A004, dated 21/11/19) both prepared by Shelter Building Design. No revised site layout, staging or external works that will impact on water quality, shall be permitted without the agreement of Water NSW.

#### **Wastewater Management**

*Reason for Conditions– To ensure that the on-site wastewater management system is appropriately designed, located and constructed to have a sustainable neutral or beneficial effect (NorBE) on water quality over the longer term.*

38. The aerated wastewater treatment system (AWTS) including the effluent irrigation area for farm stay cabins shall be designed, located and installed in accordance with the recommendations in the Wastewater Report (Ref. 20170640, dated 22 January 2020) prepared by Calare Civil Pty Ltd, shown on the Site Plan (Dwg No. E2, Rev. A, dated 22/1/20) of the Report but modified in below conditions and Designing and Installing On-Site Wastewater Systems (WaterNSW, 2019). The wastewater management system shall:
- have the effluent management area

- located to the north side of the driveway as shown in the Soil, Water and Landscape Plan (Dwg No. A005, dated 21/11/19) prepared by Shelter Building Design
- with a minimum total size of 1300 square metres consisting of 900 square metres of subsurface irrigation area and 400 square metres of nutrient assimilation area immediately downslope of the irrigation area
- have the effluent management area protected from animals and vehicles
- ensure that the effluent management area is mown regularly with grass clippings to be disposed of outside the irrigation area
- ensure all effluent is fully assimilated within the boundaries of the property
- have stabilised earth bunds
  - upslope of the effluent management area to prevent run-on from the driveway, and
  - with energy dissipation at the ends to prevent scouring or erosion
- have the effluent distribution pipe from the tank to the irrigation area
  - fitted with a non-return valve where the effluent irrigation area is located uphill of the tank
  - buried at a minimum depth of 300 mm, and laid in a manner that provides protection against mechanical damage or deformation
- have irrigation system
  - by subsurface means using either a wick-based system or pressure-compensating drip emitters with root barriers
  - fitted with an automatic sequencing valve that enables different fields of the irrigation area to be utilised at any one time
  - that incorporates a flushing line which either returns to the settlement chamber of the tank or to a small absorption trench
  - that is hydraulically designed and clean water tested to ensure there is uniform delivery to all parts of the irrigation area, and
  - have a pump with sufficient capacity to ensure effective and even delivery of effluent to and throughout the irrigation area.

39. No changes to the wastewater treatment and effluent management systems that will have any impact on water quality, shall be permitted without the agreement of Water NSW.
40. These conditions of consent relating to wastewater management shall be provided to the installers of the wastewater treatment and effluent management systems.
41. The installers of the wastewater treatment and effluent management systems shall certify to Lithgow City Council in writing that these systems have been constructed and installed as per these conditions of consent and in accordance with Water NSW's Designing and Installing On-Site Wastewater Systems (Water NSW, 2019), and that the systems have been tested and are functioning properly.
42. The on-site wastewater management systems shall be maintained according to Section 5 of the Department of Local Government's guidelines On-site Sewage Management for Single Households (1998), AS/NZS 1547:2012 On-site Domestic Wastewater Management, and the manufacturer's specifications.

43. An Occupation Certificate must not be issued until Lithgow City Council has received the certification from the installers and approved the onsite wastewater management systems under the *Local Government Act 1993* as being consistent with these conditions.

### ***Driveway to the cabins***

*Reason for Condition - To ensure the access driveway to the dwelling site and cabins and associated drainage works and water quality control measures are appropriately managed and maintained to ensure an overall and sustainable neutral or beneficial impact (NorBE) on water quality over the longer term.*

44. The driveway to the cabins shall be constructed with compacted gravel as a minimum and shall be located to minimise cut and fill and minimise length. The driveway shall:
- be consistent with the requirements of Unsealed Roads Manual: guidelines to good practice (ARRB Transport Research Ltd 3rd edition 2009)
  - have vegetated swales or grassed buffer, as appropriate, on both sides of their entire length with appropriately spaced level spreaders, sills and mitre drains that divert water onto a stable surface capable of accepting concentrated water flow and providing efficient sediment trapping and energy dissipation, and
  - ensure all swales or grassed buffer, mitres drains, batters and verges associated with the driveway are vegetated and stabilised with bitumen and jute matting or similar as soon as possible after construction.

### ***Stormwater management***

*Reason for Condition – To ensure that the stormwater quality management measures and structures for the proposed subdivision have a sustainable neutral or beneficial impact (NorBE) on water quality over the longer term.*

45. All management measures as specified in the Soil, Water and Landscape Plan (Dwg No. A005, dated 21/11/19) prepared by Shelter Building Design shall be implemented and include:
- rainwater tanks with a minimum capacity of 10,000 litres for each cabin, and
  - overflow from the rainwater tanks be directed to the existing dam.

### ***Construction activities***

*Reason for Conditions – To manage adverse environmental and water quality impacts during the construction phase of the development to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.*

46. An Erosion and Sediment Plan based on Soil, Water and Landscape Plan (Dwg No. A005, dated 21/11/19) prepared by Shelter Building Design shall be updated for all works proposed as part of the development by a person with knowledge and experience in the preparation of such plans. The Plan shall
- meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
  - be prepared prior to issuance of a Construction Certificate and shall be to the satisfaction of Council, and
  - include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines.

47. The Erosion and Sediment Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall be regularly inspected, monitored and maintained until works have been completed and ground surface has stabilised or groundcover re-established.

## **PRIOR TO OCCUPATION/USE**

### ***Final inspection and compliance***

48. Prior to the use/occupation of the farm stay accommodation a final inspection is to be undertaken by the Principal Certifying Authority and an Occupation Certificate issued. All relevant conditions of consent must be satisfied prior to the issue of an Occupation Certificate.

### ***Removal of "temporary site shed"***

49. Prior to the issue of an Occupation Certificate the existing "temporary site shed" on the land is to be removed (including all associated infrastructure) unless separate development consent for the building is obtained.

### ***Unauthorised waste water treatment system***

50. Prior to the issue of an Occupation Certificate, the existing unauthorised wastewater treatment system on the site servicing the farm building is to be decommissioned and removed from the site or an approval to operate under section 68 of the *Local Government Act 1993* is to be obtained.

### ***Plan of management***

51. Prior to the issue of an Occupation Certificate, the applicant/operator of the farm stay accommodation is to prepare a Plan of Management for the facility. A copy of the Plan of Management is to be provided to each of the adjoining landowners to the farm stay accommodation site as well as all landowners who share access via the right of carriageway. A copy of the Plan of Management is also to be provided to Lithgow City Council. The Plan of Management is to be reviewed and updated as necessary at least once in each 12-month period and a revised copy distributed to the parties identified above. The Plan of Management is to address and include (but not be limited to) the following:
- Contact details of the landowner and/or manager of the accommodation;
  - Suitable contact details (available 24 hours, 7 days) for receiving complaints and/or other management issues that may arise;
  - Details of how complaints will be managed and disputes resolved;
  - Details of instructions and "code of conduct" information that will be provided to guests of the farm stay accommodation advising them of expectations with regard to protection of privacy and amenity of surrounding residents, details of the ongoing farming activity on the site and surrounds and the need to ensure gates are kept closed and animals are not unreasonably disturbed, advice on the access limitations to the site and that Caloola Halt Road is not a public road, the need to respect the "right to farm" of surrounding land, to avoid deliberate or accidental trespass onto adjoining land and the need to remain within the proximity of the farm stay accommodation during their stay;
  - Details of the intended maintenance regime for the access road (in accordance with the deferred commencement conditions in this consent) and how this will be managed and issues addressed as they arise; and

- Details of responsibilities of guests with regard to waste disposal and how this will be suitably managed, contained and disposed.

## **DURING USE**

### ***Occupancy restrictions***

52. The farm stay accommodation shall not be occupied by the same person for more than 14 days in any 28-day period.
53. The occupancy of each cabin in the farm stay accommodation is restricted to a maximum of two persons. The total occupancy of the farm stay accommodation at any one time is restricted to a maximum of 10 persons. This consent does not authorise the use of the site for any other purpose or event other than for the occupancy of guests staying in the farm stay accommodation.
54. The maximum number of motor vehicles accessing the farm stay accommodation is limited to five (one vehicle per cabin).

### ***Noise***

55. Noise emissions from the farm stay accommodation must not be audible inside any adjoining dwelling between 10:00pm and 7:00am on weekdays and between 10:00pm and 8:00am on Saturdays, Sundays and public holidays. At all other times, noise levels must not exceed 5Dba above ambient background noise level measured at the lot boundary.

### ***Lighting***

56. All new external lighting must—
- (a) comply with AS 4282–1997 Control of the obtrusive effects of outdoor lighting, and
  - (b) be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

## **ADVISORY NOTES**

- AN1. The Principal Certifying Authority (PCA) is required to ensure all work is carried out in accordance with the consent, Building Code of Australia (BCA), and relevant standards, which is done during inspections at nominated stages of the work. The "Inspection Schedule" lists the mandatory and other required inspections that must be carried out during construction of the work.*
- AN2. Lithgow City Council is the Certifying Authority for water and sewer inspections and must be contacted to undertake inspections of the various stages of construction as follows:*
- a. Internal and sanitary external drainage including AWTs Tanks and subsurface irrigation,*
  - b. Final inspection of system prior to occupation of the building.*
- Note: forty-eight (48) hours notice shall be given to Council prior to inspections and inspection fees must be paid.*
- AN3. All plumbing and drainage works shall be carried out by a licensed plumber and drainer.*
- AN4. The property is located in an area subject to snow falls and high winds. The cabins shall be designed and constructed to withstand the site specific ground snow load and wind load.*
- AN5. Any filling carried out in accordance with this consent shall maintain a minimum requirement of 98% standard compaction.*
- AN6. Any lot filling operations carried out in accordance with this consent shall be tested to establish the field dry density every 300mm rise in vertical height. Test sites shall be located*

*randomly across the fill site with 1 test per 500m<sup>2</sup> (minimum 1 test per 300mm layer) certified by a qualified geotechnical engineer. Alternatively, all footings/piers are to be taken through filled ground to foundation material of uniform adequate bearing pressure in accordance with Structural Engineers requirements.*

- AN7. The buildings are to be protected from the attack of subterranean termites by employing construction methods conforming with Australian Standard 3660.1. A durable notice must be permanently fixed to the building in a prominent location (such as the meter box) indicating:*
- (i) the method of protection and*
  - (ii) the date of installation of the system and*
  - (iii) the installer's or manufacturers recommendations for the scope and frequency of future inspections for termite activity.*
- AN8. Glazing is to comply with the provisions of Building Code of Australia. The BAL Level, serviceability design wind pressure and the ultimate strength test pressure of the glazing must be suitable for the wind load for the site.*
- AN9. The area is subject to high wind velocities and every precaution is to be taken to ensure the building and the roof cladding are effectively secured. Manufacturer's details and directions for anchorage and fixing are to be adhered to.*
- AN10. A minimum clearance of 400 mm shall be provided between the underside of bearer level and the finished ground level.*
- AN11. Subfloor ventilation incorporating cross ventilation shall be provided to the sub-floor space in accordance with Part 3.4.1 Building Code of Australia, Housing Provisions.*
- AN12. Prior to issuing the Certificate of Compliance for all sanitary plumbing and drainage, the plumbing and drainage works are to be inspected and approved by Lithgow City Council as the delegated regulatory authority for plumbing and drainage work within the Lithgow City Council area.*

# Schedule B

## Responses and Approvals from External Agencies



NSW RURAL FIRE SERVICE

City of Lithgow Council  
PO Box 19  
LITHGOW NSW 2790

Your reference: DA114/19 (CNR-3154)  
Our reference: DA20200109000036-Original-1

ATTENTION: Lachlan Sims

Date: Tuesday 3 March 2020

Dear Sir/Madam,

**Integrated Development Application**  
s100B - SFPP - Farm Stay Accommodation  
163 Caloola Halt road MEGALONG VALLEY NSW 23 AUS, (none)

I refer to your correspondence dated 06/12/2019 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the Environmental Planning and Assessment Act 1979, and a Bush Fire Safety Authority, under section 100B of the Rural Fires Act 1997, are now issued subject to the following conditions:

#### Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity, the property around the proposed cabins 1 to 5 shall be managed as shown in Figure 9 of the Bushfire Assessment Report dated 5 Nov 2019 prepared by Bushfire Consulting Services Pty Ltd (Ref: 19/0761) as follows:

- North, northeast and east for a distance of 11 metres as an asset protection zone;
- South, southwest and west for a distance of 27 metres as an asset protection zone;

#### Construction Standards

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

2. New construction of the proposed cabins 1 to 5 must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section A3.7 Addendum Appendix 3 of Planning for Bush Fire Protection 2005'.

1

#### Postal address

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

#### Street address

NSW Rural Fire Service  
4 Mummy Road Ave  
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)

#### **Access - Internal Roads**

*The intent of measures is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:*

3. Property access road must comply with following requirements of section 3.3.2 of 'Planning for Bush Fire Protection 2019':

- A minimum 4 metre carriageway width;
- A minimum vertical clearance of 4 metres to any overhanging obstructions, including tree branches, is provided.
- Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.
- The minimum distance between inner and outer curves is six metres. Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.
- Maximum grades do not exceed 15 degrees and average grades are not more than 10 degrees.
- Crossfall of the pavement is not more than 10 degrees.

#### **Water and Utility Services**

*The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:*

4. Water, electricity and gas must comply with the following:

- A 20,000 litre static water supply tank must be provided for fire fighting purposes.
- The tank must be located / designed so that a connection for fire fighting purposes is located within the inner protection area (IPA) or on the non-hazard side away from the building.
- Aboveground tanks must be manufactured of concrete or metal. Raised tanks must have their stands protected.
- Tanks on the hazard side of a building must be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for firefighters.
- A standard 65mm metal Storz outlet with a gate or ball valve must be provided to the tank. The gate or ball valve, pipes and tank penetration of any tank must be adequate for full 50mm inner diameter water flow through the Storz fitting and made of metal.
- All associated fittings to the tank must be metal.
- Pumps where provided to supply water for fire suppression activities, must be a minimum 5hp or 3kW and petrol or diesel powered. The pump must be shielded from the direct impacts of bush fire. Any hose and reel must have an internal diameter of 19mm.
- An SWS marker must be obtained from the local NSW RFS and positioned for ease of identification by fire fighting personnel and other users of the SWS. Markers must be fixed in a suitable location so as to be highly visible and be positioned adjacent to the most appropriate access for the static water supply.
- All aboveground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
- Electrical transmission lines should be located underground where possible. Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- Gas must be installed and maintained as set out in the relevant Australian Standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.
- Fixed gas cylinders must be kept at least 10 metres clear of flammable materials and be shielded on the hazard side. Connections must be metal. Cylinders near to a building must be have safety valves directed away from the building and be at least 2 metres from combustible materials.

### Landscaping Assessment

The intent of measures is for landscaping. To achieve this, the following conditions shall apply:

5. Landscaping of the site should comply with following principles of Appendix 5 of 'Planning for Bush Fire Protection 2006':

- Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways.
- Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
- Planting is limited in the immediate vicinity of the building.
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
- Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.
- Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
- Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.
- Planting of deciduous species is avoided which may increase fuel at surface/ ground level (i.e. leaf litter).
- Climbing species are avoided to walls and pergolas.
- Combustible materials such as woodchips/mulch and flammable fuel are stored away from the building.
- Combustible structures such as garden sheds, pergolas and materials such timber garden furniture are located way from the building.
- Low flammability vegetation species are used.

### Emergency and Evacuation Planning Assessment

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

6. A Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.

### General Advice - Consent Authority to Note

- This assessment is undertaken in accordance with the provisions of 'Planning for Bush Fire Protection 2019' as proposed in the Bushfire Report submitted with this application.

For any queries regarding this correspondence, please contact Rohini Belapurkar on 1300 NSW RFS.

Yours sincerely,

Kalpana Varghese  
Team Leader, Dev. Assessment & Planning  
Planning and Environment Services



NSW RURAL FIRE SERVICE

# BUSH FIRE SAFETY AUTHORITY

SFPP – Farm Stay Accommodation  
165 Caloola Halt road MEGALONG VALLEY NSW 23 AUS, (none)  
RFS Reference: DA20200109000036-Original-1  
Your Reference: DA114/19 (CNR-3134)

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under s100b of the Rural Fires Act 1997.

**Kalpana Varghese**

Team Leader, Dev. Assessment & Planning  
Planning and Environment Services

Tuesday 3 March 2020

13 February 2020

Our Ref: 19194-a1  
Your Ref: DA114/19Lachlan Sims  
Development Planner  
Lithgow City Council  
PO Box 19  
LITHGOW 2790

Dear Mr Sims

**Subject: Sydney Drinking Water Catchment SEPP  
DA No DA114/19; Lot 104 Section DP 1205739; 165 Caloola Hall Road, Megalong Valley**

I refer to Council's correspondence received 10 December 2019 requesting the concurrence of Water NSW under Clause 11 of *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* for a proposal for construction of farm stay accommodation comprising five 1-bedroom cabins. Water NSW received the revised wastewater report on 1 February 2020.

The subject property, which has been inspected by Water NSW, is located within the Warragamba catchment which forms part of Sydney's water supply.

Water NSW considered the following documents in its assessment of the application:

- a *Statement of Environmental Effects* (dated 6 May 2019) and *Site Plans* (dated 21 November 2019) both prepared by Shelter Building Design, and
- a *Wastewater Report* prepared by Calare Civil Pty Ltd (dated 22 January 2020).

Water NSW has reviewed the application documents and undertaken site inspection and has the following comments in relation to this DA for farm stay cabins:

- the site plan shows five cabins whilst the wastewater management system was designed for four cabins in the wastewater report. The wastewater report has been revised to address this inconsistency, and
- the proposed irrigation area on the Site Plan of Wastewater Report is on the proposed extended driveway, which is not suitable. Therefore, the irrigation area needs to be relocated to north of the driveway as shown on the Soil, Water and Landscape Plan prepared by Shelter Building Design.

In relation to existing sheds on the property:

- Water NSW noted during the site inspection that an aerated wastewater treatment system is servicing the sheds but there is no designated effluent management area.
- Subsequently, Council advised that there has been no approval issued by Council to operate this system that means the system has been installed without Council's approval.
- The matter related to effluent management area for the sheds has been addressed in the revised wastewater report, except wastewater loading from a jacuzzi tub is not included in sizing the effluent management area. Council must clarify the usage of jacuzzi tub with the landowner and the size of the proposed irrigation area of 260 square metres may need to be increased accordingly.
- Council must require the applicant to install the effluent irrigation area for the existing sheds.

Based on the site inspection and the information provided, Water NSW considers that the proposed development can achieve a neutral or beneficial effect (NorBE) on water quality

provided appropriate conditions are included in any development consent and are subsequently implemented.

Water NSW concurs with Council granting consent to the application subject to the following conditions.

If, after receipt of this letter, revisions are made to any of the DA plans, Council does not need to refer the plans to Water NSW if the revisions would have no impact on water quality. Council is requested to amend the relevant Water NSW condition/s to reference the revised plans and notify the assessing officer by email.

#### General

1. The works and layout of the development shall be as specified in the Statement of Environmental Effects (dated 6 May 2019) and shown on the Location Plan (Dwg No. A002 and A004, dated 21/11/19) both prepared by Shelter Building Design. No revised site layout, staging or external works that will impact on water quality, shall be permitted without the agreement of Water NSW.

*Reason for Condition 1 - Water NSW has based its assessment under the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.*

#### Wastewater Management

2. The aerated wastewater treatment system (AWTS) including the effluent irrigation area for farm stay cabins shall be designed, located and installed in accordance with the recommendations in the Wastewater Report (Ref. 20170640, dated 22 January 2020) prepared by Calare Civil Pty Ltd, shown on the Site Plan (Dwg No. E2, Rev. A, dated 22/1/20) of the Report but modified in below conditions and Designing and Installing On-Site Wastewater Systems (WaterNSW, 2019). The wastewater management system shall:
  - have the effluent management area
    - located to the north side of the driveway as shown in the Soil, Water and Landscape Plan (Dwg No. A005, dated 21/11/19) prepared by Shelter Building Design
    - with a minimum total size of 1300 square metres consisting of 900 square metres of subsurface irrigation area and 400 square metres of nutrient assimilation area immediately downslope of the irrigation area
    - have the effluent management area protected from animals and vehicles
    - ensure that the effluent management area is mown regularly with grass clippings to be disposed of outside the irrigation area
    - ensure all effluent is fully assimilated within the boundaries of the property
  - have stabilised earth bunds
    - upslope of the effluent management area to prevent run-on from the driveway, and
    - with energy dissipation at the ends to prevent scouring or erosion
  - have the effluent distribution pipe from the tank to the irrigation area
    - fitted with a non-return valve where the effluent irrigation area is located uphill of the tank
    - buried at a minimum depth of 300 mm, and laid in a manner that provides protection against mechanical damage or deformation
  - have irrigation system
    - by subsurface means using either a wick-based system or pressure-compensating drip emitters with root barriers
    - fitted with an automatic sequencing valve that enables different fields of the irrigation area to be utilised at any one time

- o that incorporates a flushing line which either returns to the settlement chamber of the tank or to a small absorption trench
  - o that is hydraulically designed and clean water tested to ensure there is uniform delivery to all parts of the irrigation area, and
  - o have a pump with sufficient capacity to ensure effective and even delivery of effluent to and throughout the irrigation area.
3. No changes to the wastewater treatment and effluent management systems that will have any impact on water quality, shall be permitted without the agreement of Water NSW.
  4. These conditions of consent relating to wastewater management shall be provided to the installers of the wastewater treatment and effluent management systems.
  5. The installers of the wastewater treatment and effluent management systems shall certify to Council in writing that these systems have been constructed and installed as per these conditions of consent and in accordance with Water NSW's Designing and Installing On-Site Wastewater Systems (Water NSW, 2019), and that the systems have been tested and are functioning properly.
  6. The on-site wastewater management systems shall be maintained according to Section 5 of the Department of Local Government's guidelines On-site Sewage Management for Single Households (1998), AS/NZS 1547:2012 On-site Domestic Wastewater Management, and the manufacturer's specifications.
  7. Council shall not issue any Occupation Certificate until Council has received the certification from the installers and approved the onsite wastewater management systems under the Local Government Act 1993 as being consistent with these conditions.

*Reason for Conditions 2 to 7 – To ensure that the on-site wastewater management system is appropriately designed, located and constructed to have a sustainable neutral or beneficial effect (NorBE) on water quality over the longer term.*

#### **Driveway to the Cabins**

8. The driveway to the cabins shall be constructed with compacted gravel as a minimum and shall be located to minimise cut and fill and minimise length. The driveway shall:
  - be consistent with the requirements of Unsealed Roads Manual: guidelines to good practice (ARRB Transport Research Ltd 3rd edition 2009)
  - have vegetated swales or grassed buffer, as appropriate, on both sides of their entire length with appropriately spaced level spreaders, slits and mitre drains that divert water onto a stable surface capable of accepting concentrated water flow and providing efficient sediment trapping and energy dissipation, and
  - ensure all swales or grassed buffer, mitres drains, batters and verges associated with the driveway are vegetated and stabilised with bitumen and jute matting or similar as soon as possible after construction.

*Reason for Condition 8 - To ensure the access driveway to the dwelling site and cabins and associated drainage works and water quality control measures are appropriately managed and maintained to ensure an overall and sustainable neutral or beneficial impact (NorBE) on water quality over the longer term.*

#### **Stormwater Management**

9. All management measures as specified in the Soil, Water and Landscape Plan (Dwg No. A005, dated 21/11/19) prepared by Shelter Building Design shall be implemented and include:
  - rainwater tanks with a minimum capacity of 10,000 litres for each cabin, and

- overflow from the rainwater tanks be directed to the existing dam.

*Reason for Condition 9 – To ensure that the stormwater quality management measures and structures for the proposed subdivision have a sustainable neutral or beneficial impact (NorBE) on water quality over the longer term.*

#### **Construction Activities**

10. An Erosion and Sediment Plan based on Soil, Water and Landscape Plan (Dwg No. A005, dated 21/11/19) prepared by Shelter Building Design shall be updated for all works proposed as part of the development by a person with knowledge and experience in the preparation of such plans. The Plan shall
  - meet the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004)
  - be prepared prior to issuance of a Construction Certificate and shall be to the satisfaction of Council, and
  - include controls to prevent sediment or polluted water leaving the construction site or entering any natural drainage lines.
11. The Erosion and Sediment Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall be regularly inspected, monitored and maintained until works have been completed and ground surface has stabilised or groundcover re-established.

*Reason for Conditions 10 & 11 – To manage adverse environmental and water quality impacts during the construction phase of the development to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.*

Under Clause 11 of the SEPP, Council must provide Water NSW with a copy of its determination of the application within 10 days of the determination.

If you wish to discuss this matter further please contact Juri Jung on 9865 2503 or email at [environmental.assessments@water.nsw.gov.au](mailto:environmental.assessments@water.nsw.gov.au)

Yours sincerely



**CLAY PRESHAW**  
**Manager Catchment Protection**

Lithgow City Council

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18 December 2019

Reference: PR/1/2019

Lithgow City Council  
180 Mori St  
LITHGOW NSW 2790  
Attn Lachlan Sims

Dear Lachlan,

**Notification of Development Application DA114/19 – Proposed Farm Stay Accommodation,  
165 Caloola Halt Road Megalong Valley**

I refer to your letter of 6 December 2019 in which you provide notification of the above matter. The subject development application was discussed at Council's Development Assessment Review Team meeting on Tuesday 17 December 2019.

At the meeting the following was noted:

- a) The site is Bushfire Prone Land.
- b) The application would require the concurrence of the Rural Fire Service.
- c) Ward Rd adjacent to the site is formed but unsealed.
- d) The road is a Crown Road.
- e) Access from the site is indicated as being by an existing driveway.

Where no works are proposed or required within the Ward Rd road reserve, Blue Mountains City Council has no objection and would raise no further comment.

However, where Ward Rd requires upgrading, either as a result of assessment by your Development Engineer or as a result of any other external referral, Blue Mountains City Council requests further input. As a consequence of any works in Ward Road, the Crown will require the transfer of the Crown public road as a council public road. As Blue Mountains City Council would be acquiring a new asset, construction to our minimum standards is required, and as the roads authority, we would be responsible for approval and inspection the works.

In this case it is requested that a copy of any proposed conditions affecting the access drive and Ward Rd are provided to Blue Mountains City Council for further comment.

Should you have any further enquiries regarding this matter, I may be contacted on 4780 5563 or email [btully@bmcc.nsw.gov.au](mailto:btully@bmcc.nsw.gov.au).

Yours faithfully,

BYRON TULLY  
Acting Development Planning Program Leader.