

STATEMENT OF ENVIRONMENTAL EFFECTS

MODIFICATION TO DA0664/2007 FOR CELLAR DOOR PREMISES

1544 Castlereagh Highway, Galambine



Navigate Planning

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1 INTRODUCTION

This Statement of Environmental Effects (SEE) supports an application to modify DA0664/2007 for a cellar door premises on land known as Lot 17 DP 755431, located at 1544 Castlereagh Highway, Galambine. The modification is submitted under Section 4.55 (1A) of the Environmental Planning and Assessment Act 1979.

The existing cellar door premises is located within the administration building on the site. It is proposed to relocate the cellar door premises to a part of the main horse stable building on the site. The existing cellar door premises would become office space. A new car parking area will be established for the new cellar door location and a new accessible toilet facility is proposed to be provided and connected to an existing septic system.

The development site is zoned RU1 Primary Production under the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012). The proposed development is defined as a cellar door premises which is permissible in the RU1 zone.

The development is not “state significant development”, “regionally significant development”, “designated development” or “integrated development”.

Assessments in relation to the social, economic and environmental impacts of the proposed modification are contained in this Statement of Environmental Effects.

2 PROPOSED MODIFICATION

The proposed modification relates to the location of the approved cellar door premises on the subject land.

Associated with the modification are minor building works, the provision of a new accessible toilet facility and the provision of a new car parking area for 22 cars, including one accessible space.

The minor building works consists of the fitting of a new timber framed and glass entrance door and internal fitout of the space. None of this work is structural.

The new accessible toilet facility will be a portable facility but it will be connected to an existing septic system. A letter from a licensed plumber stating that the existing system is working well and has capacity for the additional toilet is provided with this application.

The new car parking area will consist of one sealed accessible space (with an accessible pathway to the toilet and to the cellar door entrance to be provided. The remaining 21 spaces will be located along either side of an existing sealed internal road. It is proposed that these spaces be on existing grassed areas to maintain a natural outlook from the cellar door. Adequate room is available for the total of 22 spaces with capacity for overflow if required.

The modification is estimated to increase the number of visitors to the cellar door (on the busiest days, being weekends) from approximately 50 to 80 persons. No change is proposed to the existing hours of operation of the cellar door.

One new “cellar door” sign is proposed on the existing building above the entrance door. This sign is exempt development under Subdivision 3 of the Advertising and Signage Exempt Development Code in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

The following conditions are proposed to be modified.

Condition 1 is proposed to be amended to refer to the plans and documents submitted with this modification application.

Condition 4 is proposed to be modified to refer to the provision of 21 grassed car parking spaces plus 1 sealed accessible parking space plus 1 sealed bus bay.

The current cellar door premises has a liquor license. It is proposed to modify the license to relate to the proposed new cellar door area.

3 COMPLIANCE WITH RELEVANT LEGISLATION

3.1 Environmental Planning and Assessment Act 1979 (NSW)

3.1.1 Section 4.55 (1A) – Modifications involving minimal environmental impact

Section 4.55 (1A) states that “a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
 - (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.”

Comment - The proposed modification results in a development that is substantially the same as that approved under DA0664/2007 and is of minimal environmental impact. The relocation of the cellar door is within the same property and the other proposed changes are relatively minor and of minimal environmental impact.

Subsection (3) states that “in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified”.

Comment – Relevant matters are addressed below.

3.1.2 Section 4.5 – Designation of consent authority

Pursuant to clause 4.5 (d) of the *Environmental Planning and Assessment Act 1979* (EPA Act), the Mid-Western Regional Council is the consent authority.

3.1.3 Section 4.13 – Consultation and concurrence

Section 4.13 provides for an environmental planning instrument to identify where consultation or concurrence is required before determining a development application. There are no

consultation or concurrence requirements for the modification under any relevant environmental planning instrument.

3.1.4 Section 4.15 – Evaluation

The following matters are relevant to the proposal under section 4.15 of the EPA Act. Detailed assessment against each of these matters is provided in Section 8 of this SEE.

State Environmental Planning Policies

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Primary Production) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*

Local Environmental Plans

- *Mid-Western Regional Local Environmental Plan 2012*

Draft Environmental Planning Instruments

Nil

Development Control Plans

- *Mid-Western Regional Development Control Plan 2012*

Planning Agreements

Nil

Environmental Planning and Assessment Regulation 2021

Nil.

Impacts on the built environment

The proposed modification will have no significant impact on the built environment as the location of the cellar door premises is within an existing building well away from any public road and will be screened from view by existing farm infrastructure and vegetation.

Impacts on the natural environment

The proposed modification will have no significant impact on the natural environment as no native vegetation will be impacted by the proposal. The new location of the cellar door premises is within an existing building and the proposed new disabled toilet facilities and car parking is located on existing grassed areas containing no native species.

Social and economic impacts

The proposed modification will have neutral social and economic impacts on the locality as the proposal is only to relocate an existing cellar door premises on the property.

Suitability of the site

The site is an operational farm that contains a cellar door and on which functions are already operating. The proposed changes are such that the use will remain suitable for the site.

The Public Interest

The proposed modification is in the public interest as it facilitates the continued use of the site as a cellar door premises in a manner that better integrates the activity with other rural activities on the site and provides a better outlook of the rural landscape than the existing cellar door.

3.1.5 Section 4.46 – Integrated Development

Section 4.46 of the EPA Act identifies development that requires other approvals and is therefore integrated development. The development is not integrated development. This Section therefore does not apply to the development.

3.2 Disability Discrimination Act 1992

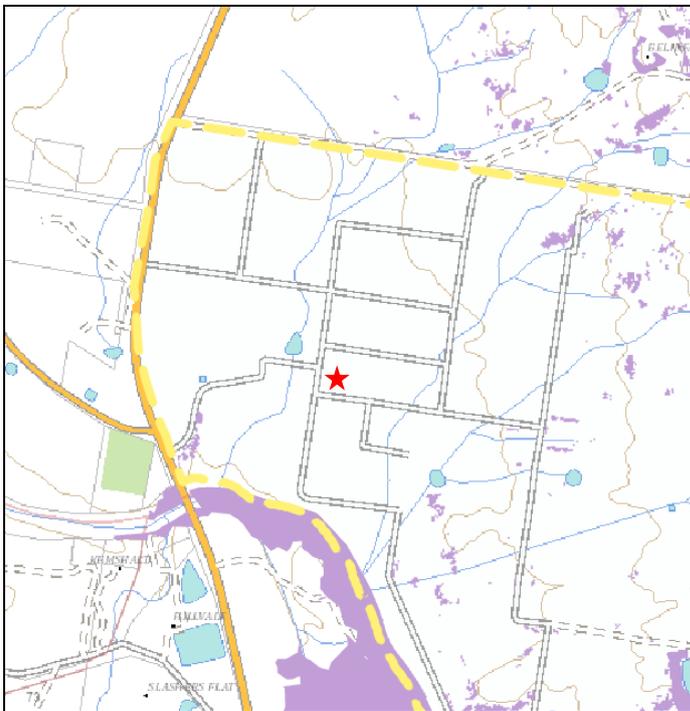
The *Disability Discrimination Act 1992* (DDA Act) prohibits discrimination against people with a disability in a range of areas, including in relation to access to premises.

The proposed development has been designed to ensure access for all throughout the site. Compliant ramped access from an accessible parking space to the accessible toilet and to within the cellar door premises will be provided. The development will comply with the DDA Act.

3.3 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) outlines the processes for biodiversity assessments, approvals and offsets where required. The BC Act also defines biodiversity values, and these are shown as the purple areas on the Biodiversity Values Map.

Parts of the subject land are included on the Biodiversity Values Map, as shown below.



The location of the new cellar door premises (represented by the red star on the map above) is not within the areas mapped as containing biodiversity values. No clearing of native vegetation is required for the proposed development. Therefore, the proposal does not require a Biodiversity Development Assessment Report or biodiversity offsets.

Notwithstanding the above, consideration must be given to potential direct and indirect impacts on threatened ecological communities as a result of the development.

It is considered that the proposal will have no direct impacts on threatened ecological communities. There will also be no indirect impacts from the proposed development on threatened ecological communities as the works associated with the development, primarily being the laying of a concrete pad for an accessible toilet facility and provision of car parking, will not significantly change stormwater runoff or drainage patterns. The proposal will have no impact on biodiversity.

4 COMPLIANCE WITH PLANNING CONTROLS

4.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 3 of this SEPP aims to conserve and manage areas of natural vegetation that provide habitat for koalas. The SEPP applies to land greater than 1ha in size and requires an assessment as to whether the land is potential or core koala habitat.

A search of the koala sightings bionet map has found no recent sightings of koalas within 9km of the subject land. Given no trees are proposed to be removed as part of this application and the development footprint is relatively small, it is considered that the site is not potential or core koala habitat. The proposal is unlikely to have any impact on koalas or koala habitat.

4.2 State Environmental Planning Policy (Primary Production) 2021

Part 2.2 of this SEPP relates to State significant agricultural land. While no land has yet been declared as State significant agricultural land, a Draft State Significant Agricultural Land map was prepared for public consultation. The land is not identified on the Draft State Significant Agricultural Land Map.

The proposed modification will not affect the ongoing commercial agricultural activities on the land and will have no impact on any surrounding agricultural activities. The proposal is therefore considered appropriate for the site.

No other provisions of this SEPP are relevant to the proposed development.

4.3 State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4 of this SEPP relates to the remediation of contaminated land. The subject land has a history of rural and commercial/tourism uses. The primary rural uses of the site are grazing of stock (cows and horses). It is not considered that a preliminary site contamination assessment is warranted for the proposed development. The site is considered suitable for the proposed development.

4.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 of this SEPP provides for certain infrastructure developments to be exempt development, complying development or development that is permitted with consent. Division 17 of Part 2.3 of the SEPP applies to roads and traffic.

Clause 2.119 relates to development with frontage to classified road. The site has frontage to the Castlereagh Highway which is a classified road. No new access points are proposed. Sub-clause (2) states that:

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic*

noise or vehicle emissions within the site of the development arising from the adjacent classified road.

A Traffic Impact Study has been prepared to assess the capacity of the existing intersection to meet current standards taking into account the proposed relocated cellar door and increase in anticipated patronage, along with an increase in functions proposed to be held at the premises (which will be the subject of a separate application to Council). The traffic assessment finds that no changes are required to the existing intersection to support the proposed development.

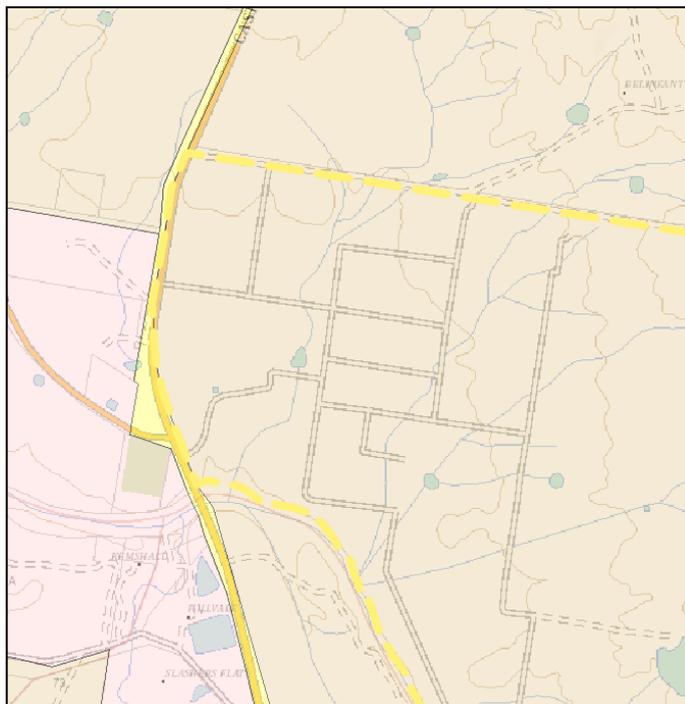
Further, the development will not generate dust that would impact on road users and the proposed location of the cellar door is a significant distance from the road to ensure that traffic noise or vehicle emissions will not negatively impact on the development.

Clause 2.112 relates to traffic generating development and applies to certain new developments or the enlargement or extension of certain existing developments. Schedule 3 identifies traffic generating development, including any development that generates more than 50 vehicles per hour on a site with access to classified road or to road that connects to classified road (if access is within 90m of the connection). The proposal is not considered to be traffic generating development.

4.5 Mid-Western Local Environmental Plan 2012

4.5.1 Zoning and zone objectives

The development is proposed on land included within the RU1 Primary Production zone under the *Mid-Western Regional Local Environmental Plan 2012* (MWRLEP 2012), as shown on the map 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 maintain the visual amenity and landscape quality of Mid-Western Regional by preserving the area's open rural landscapes and environmental and cultural heritage values.*
- *To promote the unique rural character of Mid-Western Regional and facilitate a variety of tourist land uses.*

The land is, and will continue to be, predominantly used for commercial agricultural activities. The use of the site for a cellar door premises provides additional income to support the agricultural use of the land. The proposal will not detrimentally affect the rural landscape and promotes the rural setting of the land to guests. The proposal is considered to be consistent with the zone objectives.

4.5.2 *Land Use Permissibility*

The proposed use is defined as a “cellar door premises” which is as follows:

cellar door premises means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

Note. Cellar door premises are a type of retail premises—see the definition of that term in this Dictionary.

Cellar door premises are permitted with consent in the RU1 zone. DA0664/2007 was granted for the use of the land as a cellar door premises.

4.5.3 *Lot Size*

The land has a minimum lot size of 100ha. No subdivision of land is proposed.

4.5.4 *Heritage*

The site does not contain a heritage item and is not located within a heritage conservation area. There are no heritage items in the vicinity of the land that would be impacted by the proposal.

4.5.5 *Flood planning*

The subject land is not known to be flood prone.

4.5.6 *Earthworks*

Clause 6.3 of MWRLEP 2012 requires separate development consent for earthworks unless the earthworks are ancillary to other development for which development consent has been given. This development application seeks approval for a small amount of earthworks for car parking, concrete slab for an accessible toilet and to provide compliant access pathways to the cellar door premises. The extent of these earthworks is minor.

The extent of earthworks will have no significant impact on drainage patterns or soil stability. The extent of earthworks will not be noticeable upon completion of the development. Given the long history of use of the land for farming practices, there is minimal likelihood of disturbing relics.

4.5.7 Groundwater Vulnerability

Clause 6.4 of MWRLEP 2012 requires consideration of the impact of development on groundwater. Part of the subject land is identified as groundwater vulnerable on the Groundwater Vulnerability Map in MWRLEP 2012.

The proposed development involves minimal earthworks that are unlikely to have an impact on groundwater. The proposal involves the use of existing toilet facilities for staff and a new accessible toilet facility that will be connected to an existing septic system. The existing septic system has been inspected by a licensed plumber who has provided a letter stating that it is operating well and has capacity for the addition toilet facility. A small amount of additional stormwater from the roof of the accessible toilet facility and the new paved accessible parking space and pathway will be directed to adjacent farm paddocks.

Given the above, the proposal is unlikely to have a significant impact on groundwater.

4.5.8 Biodiversity

Clause 6.5 of MWRLEP 2012 requires consideration of the impacts of development on biodiversity. Parts of the subject land are identified as containing high biodiversity sensitivity on the Sensitive Biodiversity Map in MWRLEP 2012. The proposed development is not located in any of the mapped areas. New works associated with the modification including car parking and a new accessible toilet facility are located in areas of exotic grasses. No native vegetation will be impacted by the proposed modification.

4.5.9 Essential Services

Clause 6.9 relates to essential services and states that:

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable road access.*

The site is connected to electricity and telecommunications services. The proposed use does not require connection to any other utilities, as the new accessible toilet facility will be connected to an existing septic system and all food and drinks within the cellar door premises will be brought to and removed from the site (other than the wine for tasting which will be stored on site).

The traffic report submitted with the modification application demonstrates that the existing access to Castlereagh Highway is suitable for the proposed use.

4.6 Mid-Western Regional Development Control Plan 2012

The following provisions of the *Mid-Western Development Control Plan 2012* (MWDCP) are relevant to the proposed development:

4.6.1 Section 5.1 – Car Parking

There is no specific parking requirement for cellar door premises in the MWDCP. For types of development where a parking rate is not specified, parking shall be assessed individually heaving regard to the expected traffic generation.

The existing cellar door premises was approved under DA0664/2007 with a requirement for 5 car parking spaces, including one disabled space, plus a layback area or bay for 1 bus. There are six parking spaces located directly adjacent to the existing cellar door building and a further 16 spaces in a larger car parking area in close proximity to the cellar door. A bus bay is located on the main driveway near the existing cellar door entrance.

While the existing parking spaces will remain available for use by cellar door guests, given the proposed relocation of the cellar door premises, it is proposed to provide a new car parking area adjacent to the new location with a total of 22 new spaces, including one accessible space. A new bus bay near the new cellar door entrance is also proposed.

It should also be noted that Gooree Park is currently also preparing an application to modify the existing development consent for functions at the site and the existing parking spaces and bus bay will be considered as the primary parking area for functions in the future. These spaces are therefore not considered as part of the relocated cellar door parking numbers.

The new cellar door area is approximately 200m² in size (excluding the proposed office space). A total of 22 new parking spaces achieves a parking rate of approximately 1 space per 9m². As the proposed new cellar door is larger than the existing, it is estimated that the number of visitors (on the busiest days, being weekends) will increase from approximately 50 to 80. The number of parking spaces therefore equates to approximately 1 space per 4 visitors.

The traffic impact assessment submitted with the development application, which takes into account both function and cellar door activities on the site, provides the following assessment of parking at the site:

“A total of 44 car parking spaces, including three (3) PWD spaces are to be provided as part of the development. A bus bay is also to be provided.

Further details regarding the 44 car parking spaces are included below:

- *6 spaces are existing and will support the Gooree Wine office use*
- *16 spaces are existing and will support the functions use*
- *22 spaces will be new and will support the cellar door and / or functions use*

A review of the proposed cellar door and function car parking provision has been undertaken based on our first principles traffic generation estimates which indicates that:

- *Less than five (5) car parking spaces are likely to be required to meet typical weekday (no events etc.) demands*
- *Approximately 40 car parking spaces may be required if a 200-person event is being held on Saturday.*

Noting the above, the proposed car parking supply...is expected to be more than sufficient to accommodate parking demands associated with typical day-to-day operations. However, car parking demands may exceed supply when large events (likely those attended by 100 to 200 persons) are being held.

Given less than 10 events each year are expected to be attended by 100 to 200 persons, providing formal car parking to accommodate associated demands is considered unnecessary. Particularly given we understand there is more than sufficient space on site that is relatively level to accommodate any overflow car parking demands.

In summary, the proposed formal car parking provision is considered acceptable from a traffic engineering perspective.

As noted above, the traffic study considers both this proposal to relocate the cellar door and a proposed increase in functions (which will be the subject of a separate application to Council).

As visitors to cellar doors commonly share transport to the sites in buses or vans, large expanses of car parking spaces are not required or desired. However, should overflow parking be required, there are large grassed areas in close proximity to the proposed cellar door to cater for any additional demand. A new bus bay is proposed in close proximity to the cellar door entrance and adequate room is available on site for the manoeuvring of buses.

Based on the above, it is considered that the proposed new 22 car parking spaces for the cellar door will be adequate for the proposed use. To maintain as natural an outlook as possible, it is proposed that the new parking area will remain grassed, with the exception of the accessible parking space and bus bay which will be sealed.

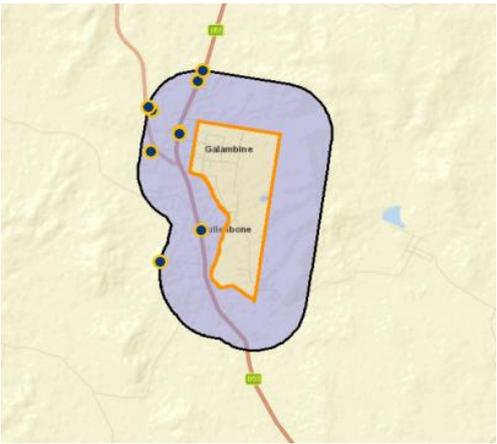
4.6.2 Section 5.2 Flooding

The subject land is not known to be flood prone.

4.6.3 Section 5.3 Stormwater Management

Stormwater from the development will be directed to the existing lake on site.

4.6.4 Section 5.4 Environmental Controls

Issue	Requirement	Comment
<p>Protection of Aboriginal Archaeological items</p>	<p>Development should not disturb or destruct relics without a permit.</p>	<p>A basic search of the Aboriginal Heritage Information Management System found 11 records of Aboriginal artefacts within 1km of the subject land, as shown below.</p>  <p>None of the sites are located on the subject land. The site has been developed, disturbed and used over a long period of time for rural and commercial/tourism purposes. It is considered that there is minimal potential for disturbance of Aboriginal archaeology</p>

		and that no further detailed Aboriginal cultural heritage assessment is warranted. However, the development will be undertaken in accordance with the legislative requirements to protect any Aboriginal item uncovered during works.
Bushfire Management	Buildings should be designed to withstand bushfire.	The subject land is not mapped as bushfire prone.
Riparian and drainage line environments	Development should be set back from waterways.	There are no mapped watercourses within close proximity of the proposed new cellar door location or the associated car parking area. The nearest mapped watercourse is over 60m to the west of the car parking area, however this drainage line contains no defined bed or bank and is therefore not waterfront land as defined in the Water Management Act 2000.
Pollution and Waste Management	Development should address all waste streams and avoid pollution.	Waste from the development includes effluent and food waste. Effluent will be managed through the connection of a new accessible toilet to an existing septic system. Food and other catering waste will be the responsibility of the catering company to collect and dispose of appropriately.
Threatened Species and Vegetation Management	The impact of development on native flora and fauna should be assessed.	No native vegetation will be affected by the proposed development.
Building in Saline Environments	Development should be constructed to avoid problems associated with saline soils.	The subject land is not known to be highly saline.

5 CONCLUSION

This proposed modification relates to the relocation of the approved cellar door premises on the subject land at Lot 17 DP 755431, located at 1544 Castlereagh Highway, Galambine.

The development site is zoned RU1 Primary Production under the Mid-Western Regional Local Environmental Plan 2012 (MWRLEP 2012). A cellar door premises is permissible in the RU1 zone. The existing cellar door was granted development consent under DA0664/2007.

The development is not “state significant development”, “regionally significant development”, “designated development” or “integrated development”.

The proposed development is considered worthy of approval as it can be undertaken in a manner that will have minimal impacts on the amenity of the area. The proposal will have no detrimental impacts on the natural or built environment.

The proposal is permissible with consent and the proposed modification results in substantially the same development as that approved under DA0664/2007. There is no impediment to the modification application being approved.

