

# Statement of Environmental Effects

Proposed Development at 1962 Western Road, Urangeline NSW 2656



**THE FORMER ST TERENCE'S CHURCH**

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**DECEMBER 2022**

Prepared for

**Hope and Wish Foundation Pty Ltd**

An Australian Charities and Not-for-profits Commission registered charity.

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# 1. Introduction

## 1.1. Preamble

This Statement of Environmental Effects (SEE) has been prepared to accompany a development application (DA) to the Lockhart Shire Council seeking development consent for an adaptive reuse and fit-out of an existing church building into a dwelling house at the property known as 1962 Western Road, Urangeline NSW 2656 (the former St Terence's Church).

The SEE has been prepared pursuant to the provisions of Section 4.12 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act) and Clause 50 of the Environmental Planning and Assessment Regulations 2000 (NSW) (EP&A Regulations). The purpose of the report is to describe the proposed development and its context and assess the proposal against the applicable planning controls.

The proposed development is permissible with consent under the Lockhart Local Environmental Plan 2012 (LLEP). The subject site is approximately 2,023m<sup>2</sup>. The minimum lot size for a dwelling in the RU1 zone is 250ha under Clause 4.2B of the LLEP. This represents a variation of approximately 92%. Whilst the variation is considerable, it is considered that compliance with the development standard is unreasonable in the circumstance of the case.

It is considered that there are sufficient environmental planning grounds to justify contravening this standard, and, importantly, the proposal will not result in any conflict or unreasonable impacts on adjoining primary industry production land.

An 'Application for Variation to Development Standard' is provided as **Annexure C**.

## 1.2. The Applicant

Hope and Wish is an Australian Charities and Not-for-profits Commission registered Public Benevolent Institution (charity) endorsed as a Deductible Gift Recipient. It creates a meaningful difference for marginalised populations and those facing hardship by providing:

- social support and community programs
- emergency relief
- higher education scholarships for marginalised communities, and
- respite services for individuals and families facing hardship including crisis relief, lower socioeconomic communities, mental health challenges and family support.

Hope and Wish also assists newly-arrived migrants and multicultural communities comprising people from a diversity of rural backgrounds. These people are often subject to visa conditions requiring them to relocate to rural areas in Australia. The proposed dwelling is intended to provide accommodation for Afghan refugees in a rural locality.

These well-educated and law-abiding migrant communities represent a potentially rich source of much-needed skills and labour for rural Australia. Hope and Wish sees this Development as an opportunity to introduce these people to rural life and the opportunities for secure and meaningful work in the Australian agricultural sector. The Development would provide a real-life first-step for parents and young adults looking to build a better future for themselves and their children through hard work in a safe and welcoming local community in the Lockhart Shire.

Hope and Wish is a recognised related-entity to Mecanica Pty Ltd, the corporate trustee for Mecanica Trust, the registered proprietor of the land the subject of this Development Application. The corporate and trust arrangements of these entities is recognised and encouraged by the regulator.

Hope and Wish currently holds a 10-year lease over the land with an option to purchase. Visit the website at <https://www.hopeandwish.com.au/>

### 1.3. **The Former St Terence's Catholic Church**

Attached as **Annexure A** to this SEE is a registered Plan of Subdivision for the Site dated 15 June 1937, the year in which St Terence's Catholic Church is said to have been built.

No historical records are available to the Applicant but it is believed the Site was donated to the Roman Catholic Church by a local family.

The stone remains of a former school lie on land directly adjacent to the Site. It appears that the site of the former school is not used for agricultural production.

Attached as **Annexure B** to this Application is an issue of the 'TOGETHER' publication showing that a final Mass was held at the Church on 1 November 2020 after a three-year period of non-use. That document tells the story of the Church playing an important role in the religious and cultural expression of the local community over many generations.

### 1.4. **Supporting Documentation**

This SEE has been prepared having regard to the following documents that accompany the DA:

- Architectural plans prepared by Aussie CAD Drafting & Associates Pty Ltd dated September 2022.
- Land Capability Assessment Report.
- BASIX Certificate.

## 2. **Site and Context Analysis**

### 2.1. **Site Description**

The subject land is known as 1962 Western Road, Urangeline NSW 2656 being Lot 1 in DP 336060 which sits approximately 28 kilometres from Lockhart (the Site).

The ePlanning Spatial Viewer suggests the Site was the location of a 'Fintona Homestead' prior to the construction of the Church.

The Site is generally flat with perimeter post and wire boundary fencing. The Site is not within any bushfire or flood prone area and does not contain any significant waterways, waterbodies or overland flow path.

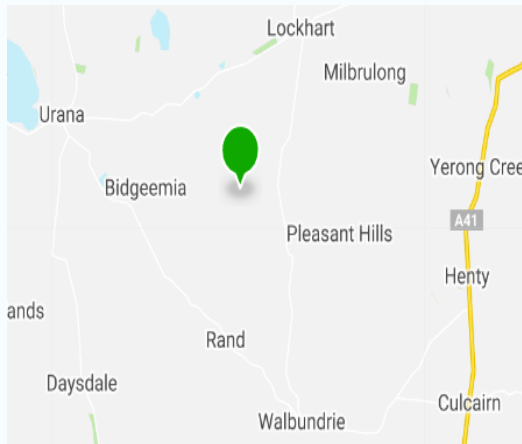


Figure 1. Location of Site (Source: <https://www.domain.com.au/-western-road-lockhart-nsw-2656-2017706413>)

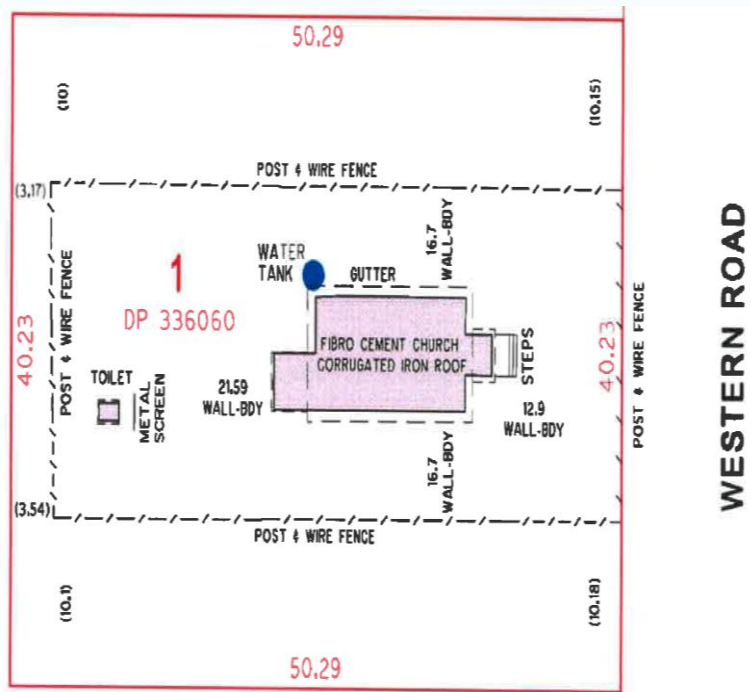


Figure 2: Site survey (Source: Eslers Land Consulting – registered surveyors)

## 2.2. Lot Size

The Site is approximately 2,023m<sup>2</sup> enclosing the former St Terence's Catholic Church

building set well back from Western Road with mains-connected electricity.

The minimum lot size for a dwelling in the RU1 zone is 250ha under Clause 4.2B of the Lockhart Local Environmental Plan 2012. This represents a variation of approximately 92%. Whilst the variation is considerable, it is considered that compliance with the development standard is unreasonable in the particular circumstances (see attached Application for a Variation to Development Standard under Clause 4.6).



Figure 3. LEP Lot Size Map (Source: NSW Planning Portal)

### 2.3. The Locality and Existing Development

The Site is surrounded by broadacre agricultural production.

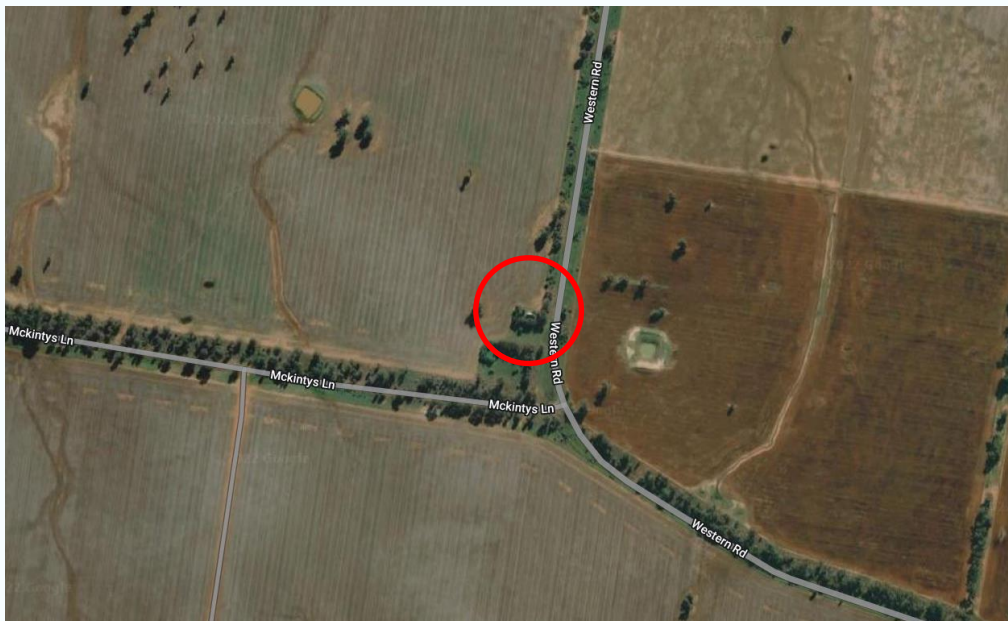


Figure 4. Satellite image (Source: Google Maps)



Figure 5: The view north along Western Road (showing the Site to the left).



Figure 6: The view south from the front of the Church.



Figure 7: The view east from the rear of the Church.





Figure 8: The interior of the Church.



Figure 9: A panoramic image of the Site



Figure 10: The view west from the rear of the Site.

### 3. The Proposal

The proposal is for an adaptive re-use of an existing church building as a dwelling house. To facilitate the proposed use, the proposal is for an open plan layout comprising a kitchen, dining room, study, lounge and two bedrooms. Partitions will be installed between the dining room, lounge and bedroom 1. A separate bathroom/laundry will occupy the existing room located at the rear of the existing building. A new door off the dining room and a frosted glass window at the rear will be installed in the bathroom/laundry.

A compliant effluent and wastewater system for disposal on-site will replace the current rudimentary arrangement. There will be a minimum of 60,000 litres of roof water storage for domestic purposes.

The development will pay homage to the Church by retaining its essential features including the single-room open interior plan, a prominently-displayed cross at the roofline and a fixed internal historical information display. All the existing church windows along the northern and southern elevations will remain to retain the visual integrity of the church building.

The existing vegetation at the site will be retained to provide screening which will minimise the visual impact and provide habitat for native fauna.

The development will involve the safe removal of a large amount of asbestos sheeting comprising the wall and ceiling linings of the existing Church building to be replaced with aesthetically and location-appropriate cladding and linings.

Adequate area is available on the site to provide car parking for the proposed use as a dwelling house. Any future proposal for a garage or carport will be submitted as a separate application.

The proposed works include:

- removal of the existing WC in the rear yard area
- removal of the concrete stairs at the rear of the building
- removal of all fibro cement sheeting and replacement with new Colorbond cladding
- the installation of 3 x 20,000-litre rainwater tanks
- installation of new bi-septic tanks and 5.5m x 5.5m transpiration area
- a new 1200mm wide door and access stairs at the front of the building
- a new 2450mm-wide sliding door with a 1200mm-wide opening and access stairs at the rear of the building
- construction of an access ramp (1:14) and a 1m-high hand rail for disabled (wheelchair) access to the front door

**Note:** All new doors, stairs and windows will be constructed to conform with the Building Code of Australia (BCA) and Australian Standard (AS) requirements.

## 4. Statutory Planning Considerations

### 4.1. Overview

The relevant statutory framework considered in the preparation of this SEE comprises:

- *Environmental Planning and Assessment Act 1979 (EP&A Act)*
- *Environmental Planning and Assessment Regulations 2000 (EP&A Regs)*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Primary Production) 2021*
- *Lockhart Local Environmental Plan 2012*
- *Lockhart Shire Development Control Plan 2016*

### 4.2. **Environmental Planning and Assessment Act 1979 (NSW)**

#### 4.2.1. **Section 1.3 – Objects of the Act**

The objects of this Act are:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

It is considered that the proposed adaptive reuse of the existing church building is consistent with the objects of the EP&A Act for the following reasons:

- Use of the proposed dwelling to house Afghan refugees to help them integrate and assimilate, and to provide an opportunity to work in the local community, particularly in agricultural production, is in keeping with object (a) to promote the social and economic welfare of the community.
- Alterations to convert the church building into a dwelling house is a sustainable alternative to allowing the existing building to fall into disrepair on a lot that is inadequate in size to sustain agricultural production; this is consistent with object (c) to promote the orderly and economic use and development of land by proposing an adaptive re-use of an existing building that has stood for many decades, and is an iconic structure in the local community.
- The proposal by the Hope and Wish Foundation is consistent with object (d) to promote the delivery and maintenance of affordable housing for Afghan refugees.
- The proposal to protect the environment is consistent with object (e) by including suitable effluent disposal and stormwater management measures, and ensuring the retention of existing site vegetation.
- The proposed alterations to retain the visual integrity of the existing church building is consistent with object (g) to promote good design and amenity of the built environment.
- The proposal to remove all asbestos and upgrade the building is consistent with object (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.

#### 4.3. **Environmental Planning and Assessment Regulations 2000 (NSW)**

##### 4.3.1. **Clause 98 – Compliance with the Building Code of Australia**

Pursuant to the prescribed conditions under Clause 98 of the EP&A Regulations, any work 'must be carried out in accordance with the requirements of the Building Code of Australia'. All the proposed works are capable of complying with the relevant provisions of the Building Code of Australia.

#### 4.4. **State Environmental Planning Policies (SEPP)**

##### 4.4.1. **SEPP (Building Sustainability Index; BASIX) 2004**

In accordance with the provisions of this SEPP, a BASIX Certificate has been provided. The proposed alterations to the existing building satisfy the requirements of the BASIX Certificate in terms of water conservation, energy efficiency and thermal comfort.

##### 4.4.2. **SEPP (Biodiversity and Conservation) 2021**

Chapter 3 of this SEPP relates to koala habit protection, and applies to land zoned RU1 Primary Production. In accordance with Clause 3.6(1), 'the council must be satisfied as to

whether or not the land is a potential habitat.'

The site does not comprise any trees that would provide habitat for koalas, and there is no evidence that there is a koala population in proximity to the subject site. It is considered that the site and the surrounding land does not comprise potential koala habitat; therefore, the relevant provisions of the SEPP (Biodiversity and Conservation) have been satisfied.

#### 4.4.3. SEPP (Resilience and Hazards) 2021

Clause 4.6 under Chapter 4 of this SEPP requires council to consider the contamination of land in the determination of a development application.

The existing building on the subject site was used as a church since about 1937. It is unclear as to what the church site was used for before that date. It was in all probability part of a larger farm holding. For the better part of eight decades, the subject site has not been used for any activity that could potentially result in contamination; therefore, there is minimal likelihood of any potential contamination of the land above threshold levels. It is considered that the subject site is deemed to be suitable for the proposed use and therefore, the relevant provisions of the SEPP (Resilience and Hazards) have been satisfied.

#### 4.4.4. SEPP (Primary Production) 2021

The primary aims of this SEPP are to 'facilitate the orderly economic use and development of lands for primary production' and 'to reduce land use conflict and sterilisation of rural land...'.

In accordance with Part 2 under Schedule 4, Council must take into account the following matters for the erection of a dwelling:

- (a) the existing uses and approved uses of land in the vicinity of the development,*
- (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
- (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- (d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

The subject site is inadequate in size to accommodate economically viable primary production. It is already occupied by an existing church building that has co-existed with agricultural activities for many decades, without resulting in any conflict or significant impacts on surrounding primary production land uses. The proposed use of the church building as a dwelling is similar to other farm dwellings in the locality, and therefore not considered to be incompatible with existing uses of land in the vicinity of the proposed development.

As stated above, the existing church building has stood for many decades, and is an iconic structure in the local community. Alterations to convert the church building into a dwelling house is a sustainable alternative to allowing the existing building to fall into disrepair on a lot that is inadequate in size to sustain agricultural production.

#### 4.5. Local Environmental Plans

##### 4.5.1. Lockhart Local Environmental Plan 2012

The Lockhart Local Environmental Plan 2012 (LLEP 2012) applies to the subject site. The relevant aims of this Plan under Clause 1.2 are:

- to encourage the proper management, development and conservation of natural and man-made resources in Lockhart
- to facilitate growth and development while minimising the cost of such growth and development to the community
- to assist in the delivery of amenities and services, as well as residential and employment opportunities, to meet demand
- to provide for a range of development opportunities that contribute to the social, economic and environmental resources of the area
- to conserve the environmental heritage of Lockhart

It is considered that retaining the existing church building will conserve a man-made resource, facilitate growth without any cost to the community, and potentially help meet the demand for agricultural employment in the locality.

It is considered that the proposed development will make a meaningful contribution to the social fabric of the community, and provide an economic benefit to the Lockhart Shire.

It is noted that the existing church building is not a heritage listed item, however, it is an iconic structure that has intrinsic value to the local community.

The land is zoned RU1 Primary Production:



Figure 11. LEP Land Zoning Map (Source: NSW Planning Portal)

The proposal is characterised as development for the purpose of a '*dwelling house*' which is permissible in the RU1 zone with the consent of Lockhart Shire Council.

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.

As stated above, the subject site is inadequate in size to accommodate economically viable primary production. It is an existing allotment comprising an existing church building. Therefore, the proposal will not result in fragmentation of resource land. The existing church building has co-existed with agricultural activities for many decades, without resulting in any conflict with surrounding primary production land uses.

Having regard to the above, it is considered that the proposed development is not inconsistent with the objectives of the RU1 zone. However, the proposed development does not comply with Section 4.2B (Erection of dual occupancies or dwelling houses on land in Zone RU1).

The site is less than the minimum lot size of 250 hectares for dwellings in the RU1 zone. The Applicant requests a variation to this development standard of the Lockhart Local Environmental Plan 2012 (the LEP) pursuant to Clause 4.6 (the Application provided as Annexure C to this Statement of Environmental Effects).

#### 4.6. Development Control Plans

##### Lockhart Shire Development Control Plan 2016

The Lockhart Shire Development Control Plan 2016 (LSDCP) applies to all land and development in the Lockhart Shire, including the subject site and proposal. The purpose of the LSDCP is to support the objectives and planning provisions contained in the Lockhart Local Environmental Plan 2012. The relevant provisions of the LSDCP are discussed in the following compliance table:

<b>1. Large lot residential development</b>
Whilst the subject property is located in a RU1 zone, the proposed use of the land can best be described as a rural residential dwelling. It is therefore considered that the proposed development should generally comply with the provisions of this component of the LSDCP.
<b>Objectives</b>
The objectives of these controls are to:

- *Ensure that the development establishes appropriate and attractive streetscapes, which reinforce the function of the street and is sensitive to the landscape and environmental conditions of the locality;*
- *Promote space around separate dwellings and buffers between ownerships;*
- *Allow for flexibility in the siting of buildings and the provision of side and rear setbacks;*
- *Encourage the creation of attractive, well designed large lot residential development;*
- *Site and design buildings to meet projected user requirements for visual and acoustic privacy;*
- *Reduce total energy use in residential buildings by reducing heat loss and energy consumption for heating and cooling;*
- *Provide appropriate sewage disposal that minimises potential public health and environmental risks; and*
- *Ensure water tanks are provided with large lot residential development.*

**Comment:** It is considered that the proposed development fully satisfies the objectives for 'Large Lot Residential Development'.

<b>Development Controls</b>	<b>Standard</b>	<b>Proposed</b>	<b>Complies Y/N</b>
Front Setbacks:	20m from the front boundary	12.9m	N
<b>Comment:</b> the existing building does not comply with the 20m setback, however, it is considered that there is sufficient separation from the proposed dwelling to the street frontage to ensure there are no unreasonable impacts.			
Side and rear setbacks:	3m from the buffer zone of side and rear boundaries	The side and rear boundaries exceed 3m from the buffer zone	Y
Buffer to adjoining land:	5m along the side and rear boundaries	The buffer zone is more than 5m along the side and rear boundaries.	Y
Colours and materials:	Neutral tones and non-reflective materials	The external cladding will comprise non-reflective neutral tones.	Y
Roof form	Pitched roof with a minimum 450mm eaves overhang.	The existing building complies with these controls.	Y



Privacy and security	9m from adjoining neighbours habitable room; off-set by 0.5m; 1.7m sill height; and, obscure glazing for windows below 1.7m	There are no dwellings adjoining the subject site; therefore, privacy is not an issue; appropriate security measures will be put in place.	Y
Energy efficiency and sustainability	Minimise windows along the western facade; 3 hours of sunlight to main living areas and private open space; and, BASIX requirements.	The proposed dwelling meets the BASIX requirements, and the adaptive re-use of the existing church building will satisfy other energy efficiency and sustainability criteria.	Y
Fencing	900mm and/or 1m hedge across the street frontage; outlook to street; entrance clearly identifiable; integrated landscaping; and appropriate vegetation (shade trees to northern and western elevations).	There is a post and wire fence around the building which provides an outlook to the street frontage. The front entrance is clearly identifiable and there are established trees along the northern and western elevations. Additional trees and landscaping can be provided if required.	Y
Site facilities	Connect to sewer if in proximity; clothes drying area provided in the rear yard; and provide rainwater tanks.	There is no reticulated sewer in proximity to the site. An appropriate on-site effluent disposal system will be provided. The proposal includes 3 x 20,000 litre rainwater tanks. Adequate area is available in the rear yard for a clothes drying area	Y

## 2. Sewage management

### Objectives

The objectives of these controls are to:

- *Assist in assessing land for on-site disposal of effluent;*
- *Implement the provisions of the Local Government Act 1993 and Regulations;*
- *Protect surface and ground water quality within the Shire; and*

- *Incorporate sewage management considerations in the early stages of development and environmental assessment as required under the Environmental Planning and Assessment Act 1979*

**Comment:** The Land Capability Assessment Report demonstrates that the proposed on-site effluent disposal system will not impact on surface or ground water quality. An application under Section 68 of the *Local Government Act 1993* will be made to Council for the proposed new on-site sewage management system.

Having regard to the Land Capability Assessment Report it is considered that the proposal is capable of fully complying with this component of the LSDCP.

## 5. Conclusion

The proposed development has been assessed in accordance with Section 4.15 of the *Environmental Planning & Assessment Act 1979* and the relevant planning controls.

The proposal constitutes development for the purpose of a 'dwelling house' in accordance with the definition under the *Lockhart Shire Local Environmental Plan 2012* and is permissible in the RU1 Primary Production zone with the consent of the Lockhart Shire Council.

Whilst the proposal departs from the minimum lot size of 250 hectares for dwellings in the RU1 zone, it is considered that compliance with this development standard is unreasonable in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening this development standard.

The proposal adequately addresses the relevant provisions of the Lockhart Shire Development Control Plan. The only departure from the controls is the front setback which is due to the established setback of the existing church building.

The subject site is surrounded by broadacre farming paddocks with scattered dwellings in the region. The existing church building has stood and operated for many decades without any adverse impacts on traditional farming practices. Similarly, it is considered that the use of the church building as a dwelling will not suffer any unreasonable adverse impacts such as noise, odour or spray drift. The proposed use as a dwelling will not result in any adverse impacts on water quality or visual impacts.

It is considered that approval of the proposed adaptive re-use of the existing church building will not set a precedent because there are very few other churches or similar buildings that are likely to seek approval to be converted into a dwelling house. As stated elsewhere, alterations to convert the church building into a dwelling house is a sustainable alternative to allowing the existing building to fall into disrepair on a lot that is inadequate in size to sustain agricultural production.

In conclusion, it is considered that the proposed development is consistent with the objects of the *Environmental Planning & Assessment Act 1979* for the following reasons.

- the proposed adaptive re-use of the existing building promotes the orderly and economic use and development of land

- the proposal protects the environment, including the retention of existing site vegetation, and it does not impact on any threatened and other species of native animals and plants, ecological communities or their habitats
- an upgrade to the external appearance of the existing building promotes good design and amenity of the built environment
- the proposal to remove all asbestos from the building promotes the proper construction and maintenance of the existing building, including the protection of the health and safety of their occupants

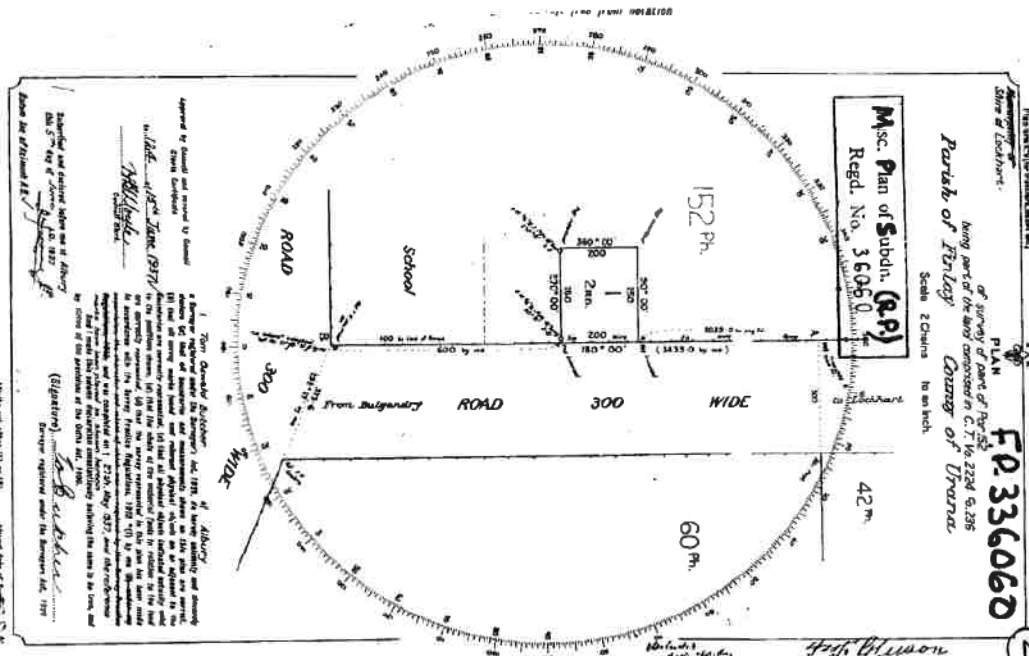
Accordingly, it is considered that the proposal is in the public interest and worthy of Council's support.

**The following page is Annexure A to the Statement of  
Environmental Effects**

CS73108 2

FP 336060

CS73108 2



This is the plan marked - A - referred to in Memorandum of Transfer  
 Dated 25 August, 1997.

*John O'Connell*  
 Registrar-General  
 Department of Lands

1/27 NUMBERED ALONG THE BOUNDARIES GENERALLY'S OFFICE.

I, Grace Richard Davies, Registrar General for New South Wales, certify that this register is a duplicate made on a permanent record of a document in my custody on the 13th day of June, 1979.

CONVERSION TABLE ACCORDING TO DEPARTMENT OF LANDS	
GP 130846	
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AC NO P 2025



**The following 2 pages are Annexure B to the Statement of  
Environmental Effects**

# Closing of St Terence's Church, Urangeline

St Terence's, unused for almost three years, had been beautifully cleaned and was decorated with information and stories of the life of this community.

**The parish community, many of whom could not fit into the Church, gathered to join in the marking of the closing of St Terence's and to celebrate all the good that had happened here.**

Fr Henry Ibe, our parish priest, Fr Terence Mahedy and Bishop Mark Edwards led us in this last Mass during which, with full hearts, we gave thanks for the gifts of God and the graces of this place.

At the end of the Mass, there was a ritual for the closing of this Church. Through it we gave thanks for all the blessings that have been received here. We recalled those who entered the life of grace through Baptism here, the times when we have been forgiven, comforted and consoled in Reconciliation, the generations of prayer and devotion that the sacred images of the Cross, the Sacred Heart, Mary and Joseph have inspired, the power of the Word preached from the lectern, the times we have partaken of the Body and Blood of the Lord in this place, and the Sundays on which we worshiped faithfully, the first communion celebrations, the feast days of saints and martyrs, the weddings witnessed here, the funerals held here in hope.

Poignantly, when we left the Church, the tabernacle was empty and its doors remained opened.

Just as a human can offer life to others by organ donation when they die, we pondered what communities might be enriched by the transfer of artifacts from this Church to others. The bishop invited a member of the Clancy family to come forward and entrusted to him the 1890 Chalice which had been donated by his forebears to St Terence's. He took it to Fr Mahedy and gave it to him to take to the Catholic community of Henty which has strong connections with Urangeline.

God is greater than any temple, church, or cathedral that can be built by human hands, yet in this place we had met his divine majesty. This church building has been a place of blessing for us. We prayed to be protected on our way and that we would find new friends in another faith community.

## Homily for the closing of St Terence's Urangeline, 1 November 2020

There have been Catholics in the Urangeline area for as long as Europeans have lived in the area. The baptismal register in Albury records the baptism of a girl from the Kirby family from Urangeline in 1876. The first Church was opened in 1890 and was described as a substantial building that could seat



St Terence's Church, Urangeline

150 people. This seems to have been an exaggeration in both claims. It probably only seated half that number and had a huge lean ever since it was almost blown over in a storm. At a later date, a windstorm blew up during Mass and Pat Gleeson ran out of the Church. When reproached about this, he replied 'Well someone had to survive to tell the tale.' The current Church replaced that and was opened and blessed in 1937.

Today we celebrate the solemnity of All Saints which honours all those who are with God, the innumerable people who chose to love and be faithful to Christ and to live the beatitudes. There is evidence of a feast of all the confessors being celebrated in the Eastern part of

the Roman empire in the 300s and the Pantheon, previously a pagan temple, was dedicated to Mary and (all) the Martyrs in 609AD. In 835AD, this feast was extended to the entire Church and it celebrates all those whose names are written in the book of life, including those not canonised.

There are a number of candidates for St Terence of this Church but a likely candidate for this Church is bishop Terence Albert O'Brien, an Irishman martyred in 1651.

We come for the final Mass in this Church of St Terence. With the larger farms and increasing mechanization and smaller families, there are no longer enough people living in this area to sustain a separate worshipping community. And with cars and improved roads, we are more able to travel to Churches.

And we gather on All Saints Day for this last Mass. The solemnity is a wonderful reminder of the women and men who have worshipped in this building and its predecessor, many of whom have been heroic in their virtue. And it helps us to recall how what happened in this place nurtured and strengthened the goodness in these people. And along with those who have been heroic in virtue, the saints, we remember others who have worked away at having a relationship with Jesus, their Lord.

The beatitudes we read today are not a command; they are an invitation to be true to the Spirit we were baptized into, the family we ultimately come from.

Fr Rolheiser OMI suggests that one way to think of our internal division, our struggle to be saints is to picture ourselves as having two souls, two hearts, and two minds. Inside of each of us there's a soul, heart, and mind that's petty, that's been



Bishop Mark Edwards OMI celebrates the closing Mass at St Terence's.



Fr Mahedy distributes communion.

*continued on page 11...*

*continued from page 10...*

hurt, that wants vengeance, that wants to protect itself, that's frightened of what's different, that's prone to gossip, that's racist, that perennially feels cheated.

But there's also a big-hearted person inside each of us, someone who wants to warmly embrace the whole world, beyond personal hurt, selfishness, race, creed, and politics.

We are always both, grand and petty. On this story, the world isn't divided up between big-hearted and small-minded people. Rather our days are divided up between those moments when we are big-hearted, generous, warm, hospitable, unafraid, merciful, peacemaking, standing up for what is right, standing up for Jesus, wanting to embrace everyone and those moments when we are petty, selfish, over-aware of the unfairness of life, frightened, and seeking only to protect ourselves and our own safety and interests.

We are complex but that points to our richness and suggests that all of

our different parts are important in the spiritual journey.

The beatitudes invite us to be like the best of those who have worshipped before us in this place, to live what's best inside us, a life with Christ.

Today, we celebrate the bigheartedness of the women and men who went before us and in particular those who worshipped in this place becoming, in the process, more noble and valiant, loving, merciful and generous and thus making this Church holy and special. They arouse in us the desire to be like them and to be with them and to be close to Jesus. I am going to pause and during this time I invite you to pray to the saints you have chosen, canonised or otherwise, to help you all the days of your life.

**We recognize them and we acknowledge this place. Our worshipping is transferred to St Mary's in Lockhart and growth, holiness and nobility will be nurtured there.**



Left to right - Aaron McDonnell (baptised at St Terence's and a former reader and altar server), Brian Gleeson (descendant of first parishioners), John McDonnell (former altar server and reader), Larry Smith (Lockhart Parish Council President), Judy Hamson and Robyn McDonnell (both church cleaners and readers).

# St Francis de Sales Regional College, Leeton welcomes Bishop Mark Edwards OMI

The College invited Bishop Mark to the campus for the first time on 9 November.

Bishop particularly enjoyed taking control of the Senior Advanced Mathematics class. He visited a number of other classes where he conversed with students about their learning and their time at the College.

Bishop was escorted by our College Captains Aaron Sandral (Oaklands) and Bella Smith (Griffith), along with Principal Mr Sebastian Spina. As well as visiting

specialist classrooms in action including Visual Arts, Italian and Drama, there were visits to the College chapel and hall and the new Labyrinth, inspired by Mrs Ann Charles and the Year 12 class of 2018.

Bishop was able to connect with many names on the College honour boards, including Fr Anthony Schipp (dux of the College in 1962).



Left: Parish Priest Fr Anthony Dunne, College Captain Aaron Sandral (Oaklands), Isabella Smith college Captain (Griffith), Bishop Mark Edwards and Assistant Priest Fr Tony Oboshi.

Right: Fr Anthony Dunne PP Bishop Mark Edwards Fr Tony Oboshi and St Francis College Principal Seb Spina.

Below: Bishop Edwards and the Yr 12 Advanced Mathematics class at St Francis College Leeton with teacher Mr Steve Baulch.

Below right: Bishop Mark Edwards takes control of the Year 12 Advanced Mathematics class.





**The following 12 pages are Annexure C to the Statement  
of Environmental Effects (comprising the Application  
for Variation to Development Standard)**

# Application for Variation to Development Standard

Lockhart Local Environmental Plan 2012 | Minimum Lot Size for Dwellings (RU1 Zone)



**THE FORMER ST TERENCE'S CHURCH, URANGELINE**

**DECEMBER 2022**

Prepared for

## Hope and Wish Foundation Pty Ltd

An Australian Charities and Not-for-profits Commission registered charity.

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## 1. Introduction

- 1.1 The Applicant, Hope and Wish Foundation Pty Ltd, proposes an adaptive re-use by undertaking minimal works converting the existing Church building to a compliant dwelling house as specified in the Development Application accompanying this Clause 4.6 Application.

The subject site is approximately 2,023m<sup>2</sup>. The minimum lot size for a dwelling in the RU1 zone is 250ha under Clause 4.2B of the Lockhart Local Environmental Plan 2012 (LLEP). This represents a variation of approximately 92%. Whilst the variation is considerable, it is considered that compliance with the development standard is unreasonable in the circumstance of the case.

The Applicant requests a variation to the development standards of the LLEP pursuant to Clause 4.6:

### **4.6 Exceptions to development standards**

*(1) The objectives of this clause are as follows—*

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

*(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

*(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

*(4) Development consent must not be granted for development that contravenes a development standard unless—*

*(a) the consent authority is satisfied that—*

*(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

*(b) the concurrence of the Planning Secretary has been obtained.*

*(5) In deciding whether to grant concurrence, the Planning Secretary must consider—*

*(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

*(b) the public benefit of maintaining the development standard, and*

*(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

*(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

*(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

*(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

*Note—*

*When this Plan was made it did not include Zone RU2 Rural Landscape, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.*

*(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

*(8) This clause does not allow development consent to be granted for development that would contravene any of the following—*

*(a) a development standard for complying development,*

*(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*

*(c) clause 5.4,*

*(caa) clause 5.5.*

1.2. Specifically, the Applicant seeks a variation to the development standard in Clause 4.2B setting a minimum lot size for the erection of dwelling houses in the RU1 Zone (the

Development Standard):

#### **4.2B Erection of dual occupancies or dwelling houses on land in Zone RU1**

(1) *The objectives of this clause are as follows—*

- (a) to minimise unplanned rural residential development,*
- (b) to enable the replacement of lawfully erected dual occupancies and dwelling houses in Zone RU1 Primary Production.*

(2) *This clause applies to land in Zone RU1 Primary Production.*

(3) *Development consent must not be granted for the erection of a dual occupancy or dwelling house on land to which this clause applies unless the land—*

- (a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or*
- (b) is a lot created under this Plan (other than under clause 4.2 (3)), or*
- (c) is a lot created under an environmental planning instrument before this Plan commenced and on which the erection of a dual occupancy or dwelling house was permissible immediately before that commencement, or*
- (d) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dual occupancy or dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or*
- (e) would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by—*
  - (i) a minor realignment of its boundaries that did not create an additional lot, or*
  - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or*
  - (iii) a consolidation with an adjoining public road or public reserve or for another public purpose.*

*Note—*

*A dwelling cannot be erected on a lot created under clause 9 of State Environmental Planning Policy (Rural Lands) 2008 or clause 4.2.*

(4) *Development consent must not be granted under subclause (3) unless—*

- (a) no dual occupancy or dwelling house has been erected on the land, and*
- (b) if a development application has been made for development for the purpose of a dual occupancy or dwelling house on the land—the application has been refused or it was withdrawn before it was determined, and*
- (c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.*

(5) *Development consent may be granted for the erection of a dual occupancy or*

*dwelling house on land to which this clause applies if there is a lawfully erected dual occupancy or dwelling house on the land and the dual occupancy or dwelling house to be erected is intended only to replace the existing dual occupancy or dwelling house.*

1.3. 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.

## 2. Clause 4.6 Factors

2.1. In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (“Initial”), Preston CJ confirmed the preconditions that must be satisfied before a decision-maker can exercise the power to grant development consent for development that contravenes a development standard:

14. *The first precondition, in cl 4.6(4)(a), is that the consent authority, or the Court on appeal exercising the functions of the consent authority, must form two positive opinions of satisfaction under cl 4.6(4)(a)(i) and (ii)...*
15. *The first opinion of satisfaction, in cl 4.6(4)(a)(i), is that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b))...*
16. *As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in *Wehbe v Pittwater Council* at [42]-[51]...*
17. *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: *Wehbe v Pittwater Council* at [42] and [43].*



...

23. *As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
24. *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31].*

...

26. *The second opinion of satisfaction, in cl 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out...*

## 2.2. Compliance with the Development Standard is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a))

2.2.1. **Submission:** the objectives of the Development Standard are achieved notwithstanding noncompliance with the Development Standard.

2.2.1.1. The objectives of the Development Standard are:

- (a) to minimise unplanned rural residential development
- (b) to enable the replacement of lawfully erected dual occupancies and dwelling houses in Zone RU1 Primary Production.

2.2.1.2. As to (a) above, the minimisation of unplanned rural residential development is achieved notwithstanding noncompliance with the

Development Standard because this proposed Development is relatively unique, involving historical factors, and is not altogether inconsistent with the pattern of residential development in the area.

- 2.2.1.3. This Development involves a small parcel of land created 85 years ago on which there have been weekly gatherings of people with no recorded clash of use with surrounding agricultural production. To that extent, this is not “unplanned” development in the ordinary sense.
- 2.2.1.4. Even if this Development is “unplanned” development in the ordinary sense, granting consent to this Development would not affect the minimisation of unplanned rural residential development because it would not set an adverse planning precedent which would erode the application of the Development Standard.
- 2.2.1.5. The development standard is appropriate for the RU1 zone; however, it is considered that future applicants for a variation to the Development Standard will not be in a position to rely on any precedent in relation to this case because there are very few – if any – lots with the unique history and character of this lot. Therefore, contravention of the development standard does not raise any matter of significance for State or regional environmental planning.
- 2.2.1.6.
- 2.2.1.7. As to (b) above, this is not a Development involving the replacement of a lawfully erected dwelling house but it does involve the proposed adaptation of a lawfully erected (Church) building. That fact supports the submission that this is a unique case which is consistent with minimising unplanned rural residential development.

### 2.3. There are sufficient environmental planning grounds to justify contravening the Development Standard (Clause 4.6(3)(b))

- 2.3.1. **Submission:** The environmental planning grounds supporting the Development are the achievement of the objects listed in Section 1.3 of the *Environmental Planning and Assessment Act 1979* (NSW) as follows (see Initial at [23]):
  - 2.3.1.1. The Development will promote the social and economic welfare of the community and facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment (Subsections 1.3(a) and (b)):
  - 2.3.1.2. The Development will contribute to the conservation of threatened and other species of native animals and plants, ecological communities and their habitats (Subsection 1.3(e)):

- 2.3.1.3. The Development will promote the sustainable management of built and cultural heritage.
- 2.3.2. **Submission:** The environmental planning grounds identified above are sufficient to justify contravening the Development Standard.
- 2.3.2.1. The social, economic, environmental and cultural heritage factors supporting the Development are not insignificant. They have the potential to provide a real and positive impact to local agriculture. Sustaining the cultural heritage of the former St Terence's Church is also a significant factor which will not be retrievable if the Site is abandoned to non-use. The conservation of the perimeter vegetation as an existing habitat for native fauna complements these factors.
- 2.3.2.2. In the circumstances of this case, the Development Standard will be contravened against the backdrop of a specific and historical subdivision which resulted in a small lot used for a particular purpose.
- 2.3.2.3. The Development Standard is entirely appropriate for the area generally, however, allowing the adaptation of the former Church to a dwelling on this small lot, in these particular circumstances, is justified because the social, economic, environmental and cultural heritage factors (the planning grounds) supporting the Development are potentially quite significant.

#### 2.4. The Development will be in the public interest because it is consistent with the objectives of the Development Standard and the objectives for development for the RU1 zone (Clause 4.6(4)(a)(ii))

- 2.4.1. The term 'consistency' in this context is synonymous with the term 'compatible' and 'capable of existing together in harmony'. The requirement for the Development to be 'consistent' with the objectives is a lower threshold than actually achieving the objectives (see; *Kingsland Developments Australia Pty Ltd v City of Parramatta Council* [2018] NSWLEC 1241 at [20]).
- 2.4.2. The question as to whether the Development is in the public interest is not limited to a consideration of this Application. The whole of the Development application and other relevant evidence can be considered (see; *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [33]).
- 2.4.3. **Submission:** the Development is in the public interest because it is compatible with, or capable of existing in harmony with, the objectives of the Development Standard and the RU1 zone.
- 2.4.3.1. Regarding the objectives of the Development Standard:
- 2.4.3.1.1. Unplanned rural residential development can continue to be minimised (and lawfully erected dwellings and dual occupancies replaced) notwithstanding noncompliance of this Development.

- 2.4.3.1.2. The particular circumstances of this case do not lend themselves to adverse precedent or encourage further noncompliance such that this Development can exist in harmony with the objectives of the Development Standard .
- 2.4.3.1.3. A departure from the minimum lot size in this case arises from an historical subdivision and relatively unique circumstances.
- 2.4.3.2. Regarding the objectives of the RU1 zone:
  - 2.4.3.2.1. The Development will not reduce or adversely affect the existing natural resource base and therefore is compatible with sustainable primary industry production.
  - 2.4.3.2.2. There is nothing about the Development which would not encourage diversity in primary industry enterprises and systems appropriate for the area.
  - 2.4.3.2.3. The Development will not cause any fragmentation or alienation of resource lands.
  - 2.4.3.2.4. The Site sits deep within the RU1 zone and has a decades-long history of human gathering with no known reported clash or conflict with adjoining agricultural production.
- 2.4.4. **Submission:** the Development has very significant public interest advantages beyond its consistency with the relevant objectives.
  - 2.4.4.1. Hope and Wish assists newly-arrived migrants and multicultural communities comprising people from a diversity of rural backgrounds. These people are often subject to visa conditions requiring them to relocate to rural areas in Australia. These well-educated and law-abiding migrant communities represent a potentially rich source of much-needed skills and labour for rural Australia.
  - 2.4.4.2. Hope and Wish sees this Development as an opportunity to introduce these people to rural life and the opportunities for secure and meaningful work in the Australian agricultural sector. The Development would provide a real-life first-step for parents and young adults looking to build a better future for themselves and their children through hard work in a safe and welcoming local community in the Lockhart Shire.
  - 2.4.4.3. The proposed development promotes the sustainable reuse of an iconic building which has cultural significance for the local and broader community.

### 3. Conclusion

- 3.1. This Application requests a variation to the Development Standard in Clause 4.2B of the Lockhart Local Environmental Plan in accordance with Clause 4.6.
- 3.2. The Application was prepared in accordance with 'Varying development standards: A Guide (August 2011)' (the former Department of Planning and Infrastructure) and the common law as found in decisions of the Land and Environment Court of New South Wales.
- 3.3. It is submitted that the Application establishes:
  - 3.3.1. why it is that compliance with the Development Standard is unreasonable or unnecessary in the circumstances of this case
  - 3.3.2. sufficient environmental planning grounds to justify contravening the Development Standard, and
  - 3.3.3. why it is that the nature and purpose of the proposed Development, its social, economic, environmental and cultural impacts, and its consistency with the objectives of the relevant Development Standard and zoning are clearly in the public interest.
- 3.4. Having regard to the matters set out in the Application, and the objectives of Clause 4.6, it is finally submitted that it would be an appropriate degree of flexibility in applying the Development Standard to vary it for this particular Development and doing so would achieve a better outcome for and from development.