

DA No:	DA/659/2024 (Lodged on 09/07/2024)
Description:	Change of Use – Farm Gate Premises
Property:	373-375 Galston Road, Galston Lot 1 DP 836106
Applicant:	Mecone Group Pty Ltd
Owner:	Kenneth and Warren Waddell
Estimated Cost:	\$0
Ward:	Ward A
Clause 4.6 Request:	N/A
Submissions:	Nil
LPP Criteria:	Councillor
Author:	Cristie Evenhuis, DFP Planning Pty Ltd
COI Declaration:	No Council staff involved in the assessment of this application have declared a Conflict of Interest.

RECOMMENDATION

THAT the Hornsby Local Planning Panel, exercising the functions of Council as the consent authority, approve Development Application DA/659/2024 for a change of use – Farm Gate Premises at Lot 1 DP 836106, No. 373-375 Galston Road, Galston subject to conditions of consent in Attachment 1 of LPP Report No. LPP 26/24.

EXECUTIVE SUMMARY

- The application involves – a change of use to permit the site to operate a Farm Gate Premises in addition to the existing use as an agricultural produce industry.
- The development involves land owned by a Councillor. In accordance with Council’s adopted Policy ‘*Proposed Council Developments*’ an independent assessment of the development application has been undertaken by Cristie Evenhuis of DFP Planning Pty Ltd.
- Between 23 July 2024 and 6 August 2024, the development application was placed on public notification. Nil submissions were received in respect of the application.
- The application is required to be determined by the Hornsby Council Local Planning Panel as the owner of the land is a councillor.
- It is recommended that the application be approved.

BACKGROUND

Site History

Waddell's Orchard was established in 1981 and encompassed 373-389 Galston Road, Galston. Initially the farm was a citrus farm but a decline in the marketability of citrus resulted in the growing of a variety of stone fruit and included a small informal structure from which a variety of produce was sold at the farm gate.

In 1960 an application was made to establish a more formalised structure which was well supported by the local population as well as visitors and traded consistently year around. In 1986, a further application was made to construct a packing shed with produce display to meet increased demands of the community. After the passing of the original Mr and Mrs Waddell in 2009, two (2) out of three (3) titles making up the property were sold resulting in all of the Orchard structures approved remaining on the parcels of land that were sold.

In 2015, consent was granted on the site DA/276/2015 which approved a two (2) stage development for an agricultural produce industry. Stage 1 was for the construction of the farm building comprising a packing shed, machinery store and covered store and was completed in early 2017. Stage 2 comprised a produce display, cool room, male and female toilets, a kitchen and education room, which was completed in the latter part of 2017.

At the time of consent to DA/276/2015, the display and sale of agricultural produce and education function were not permitted as stand-alone uses and were approved as ancillary to the agricultural produce industry use.

Application History

Following changes to the LEP to include agritourism, an application was lodged on 6 June 2024 for a farm gate premises to operate in conjunction with the existing approval for an agricultural produce industry.

Between 23 July 2024 and 6 August 2024, the development application was placed on public notification.

On 20 August 2024, a meeting was held with Council's Assessing Officer, the Manager Development Assessments, the Director of Planning and Compliance, the Environmental Protection Manager, the Owner and the Applicant to discuss various the outstanding matters that were required to be addressed.

Subsequently, Council requested additional information by requesting clarification regarding the location and layout of the café area, request for an updated floor plan, toilet facilities and number of people and BCA compliance concerns, parking and travel path from accessible parking to the facility, justification regarding extended hours proposed including food and drink services proposed, number of visitors to the site, proximity to neighbours, details of existing onsite waste management system, updated site and floor plan and the requirements of a plan of management.

On 9 September 2024 Council received an addendum to the SEE and a Plan of Management in response to the request for additional information.

SITE

The site is legally described as Lot 1 in DP 836106, also known as 373-375 Galston Road, Galston. The area of the site is approximately 4.27 hectares with a frontage to Galston Road of approximately 147 metres.

The improvements on the site comprise a dwelling house and garage in the north-western portion, a farm building on the south-western portion, persimmon crops, a dam to the rear of the site and landscape vegetation across the remainder of the site.

The northern portion of the site is bushfire prone land.



Figure 1 Aerial Photo of the Site

PROPOSAL

The application seeks consent for the use of the site as a farm gate premises in conjunction with the use of the existing agricultural produce industry. The use of the site as a farm gate premises will permit the serving of food and drink to farm visitors and staff as well as allowing for tastings, workshops and educational functions. Farm gate premises will also allow for the continuation of the retail sale of products from the farm as well as from other farms in the region.

The approved hours for the agricultural produce industry are 7:00am – 6:00pm Monday to Sunday.

The application seeks the following operating hours for the farm gate premises:

- 5:30am to 6:00pm, Monday to Sunday (standard hours),
- 5:30am to 10:00pm Monday to Sunday for up to 28 days per calendar year.

Consent is sought for the additional operational hours from 5:30am to 10:00pm for up to 28 calendar days to allow for occasional services such as workshops, tastings and educational functions to be carried out during these times after working hours and to allow for food and drink services to be provide. It is proposed to undertake four (4) events per annum which would involve amplified music.

The existing buildings approved for an agricultural produce industry comprising a verandah used for outdoor product display, indoor product display, an education and tasting area, kitchen, packing shed, machinery store, coolroom, a male and female toilet and outdoor deck and picnic area will be retained.

The application proposes the following additional uses within the existing farm building:

- The display and retail sale of goods, including products from the farm, supplemented by products from other farms/producers in the region;
- Preparation of food and drink as a small-scale operation in the existing approved kitchen and the sale thereof as an additional service offering to visitors to the farm and workers.
 - These services may include tea and coffee, cold drinks, sweet and savoury food products and casual light meals such as toasted sandwiches.
- No formal seating area or table service will be provided. It is estimated that approximately 20 visitors may be consuming food or drinks on site at any one time however, this may vary. The products will also be available to consume casually on site while visiting or as take away food. The food/drink services may also be provided in association with the other uses such as educational workshops and tastings of agricultural products from the farm and surrounding region.

The application does not propose any physical works to be undertaken to the existing building. Figure 2 below depicts the current layout of the packing shed which is to be retained.

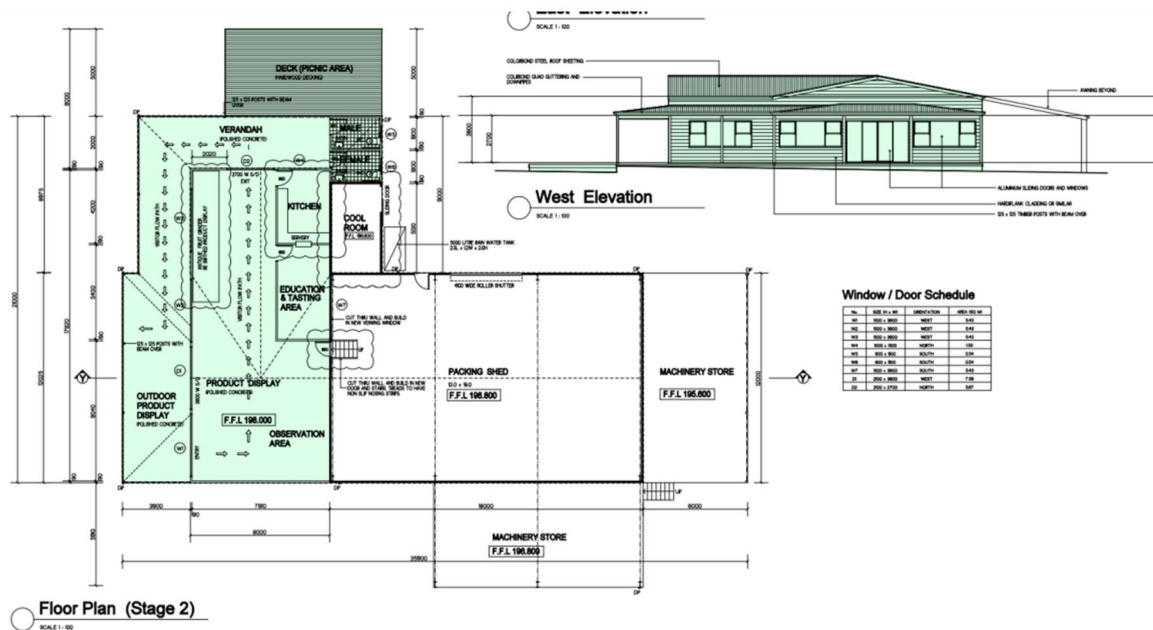


Figure 2 – Approved Plan extract

Source: Arcadian Designs, dated July 2015

The photos in Figures 3 – 10 below depict the existing arrangements on-site.



Figure 3 – Front view of the approved farm building



Figure 4 – Approved front external display area



Figure 5 – Approved internal display area



Figure 6 – Existing approved kitchen



Figure 7 – Existing approved toilet facilities



Figure 8 – Existing approved external deck and picnic area



Figure 9 – Existing parking area looking towards Galston Road with spill over parking available in the grassed area to the left.

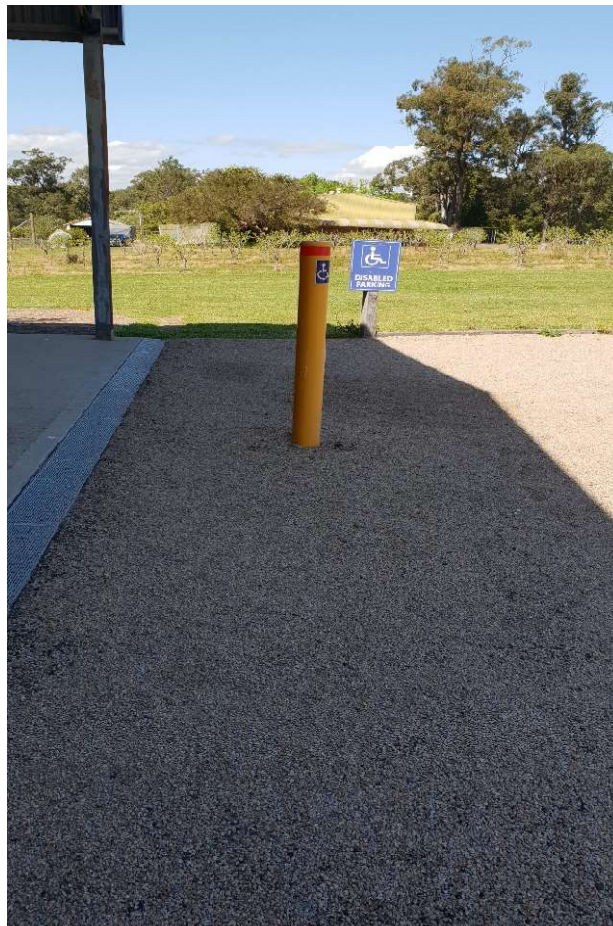


Figure 10 – Existing accessible car parking space.

ASSESSMENT

The development application has been assessed having regard to the Greater Sydney Region Plan - A Metropolis of Three Cities, the North District Plan and the matters for consideration prescribed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 Greater Sydney Region Plan - A Metropolis of Three Cities and North District Plan

The Greater Sydney Region Plan - A Metropolis of Three Cities has been prepared by the NSW State Government to guide land use planning decisions over the next 40 years (to 2056). The Plan sets a strategy and actions for accommodating Sydney's future population growth and identifies dwelling targets to ensure supply meets demand. The Plan also identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Hornsby Shire has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde, Northern Beaches and Willoughby to form the North District. The Greater Sydney Commission has released the North District Plan which includes priorities and actions for Northern District over the next 20 years.

The proposed development would be consistent with the Greater Sydney Region Plan - A Metropolis of Three Cities and the North District Plan, by maintaining and protecting the environmental, social and economic values in the rural area of Galston.

1.2 Hornsby Shire Rural Lands Strategy

The Rural Lands Strategy as adopted in May 2022. The Strategy provides key principles and recommendations for managing rural lands into the future and addresses obligations for rural lands prescribed by the State Government. It will set a strategic direction for rural areas and will inform amendments to the Local Strategic Planning Statement (LSPS) and planning controls including the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2024.

The site is located in the Galston Plateau. The specific principles for the Galston Plateau are as follows:

- *Avoid further land fragmentation on lots covered by an Environmental Management Zone.*
- *Investigate the potential for rural villages to accommodate some additional housing, where there are no adverse impacts on preferred rural village character, and where the development maintains other values of the rural area.*
- *Recognise and protect productive agricultural land, by limiting further fragmentation and exploring opportunities for rural businesses to value add with activities that are ancillary to, and support, agricultural production.*
- *Provide for a range of tourism-related land uses that support the ongoing viability of the agricultural industry.*

The proposed farm gate premises is consistent with the principle of providing tourism related land uses that supports the ongoing viability of the agricultural use without detracting from the existing landscape character and will form a nexus between the proposed land use and the primary production activities on the land.

2. STATUTORY CONTROLS

Section 4.15(1)(a) requires Council to consider “*any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations*”.

2.1 Hornsby Local Environmental Plan 2013

The proposed development has been assessed having regard to the provisions of the Hornsby Local Environmental Plan 2013 (HLEP).

2.1.1 Zoning of Land and Permissibility

The subject land is zoned – RU4 – Primary Production Small Lots - under the HLEP. The objectives of the RU4 zone are:

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprise, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise the conflict between land uses within this zone and land uses in adjoining zones.*
- *To encourage land uses that support primary industry and align with the rural character of the area, including agritourism and tourist and visitor accommodation.*
- *To ensure that development does not unreasonably increase the demand for public infrastructure, services or facilities.*

The proposed development is defined as a ‘farm gate premises’ which is a type of ‘agritourism’ and is permissible in the RU4 zone with Council’s consent.

agritourism means the following—

(a) *farm gate premises,*

(b) *farm experience premises.*

farm gate premises

(a) *means a building or place—*

(i) *on a commercial farm, and*

(ii) *ancillary to the farm, and*

(iii) *used to provide visitors to the farm, on a commercial basis, with agricultural products predominantly from the farm, supplemented by products from other farms in the region, or with services or activities related to the products, including the following—*

(A) *processing, packaging and sale of the products, but not the processing of animals,*

(B) *the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided,*

(C) *tastings or workshops,*

(D) *the provision of information or education related to the products, and*

(b) includes cellar door premises.

The proposed farm gate premises is consistent with the objectives of the RU4 zone and will support the primary industry and align with the rural character of the area by providing agritourism to support the viability of the primary industry enterprise on the site.

2.1.2 Height of Buildings

Clause 4.3 of the HLEP provides that the height of a building on any land should not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum permissible height for the subject site is 10.5m. The proposed development will be located in an existing approved building and no physical works are proposed. Accordingly, no further assessment is necessary.

2.1.3 Floor Space Ratio

Clause 4.4 of the HLEP provides that the floor space ratio (FSR) for a building on any land should not exceed the maximum FSR for the land on the Floor Space Ratio Map. There is no maximum FSR identified for the site. The use will be established in an existing building. Accordingly, no further assessment regarding FSR is necessary.

2.1.4 Heritage Conservation

Clause 5.10 of the HLEP sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item, is not located in a heritage conservation area and is not proximate to a heritage item. Accordingly, no further assessment regarding heritage is necessary.

2.1.5 Earthworks

Clause 6.2 of the HLEP states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

There are no earthworks associated with the proposal.

2.2 State Environmental Planning Policy (Resilience and Hazards) 2021

The application has been assessed against the requirements of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

2.2.1.1 Chapter 4 Remediation of Land

Section 4.6 of the Resilience and Hazard SEPP states that before determining an application for consent to carry out development that would involve a change of use on any land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned.

Should the land be contaminated, Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

The proposal does not constitute a change of use to a use that has the potential to increase the risk of exposure to contamination. A preliminary site investigation is therefore not necessary, noting that no physical works are proposed. The farmgate premises will be contained within an existing farm building.

2.3 Section 3.42 Environmental Planning and Assessment Act 1979 - Purpose and Status of Development Control Plans

Section 3.42 of the *Environmental Planning and Assessment Act 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

2.4 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the Hornsby Development Control Plan 2013 (HDCP). The following tables set out the proposal's compliance with the prescriptive requirements of the Plan:

HDCP - Part 1 General		
Control	Proposal	Complies
1.2.6 Tree and Vegetation Preservation	No tree removal proposed.	Complies.
1.3.1.1 Biodiversity	A small part of the northern boundary of the site is mapped on the Biodiversity Values Map. The building where the proposed use will be carried out is located on the southern boundary. No physical works are proposed to be carried out in the	Complies

	mapped area and therefore there will be no adverse impact on biodiversity.	
1.3. 1.2 Stormwater Management	The proposed use will be carried out in an existing approved building. No changes are proposed to the existing stormwater management of the site.	Complies
1.3.1.3 Watercourses	The dam located at the rear of the site connects to Cabbage Tree Hollow watercourse. The proposed use will be located in an existing approved building and will therefore not impact on the existing drainage lines and waterbody on the site.	Complies
1.3.1.4 Earthworks and Slope	The proposal does not involve any earthworks.	Complies
1.3.2 Built Environment 1.3.2.1 Transport and Parking	<p>Access to the site is existing and has been designed to allow all vehicles to enter and exit the site in a forward direction.</p> <p>DA/276/2015 approved the car parking layout. Fourteen (14) car parking spaces including one (1) accessible car parking space are provided. The farm gate premises will be carried out in the existing building.</p> <p>No changes are proposed to the existing car park. Overflow carparking is available on the site on the grassed area adjoining the approved car park if required.</p>	Complies
1.3.2.2 Accessible Design	<p>The farm gate premises use will be carried out in the existing approved building. No changes are proposed to the existing building. An accessible car parking space is already provided at the front entrance to the building.</p> <p>Access to the building is at-grade providing a continuous unobstructive path</p>	Complies

	to the building entrance as required by the BCA.	
1.3.2.3 Waste Management	<p>No construction is proposed to accommodate the proposed use.</p> <p>The proposed use is introducing a take-away food service. Adequate and appropriate waste bins will be required to be provided to service the food preparation proposed.</p> <p>A condition of consent can be included to ensure compliance.</p>	Can comply with the imposition of a condition of consent.
1.3.2.4 Effluent Disposal	<p>The SEE states that the proposed use will not result in additional effluent.</p> <p>However, the introduction of the take-away food and drink service will result in additional wastewater being generated.</p> <p>An on-site sewer management plan has not been provided with the application to demonstrate compliance.</p> <p>An appropriate condition of consent will be included to ensure compliance.</p>	Can comply with the imposition of a condition of consent
1.3.2.5 Noise and Vibration	<p>The farm gate premises proposes to operate later than the existing approved agricultural produce industry for 28 days calendar days of the year. The proposed activities will include small scale workshops, tastings and associated foo/drink serving within the existing farm building. Whilst this would not in itself generate noise there is the potential for noise from the car park being generated to sensitive receivers by attendees leaving the site.</p> <p>Conditions of consent are recommended to ensure compliance.</p>	Can comply with the imposition of conditions of consent

1.3.2.6 Air Quality	The proposal does not raise concerns regarding air quality.	N/A
1.3.2.7 Crime Prevention	It is proposed to operate until 10:00pm on at least 28 calendar days of the year. A condition of consent can be imposed to ensure that the car parking area is adequately lit during these times to ensure the safety and security of all users.	Can comply with the imposition of a condition of consent
1.3.2.8 Building Sustainability	The proposed use will be carried out in an existing approved building. No building works are proposed.	N/A
1.3.2.9 Landscaping	The proposal does not require any works to be carried out and therefore does not require any additional landscaping to be provided.	N/A
1.3.2.10 Services and Lighting	The proposed use does not include any building works; however, lighting will be required to be provided in the parking area.	Can comply with the imposition of a condition of consent
1.3.3.1 Bushfire	The site is mapped as containing bushfire prone land. The bushfire prone land is mapped as being located along the northern boundary of the site. The proposed development will be carried out in the existing approved building on the southern side of the site and is not for a special fire protection purpose.	Complies
1.3.3.2 Flooding	The site is not mapped as being located on land that is flood affected.	Complies
1.3.3.3 Acid Sulphate Soils	The site is not mapped as containing Acid Sulfate Soils.	Complies
1.3.3.4 Land Contamination	The use will be carried out in an existing approved building. No works or excavation is proposed.	Complies

HDCCP - Part 2.2.10 Agritourism and Farm Stay Accommodation - Farm Gate Premises and Farm Experience Premises			
Control	Proposal	Requirement	Complies
<p>Setbacks</p> <ul style="list-style-type: none"> - Residential accommodation on adjacent land (including land separated by a road). - Any property boundary or road. - Any waterway - Any land used for the purpose of forestry, intensive livestock agriculture, mining, extractive industries, railway lines or rural industry. 	<p>The building in which the farm gate premises is proposed to be carried out is located 70m from the dwelling house on the southern property, 170m from the property across Galston Road to the north-west, 130m from the dwelling house across Galston Road to the west and 176m from the dwelling house across Galston Road to the south-west.</p>	<p>250m</p> <p>50m</p> <p>50m</p> <p>250m</p>	<p>No.</p> <p>The proposal is located closer than 250m from adjoining residential accommodation, however, will be carried out in an existing approved building.</p>
Total GFA for Farm Gate Premises	200m ²	200m ²	Complies
Total Footprint of all buildings for Farm Gate Premises	500m ²	500m ²	Complies
Hours of Operation	<p>The proposal seeks consent to operate from 5:30am to 7pm as standard operating hours with extended evening operations until 10:00pm for 28 calendar days throughout the year. It is proposed to</p>	<ul style="list-style-type: none"> - 8am to 5pm Sunday to Friday and Public Holidays - 7am to 5pm on Saturdays 	<p>No</p> <p>The hours of operation exceed those permitted within the DCP.</p> <p>The approved hours of operation for the agricultural</p>

	undertake four (4) events per annum which would involve amplified music.		produce industry are 8am to 5pm Sunday to Friday and 7am to 6pm Saturday.
Maximum number of visitors (excluding visitors participating in fruit and produce picking, farm tours, horse riding and school groups).	100	100 visitors at any one time	Complies
Toilet facilities	One (1) male and one (1) female toilet has been provided including one (1) unisex toilet – See Figure 6 .	Toilet facilities should be provided including at least one unisex accessible toilet.	Complies
Acoustic	No more than four (4) events per annum are proposed that would involve amplified music after 6pm.	If more than 4 events per annum after 6pm on Friday or Saturday involving amplified noise requires an acoustic report.	Complies
Car Parking	A total of 14 car parking spaces including one (1) accessible car parking space have been approved and provided for the agricultural produce industry and is considered adequate for the proposed farm gate premises -see Section 2.4.5.	1 space per 25m ² gross floor area of a building or structure for farm gate premises or farm experience premises, and 1 space per 3 visitors for any outdoor farm gate premises or farm experience premises activity, and	Complies

	Overspill parking will be provided on the grassed area adjacent to the demarcated parking area.	1 space per 2 employees, and 1 space for persons with disability or limited mobility	
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As detailed in the above table, there are a number of non-compliances with the HDCP controls which are discussed below including a brief discussion on compliance with relevant performance requirements.

2.4.1 Scale

The scale of the proposed farm gate premises is considered to be consistent with the HDCP. The GFA will remain at 200m² with the total footprint of all buildings on the site not exceeding 500m². The maximum number of persons on the site at any one time will not exceed 100 persons.

2.4.2 Setbacks

Table 2.2.10-b in Part 2.2.10 of the DCP specifies separation requirements for farmgate premises. The prescriptive requirements are as follows:

- Separation from residential accommodation on adjacent land (including land separated by a road) – 250m;
- Any property boundary or road – 50m;
- Any waterway – 50m;
- Any land used for the purposes of forestry, intensive livestock agriculture, intensive plant agriculture, mining, extractive industries, railway lines or rural industry – 250m

The building in which the farm gate premises is proposed to be carried out is located 70m from the dwelling house on the southern property, 170m from the property across Galston Road to the north-west, 130m from the dwelling house across Galston Road to the west and 176m from the dwelling house across Galston Road to the south-west.

The carparking spaces are located 15m from the front boundary with the existing building setback 46.7m from the front boundary. The building is setback 10m from the side boundary at the closest point. The building is setback more than 50m from the existing dam/waterway on the site.

The applicant has provided no justification for the non-compliance with the separation distance requirements however, as the use will be carried out in the existing approved building, the proposal is considered acceptable in this instance.

2.4.3 Landscaping

The site comprises mostly orchards with some landscaped vegetation across the site. No additional landscaping is proposed.

2.4.4 Open Space

The existing dwelling house has sufficient open space. No open space is required or proposed for the farm gate premises.

2.4.5 Vehicular Access and Parking

Prescriptive controls relating to transport and parking are contained within Part 1.3.2.1 Transport and Parking of the DCP. Vehicular access will be obtained via an existing driveway off Galston Road. A total of 14 existing parking spaces including one (1) accessible car parking space has been provided in conjunction with the existing approved use for an agricultural produce industry. Council's engineering officers have confirmed that the proposed farm gate premises requires the provision of at least 11 car parking spaces as follows:

Number of spaces required	Number of spaces provided	Compliance
1 space per 25m ² gross floor area of a building or structure for farm gate premises. 200m ² = 8 spaces	8 spaces provided	Complies
1 space per 3 visitors for any <u>outdoor</u> farm gate premises or farm experience activity.	3 spaces provided however, the farm gate premises is proposed to be carried out indoors and Council's engineering officers have advised that this does not trigger any car parking requirements for visitors.	Complies.
1 space per 2 employees 4 employees = 2 spaces	2 spaces provided	Complies
1 space for a person with disability or limited mobility	1 accessible parking space provided	Complies

Vehicles will be able to enter and leave the site in a forward direction.

A grassed area to the south-west of the existing approved car park on the site will be able to accommodate any overflow car parking. The *State Environmental Planning Policy (Exempt and Complying Development Code) 2008* (SEPP ECDC) does not require any number of car parking space be provided for farm gate premises but requires that car parking spaces associated with farm gate premises are to be provided wholly within the boundaries of the landholding.

2.4.6 Waste Management

The desired outcome of Part 1.2.2.3 Waste Management of the HDCP are to encourage "development that maximises re-use and recycling of building materials" and "*waste storage and collection facilities that area designed to encourage recycling, located and designed to be compatible with the streetscape,*

accessible, clean and safe for users and collectors". These desired outcomes are supported by prescriptive controls requiring that a "Waste Management Plan" should be prepared in accordance with Council guidelines and submitted with the development application, to demonstrate that the location and design of waste storage and collection areas and facilities accommodate sufficient number of mobile waste containers to contain the volume of waste and recycling expected to be generated between collection services, and sufficient aisle space to access and manoeuvre the containers within the Material Separation Area.

The applicant advised that:

The proposed use is not considered to generate substantially more waste than that previously assessed and approved as part of DA/275//2015. Accordingly, waste management will occur as previously approved.

However, the use introduces take away food and drink which would generate additional waste. A condition of consent is recommended to require the provision of a waste management plan prior to commencement of the use.

2.4.7 Noise and Vibration

The desired outcomes of Part 1.3.2.5 Noise and Vibration in the HDCP is to ensure "*development designed and managed to minimise noise and vibration impacts on the occupants of residential dwellings and other noise sensitive land uses*".

The desired outcomes are supported by prescriptive controls for Noise Generating Development that state:

- *Development should be sited and designed so that noise is kept to a minimum and does not create offensive noise as defined by the Protection of the Environment Operations Act 1997.*
- *Noise generating developments should be accompanied by an acoustic report that demonstrates the development is sited and designed to minimise the effect of noise and vibration on surrounding sensitive land uses and comply with relevant State Government and Council guidelines.*

The development controls for Farm Gate Premises do not require an acoustic report if no more than four (4) events that include amplified music occurs per annum. The applicant has confirmed that only four (4) events with amplified music are proposed.

2.5 Section 7.12 Contributions Plans

Hornsby Shire Council Section 7.12 Contributions Plan 2019-2029 applies to the development however the estimated costs of works are less than \$100,000. Accordingly, there is no requirement for contributions to be paid in accordance with the Plan.

2.6 Housing and Productivity Contribution

The Housing and Productivity Contribution does not apply to the development as it would not result in an increase in gross floor area for industrial/commercial/retail development. Accordingly, there is no requirement for a monetary Housing and Productivity contribution to be required.

3. ENVIRONMENTAL IMPACTS

Section 4.15(1)(b) of the Act requires Council to consider *“the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality”*.

3.1 Natural Environment

3.1.1 Tree and Vegetation Preservation

The proposed development does not require the removal of any trees from the site. Built Environment

3.1.2 Built Form

The building is setback approximately 46.7m from Galston Road and is an existing single storey farm building. The proposal would be consistent with rural development within the locality.

3.1.3 Traffic

The proposed farm gate premises is considered to be of a small scale and is complimentary to the existing uses already approved for the site.

Council's engineering assessment of the traffic impacts of the development concludes that it is not expected to generate unacceptable additional traffic and will therefore have a negligible traffic impact.

3.2 Social Impacts

The social impacts of the development on the local and broader community have been considered with specific reference to the potential employment generation. It is estimated that the development would generate between two (2) and four (4) equivalent full-time positions. This is consistent with the *State Government's Greater Sydney Region Plan – A Metropolis of Three Cities' which identifies the need to provide an additional 689,000 new jobs by 2031*.

It is noted that as the site is currently used for residential and intensive agricultural purposes including an agricultural produce industry. The proposed use will generate additional employment opportunities.

There would be a number of multiplier effects that the development would provide throughout the local and regional economies. These multiplier effects would result from the sourcing of produce from surrounding farms and the employment of additional staff to service the use. The complex is likely to provide employment opportunities to a range of age groups within the region.

3.3 Economic Impacts

The proposal would have a minor positive impact on the local economy by generating an increase in demand for local services and produce.

4. SITE SUITABILITY

Section 4.15(1)(c) of the Act requires Council to consider *“the suitability of the site for the development”*.

4.1 Bushfire Risk

The northern portion of the subject site has been identified as bushfire prone land. However, the proposed development is located outside this area and on the southern part of the site in an existing approved farm building. Accordingly, the site is considered to be capable of accommodating the proposed development. The scale of the proposed development is consistent with the capability of the site and is considered acceptable.

5. PUBLIC PARTICIPATION

Section 4.15(1)(d) of the Act requires Council to consider “*any submissions made in accordance with this Act*”.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 17 July 2024 and 6 August 2024 in accordance with the Hornsby Community Engagement Plan. During this period, Council received no submissions.

5.2 Public Agencies

The development application was not referred to any Public Agencies for comment.

5.2.1 Transport for NSW

The application was not nominated as integrated development and is not required to be referred to Transport for NSW (TfNSW).

5.2.2 Rural Fire Service

The application was not nominated as integrated development and is not required to be referred to Rural Fire Services.

6. THE PUBLIC INTEREST

Section 4.15(1)(e) of the Act requires Council to consider “*the public interest*”.

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes a change of use to include farm gate premises to the approved agricultural produce industry.

The development generally meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Having regard to the circumstances of the case, the application is recommended for approval.

The reasons for this decision are:

- The proposed development complies with the requirements of the relevant environmental planning instruments and the Hornsby Development Control Plan 2013.
- The proposed development does not create unreasonable environmental impacts to adjoining development with regard to visual bulk, solar access, amenity or privacy.

Note: At the time of the completion of this planning report, no persons have made a Political Donations Disclosure Statement pursuant to Section 10.4 of the Environmental Planning and Assessment Act 1979 in respect of the subject planning application.

SCHEDULE 1 – DRAFT CONDITIONS

GENERAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except were amended by Council and/or other conditions of this consent:

Approved Plans

Plan No.	Plan Title	Drawn by	Dated	Council Reference
2014103 Rev. 1 of 4/02	Site Plan	Arcadian Designs	July 2015	
2014103 Rev 4 of 4/02	Development Application	Arcadian Designs	July 2015	

Supporting Documentation

Document Title	Prepared by	Dated	Council Reference
Plan of Management	Mecone	September 2024	

Reason: To ensure all parties are aware of the approved plans and supporting documentation that apply to the development.

2. Car Parking and Deliveries

1. A minimum of 14 car parking spaces must be provided on site for the proposed use .
2. Car parking, loading and manoeuvring areas must be used solely for nominated purposes.
3. Vehicles awaiting loading, unloading, or servicing must be parked on site and not on adjacent or nearby public roads; and
4. All vehicular entry on to the site and egress from the site must be made in a forward direction.

Reason: To ensure parking facilities and vehicle manoeuvring areas are designed in accordance with Australian Standards.

3. External Lighting During on-going use

Prior to the commencement of the use, plans detailing external lighting must be prepared by a suitably qualified person. The lighting plan must be consistent with the approved plans and documents, and the following requirements:

1. Comply with Australian Standard AS4282: Control of obtrusive effects of outdoor lighting.
2. Lighting must not give rise to obtrusive light or have adverse impacts on the amenity of surrounding properties; and

3. External lighting must not flash or intermittently illuminate unless required for safe ingress/egress of vehicles crossing a pedestrian footway or approved vehicle entrance.

The lighting plan must be submitted to the Principal Certifier:

Note: All above documents refer to the version in effect at the time the consent is granted.

Reason: To ensure external lighting is provided for safety reasons and to protect the amenity of the local area.

4. Wastewater to Existing System

All wastewater generated within the approved development must be directed to the existing onsite sewage management system servicing the site.

Reason: To ensure the appropriate disposal of wastewater.

5. Food Premises Compliance

The display, tasting and education areas within the premises are to comply with the relevant provisions of the Food Act 2003, Food Regulation 2015 and the Australia New Zealand Food Authority Food Standards Code.

Note: Council's Public Health team can be contacted on 02 9847 6014.

Reason: To ensure the safe preparation, storage and display of food.

6. Notice of Food Business

Before the commencement of the use, Council must be notified of the food business in accordance with the NSW Food Act 2003 and the Australia New Zealand Food Standards Code - 3.2.2 - Food Safety Practices and General Requirements.

Reason: To enable council to ensure compliance with the consent when the business is operating.

OCCUPATION AND/OR ONGOING USE

ONGOING USE

7. Use of Premises

The development approved under this consent shall be used for Farm Gate Premises and not for any other purpose without Council's separate written consent.

Reason: To ensure the use is undertaken with the terms of this consent.

8. Hours of Operation

The hours of operation of the premise are restricted to those times listed below:

Monday to Sunday 5:30 am to 7 pm

Monday to Sunday 5:30 am to 10 pm for a maximum of 28 days per calendar year.

Amplified music is restricted to four (4) events per year Monday to Sunday up to 10pm.

Reason: To protect the amenity of the local area.

9. Compliance with Plan of Management

1. All control measures and procedures nominated in the Plan of Management Report prepared by MECONE, dated September 2024, must be implemented.
2. Any amendments to the Plan of Management must be submitted to Council's Compliance Team via Council's Online Services Portal for review and written approval.

Note: The Plan of Management must be lodged via Council's Online Services Portal at: <https://hornsbyprd-pwy-epw.cloud.infor.com/ePathway/Production/Web/Default.aspx> and by selecting the following menu options: Applications > New Applications > Under 'Application Types': Management Plans.

Reason: To ensure the operational measures implemented protect the amenity of the local area.

10. Number of patrons

The premises is restricted to a maximum number of 100 guests at any time.

Reason: To ensure the operational measures implemented protect the amenity of the local area.

11. Noise and emissions

The ongoing use of the premises including any plant or equipment installed on the premises must not cause:

1. The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the Noise Policy for Industry 2017.
2. An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 Acoustics – Recommended design sound levels and reverberation times for building interiors.

Reason: To protect the acoustic amenity of the local area.

12. Storage and Disposal of Waste Materials During Ongoing Use

During ongoing use of the premises:

1. An adequate number and size of bins must be put on the premises for the storage of any waste that is generated (including for recycling),
2. All garbage and recyclable materials generated from the premises must be stored wholly within any approved storage area and must not be stored outside the premises (including any public place) at any time.
3. Arrangements must be implemented for the separation of recyclable materials from garbage.
4. Any approved waste storage area must be appropriately maintained to prevent litter and the entry of pests.

Reason: To ensure proper handling of waste, garbage and recyclable materials generated during operation of the premises.

13. Deliveries and Waste Collection Hours

During ongoing use, all deliveries, waste and recycling collection must only occur during the approved hours of operation.

Reason: To protect the amenity of the local area.

14. Limitations on Food Preparation During Ongoing Use

During ongoing use of the premises, food preparation that generates heated air, smoke, fumes, steam, or grease vapours must not be undertaken unless mechanical ventilation has been approved and installed under this consent.

Reason: To ensure the safe operation of the premises and to protect the amenity of adjoining premises and the surrounding area.

15. Storage of Goods During Ongoing Use

During ongoing use of the premises, all goods must be stored wholly within the premises and must not be stored or displayed outside the premises, including any public place, without council's approval.

Reason: To ensure goods are stored wholly within the premises and protect the amenity of the local area.