



# DEVELOPMENT APPLICATION

Proposed Alterations and Additions to  
Existing Winery Building (Agricultural Produce Industry)  
Philip Shaw Wines  
Shiralee Road, Orange



Prepared for  
Philip Shaw Wines  
January 2021

Ref: DA3PJB12090

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**Annexure A Plans by Peter Basha Planning & Development**

**Annexure B Plans by Cook & Roe**

## **INTRODUCTION**

### **1.1 THE PROPOSAL**

The subject land, at Shiralee Road, Orange is developed for the purposes of a winery; cellar door premises; and education and information facility. It is operated by Philip Shaw Wines.

This DA relates only to the existing winery component of the development. The winery building is located adjacent to the southern boundary of the site.

With reference to the plans in *Annexure B*, It is proposed to construct an open bay extension to the western end of the existing winery building to provide a covered utility area that will improve the operation of the winery. In this regard it is likely to be used mostly for loading or storage.

The proposed extension will be constructed to match the existing building in terms of profile, roof pitch and external finish.

The proposed extension does not necessarily reflect an intensification of the winery or any significant alteration to its principal activities. The proposed extension would not alter the current hours of operation for the winery.

In terms of permissibility, the proposal relies on the relevant existing use provisions of the EPA Regulation to enable the winery building extension.

### **1.2 APPLICANT**

Philip Shaw Wines (Rathla Pty Ltd)  
c/- Peter Basha Planning & Development  
PO Box 1827  
ORANGE NSW 2800

### **1.3 OWNERSHIP**

Rathla Pty Ltd  
PO Box 2473  
ORANGE NSW 2800

## **1.4 DOCUMENTATION**

This report provides an assessment of the proposed development as required under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

The development application comprises this report; a completed development application form; and the following plans:

### ***Annexure A - Plans by Peter Basha Planning & Development***

Figure 1            Location

Figure 2            Site Boundaries and Layout

Figure 3            Site Boundaries and Layout (over Existing Zoning Pattern)

### ***Annexure B – Plans by Cook & Roe***

Drawing A.01            Part Site Plan

Drawing A.02            Floor Plan and Elevations

## EXISTING CIRCUMSTANCES

### 2.1 LOCATION, TITLE AND ZONING

The subject land is known as “Colveath” and is located on the southern side of Shiralee Road, on the southern fringe of the Orange urban area.

The Real Property description of the land is Lot 2 in DP 558405, Parish of Orange and County of Bathurst.

The land is zoned R1 General Residential; R2 Low Density Residential; and a small slither is zoned RE1 Public Recreation pursuant to Orange Local Environmental Plan 2011.

### 2.2 SITE DESCRIPTION

The subject land is a rectangular shaped rural allotment of 8.74 hectares. Shiralee Road forms the northern boundary of the property and Lysterfield Road forms the western boundary. The eastern and southern boundaries adjoin other rural properties.

The terrain of the land is gently sloping and falls gradually from south to north. A non perennial watercourse extends along the western side of the property. The land is virtually clear of native timber.

The land represents the site of Philip Shaw Wines which comprises the following elements:

- The existing winery building and associated infrastructure and support areas sited in the south eastern section of the site;
- The Philip Shaw Wines cellar door/information and education facility sited towards the centre of the site;
- An existing residence sited just to the north of the existing winery;
- A vineyard;
- Landscaped grounds.

## 2.3 DEVELOPMENT PATTERN

The subject land lies within the City's proposed new urban expansion area known as Shiralee. Development of the area is guided by the Shiralee DCP Masterplan.

Under the Masterplan:

- The subject land itself is identified for future residential development comprising:
  - Large (semi rural) lots over the area currently used for the winery and cellar door activities;
  - Standard lots along the northern fringe of the property;
  - A mix of Standard and Compact Lots along the western fringe of the property.
- The development pattern surrounding the subject land comprises:
  - A mix of Standard and Compact lots to the north;
  - Large lots to the east;
  - Public open space and then Compact lots to the south; and
  - A mix of Standard, Medium and Compact lots to the west.

## 2.4 ROADS AND ACCESS

The subject land is serviced by Shiralee Road which (along the site frontage) is a bitumen sealed carriageway with gravel shoulders and grassed table drains.

Access to the subject land is provided via a recessed gateway onto Shiralee Road.

Access to the main buildings within the site is provided via an internal driveway that is constructed to an all-weather standard.

## **2.5 SERVICES**

Water supply is provided via on site means, being rainwater storage tanks and bore.

Effluent disposal within the property occurs on-site via septic tanks and absorption trenches.

There is no formal stormwater system that services the subject land. Surface runoff is directed to tanks, dams and natural drainage lines and discharged to the rural catchment.

Telephone and electricity services are connected to the subject land.



- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement.
- To ensure that development along the Southern Link Road has an alternative access.

In consideration of the R1 Zone objectives:

- The first stated objective is not entirely relevant because this proposal involves an existing use. As such it involves land that does not represent an obvious residential development site.
- The second stated objective encourages a variation in housing types and densities and is not relevant to this proposal.
- In consideration of the third stated objective, the development may be of some appeal to local residents but does not strictly represent a facility or service that meets “the day to day needs of residents”. However, this objective is not entirely relevant because this proposal involves an existing use.
- In consideration of the fourth stated objective, the subject land will eventually be served by public transport routes and cycling paths as development pursuant to the Shiralee DCP proceeds.
- The fifth stated objective pertains to the Southern Link Road and is not relevant to this proposal.

#### ***Zone R2 Low Density Residential***

The objectives of the R2 Zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

- To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement.
- To ensure that development along the Southern Link Road has an alternative access.

In consideration of the R2 Zone objectives:

- The first stated objective is not entirely relevant because this proposal involves an existing use. As such it involves land that does not represent an obvious residential development site.
- In consideration of the second stated objective, the development may be of some appeal to local residents but does not strictly represent a facility or service that meets the day to day needs of residents. However, this objective is not entirely relevant because this proposal involves an existing use.
- In consideration of the third stated objective, the surrounding area will eventually be served by public transport routes and cycling paths as development under the Shiralee DCP proceeds.
- The objective pertaining to the Southern Link Road is not relevant to this proposal.

#### ***Zone RE1 Public Recreation***

The objectives of the RE1 Zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To ensure development is ordered in such a way as to maximise public transport patronage and encourage walking and cycling in close proximity to settlement.
- To ensure development along the Southern Link Road has alternative access.

Given that the proposal does not affect the identified RE1 zoned land, there are no aspects of the proposal that contravene the stated zone objectives.

### **3.1.2 Permissibility**

In terms of permissibility, the proposed extension of the winery building represents development for the purpose of an *agricultural produce industry (winery)*. Pursuant to Orange LEP 2011 and the current zoning provisions, an *agricultural produce industry* is no longer a permitted use within the subject land.

Notwithstanding the provisions of Orange LEP 2011, it is submitted that the proposal is permissible pursuant to Section 106 of the Environmental Planning & Assessment Act, 1979 and Clauses 41 and 42 of the Environmental Planning & Assessment Regulation 2000 (EPA Regulation), which allow an existing use to be to be “enlarged, expanded, intensified, altered or extended”.

The relevant provisions are considered below.

#### ***Section 106 of the EPA Act***

Section 106 of the EPA Act, provides as follows:

##### **106 Definition of “existing use”**

**In this Division, existing use means:**

- a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4 of this Part, have the effect of prohibiting that use, and**
- b) the use of a building, work or land:**
  - (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and**
  - (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.**

In consideration of Section 106, the current operation satisfies the definition of an existing use because it represents uses for which development consent was granted before the commencement of a provision of an environmental planning instrument which has the effect of prohibiting those uses.

In regard to the existing winery:

- Approval was granted under DA 3/2008 pursuant to the previous Orange LEP 2000. According to the Notice of Determination, the approved development is for *Rural Industry (winery)*.
- Pursuant to the current Orange LEP 2011, a winery (now defined as an *Agricultural Produce Industry*) is not permissible in the R2 Zone and therefore represents a prohibited use within the subject land.

**Clause 41 of the EPA Regulation**

Clause 41 of the EPA Regulation provides as follows:

**41 Certain development allowed**

**1) An existing use may, subject to this Division:**

- a) be enlarged, expanded or intensified, or
- b) be altered or extended, or
- c) be rebuilt, or
- d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or
- e) if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or
- f) if it is a light industrial use—be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act).

The proposed increase in winery production represents the extension of an existing use as permitted via Clause 41(1)(b) of the EPA Regulation 2000.

### **Clause 43 of the EPA Regulation**

Clause 43 of the EPA Regulation provides as follows:

**43 Development consent required for alteration or extension of buildings and works**

- 1) Development consent is required for any alteration or extension of a building or work used for an existing use.
- 2) The alteration or extension—
  - a) must be for the existing use of the building or work and for no other use, and
  - b) must be erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.

It is important to note that Clause 43 of the EPA Regulation does not limit the proposal in terms of scope, scale, size or the like. The proposal satisfies Clause 43 due to the following:

- Clause 43(1) requires development consent for any alteration or extension of buildings and works associated with existing use; hence the making of this development application.
- In accordance with Clause 43(2)(a) the proposed extension of the winery building relates to the existing use (the winery) and no other use.
- In accordance with Clause 43(2)(b) the proposed extension of the winery will be carried out only on the land on which the existing use was carried out immediately before the relevant date.

### **3.1.3 Specific Clause Provisions**

#### **Clause 1.2 – Aims of Plan**

The aims of the LEP are as follows:

- a) to encourage development that complements and enhances the unique character of Orange as a major regional centre boasting a diverse economy and offering an attractive regional lifestyle,

- b) to provide for a range of development opportunities that contribute to the social, economic and environmental resources of Orange in a way that allows the needs of present and future generations to be met by implementing the principles of ecologically sustainable development,
- c) to conserve and enhance the water resources on which Orange depends, particularly water supply catchments,
- d) to manage rural land as an environmental resource that provides economic and social benefits for Orange,
- e) to provide a range of housing choices in planned urban and rural locations to meet population growth,
- f) to recognise and manage valued environmental heritage, landscape and scenic features of Orange.

In consideration of aims of the LEP, the following comments are provided in support of the development:

- There are no aspects of the proposal that detract from the character of Orange as a major regional centre [*General Aim (a)*].
- The proposed development would not adversely affect the social, economic and environmental resources of the City. There are no aspects of the proposed development that would compromise the principles of ecologically sustainable development [*General Aim (b)*].
- There are no aspects of the proposed development that would represent a direct threat to the City's water resources [*General Aim (c)*].
- *General Aim (d)* relates to rural land is not relevant to the DA.
- The proposal involves an existing use and therefore does not diminish the City's range and supply of housing choices [*General Aim (e)*].
- Based on the information provided in this report, the proposed development will not adversely affect the value of heritage, landscape and scenic features of the City [*General Aim (f)*].

### ***Clause 5.10 Heritage Conservation***

The “Colveath” homestead and buildings are identified as a heritage item of Local Significance.

As such Clause 5.10 of the LEP applies. The objectives of this clause are as follows:

- a) to conserve the environmental heritage of Orange,
- b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- c) to conserve archaeological sites,
- d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

Pursuant to Clause 5.10(4) and (5) of the LEP, Council is required to consider the potential impact that the development may have on the heritage item.

Heritage matters are addressed at *Section 3.5.1* of this report.

### ***Clause 7.3 Stormwater management***

Clause 7.3 provides as follows:

- 1) The objective of this clause is to minimise the impacts of urban stormwater on the land to which the development applies and on adjoining downstream properties, native bushland and receiving waters.
- 2) This clause applies to all land in residential, business and industrial zones.
- 3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
  - a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and
  - b) includes, where practical, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

- c) avoids any significant impacts of stormwater runoff on adjoining downstream properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

The development as described in this application will not generate adverse impacts in relation to stormwater runoff.

Stormwater from the site is to be managed on site and discharged in accordance with Council's normal requirements for semi-rural areas not serviced by a piped stormwater system.

#### ***Clause 7.6 Groundwater vulnerability***

The subject land is defined on the Orange Local Environmental Plan 2011 – Groundwater Vulnerability Map as having groundwater vulnerability. Clause 7.6 of the LEP provides as follows:

- 1) The objectives of this clause are to maintain the hydrological functions of key groundwater systems and to protect vulnerable groundwater resources from depletion and contamination as a result of inappropriate development.
- 2) This clause applies to land identified as "Groundwater Vulnerability" on the Groundwater Vulnerability Map.
- 3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:
  - a) Whether or not the development (including any on-site storage or disposal of solid liquid waste and chemicals) is likely to cause any groundwater contamination or have any adverse effect on groundwater dependent ecosystem, and
  - b) The cumulative impact (including the impact on nearby groundwater extraction for potable water supply or stock water supply) of the development and any other existing development on groundwater.
- 4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- a) The development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
- b) If that impact cannot be reasonably avoided – the development is designed, sited and will be managed to minimise that impact,
- c) If that impact cannot be minimised – the development will be managed to mitigate that impact.

The proposed extension of the winery building does not introduce any new activities or processes that would impact upon groundwater.

***Clause 7.11 - Essential services***

Clause 7.11 provides as follows:

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) storm water drainage or on-site conservation,
- e) suitable road access.

The proposed development will satisfy the requirements of this clause. The subject land and development is already serviced. Adjustment or augmentation of existing service connections will be in accordance with the requirements of the relevant supply authority.

**3.2 PROVISIONS OF DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS**

There are no known draft regional or state planning instruments that are likely to affect the subject land or development.

### **3.3 PROVISIONS OF DEVELOPMENT CONTROL PLANS**

#### **3.3.1 Orange Development Control Plan 2004 – 07 Development in Residential Areas**

*Orange Development Control Plan 2004 – 7 Development in Residential Areas* applies to the subject land. However the DCP only sets Planning Outcomes relevant to:

- Urban residential subdivision (typically in an estate situation).
- Residential development (dwellings, dual occupancies, multi-dwelling complexes).
- Health consulting rooms (essentially the re-use of a former dwelling).
- Shops and businesses.
- Exhibition homes.
- Home businesses.
- Bed and breakfast development.
- Development in the villages of Spring Hill and Lucknow.
- Development in the vicinity of Charles Sturt University.

The development proposed by this DA relates to an existing use. It does not fit within any of the above categories. There appear to be no Planning Outcomes in the DCP that are of particular or direct relevance to this proposal.

#### **3.3.2 Shiralee Development Control Plan 2015**

*Shiralee Street Control Plan 2015* is applicable. The Shiralee DCP refers to a master plan and sets certain provisions to guide future development of the area in terms of:

- Desired future character
- Local infrastructure

- Village centre
- Residential buildings
- Private domain landscaping
- Public domain
- Environmental management
- Movement networks
- Vehicle parking and servicing
- Social sustainability.

The development proposed by this DA relates to an existing use. It does not fit within any of the above categories. There appear to be no Planning Outcomes in the DCP that are of particular relevance to this proposal.

The existing use (and possible expansion of same) is recognised in the DCP, via the nominated vegetative buffer in the master plan.

### **3.3.3 Orange Development Control Plan 2004 – 13 Heritage**

*Orange DCP 2004 – 13 Heritage* applies and sets the following Planning Outcomes:

- 1. Development relates to the significant features of heritage buildings on or near the site, as reflected in inventory sheets.*
- 2. Development conforms with recognised conservation principles.*
- 3. Conservation Management Plans are prepared for development having a significant effect on heritage sites.*

The proposal is not adverse to these Planning Outcomes. The heritage impacts of the proposal are considered later in this report at *Section 3.5.1*.

### **3.4 MATTER PRESCRIBED BY THE REGULATIONS**

The Environmental Planning and Assessment Regulation 2000 prescribes certain matters that must be considered by Council in determining a development application. The following information is provided in respect of the relevant prescribed matters:

#### ***Demolition of a Building (Clause 92)***

Not relevant. The development does not involve demolition.

#### ***Fire Safety Considerations (Clause 93)***

Not relevant.

#### ***Buildings to be Upgraded (Clause 94)***

Relevant. This clause applies to a development application comprising the rebuilding, alteration, enlargement or extension of an existing building.

#### ***BASIX Commitments (Clause 97A)***

Not relevant. BASIX does not apply to non-residential buildings.

### **3.5 THE LIKELY IMPACTS OF THE DEVELOPMENT**

The potential impacts of the development are considered below.

#### **3.5.1 Heritage**

Pursuant to the LEP Map and Schedule 5 of Orange LEP 2011, *Colveath homestead and buildings* is defined as a heritage item of Local significance. The item or place is not listed under the NSW Heritage Act. Accordingly the proposal does not represent Integrated Development.

Council will note that DA 410/2012 granted approval to various alterations and additions to the historic buildings. The proposed extension to the winery building does not directly affect the historic buildings within the site. Notwithstanding, Council is required to consider the potential impact that the development may have on the heritage item.

The potential impact upon the heritage item is assessed below.

***Statements of Heritage Impact***

The following consideration is provided in response to the NSW Heritage Office publication *Statement of Heritage Impact Guidelines* (Table 7 – Relevant HIS Questions).

**Question – The following aspects of the proposal respect or enhance the heritage significance of the item or conservation area for the following reasons**

The proposal respects the heritage significance of the item as follows:

- The development does not involve any works or alteration to original building fabric.
- The historic buildings remain prominent in the important views from the north looking south towards the subject land and to the item itself. Given that the winery sits at the rear of the subject land, the proposed extension will not diminish any key views to or from the heritage item, or public appreciation of the item.
- The proposed extension maintains the uniformity of the existing winery building by adopting a consistent height, roof pitch and external finish.

**Question – The following aspects of the proposal could detrimentally impact on heritage significance. The reasons are explained as well as the measures to be taken to minimise impacts**

For the reasons outlined above, the proposal has minimal potential to adversely affect the heritage item or place.

**Question – The following sympathetic solutions have been considered and discounted for the following reasons:**

For the reasons outlined above, there are no aspects of the proposal that are considered unsympathetic with the item or place.

**Question – Demolition of a building or structure.**

**Have all options for retention and adaptive re-use been explored? Can all of the significant elements of the heritage item be kept and any new development be located elsewhere on the site? Is demolition essential at this time or can it be postponed in case future circumstances make its retention and conservation more feasible? Has the advice of a heritage consultant been sought? Have the consultant's recommendations been implemented? If not, why not?**

The proposal does not involve demolition.

**Question – Major additions**

**How is the impact of the addition on the heritage significance of the item (conservation area) to be minimised? Will the additions tend to visually dominate the heritage item? (conservation area) Are the additions sited on any known or potentially significant archaeological deposits? If so, have alternative positions for the additions been considered? Are the additions sympathetic to the heritage item? In what way (e.g. form, proportions, design)?**

The proposal does not involve major additions to the heritage item.

**Question – New landscape works and features (including car parks and fences). How has the impact of the new work on the heritage significance of the existing landscape been minimised? Has evidence (archival and physical) of previous landscape work been investigated? Are previous works being reinstated? Has the advice of a consultant skilled in the conservation of heritage landscapes been sought? If so, have their recommendations been implemented? Are any known or potential archaeological deposits affected by the landscape works? If so, what alternatives have been considered?**

The proposal does not involve new landscape works to the heritage item.

**Question – Tree removal or replacement**

**Does the tree contribute to the heritage significance of the item or landscape? Why is the tree being removed? Has the advice of a tree surgeon or horticultural specialist been obtained? Is the tree being replaced? Why? With the same or a different species?**

The proposal does not require removal of trees.

### **3.5.2 Visual Impact**

The visual impact of the proposed development is considered satisfactory and has largely been addressed in the above heritage assessment.

Further, the existing winery building is a well-established component of the landscape. The proposed addition is relatively modest. It does not unreasonably enlarge the bulk, scale or height of the building to the extent that it would generate unacceptable visual impact.

### **3.5.3 Traffic**

The proposed development will not generate additional traffic impacts.

As stated previously the proposed extension does involve an intensification of the winery or any significant alteration to its principal activities. The proposed extension only seeks to improve the current operation of the winery. There are no aspects of the proposed extension that would lead to increased traffic.

Vehicles associated with the winery will utilise the existing driveway and loading arrangements that have served the winery to date. The existing driveway will be extended to provide vehicle access to the extension.

The extension of the winery building does not increase staff numbers or generate the need for additional parking.

### **3.5.4 Water Quality**

The proposed extension to the winery building does not introduce any new activities or processes that would pose a threat to water quality.

The proposal does not involve any changes to the existing winery wastewater management system.

Erosion and sediment controls will be required during the construction phase to ensure that earth disturbances do not impact upon surface water quality.

### **3.5.5 Air Quality**

There are no aspects of the proposed extension that would generate adverse impacts on air quality.

### **3.5.6 Noise**

The proposal extension to the winery building is not likely to cause adverse noise impacts due to the following:

- As stated, the extension is intended to provide a covered utility area that will improve the operation of the winery. In this regard it is likely to be used mostly for loading or storage.
- The extension does not involve the introduction of any activity or process that is not already being conducted on the site.
- The proposed extension does not involve an intensification of the winery or any significant alteration to its principal activities.
- The proposed extension would not alter the current hours of operation for the winery.
- Given that some of the activities that would be carried out in the extension are currently being carried out in the open; it is reasonable to suggest that the proposed extension may assist to reduce potential noise impacts.

### **3.5.7 Waste Management**

The proposed extension will not alter the existing waste management arrangements for the winery.

### **3.5.8 Lighting**

The proposed extension is not likely to require alteration of the external lighting arrangements for the site.

If new lighting is installed, it can be provided in a manner that does not impact on neighbours.

### **3.5.9 Social and Economic Impacts**

The proposed winery extension represents a modest addition to the existing winery building and is considered neutral in terms of social or economic impact.

### 3.5.10 Biodiversity

The subject land is well-established with the existing land use and is clearly highly modified from its natural state. Notwithstanding, the following information is submitted in accordance with Council's requirements for assessment of development under the *Biodiversity Conservation Act, 2016*.

Section 1.7 of the Environmental Planning & Assessment Act, 1979 requires consideration of Part 7 of the *Biodiversity Conservation Act, 2016* in relation to terrestrial environments; and Part 7A of the *Fisheries Management Act, 1994* in relation to aquatic environments. The proposal does not involve an aquatic environment. As such, only *Biodiversity Conservation Act, 2016* requires consideration.

There are four matters that may trigger the Biodiversity Offset Scheme to determine whether or not a Biodiversity Assessment Report (BDAR) is required. These are considered below.

**Whether the development occurs on land identified on the OEH Biodiversity Values Map**

The development does not occur on land identified on the Biodiversity Values Map published under clause 7.3 of the *Biodiversity Conservation Regulation 2016*.

**Whether the amount of native vegetation being cleared exceeds a threshold area based on the minimum lot size associated with the property**

The proposal does not involve the clearing of native vegetation. As such it would not exceed the threshold area of 0.25 hectare (allowed for a property that is subject to a MLS of less than 1 hectare).

**Whether the development or activity is "likely to significantly affect threatened species"?**

The natural state of the site and surrounding area has been highly modified by previous rural land use and the emerging urban development pattern.

The habitat value of the site itself is low and it does not have realistic potential to re-establish into providing a habitat of value. The potential to attract less common native species is considered minimal.

As such, the proposal is not likely to have an adverse effect on a threatened species; endangered ecological community; or a critically endangered ecological community or their habitat.

**Whether the development or activity development or activity will be carried out in a declared area of outstanding biodiversity value?**

No. The subject land is not a declared area of outstanding biodiversity value.

### **3.6 THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

There are no aspects of the site that suggest it is not suitable for the proposed development.

The proposed extension relates logically to the existing winery building and the general site arrangement.

### **3.7 SUBMISSIONS IN ACCORDANCE WITH ACT OR REGULATIONS**

According to Council's *Planning & Development Community Participation Plan 2019*, Council is required to Advertise the development application because it relates to "existing use rights".

### **3.8 THE PUBLIC INTEREST**

The proposed development is considered to be only of minor interest to the wider public due to the relatively localised nature of potential impacts.

## CONCLUSION

The proposal as submitted could be supported on the following grounds:

- The proposal complies with the relevant provisions of Orange LEP 2011;
- The proposal relies on the existing use provisions under Section 106 of the Environmental Planning & Assessment Act, 1979. This aspect of the proposal meets the requirements of Clauses 41 and 45 of the Environmental Planning & Assessment Regulation 2000.
- The proposal is considered satisfactory in terms of Section 4.15 of the Environmental Planning and Assessment Act, 1979. The potential impacts of the proposal are considered satisfactory and may be addressed by appropriate design, responsible management practices and relevant Conditions of Consent.
- There do not appear to be any issues that would warrant refusal of the development application.

We trust that this application will be given favourable consideration by Council. Any further enquiries may be directed to Mr Peter Basha on 6361 2955.

Yours faithfully

*Peter Basha Planning & Development*

Per:

**PETER BASHA**