



29-33 Market Street, Merimbula

Five Storey Residential & Commercial  
Development (Shop Top Housing)

FEBRUARY 2022

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# Contents

<b>1. Introduction.....</b>	<b>7</b>
1.1. Overview.....	7
1.2. Associated Amendment to the Bega Valley Local Environmental Plan 2013.....	7
1.3. Pre-Lodgement Meetings and Advice .....	7
1.4. Supporting Plans and Documentation.....	8
<b>2. Site Analysis .....</b>	<b>9</b>
2.1. Site Location and Context .....	9
2.2. Site Description .....	10
2.3. Surrounding Development.....	13
<b>3. Description of Proposal .....</b>	<b>16</b>
3.1. Overview.....	16
3.2. Development Staging .....	17
3.3. Demolition.....	18
3.4. Commercial Tenancies.....	18
3.5. Residential Apartments .....	20
3.6. Car Parking and Access.....	25
3.7. Open Space.....	26
3.8. Street Improvement and Public Domain Works .....	27
3.9. Utilities and Infrastructure.....	27
3.10. Lot Consolidation.....	28
3.11. Strata/Stratum Title Subdivision (Future) .....	28
<b>4. Planning Assessment .....</b>	<b>29</b>
4.1. Environment Protection and Biodiversity Conservation Act 1999.....	29
4.2. Environmental Planning and Assessment Act 1979 .....	29
4.3. Environmental Planning and Assessment Regulation 2000 .....	30
4.4. Coastal Management Act 2016 .....	30
4.5. State Environmental Planning Policies .....	31
4.6. Bega Valley Local Environmental Plan 2013.....	35
4.7. Bega Valley Development Control Plan 2013 .....	44
4.8. Strategic Plans and Policies.....	45
<b>5. Assessment of Environmental Impacts .....</b>	<b>47</b>
5.1. Context and Setting.....	47
5.2. Traffic, Access and Parking.....	47
5.3. Infrastructure and Services .....	48
5.4. Heritage .....	48
5.5. Cultural Heritage .....	49
5.6. Soils and Groundwater .....	50
5.7. Flora and Fauna .....	50
5.8. Waste .....	51
5.9. Noise .....	51
5.10. Natural Hazards .....	51
5.11. Public Domain .....	52
5.12. Social Impacts .....	52
5.13. Building Bulk, Overshadowing and View Loss .....	52

5.14.	Economic Impacts .....	57
5.15.	Access and Mobility.....	57
5.16.	Suitability of the site .....	58
5.17.	Submissions .....	58
5.18.	Public Interest.....	58
<b>6.</b>	<b>Conclusion .....</b>	<b>59</b>

## Figures

Figure 1	Regional Context Map .....	9
Figure 2	Context or Site Map.....	10
Figure 3	Site Map (Source: Nearmap, 2020).....	11
Figure 4	Rear (western) elevation of existing buildings contained on site as viewed from rear Council car park. ....	11
Figure 5	View of the subject land from the adjoining realigned Palmer Lane to the south. ....	11
Figure 6	View of rear Palmer Lane looking north. ....	12
Figure 7	View of the subject land from the intersection of Palmer Lane and Market Street looking north .....	12
Figure 8	View of the subject land from Market Street looking north west. ....	12
Figure 9	View of 29 Market Street looking west. ....	12
Figure 10	View of two storey commercial building at 33 Market Street. ....	12
Figure 11	View of single storey commercial tenancies at 33 Market Street.....	12
Figure 12	View of single storey and two storey commercial tenancies at 33 Market Street. ....	13
Figure 13	View of the subject land from Market Street. ....	13
Figure 14	Site Analysis Plan.....	14
Figure 15	View of adjoining Council car park located to the rear of the subject land.....	14
Figure 16	View of adjoining commercial business located to the south west. ....	14
Figure 17	View looking west along Palmer Lane.....	15
Figure 18	View looking north along Market Street.....	15
Figure 19	Adjoining vacant land to the north at 47 Market Street approved for single storey commercial development. ....	15
Figure 20	View looking north east along Market Street on opposite side of the road. ....	15
Figure 21	View of adjoining Twyford Hall currently undergoing renovations on the opposite side of Market Street (now completed). ....	15
Figure 22	View of adjoining commercial building at 4-10 Market Street located opposite the subject site to the east. ....	15
Figure 23	Proposed Site Plan.....	16
Figure 24	Proposed Stage 1 Works .....	17
Figure 25	Proposed Demolition Plan.....	18
Figure 26	Proposed Floor Plan of Commercial Tenancy .....	19
Figure 27	Proposed Level 1 Floor Plan .....	21
Figure 28	Proposed Level 2 Floor Plan .....	21
Figure 29	Proposed Level 3 Floor Plan .....	22
Figure 30	Proposed Level 4 Floor Plan .....	22
Figure 31	Materials and Finishes Schedule .....	23
Figure 32	Proposed Building Elevations.....	24
Figure 33	Perspective of proposal from corner of Market and Monaro Street looking north .....	24
Figure 34	Perspective of development along Market Street looking west .....	25
Figure 35	Perspective of development from Palmer Lane looking east.....	25
Figure 36	Conceptual Landscape Plan – Level 1 .....	26



Figure 37 Conceptual Landscape Plan – Level 2 .....	27
Figure 38 Extract of the Coastal Environment Area Map .....	33
Figure 39 Extract of the Coastal Use Area Map .....	33
Figure 40 Extract of Land Zoning Map (LZN_020B).....	35
Figure 41 Extract of Height of Buildings Map .....	37
Figure 42 Proposed amended Height of Buildings Map as sought by separate planning proposal	37
Figure 43 Building Height Encroachment .....	38
Figure 44 Extract of Heritage Map .....	40
Figure 45 Extract of Future Obstacle Limitation Surface Map, 2013.....	43
Figure 46 Cross-section of proposed building envelope in relation to heritage listed Twyford Hall	49
Figure 47 Shadow Diagrams .....	54
Figure 48 View Analysis Plans – Market Street.....	55
Figure 49 View Analysis Plans – Other Locations.....	55
Figure 50 Bulk Study Analysis Plans .....	56
Figure 51 Longitudinal streetscape cross section – Market Street.....	56
Figure 52 Longitudinal streetscape cross section – Palmer Lane.....	56
Figure 53 Longitudinal streetscape cross section – Monaro Street .....	56
Figure 54 Merimbula Town Centre Precincts .....	71

## Tables

Table 1 – Attachments to Development Application.....	8
Table 2 – Commercial Tenancies (indicative) .....	19
Table 3 – Residential Apartments.....	20
Table 4 – ISEPP – matters for consideration .....	34
Table 5 – Division 3 Coastal Environment Area Compliance Table.....	64
Table 6 – Division 4 Coastal Use Area Compliance Table.....	66
Table 7 – Division 5 General Compliance Table .....	68
Table 8 – Section 2: Commercial and Industrial Development .....	70
Table 9 – Section 3: Residential Development.....	94
Table 10 – Section 5: General Development.....	98
Table 11 – Section 6: Engineering Requirements .....	108

## Appendices

Appendix A – Architectural Plans
Appendix B – BASIX Certificates
Appendix C – Qualified Designers’ Statement
Appendix D – State Environmental Planning Policy (Coastal Management) 2018 Compliance Table
Appendix E – DCP Compliance Table
Appendix F – Landscaping Plans
Appendix G – Aboriginal Cultural Heritage Due Diligence Assessment
Appendix H – Geotechnical Investigations
Appendix I – Civil Engineering Assessment and Structural Engineering Details
Appendix J – Socio-Economic Impact Assessment
Appendix K – Sustainability Management Report
Appendix L – Traffic Impact Assessment
Appendix M – Land Contamination Reports
Appendix N – Survey Details

Appendix O – Access Compliance Assessment Report

Appendix P – Waste Management Plan

Appendix Q – Planning Proposal to amend Bega Local Environmental Plan 2013

Appendix R – DA Cost Summary Report

# 1. Introduction

## 1.1. Overview

This Statement of Environmental Effects (SEE) has been prepared by Habitat Planning on behalf of Merimbula Central Pty Ltd and is submitted to Bega Valley Shire Council in support of a Development Application (DA) for a five storey residential and commercial development ('shop top housing') and associated works at Lot 11, DP838058 and Lot 112, DP1227927 and addressed as 29-33 Market Street, Merimbula.

The DA and this report have been prepared in accordance with the *Environmental Planning and Assessment Act 1979* ("EP&A Act") and the *Environmental Planning and Assessment Regulation 2000* ("EP&A Regs").

This report addresses the relevant heads of consideration listed under Section 4.15(1) of the EP&A Act and provides an assessment of the proposed development against the relevant Environmental Planning Instruments (EPIs) and other planning controls applicable to the site and to the proposal. It also describes the site, its environs, the proposed development, and provides an assessment of the environmental impacts and identifies the steps to be taken to protect or lessen the potential impacts on the environment.

## 1.2. Associated Amendment to the Bega Valley Local Environmental Plan 2013

In order to facilitate the development outcomes sought by this DA, an amendment is required to the *Bega Valley Local Environmental Plan 2013*. Specifically, the owner is seeking to amend the Height of Buildings Map of the LEP as it applies to the subject land by increasing the maximum permitted height from 13 metres to 18 metres.

A separate Planning Proposal has been prepared in accordance with the NSW Department of Planning & Environment's guideline titled: *Local Environmental Plan Making Guideline* (December 2021) and accompanies this development application.

As this amendment has not yet been finalised, the subject application is submitted in accordance with Division 3.5 of the EP&A Act. Specifically, Section 3.39 outlines the following:

*Nothing in this Act prevents—*

*(a) the making of a development application to a consent authority for consent to carry out development that may only be carried out if an environmental planning instrument applying to the land on which the development is proposed to be carried out is appropriately amended, or*

*(b) the consideration by a consent authority of such a development application,*

*subject to this Division.*

Following pre-lodgement discussions with Council, the applicant is aware that whilst a development application can be made consistent with the outcomes sought by the Planning Proposal, Council is unable to determine such an application until the proposed amendment has been finalised via notice in the NSW Government Gazette.

An amendment to the LEP is considered the preferred approach as compared to seeking a variation to a development standard (building height) under Clause 4.6 of the LEP due to the extent of the variation sought.

## 1.3. Pre-Lodgement Meetings and Advice

An initial pre-lodgement inception meeting was held between project consultants acting on behalf of the proponent and members of Bega Valley Shire's Development Advisory Panel on 14 September 2020. The purpose of this meeting was to provide an introduction to the project and to discuss assessment pathways and information requirements of Council.

Upon conclusion of this meeting, it was agreed that a Development Application (or Concept Development Application) and supporting Planning Proposal be submitted concurrently with Council to allow for a full assessment of the proposed amendment to BVLEP 2013.

A draft Planning Proposal was subsequently submitted to Council on 2 November 2020 seeking their feedback. In response, Council provided formal advice via letter 16 December 2020 in response to the draft Planning Proposal, as well as matters to be considered as part of the DA.

The subject application has been subsequently prepared based on this advice.

#### 1.4. Supporting Plans and Documentation

The DA has been prepared with input from a number of technical and design documents which have been prepared to accompany the application.

These documents are included as attachments to this report and are identified in **Table 1**.

**Table 1 – Attachments to Development Application**

Document Name	Prepared by
Architectural Plans	Squillace
Qualified Designer's Statement	Squillace
DA Cost Summary Report	Mitchell Brandtman
BASIX Certificates	EcoPlus Consultants
State Environmental Planning Policy (Coastal Management) 2018 compliance table	Habitat Planning
Bega Valley Development Control Plan compliance table	Habitat Planning
Landscaping Plan	Site Image Landscape Architects
Aboriginal Cultural Heritage Due Diligence Assessment	OnSite Cultural Heritage Management
Geotechnical Investigations	ACT Geotechnical Engineers Pty Ltd
Civil Engineering Assessment & Civil/stormwater Details	Geoff Metzler & Associates Pty Ltd
Structural engineering details	John Moffatt
Access Compliance Assessment Report	AED Group
Waste Management Plan	MRA Consulting Group
Land Contamination Reports	ENVIRON Australia and URS
Traffic Impact Assessment	Varga Traffic Planning
Socio-Economic Impact Analysis	Urbis
Sustainability Management Report	EcoPlus Consultants
Planning Proposal to amend Bega Valley Local Environmental Plan 2013	Habitat Planning

## 2. Site Analysis

### 2.1. Site Location and Context

The subject land to which this application relates is described as Lot 11, DP838058 and Lot 112, DP1227927 and addressed as 29-33 Market Street, Merimbula. The property is located within the main commercial area of the Merimbula Town Centre and is located within close proximity to Merimbula Lake.

The subject land is contained within the main commercial area of the major centre of Merimbula, which is located approximately 30 kilometres south of the Regional Centre of Bega.

The location of the site is shown at Figures 1 and 2.

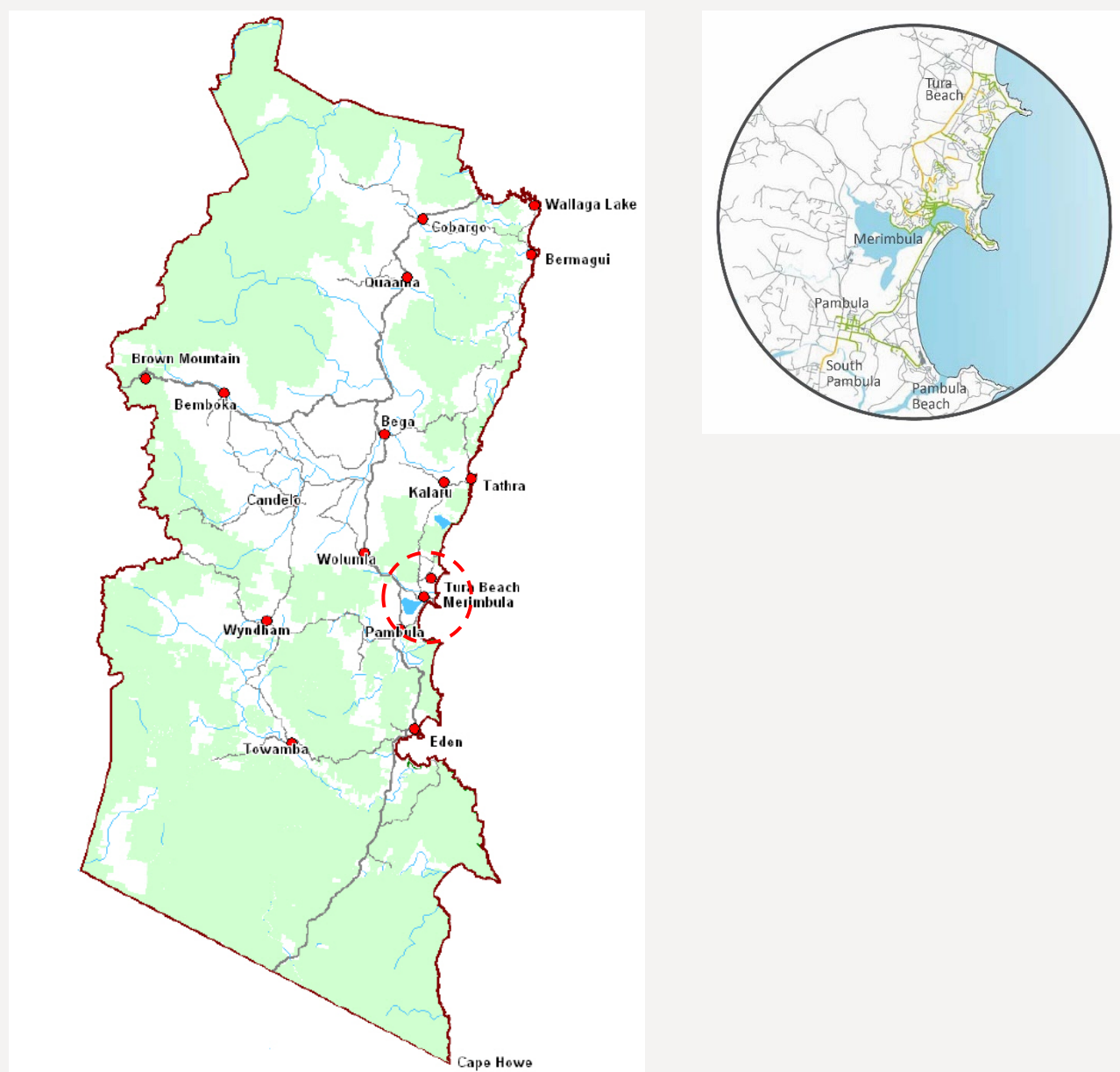
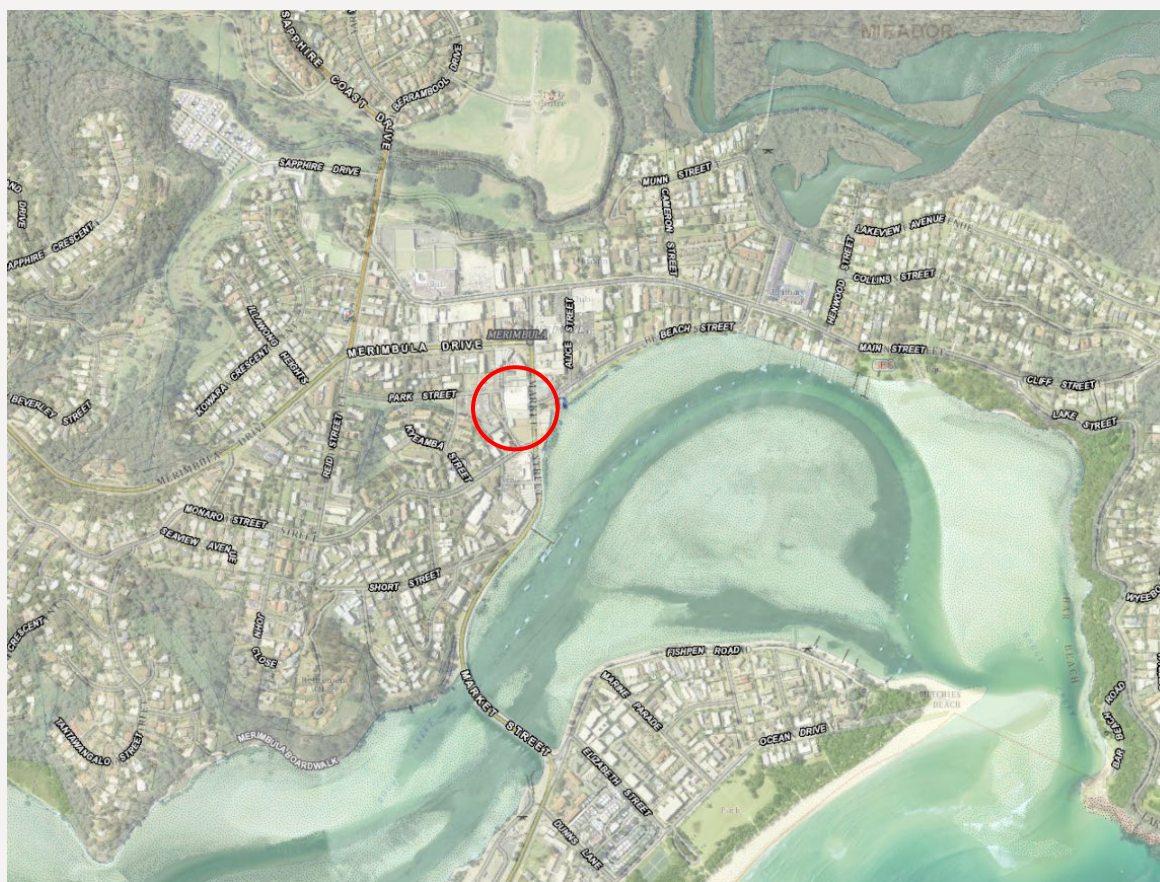


Figure 1 Regional Context Map





**Figure 2 Context or Site Map**

## 2.2. Site Description

The subject land is located on the corner of Palmer Lane and Market Street within the main commercial centre of Merimbula. The property is irregular in shape and comprises two separate allotments, being Lot 11, DP838058 and Lot 112, DP1227927 and is addressed as 29-33 Market Street, Merimbula.

The land is improved and has been developed for commercial purposes containing both single storey and two storey commercial buildings built to the front property boundary. A covered awning also wraps around the building and extends over the public footpath.

The topography of the land is generally flat, although it does gently slope upwards to the north along Market Street. As the site is already developed, the property contains no trees or vegetation.

Given the sites' central location and the fact that it is developed, the property is connected to all relevant infrastructure and services including reticulated water, sewerage, drainage, electricity, gas and telecommunications. An existing sewer easement currently traverses the subject land between Market Street and the rear car parking area.

A plan showing the existing conditions of the site is provided in Appendix A of this report and an aerial image and photographs of the property are provided below.





Figure 3 Site Map (Source: Nearmap, 2020)



Figure 4 Rear (western) elevation of existing buildings contained on site as viewed from rear Council car park.



Figure 5 View of the subject land from the adjoining realigned Palmer Lane to the south.





**Figure 6 View of rear Palmer Lane looking north.**



**Figure 7 View of the subject land from the intersection of Palmer Lane and Market Street looking north**



**Figure 8 View of the subject land from Market Street looking north west.**



**Figure 9 View of 29 Market Street looking west.**



**Figure 10 View of two storey commercial building at 33 Market Street.**



**Figure 11 View of single storey commercial tenancies at 33 Market Street.**





**Figure 12 View of single storey and two storey commercial tenancies at 33 Market Street.**



**Figure 13 View of the subject land from Market Street.**

### 2.3. Surrounding Development

The surrounding area is commercial in nature given the sites' location within the main commercial centre of Merimbula.

More specifically, land to the north at 47 Market Street comprises a new commercial building currently undergoing construction (DA Ref No. 2020.273), which replaced a former commercial building that burnt down. Land further north along Market Street has been developed for commercial purposes and comprises both single storey and two storey commercial developments, which extend upwards towards the intersection of Main Street.

Market Street forms the eastern boundary of the site. Land located on the opposite side of this roadway has been developed for both single storey and two storey developments including the Merimbula Visitor Information Centre. Further east beyond these commercial businesses is the Merimbula Lake, which is located only approximately 50 metres from the subject land. Of note, the heritage listed Twyford Hall is also located on the eastern side of Market Street opposite the site.

The intersection of Palmer Lane and Market Street forms the southern boundary of the site, with Palmer Street recently realigned to improve traffic movements, which has resulted in the resumption of the southern portion of Lot 112 to create a four way intersection with Market Street. Land further south along Market Street and Monaro Street has been developed for commercial purposes consistent with the remainder of the commercial centre.

Land to the west of the subject land contains a ground level Council car park, which provides for the parking needs of the commercial centre. Further west beyond this car park is land developed for medium density and general residential purposes.

A Site Analysis Plan is included in Appendix A and is reproduced below.



Figure 14 Site Analysis Plan

Photographs of the surrounding context are provided below.



Figure 15 View of adjoining Council car park located to the rear of the subject land.



Figure 16 View of adjoining commercial business located to the south west.





**Figure 17** View looking west along Palmer Lane.



**Figure 18** View looking north along Market Street.



**Figure 19** Adjoining vacant land to the north at 47 Market Street approved for single storey commercial development.



**Figure 20** View looking north east along Market Street on opposite side of the road.



**Figure 21** View of adjoining Twyford Hall currently undergoing renovations on the opposite side of Market Street (now completed).



**Figure 22** View of adjoining commercial building at 4-10 Market Street located opposite the subject site to the east.

## 3. Description of Proposal

### 3.1. Overview

The application seeks approval to undertake the following:

- Demolition of all existing buildings and structures on site.
- Construction of a new five storey mixed use development comprising ground floor commercial tenancies and car parking (over 3 levels), as well as three to four levels of residential apartments located above this containing a total number of 52 apartments across three detached buildings. These works will be undertaken over 2 stages.
- Creation of a new pedestrian accessway/laneway that will separate the two proposed buildings that will connect the rear Council car park through to Market Street.
- Street improvement and public domain works including new paving, street furniture, landscaping, toilet block improvement and public car parking works etc; and
- Consolidation of existing lots.

Specific details of the development are discussed in the following sections.

The proposed building plans and are included in Appendix A and the proposed site plan is reproduced below.

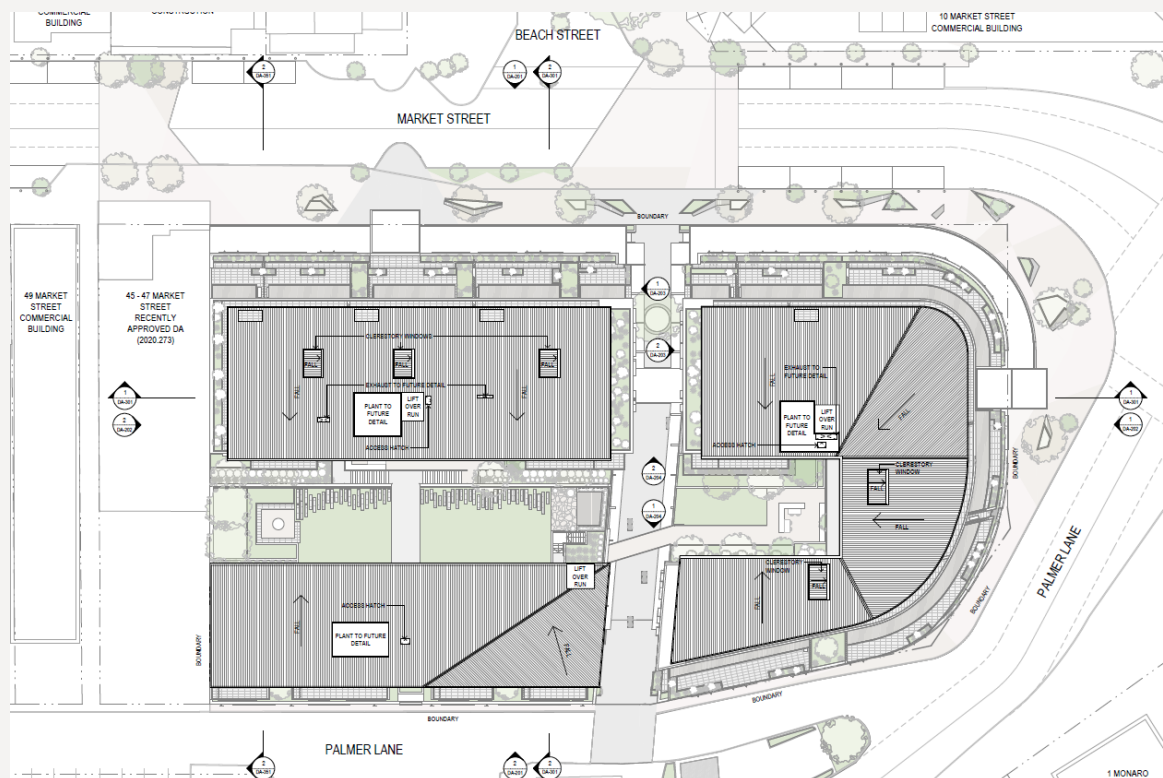


Figure 23 Proposed Site Plan

### 3.2. Development Staging

The proposed works will be undertaken over 2 stages, which are summarised below:

#### Stage 1:

The stage 1 works will include the following:

- Demolition and replacement of handrails to external ramp to 33 Market Street.
- Demolition of southern planter beds and timber seating.
- Demolition of shed to rear of 33 Market Street.
- Removal and replacement of poly carbonate roof to arcade.

A plan showing these works is included in Attachment A and reproduced below.

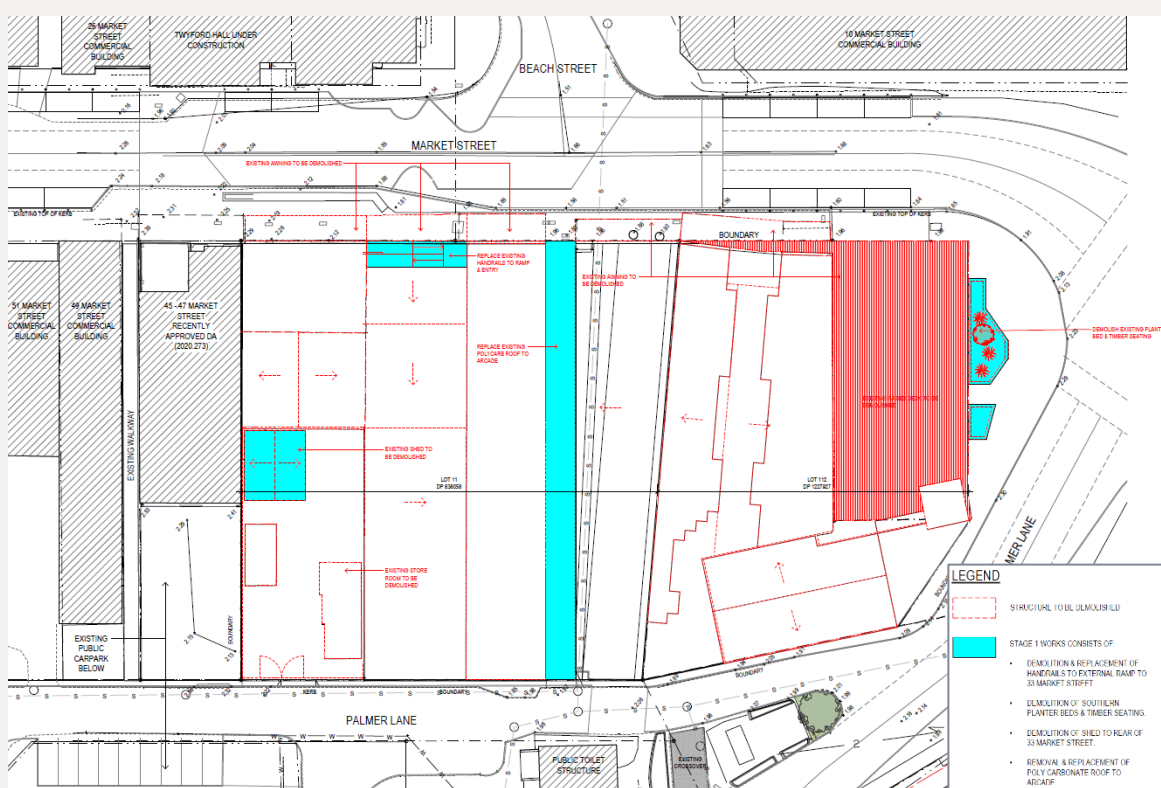


Figure 24 Proposed Stage 1 Works

#### Stage 2:

The Stage 2 works will consist of all other buildings and works not identified in Stage 1, being the bulk of the construction works including:

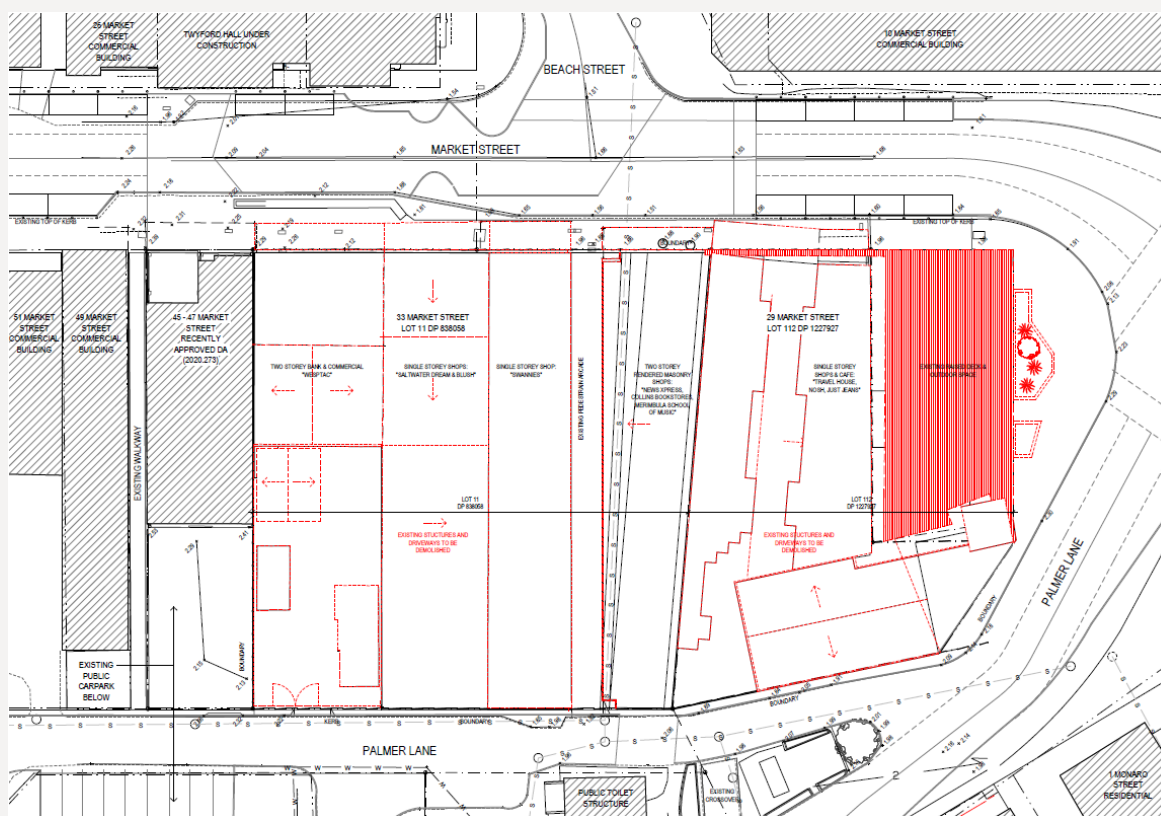
- Full demolition of all buildings and structure on-site (see below for further details).
- Construction of the five storey mixed use development.
- Creation of a new pedestrian accessway/laneway.
- Street improvement and public domain works including new paving, street furniture, landscaping, toilet block improvement and public car parking works etc; and
- Consolidation of existing lots.



### 3.3. Demolition

In order to construct the new mixed-use development, approval is sought to demolish all buildings and structures currently contained on-site. This includes the individual commercial tenancies, as well as other associated outbuildings and structures, car parking areas, paved areas and landscaped garden beds.

A copy of the proposed demolition plan is included in Appendix A and is reproduced below.



**Figure 25 Proposed Demolition Plan**

### 3.4. Commercial Tenancies

The proposal includes ground floor commercial tenancies, which will have direct frontage to Market Street, Palmer Lane and the new internal pedestrian accessway. A summary of these tenancies is provided in **Table 1** below.

The tenancies range in size from 60m<sup>2</sup> up to 111m<sup>2</sup>. In total, the development will include 1,190m<sup>2</sup> of commercial floorspace (excluding back of house/waste/plant and loading areas).

Please note that the submitted plans only identify indicative tenancy sizes and layouts as the individual tenants are yet to be determined. These details will be confirmed as part of the future development application for the site.

A communal back of house, waste, plant and loading area has also been shown on the submitted plans and as outlined above, is excluded from the commercial floorspace calculation.

The exterior of these tenancies will feature full-length glazing that allows for passive surveillance and views to the adjoining public domain, which will be protected via a covered projected awning, where appropriate.

A table summarising the proposed commercial tenancies is provided in Table 2.

A floor plan of the proposed commercial tenancy is contained in Appendix A and is reproduced below.

Tenancy No.	Frontage	Floor Area (m²)
1	Market Street	60
2	Market Street	61
3	Market Street	60
4	Market Street	98
5	Market Street	100
6	Market Street	106
7	Market Street	61
8	Market Street	61
9	Market Street	111
10	Palmer Lane	60
11	Palmer Lane	60
12	Palmer Lane	97
13	Proposed new pedestrian accessway	88
14	Proposed new pedestrian accessway	87
14	Proposed new pedestrian accessway	80



### 3.5. Residential Apartments

The application seeks approval to construct 52 residential apartments located above the proposed ground floor commercial tenancies and upper level car parking areas.

The apartments will be comprised of one, two and three bedrooms ranging in size from 66m<sup>2</sup> up to 138m<sup>2</sup>. The development has been orientated to address both Market Street (including Merimbula Lake and beyond), Palmer Lane and a new internal communal open space area.

Of note, the proposed apartments have been designed to far exceed the minimum statutory size requirements as stipulated in the ADG's, which require a minimum internal area of 50m<sup>2</sup> for a 1 bedroom dwelling, 70m<sup>2</sup> for a 2 bedroom dwelling and 90m<sup>2</sup> for a 3 bedroom dwelling.

In response, the average size of the proposed 1 bedroom dwellings are 66m<sup>2</sup>, two bedroom dwellings have an average size of 90m<sup>2</sup> and the 3 bedroom dwellings have an average size of 120m<sup>2</sup>.

Due to the nature of the building, Levels 2-3 will have an almost identical floor plate, whilst Level 4 proposes a smaller footprint due to the need to provide upper-level setbacks.

Internally, each of the apartments comprises an open plan kitchen, living/lounge and dining area with associated bedrooms, bathroom and laundry. In addition, each apartment is provided with a covered/uncovered balcony or paved area, which is either directly accessible from the main living/dining area or via individual bedrooms. It is noted that these balcony/terrace areas far exceed the minimum requirements stipulated by the NSW Apartment Design Guidelines (ADGs).

To ensure best-practice and ensure a useable lifespan, 11 (approximately 21%) of the apartments (including 1, 2 and 3 bedroom options) have been designed as 'adaptable units' in accordance with Australian Standard AS 1428.1 and AS4299 (Adaptable Housing Standard). All plumbing associated with these apartments will be allowed for during construction to allow for future use.

Access to each of the apartments will be via a centralised lift and staircase with individual apartments branching off from a main lobby area. The building has been setback back from the front property boundary of Market Street and to a lesser extent Palmer Lane and also includes upper level setbacks to minimise building height and bulk, particularly from the adjoining pedestrian footpaths. The apartments have been orientated as much as possible to maximise solar access opportunities, as well as views over the adjoining Merimbula Lake and new internal communal open space area.

A summary of the residential apartment's is provided in Table 3.

**Table 3 – Residential Apartments**

Level No.	Total Area (m <sup>2</sup> )	Expected Apartment Mix
1	1,418.3m <sup>2</sup>	11 (5 x 2 bedroom, 6 x 3 bedroom)
2	1,669.6m <sup>2</sup>	15 (1 x 1 bedroom, 8 x 2 bedroom, 6 x 3 bedroom)
3	1,668.7m <sup>2</sup>	15 (1 x 1 bedroom, 8 x 2 bedroom, 6 x 3 bedroom)
4	1201m <sup>2</sup>	11 (1 x 1 bedroom, 6 x 2 bedroom, 4 x 3 bedroom)

Floor plans of the proposed residential apartments are contained in Appendix A and are reproduced below.





Figure 27 Proposed Level 1 Floor Plan

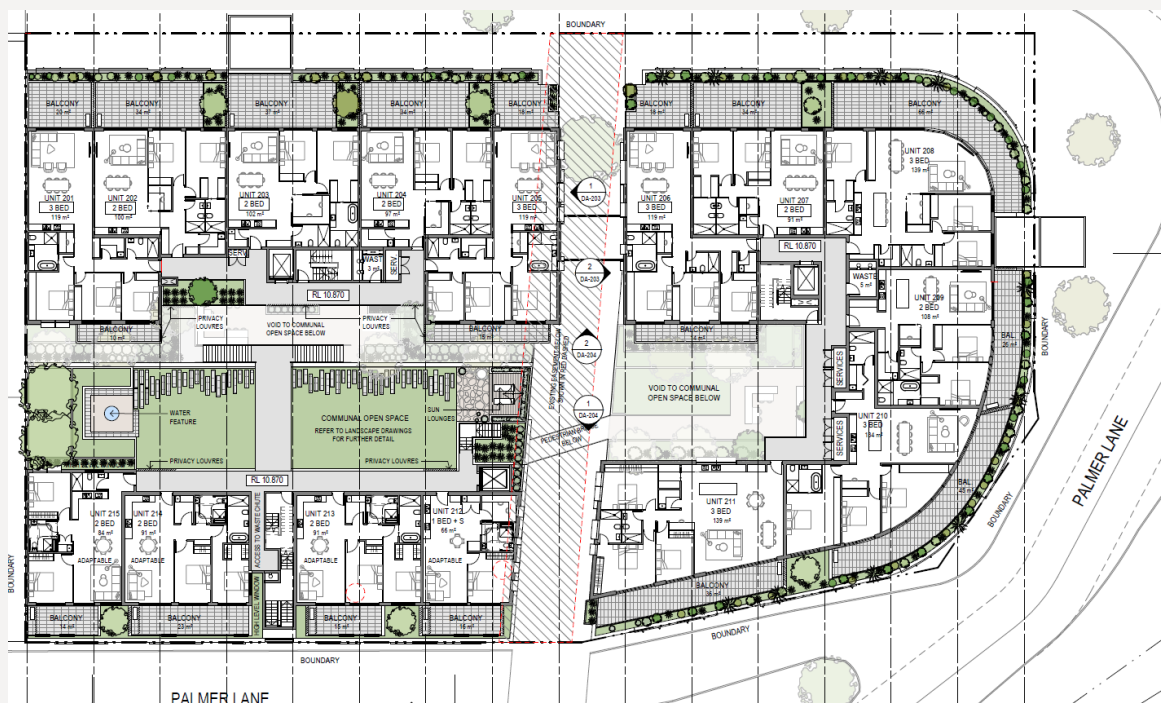


Figure 28 Proposed Level 2 Floor Plan

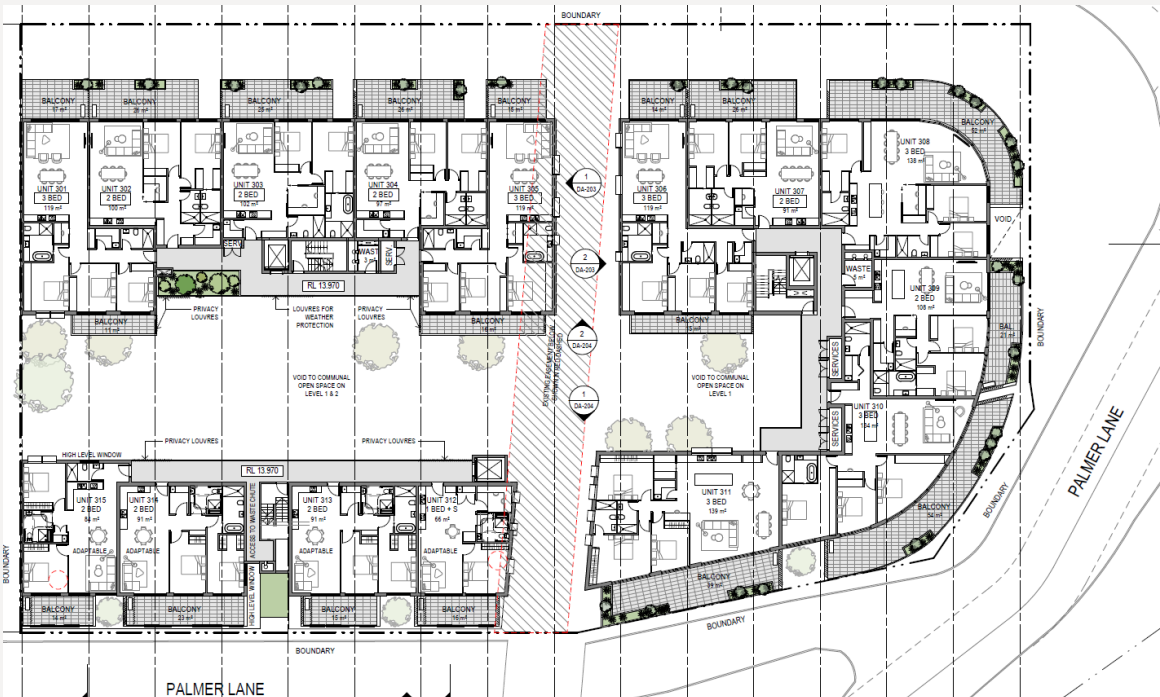


Figure 29 Proposed Level 3 Floor Plan



Figure 30 Proposed Level 4 Floor Plan

Externally, the building will be of a high-quality design with the façade and articulation of the building carefully considered to reflect the future intent of Market Street as a commercial hub which enlivens the town centre and enriches pedestrian connections.

The 5 storey expression acts as an urban marker / gateway building for the Merimbula CBD when approaching from the south and is only visible at a long distance. The fifth storey is generally not visible to pedestrians along Market St looking west. The proposed design does not break the ridge line when viewed from its surrounds, including Fishpen and the top of Market Street.

A 2 storey street wall is proposed along Market Street and wrapping round the corner to Palmer Lane to maintain the existing streetscape character and bulk. Recessed upper storeys are proposed to the front boundary with a deep recess (10m) proposed to the 5th storey generally along Market Street to significantly minimise the visual impact of the upper storey.

To further enhance the overall appearance of the building, the development will utilise a larger number of materials and finishes including facebrick, glazing, render, louvres and window treatments and recesses to provide a high-quality design. A copy of the materials and finishes schedule is provided below, whilst a copy of the building elevations are also reproduced below.

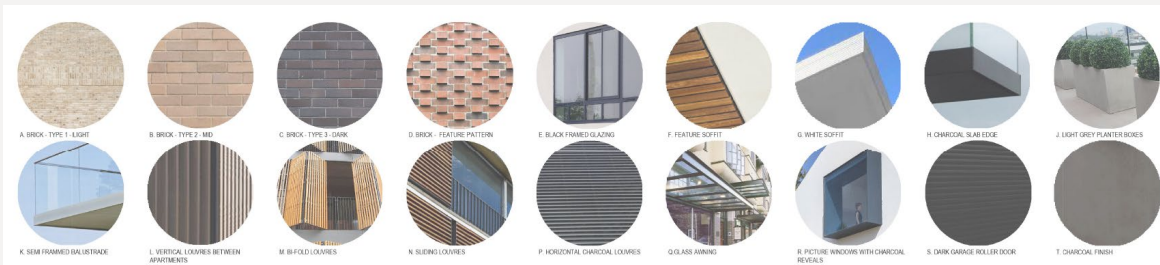


Figure 31 Materials and Finishes Schedule





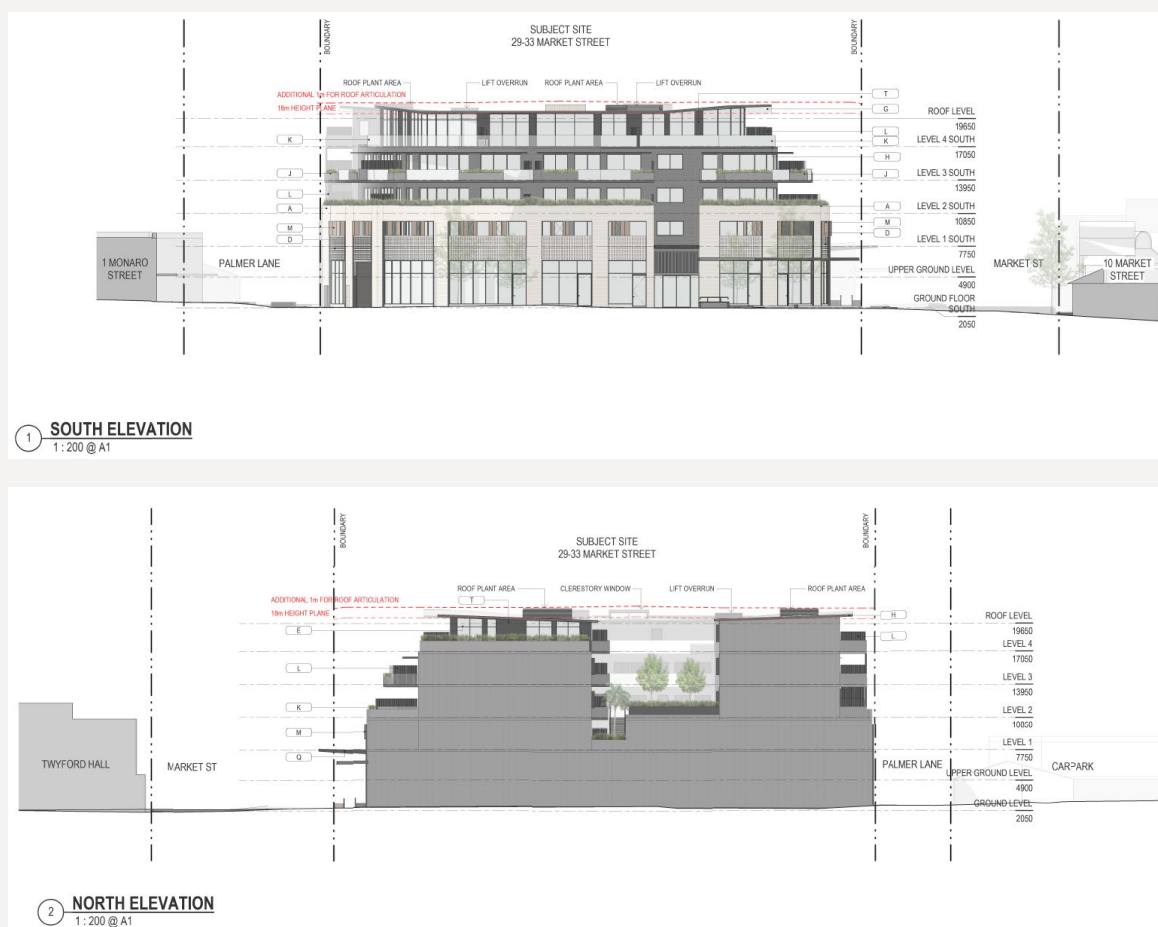


Figure 32 Proposed Building Elevations



Figure 33 Perspective of proposal from corner of Market and Monaro Street looking north



Figure 34 Perspective of development along Market Street looking west



Figure 35 Perspective of development from Palmer Lane looking east

### 3.6. Car Parking and Access

The development proposes 114 car parking spaces, which will be contained across the ground floor, upper ground floor and first floor levels of the building. Specifically, 38 spaces will be provided on the ground floor, 44 spaces on the upper ground floor and 32 spaces on the first floor levels of the building. Of these, 11 will be for persons with a disability and will include an adjoining shared space. Furthermore, the development includes 52 designated bicycle parking spaces at the ground floor level.

Access to the proposed car parking area will be via the rear Palmer Lane and will adjoin the existing Council car parking area at the rear.

Vehicular access is also provided from Palmer Lane to the proposed back of house, waste, plant and loading zone contained within the proposed building. Due to the size of vehicles accessing this area and the need for vehicles to enter and exit the site in a forward direction, a turntable is proposed.



Storage areas will be provided either at the end of each individual car parking space or within a communal location, which will be accessible to each resident. Service/plant rooms and waste disposal areas are also located within the car parking area and are accessible to residents.

A Traffic Impact Assessment has been prepared and is included as Appendix L to this report. Further details regarding car parking and access are addressed in response to the requirements of the DCP and SEPP 65.

### 3.7. Open Space

The development will incorporate a number of landscaped public (streetscape improvement) and private communal open space areas for use and enjoyment by residents spread across various levels of the building (namely levels 1 and 2).

Private open space will be in the form of individual open and enclosed generous balcony areas, which will be directly accessible from the main living areas and individual bedrooms.

Communal open space will be provided via a centralised open space area to be split across levels 1 and 2 of the building, which will be available for all residents living within the building. These areas will be extensively embellished as shown on the submitted landscape plan. The two communal open space areas are connected by an elevated walkway and lift/stair access.

Such embellishments will include open lawned (synthetic) areas, as well as shade and amenity trees, groundcovers and shrubs (pervious, deep soil zones). In addition, the communal open space areas will include paved areas and walkways, raised timber decking, feature paving and water features. There will be a number of sitting and recreational areas including a sunken fire pit with seating walls, raised BBQ and bar seating with a covered pergola, sun lounges and quiet sitting areas.

A copy of the conceptual landscaping plans is included in Appendix F and is reproduced below.



Figure 36 Conceptual Landscape Plan – Level 1

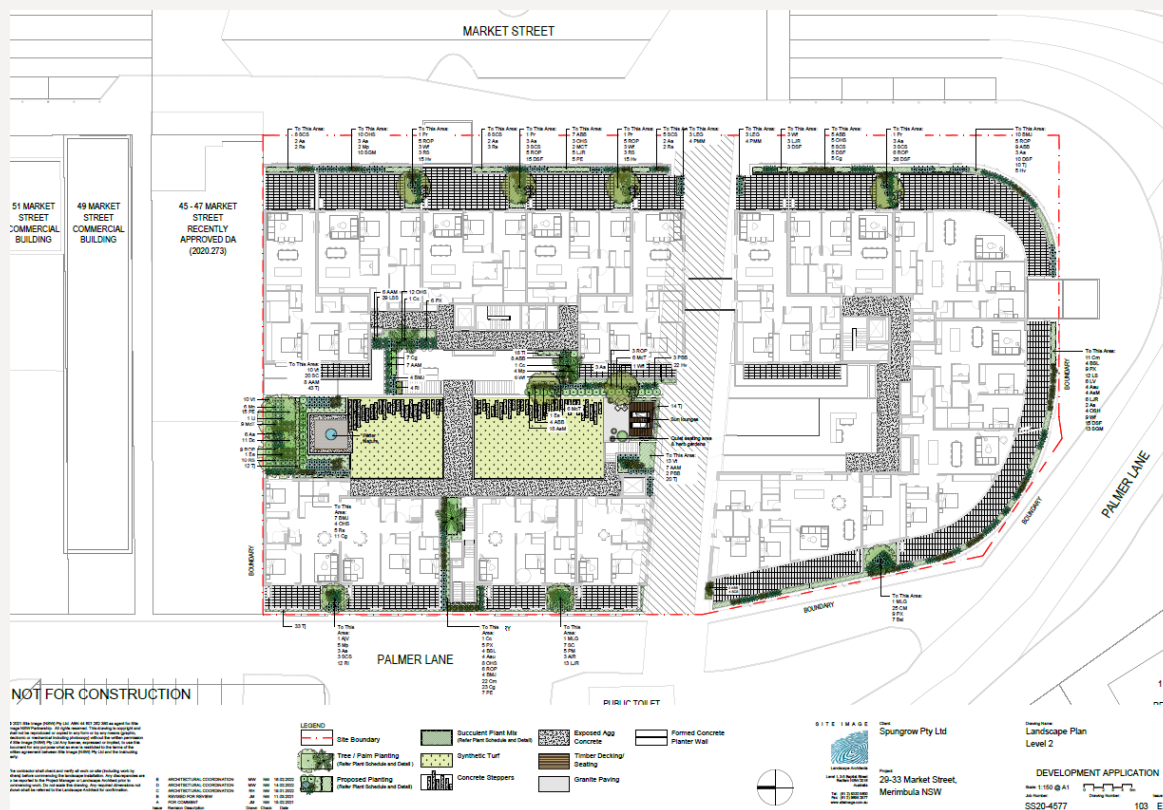


Figure 37 Conceptual Landscape Plan – Level 2

### 3.8. Street Improvement and Public Domain Works

As part of the proposed works, the developer proposes to undertake a number of street improvement and public domain works consistent with the recommendations of the Merimbula CBD Landscape Masterplan. Such works will include landscaping, paving, street furniture and public art. These works will be undertaken as part of a planning agreement with specific details to be determined between the developer and Council.

In addition, the development also proposes to remove the existing public arcade and replace this with a new activated pedestrian accessway, which will connect the rear car parking area through to Market Street.

### 3.9. Utilities and Infrastructure

The subject land is located within a centralised location and therefore has access to all relevant infrastructure and services including reticulated water, sewerage, electricity, drainage, telecommunications and gas. A Civil Engineering Assessment has been undertaken following a site inspection and review of existing services information.

Whilst it is acknowledged that the development will increase demands for this infrastructure, given the central location of the site, the proposed works are not expected to adversely affect existing utility and infrastructure arrangements.

More specifically, a concept stormwater analysis has been completed, which confirms that the proposal will maintain pre-development flows. Similarly, the development will be constructed over an existing sewer main and the works will be designed so as to not adversely impact this existing infrastructure.

A Copy of the Civil Engineering Assessment is included as Appendix I.

### **3.10. Lot Consolidation**

At present, the subject land is comprised of two individual allotments, being Lots 11 and 12. Upon completion of the proposed works, the new mixed use development will straddle these two allotment boundaries.

In order to achieve compliance with the requirements of the Building Code of Australia, these two titles will be consolidated into a single title. These works will be subject to a separate subdivision linen certificate and registration with NSW Land Registry Services.

### **3.11. Strata/Stratum Title Subdivision (Future)**

Following the completion of the building construction works the owner intends on strata/stratum subdividing the individual apartments and commercial tenancies. This will be subject to a separate development application.



## 4. Planning Assessment

This section considers the planning issues relevant to the proposed development and provides an assessment of the relevant matters prescribed in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

### 4.1. Environment Protection and Biodiversity Conservation Act 1999

The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides the framework to assess proposed actions that will have, or are likely to have, a significant impact on Matters of National Environmental Significance (MNES), Commonwealth land, or are proposed to be undertaken by the Commonwealth or a Commonwealth Agency.

These Matters of National Environmental Significance include:

- World Heritage properties;
- National Heritages Places;
- RAMSAR wetlands;
- Cetaceans, migratory species, threatened species, critical habitats or ecological communities listed in the EPBC Act;
- Commonwealth land, marine areas or reserves; and
- Nuclear actions.

Following a review of the subject land and consideration of the proposed development, it is not anticipated that a MNES as listed under the EPBC Act will be impacted by the proposed works.

### 4.2. Environmental Planning and Assessment Act 1979

#### 4.2.1 Matters for Consideration

Section 4.15 of the EP&A Act sets out the statutory matters for consideration against which the proposed development is to be evaluated. The matters for consideration under Section 4.15 are as follows:

*(1) Matters for consideration—general*

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),*

*that apply to the land to which the development application relates,*

*(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*

*(c) the suitability of the site for the development,*

*(d) any submissions made in accordance with this Act or the regulations,*

*(e) the public interest.”*

The matters for consideration identified in Section 4.15(1) of the EP&A Act 1979 are addressed in the following section. Subsections (b) to (e) of Section 4.15(1) of the EP&A Act 1979 are addressed in Section 5 of this Statement of Environmental Effects.

#### **4.2.2 Approval Pathway**

The proposed development represents local development, requiring the consent of the relevant consent authority. Section 4.5 of the EP&A Act establishes the applicable consent authority. The proposal does not meet the thresholds for State Significant Development or Regionally Significant Development and there is no environmental planning instrument that designates a public authority as the consent authority.

The development is also not classified as ‘designated development’ (i.e. high impact development) pursuant to Section 4.10 of the EP&A Act and is not ‘integrated development’ pursuant to Section 4.46 of the EP&A Act, being development that requires approval under another Act.

#### **4.2.3 Planning Agreement**

As part of the proposed works, the developer is seeking to enter into a Planning Agreement with Council in accordance with Section 7.4 of the EP&A Act. More specifically, these works relate to embellishments and upgrades to the adjoining public footpath and wider public domain (landscaping, paving, street furniture, public art etc). Other potential works in kind may include reconfiguring/line-marking the adjoining public car park and/or upgrading the adjacent public toilet block.

Further details regarding these works will be discussed with Council during the development assessment process.

### **4.3. Environmental Planning and Assessment Regulation 2000**

For a residential apartment development, clause 50(1A) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) requires a statement by a qualified designer to accompany the application. The statement must:

- (a) verify that he or she designed, or directed the design of the development, and*
- (b) provide an explanation that verifies how the development –*
  - (i) addresses how the design quality principles are achieved; and*
  - (ii) demonstrates in terms of the Apartment Design Guide, how the objectives in Parts 3 and 4 of that guide have been achieved.*

A design verification statement has been prepared in accordance with the requirements of the EP&A Regulation and is included in Appendix C.

### **4.4. Coastal Management Act 2016**

The *Coastal Management Act 2016* (CM Act) establishes a strategic framework and objectives for managing coastal issues in NSW. Its purpose is to promote strategic and integrated management, use and development of the coast for the social, cultural and economic wellbeing of the people of NSW.

The CM Act defines a coastal zone within which the following four coastal management areas apply:

- Coastal wetlands and littoral rainforest areas.
- Coastal vulnerability area.
- Coastal environment area.
- Coastal use area.

Both the coastal environment area and coastal use area encompass the subject land.

The management objectives for each of these areas is given effect through strategic and statutory planning instruments, including *State Environmental Planning Policy (Coastal Management) 2018*. The provisions of this SEPP that apply to the proposal are addressed in Section 4.5.4.

## 4.5. State Environmental Planning Policies

### 4.5.1 State Environmental Planning Policy No. 55 – Remediation of Land

*State Environmental Planning Policy No. 55 – Remediation of Land* ("SEPP 55") sets out considerations relating to land contamination across the state. The intention of the SEPP is to establish 'best practice' guidelines for managing land contamination through the planning and development control process.

In the context of this application, clause 7 of SEPP55 generally requires that Council give consideration as to whether or not land proposed for development is potentially contaminated and fit for its proposed purpose.

Whilst the subject land has been developed for commercial purposes and is not known to be contaminated, the site does immediately adjoin a former Mobil service station site at 27 Market Street, Merimbula, which was previously identified as a NSW EPA listed contaminated site.

Notwithstanding, in December 2012 Council resolved to purchase this former service station site for the purposes of constructing the Merimbula CBD bypass, subject to certification the property had been remediated to a residential standard.

In response, the EPA advised Council via letter dated 4 April 2017 that regulation under the *Contaminated Land Management Act 1997* is no longer required because:

- *Former service station infrastructure has been removed from the site and contaminated soil excavated to the extent practicable.*
- *Groundwater monitoring results indicate that potential offsite migration of petroleum hydrocarbons would be limited in extent beneath Market Street and would not present an unacceptable risk to human health or the environment under the current land use; and*
- *An EPA-accredited Site Auditor has issued a Site Audit Statement certifying that the site is suitable for certain land uses, including residential with minimal opportunity for soil access (including units) and commercial/industrial, subject to compliance with the Environmental Management Plan prepared for the site. The Site Auditor notes that groundwater should not be extracted for use.*

*The public list of notified sites on the EPA website will be updated to note that the site does not require regulation under the CLM Act.*

A copy of the relevant reports is included as Appendix M.

Consequently, the land is considered fit for its intended purpose, being a mixed-use development comprising ground floor commercial and upper level residential. Therefore, the relevant considerations of SEPP 55 are satisfied by the current proposal.

#### 4.5.2 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

*State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65) aims to improve the design quality of residential apartment development in NSW. It is applicable to the proposal because it meets the criteria of being a new building of three or more storeys containing four or more dwellings.

Clause 28(2) of SEPP 65 requires Council to take into consideration the design quality of the development when evaluated in accordance with the design quality principles, as well as the Apartment Design Guide (ADG). It is noted there is no provision for a design review panel in Bega Valley.

Clause 50(1A) of EP&A Regs requires the applicant to provide a statement by a qualified designer that responds to the matters in Clause 28(2) of SEPP 65. This statement is included at Appendix C and provides Council with the means of giving consideration to this clause.

It is noted that there are various elements of the controls expressed in Parts 3 and 4 of the ADG that take precedence over local controls where there is an inconsistency. Under clause 6A of the SEPP, controls expressed in the Bega Valley Development Control Plan cannot be inconsistent with those in the ADG for:

- (a) *visual privacy,*
- (b) *solar and daylight access,*
- (c) *common circulation and spaces,*
- (d) *apartment size and layout,*
- (e) *ceiling heights,*
- (f) *private open space and balconies,*
- (g) *natural ventilation,*
- (h) *storage.*

Likewise, under clause 30 of the SEPP, if the standards relating to the following in the ADG are met, they cannot be used as grounds for refusal:

- (a) *car parking.*
- (b) *apartment floorspace.*
- (c) *ceiling height.*

The Qualified Designers response contained in Appendix C also addresses the relevant Design Quality Principles outlined in Schedule 1 of SEPP 65.

#### 4.5.3 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

*State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* seeks to ensure consistency in the implementation of the BASIX scheme throughout the State and stipulates when a BASIX Certificate is required for residential development that involves the erection of a 'BASIX-affected building' as defined in the EP&A Act.

As the development involves the construction of new residential apartments, then a BASIX Certificate is required. A copy of the BASIX Certificates is included as Appendix B to this report.

#### 4.5.4 State Environmental Planning Policy (Coastal Management) 2018

*State Environmental Planning Policy (Coastal Management) 2018* (Coastal Management SEPP) is relevant to the application as the subject land is located within a coastal zone as defined by the CM Act (see Section 4.4).

Specifically, the subject land falls within two of the coastal management areas defined by the CM Act, being the coastal environment area and coastal use area.



**Figure 38 Extract of the Coastal Environment Area Map**



**Figure 39 Extract of the Coastal Use Area Map**

Clauses 13 and 14 of the SEPP set out matters Council must consider and be satisfied with in regard to developments within the coastal environment and use areas. To assist Council, an assessment of these matters is undertaken in Appendix D. This assessment concludes that the development can be undertaken without having a detrimental impact on the coastal environs.

#### **4.5.5 State Environmental Planning Policy (Koala Habitat Protection) 2021**

*State Environmental Planning Policy (Koala Habitat Protection) 2021* (Koala SEPP) aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

To achieve this, the Koala SEPP identifies areas of core koala habitat and requires the preparation of plans of management for development located in an area identified as a core koala habitat.

Whilst it is acknowledged that Bega Valley Shire is identified within Schedule 1 of the Koala SEPP, as the subject land does not contain any trees, the works will not have an adverse impact on the ongoing viability of koala populations.

#### **4.5.6 State Environmental Planning Policy (Infrastructure) 2007**

*State Environmental Planning Policy (Infrastructure) 2007* ("ISEPP") provides a consistent and flexible planning system to facilitate the delivery of services. The policy identifies environmental assessment categories for types of infrastructure, matters to consider when assessing development adjacent to infrastructure and provides for consultation with relevant public authorities.

The ISEPP contains provisions relating to approval processes and assessment requirements for infrastructure proposals according to the type or sector of infrastructure. It outlines land-use zones where types of infrastructure are permissible with or without consent and identifies certain works as exempt and complying development.

There are several Clauses under the ISEPP that trigger referral and concurrence matters. These are addressed below for consideration.

Table 4 – ISEPP – matters for consideration

Matter for consideration	Response
<b>Clause 45 – Determination of development applications – other development</b>	<p>This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—</p> <ul style="list-style-type: none"> <li>(a) <i>the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,</i></li> <li>(b) <i>development carried out—</i> <ul style="list-style-type: none"> <li>(i) <i>within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or</i></li> <li>(ii) <i>immediately adjacent to an electricity substation, or</i></li> <li>(iii) <i>within 5m of an exposed overhead electricity power line,</i></li> </ul> </li> <li>(c) <i>installation of a swimming pool any part of which is—</i> <ul style="list-style-type: none"> <li>(i) <i>within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or</i></li> <li>(ii) <i>within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,</i></li> </ul> </li> <li>(d) <i>development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.</i></li> </ul> <p><b>Comment:</b></p> <p>Referral under Clause 45 will be required to the relevant electricity supply authority as the proposed development triggers a requirement under this clause.</p>
<b>Clause 101 – Development with frontage to a classified road</b>	<p>The objectives of this clause are—</p> <ul style="list-style-type: none"> <li>(a) <i>to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and</i></li> <li>(b) <i>to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.</i></li> </ul> <p><b>Comment:</b></p> <p>The subject land does not contain frontage to a classified road therefore referral and consideration under Clause 101 is not required.</p>
<b>Clause 104 – Traffic generating development</b>	<p>This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves—</p> <ul style="list-style-type: none"> <li>(a) <i>new premises of the relevant size or capacity, or</i></li> <li>(b) <i>an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.</i></li> </ul>



Matter for consideration	Response
	<p><b>Comment:</b></p> <p>The proposed development for 'residential accommodation' or 'shops' does not trigger the requirement for referral and consideration under Schedule 3.</p>

#### 4.6. Bega Valley Local Environmental Plan 2013

The *Bega Valley Local Environmental Plan 2013* ("the LEP") is the principal planning instrument that guides development within the Bega Valley Local Government Area (LGA).

The following provisions of the LEP are applicable to the proposed development:

- Clause 2.3 – Zone Objectives and Land Use Table
- Clause 4.3 – Height of Buildings
- Clause 4.6 – Exceptions to Development Standards
- Clause 5.10 – Heritage Conservation
- Clause 5.21 – Flood Planning
- Clause 6.2 – Earthworks
- Clause 6.4 – Coastal Risk Planning
- Clause 6.8 – Airspace Operations

The below provides an overview of consistency and compliance of the proposal against the relevant provisions.

##### 4.6.1 Clause 2.3 – Zone Objectives and Land Use Table

The subject land is zoned B2 Local Centre ("B2 zone") under the LEP (Figure 40).

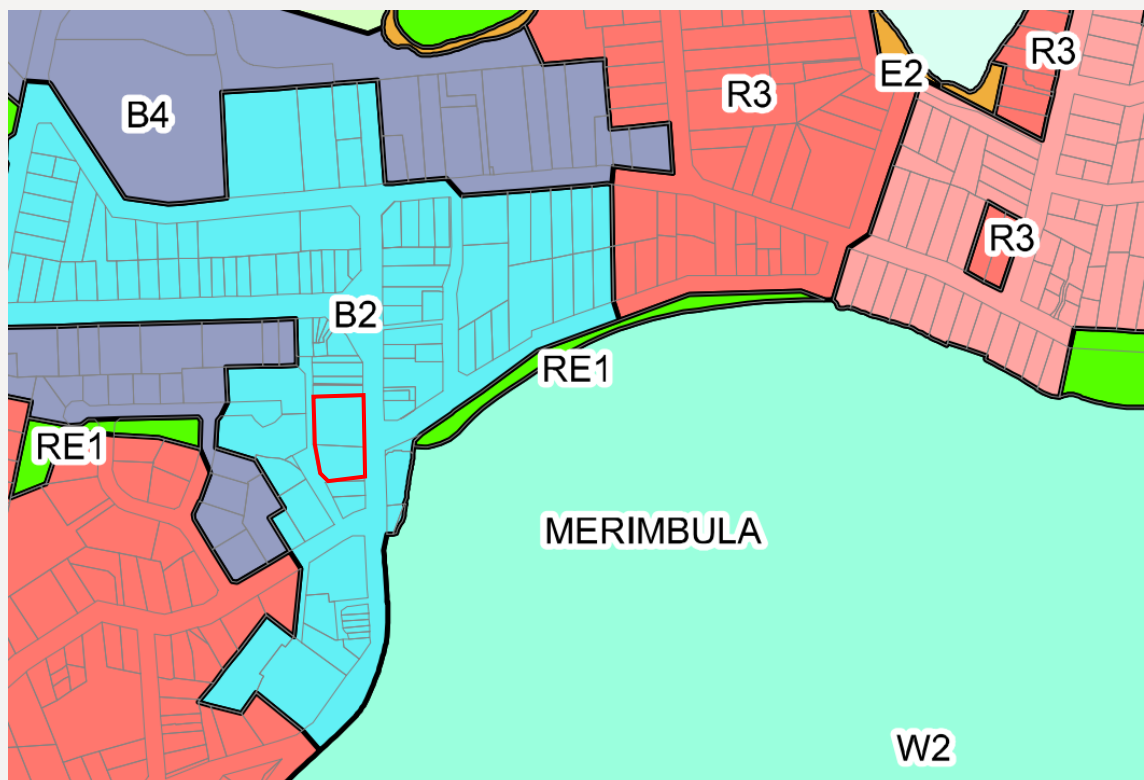


Figure 40 Extract of Land Zoning Map (LZN\_020B)

The objectives of the B2 zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To enable other land uses that are complementary to, and do not detract from, the viability of commercial uses within the zone.*
- *To minimise conflict between land uses on land in the zone and land uses on land in adjoining zones.*
- *To strengthen the viability of existing business centres as places for investment, employment and cultural activity.*

The proposed development is consistent with the objectives of the B2 zone as follows:

- The development provides 1,190m<sup>2</sup> of commercial floorspace within the Merimbula town centre,
- The new commercial development will replace an existing dated commercial development and will provide a new high quality and standard business environment, particularly for tourist related activities;
- The site is centrally located within the Merimbula town centre and is highly accessible;
- The proposal will become a landmark development within the Merimbula CBD and will encourage activation and revisitation of this precinct;
- The mix of commercial and residential uses will encourage a larger permanent population within this commercial centre which will ensure the ongoing viability of commercial uses;
- The addition of new shop top housing is consistent with the recommendations of the Bega Valley Shire Residential Land Strategy that seeks to achieve for Merimbula: *'medium-rise apartments and townhouses – two to four stories close to the commercial centre'*
- it increases the residential capacity of a site within the main commercial area, locating people within walking distance of jobs (residence in place); and
- it locates higher density residential development in an area capable of supporting an increased population.

Having regard for the above, it is considered that all objectives of the B2 zone are satisfied by the proposal.

Whilst it is acknowledged that development for the purposes of *'residential accommodation'* is prohibited in the B2 zone, development for the purposes of *'shop top housing'* (as proposed) is permitted with consent.

The LEP defines shop top housing as follows:

***shop top housing*** means one or more dwellings located above ground floor retail premises or business premises.

It is considered that the development meets the relevant permissibility criteria under the LEP subject to consent being granted by Council.



#### 4.6.2 Clause 4.3 – Height of Buildings

Clause 4.3 of the LEP sets height limit restrictions for buildings on land identified on the Height of Buildings Map. The objective of this clause is to retain the existing character and landscape of the locality and protect residential amenity.

The subject land is identified on the Height of Buildings Map and a 13 metre height limits applies to the land in this instance (Figure 41).

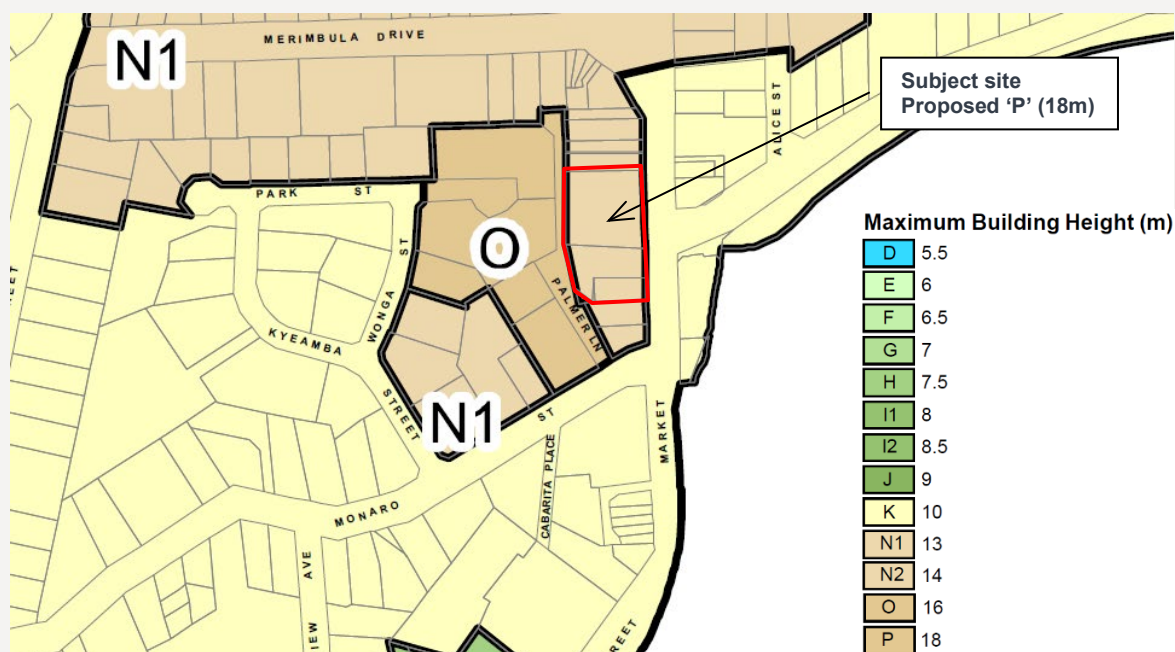


**Figure 41 Extract of Height of Buildings Map**

The proposed development does not comply with this 10 metre height restriction as it seeks an overall height of 18 metres, plus a 1 metre encroachment to provide for an articulation in the roof form.

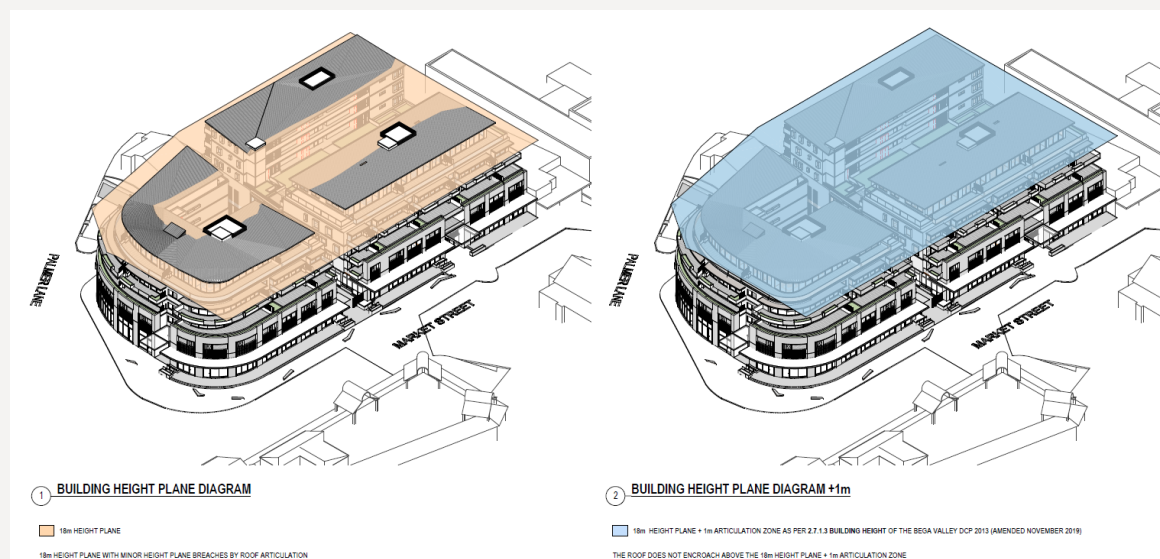
In response, the applicant is simultaneously seeking an amendment to the building height controls of the LEP as it applies to the subject land. More specifically, the planning proposal is seeking to increase the maximum permitted height of buildings from 13 metres to 18 metres as shown in Figure 42.

Accordingly, approval is being sought under Division 3.5 of the EP&A Act (formerly Section 72J).



**Figure 42 Proposed amended Height of Buildings Map as sought by separate planning proposal**

Notwithstanding the above, the development still does not achieve full compliance with the proposed 18 metre height limit as illustrated in Figure 43 as a small section of the roof penetrates this maximum permitted height.



**Figure 43 Building Height Encroachment**

This is considered satisfactory in this instance as Section 2.7.1.3 of the DCP allows for:

*a portion of the roof of a development may encroach the maximum height stipulated under the LEP to encourage articulation of roof form. Such encroachments are subject to LEP Clause 4.6 and are only permitted where the roof projects no more than 1000mmm above the maximum height limit...*

It is confirmed that the proposed roof does not project more than 1 metre above the maximum height limit and approval is being sought under Clause 4.6 of the LEP. Further details regarding this matter are outlined below.

#### 4.6.2 Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the LEP relates to exceptions to development standards with the objectives of this clause being to provide an appropriate degree of flexibility in applying certain development standards to a particular development and to achieve better outcomes for and from development by allowing flexibility in certain circumstances.

As outlined in Section 4.6.1, the development exceeds the proposed 18 metre height limit that applies to the land. Therefore, approval is sought under the provisions of this control.

In order to satisfy the requirements of clause 4.6 of the LEP, a development must satisfy the requirements of subclauses (3) and (4) before council can grant development consent. An extract of these clauses is outlined below, emphasis added:

- (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,*

The development satisfies the requirements of subclause (3) above as follows:

- Compliance with the development standard is considered 'unreasonable' and 'unnecessary' in this instance given the relatively small size of the encroachment in terms of the overall context and size of the development;
- The proposed encroachment is consistent with the requirements of Section 2.7.1.3 of the DCP as it only relates to a minor encroachment to allow for articulation in the roof form;
- The encroachment does not exceed 1 metre in height and will not be visible from any public place;
- The overall building has been designed to reduce bulk and scale, whilst also providing a high degree of architectural design through fenestration, articulation and a variety of building materials and finishes;
- The addition height will not create additional overshadowing for adjoining properties;
- The outcomes sought on site are consistent with Council's recently endorsed commercial and residential land use strategies.

Similarly, the development satisfies the requirements of subclause (4), as follows:

- This written response has adequately addressed the matters required to be addressed in clause 4.6(3);
- The development is in the public interest because it is consistent with the objectives of clause 4.3 and the B2 zone as outlined below.
- The development has been subject to detailed architectural design including a view sharing analysis and a bulk and scale analysis.
- The proposed variation sought by this request only applies to a small section of the roof form and only represents a departure of less than 10%.

For these reasons, compliance with the development standard is considered unreasonable and unnecessary and the development is considered appropriate on environmental planning grounds.

#### 4.6.4 Clause 5.10 – Heritage Conservation

Clause 5.10 of the LEP relates to heritage conservation and seeks to conserve the environmental heritage of Bega Valley, the heritage significance of heritage items and heritage conservation areas, archaeological sites and Aboriginal objects and places of heritage significance.

The subject land is already developed and highly disturbed and is therefore not expected to contain any items of Aboriginal cultural heritage significance. A due diligence assessment of Aboriginal Cultural Heritage was undertaken by On Site Cultural Heritage Management and is included as Appendix G.

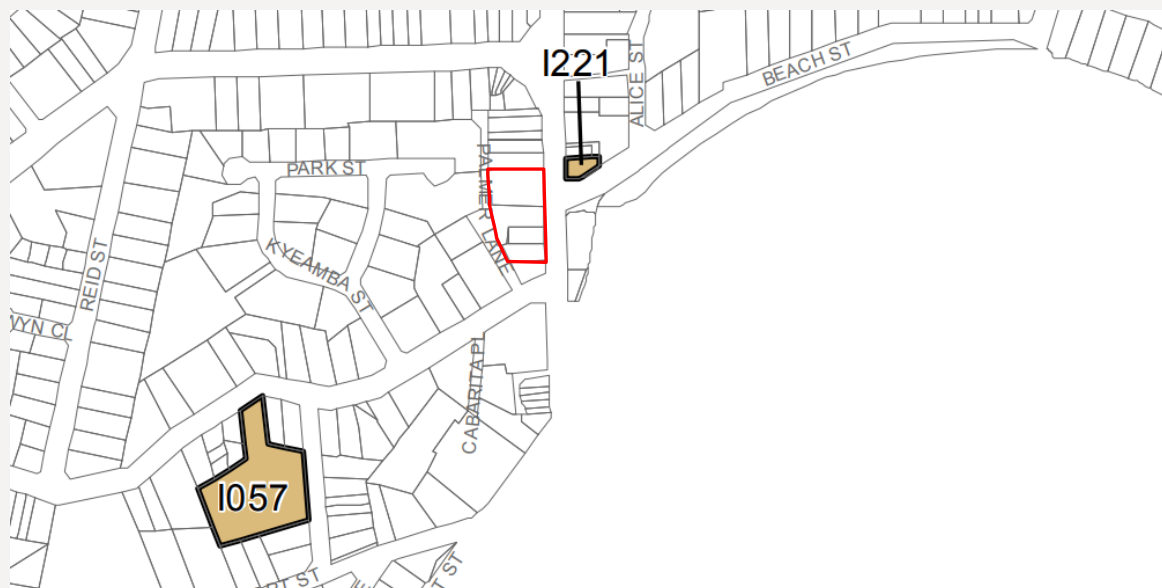
In summary, this report concluded the following:

- *the entire project area is disturbed land and subject to massive disturbance that is likely to have substantially diminished the potential of this landscape to contain Aboriginal objects in-situ.*
- *Assessed the project area as having a low potential and 'very unlikely' to contain Aboriginal objects with any spatial integrity.*
- *This assessment concludes that the site does not contain any items of Aboriginal cultural heritage significance and that further investigation is not warranted.*

The land is not identified as an item of environmental heritage within schedule 5 of the heritage map of the LEP.

Notwithstanding, consideration needs to be given to the proposed development and its potential impacts on adjoining heritage items. The only heritage item located within proximity to the site is local Heritage Item No. I221 – Twyford Hall, which is located at 16 Market Street to the east (Figure 44).

Upon review, the proposed development is not expected to adversely affect this heritage item in terms of overlooking, overshadowing, bulk or scale and visual appearance. Further details regarding heritage are discussed in Section 5 of this report.



**Figure 44 Extract of Heritage Map**

#### 4.6.6 Clause 5.21 – Flood Planning

Clause 5.21 of the LEP refers to flood planning considerations and applies to land shown on the flood planning area map.

It is acknowledged that a small portion of the subject site is identified as being ‘flood prone’ and is subject to certain considerations outlined in this clause.

- (1) *The objectives of this clause are as follows—*
- (a) *to minimise the flood risk to life and property associated with the use of land,*
  - (b) *to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,*
  - (c) *to avoid adverse or cumulative impacts on flood behaviour and the environment,*
  - (d) *to enable the safe occupation and efficient evacuation of people in the event of a flood.*

It is considered that the proposed development meets the objectives of the clause as outlined below.

Under Clause 5.21 development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development—

- (a) *is compatible with the flood function and behaviour on the land, and*
- (b) *will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- (d) *incorporates appropriate measures to manage risk to life in the event of a flood, and*
- (e) *will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

The proposed development is compatible with the flood function and behaviour of the land through the implementation of a finished floor level (FFL) that sites the building above the relevant flood level. Specifically, Council officers have advised that a minimum FFL of 2.27m AHD is required to avoid issues of flooding, which the development achieves.



The development is located in an area where it will not impact flood behaviour, increase risk to other buildings or adversely affect the safe occupation and efficient evacuation of people in the event of a flood.

The building will incorporate appropriate measures (such as the FFL level) to ensure risk to life is minimised. It is also considered given the sites location there will be no adverse impact on the environment in terms of avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of the river banks or water courses.

Additionally, in deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—

- (a) *the impact of the development on projected changes to flood behaviour as a result of climate change,*
- (b) *the intended design and scale of buildings resulting from the development,*
- (c) *whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,*
- (d) *the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.*

Within the context of the proposal, Council can be satisfied in this regard because:

- The proposed building achieves Council's required minimum FFL of 2.27m AHD;
- The subject land is not subject to the 1 in 100 ARI event as identified in the *Merimbula Back Lake Flood Study*. Similarly, only a very small portion of the side of the property has been identified as 'flood fringe' during the PMF event within this same study. It is noted that the 1 in 100 ARI is the standard benchmark for planning considerations;
- The generous head height of the retail ground floor permits the floor to be raised at a future date if required;
- The impact of flooding on the building would be negligible if not at all;
- There will be no risk to the life of persons within the development due to the shallowness of flooding and ease of which evacuation (if necessary) could be undertaken;
- There are no residents on the ground floor of the development only commercial and car parking;
- There would no impact to or from floodwater on the development due to extent of which it is affected; and
- There would be no cost to the community in the event the limits of the FPA were reached.

#### 4.6.5 Clause 6.2 – Earthworks

Clause 6.2 of the LEP relates to earthworks and applies in this instance as the excavation works are not classified as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Consequently, consent is required for the earthworks and the provisions of this clause require consideration.

Before Council can grant development consent, it must consider the following matters:

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*

- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area;*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposed development is consistent with these matters for consideration as follows:

- It will not adversely affect existing drainage conditions or soil stability in the area as it does not involve works to an existing drainage line. Furthermore, the proposed development will be connected to Council's established drainage network in Market Street and Palmer Lane and the land will be stabilised and retained as part of the construction of the building;
- The purpose of the works is to support the redevelopment of the land for a mixed use residential and commercial development;
- It does not require the importation of any fill and the quality of soil to be excavated will be clean virgin fill;
- The works are not expected to have an adverse amenity impact on adjoining properties for the reasons outlined in this report;
- Excavated material will be transported off-site and used in either other construction projects or disposed of to Council's landfill;
- The likelihood of disturbed relics is considered low following the completion of a due diligence assessment (see response to clause 5.10 and Section 5 for further details); and
- The subject land is not classified as an environmentally sensitive area, nor will it adversely affect a drinking water catchment. It is noted however that the subject land is located in proximity to Merimbula Lake.

In recognition of the location of the site, appropriate sediment and erosion controls such as sediment fencing and hay bales will be established and maintained during the demolition and construction phases of the project. Upon completion of the construction works, the site will be stabilised to prevent ongoing erosion concerns.

#### 4.6.7 Clause 6.4 – Coastal Risk Planning

Clause 6.4 of the LEP applies to 'coastal risk planning' and aims to minimise the risks of impacts from coastal hazards.

This clause applies to land at or below the 3 metre AHD contour. It is noted that the subject land is located below this contour and the provisions of this clause therefore apply. Council officers have advised that interim extreme water level inundation planning bench mark for Merimbula Lake remains at 2.27m AHD". This level is adopted for the purposes of considering this clause of the LEP.

Under this clause, Council cannot grant consent unless it is satisfied that the development:

- (a) *is not likely to cause detrimental increases in coastal risks to other development or properties, and*
- (b) *is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and*
- (c) *incorporates appropriate measures to manage risk to life from coastal risks, and*
- (d) *is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and*
- (e) *provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards.*

Within the context of the proposal, Council can be satisfied with most of these matters because:

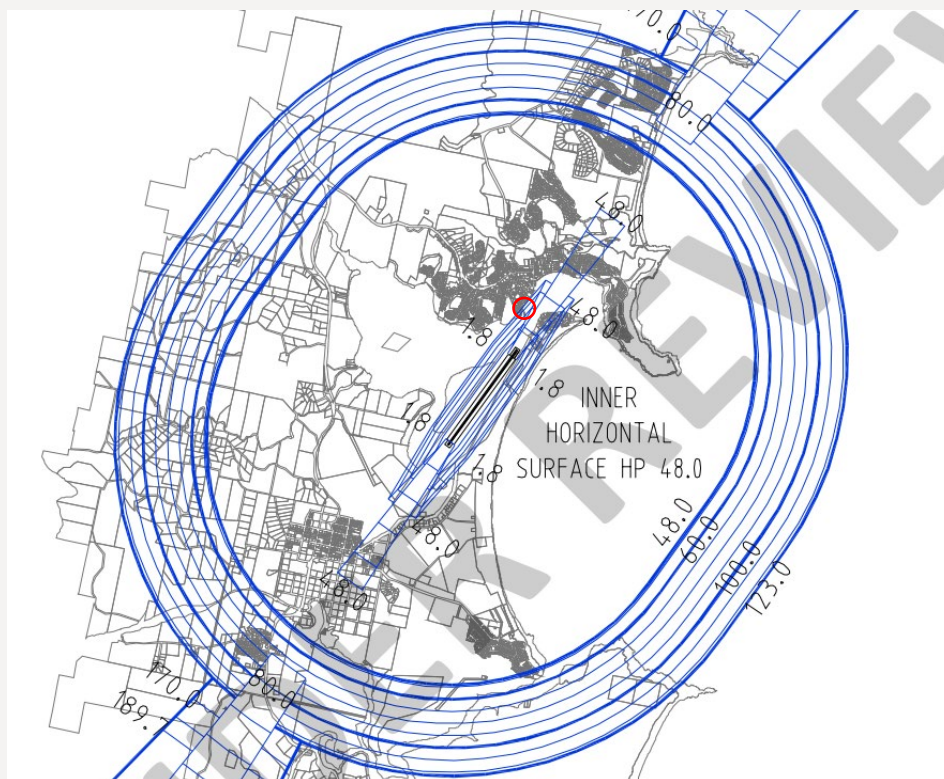
- The development will not increase the risk for other land or development from coastal hazards;
- Being well setback from the water's edge and separated by existing commercial development, it will have no impact on coastal processes;
- Waters from the lake will only reach the subject land in an extreme event (PMF);
- The proposed building has been designed to ameliorate the impacts of flooding of coastal risk planning as it adopts a minimum FFL of 2.27m AHD. Furthermore, the ground floor level contains no habitable buildings, but rather commercial tenancies and car parking; and
- In recognition of the ameliorative measures proposed above, it is not considered necessary to relocate, modify or remove the building due to the potential impacts of coastal processes and coastal hazards.

#### 4.6.9 Clause 6.8 – Airspace Operations

Clause 6.8 of the LEP relates to airspace operations and seeks to provide for the effective and ongoing operation of the Merimbula Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport and to protect the community from undue risk from that operation.

Whilst it is acknowledged that the LEP does not contain an Obstacle Limitation Surface Map (OLS Map), an OLS Map is contained within the *Merimbula Airport Master Plan 2033* (currently under review), which seeks to guide the future growth and direction of the Merimbula airport, as well as ensure its protection ongoing from obstacles and obstructions.

The subject land is identified as being within the 'Inner Horizontal Surface HP of 48.0m' of this Airport Master Plan as shown in the figure below.



#### 4.7. Bega Valley Development Control Plan 2013

The *Bega Valley Development Control Plan 2013* ("the DCP") provides specific requirements for development within the LGA, including the subject site. The following chapters of the DCP are applicable to the proposed development:

- Chapter 2 – Commercial and Industrial Development
- Chapter 3 – Residential Development
- Chapter 5 – General Development
- Chapter 6 – Engineering Requirements

In considering the requirements of the DCP, it is important to acknowledge firstly the changed role of DCP's since the *Environmental Planning and Assessment Amendment Act 2012*. According to the accompanying *Planning Circular PS13-003* the amending legislation amongst other things relates "to the purpose, status and content of development control plans (DCPs), and how they are to be taken into account during the development assessment process".

More specifically, the following statements are made in the Planning Circular:

- *The objective of the changes are to:*
  - *reinforce the purpose and status of DCPs as guidance documents used in local planning decision-making, and*
  - *introduce flexibility in the way in which provisions in DCPs are applied by consent authorities when assessing development applications.*
- *The Amendment Act makes it clear that the principal purpose of a DCP is to provide guidance to a consent authority.*
- *The Amendment Act returns the status of DCPs to their original purpose as a guideline and confirms the status of LEPs as the primary statutory planning document for an area.*
- *The Amendment Act reinforces that the provisions contained in a DCP are not statutory requirements and are for guidance purposes only.*
- *The Amendment Act introduces flexibility in the way in which provisions in a DCP are to be considered by a consent authority when assessing a development application. Consent authorities now have more power to be flexible and consider innovative solutions when assessing development proposals, helping to create good planning outcomes.*
- *.... if a development application does not comply with provisions in a DCP, a consent authority must be flexible in the way it applies the controls and also allow for reasonable alternative solutions to achieve the objectives of those standards.*

Secondly it is important to note that clause 6A of SEPP 65 specifies the requirements of a DCP cannot be inconsistent with those in the ADG's. Where they are inconsistent, those in a DCP "are of no effect."

An assessment of the proposal against the provisions of the relevant sections of the DCP is undertaken in Appendix E. A summary of that process is undertaken in the following sections.

##### 4.7.1 Chapter 2 – Commercial and Industrial Development

Chapter 2 of the DCP relates to commercial and industrial developments and is applicable as commercial development is located on the ground floor of the building.

An assessment of the proposed development against the relevant requirements of this chapter of the DCP have been addressed in Appendix E.

In summary, the proposed development is generally consistent with the requirements of this chapter.



#### 4.7.2 Chapter 3 – Residential Development

Chapter 3 of the DCP relates to residential developments and is applicable to the residential component of the development.

Whilst it is not explicitly stated, the provisions of SEPP 65 and the ADG's essentially supplant those of the DCP in consideration of the residential component of the proposal. For this reason, more weight should be given to the qualified designer's statement (see Appendix C) than any equivalent provision in Chapter 3.

Where the controls are applicable to the proposal (i.e. not conflicting with the ADG's), the assessment concludes that the development is generally consistent, or where applicable, justifiably inconsistent with the requirements of this chapter as addressed in Appendix D of this report.

#### 4.7.3 Chapter 5 – General Development

Chapter 5 of the DCP provides the general controls that apply to all development and includes such matters as: Aboriginal heritage, non-Aboriginal heritage, access and mobility, social and economic impacts, sustainable design principles, tree preservation, planning for hazards, off-street car parking and signage.

An assessment of the proposed development against these requirements is addressed in Appendix E of this report.

In summary, the proposed development is consistent with the requirements of this chapter and the development will be appropriately serviced.

#### 4.7.4 Chapter 6 – Engineering Requirements

Chapter 6 of the DCP outlines council's engineering requirements that apply to all forms of development that are permissible within the Bega Valley Shire.

More specifically, the following sections of Chapter 6 of the DCP apply to the proposed development, Section 6.2 – Parking and Driveway, Section 6.3 – Soil and Stormwater Management and Section 6.4 – Utility Services.

An assessment of the proposed development against these requirements is addressed in Appendix E of this report. A Civil Engineering Assessment has also been prepared and is included in Appendix I.

In summary, the proposed development is consistent with the requirements of this chapter and the development will be appropriately serviced.

### 4.8. Strategic Plans and Policies

#### 4.8.1 Commercial Land Strategy 2040

Council has recently adopted the *Commercial Land Strategy 2040*, which seeks to address the future needs for commercial land in Bega Valley Shire and provide a vision and framework for the development of the Shire's commercial centres over the next 20 years.

Council's 20-year vision for commercial identifies amongst other things:

*Mixed uses are encouraged including opportunities for residential accommodation.*

Furthermore, the character statement for Merimbula/Tura Beach outlines the following:

*Enhance the existing coastal atmosphere of Merimbula as a vibrant seaside destination with a mixture of commercial and residential land uses where streetscape elements such as awnings and signage are well articulated and proportioned and the redevelopment of older building stock is encouraged.*

It is noted that in the record of community engagement for the Strategy the observation is made for Merimbula that "there is a poor selection of housing for modern living, reflected by the lack of residential opportunities." It is also acknowledged that there is a lack of "residential space" within the town centre

and that “*residential development within a centre definitely adds vibrancy and has the added benefits of providing security to commercial premises outside trading hours.*”

In addition, the stakeholder workshops in Merimbula in August 2019 for the Bega Valley Commercial Land Strategy acknowledged that “*there is a poor selection of housing for modern living, i.e. a predominance of detached houses*” and that growth in the town centre should “*address the lack of residential space within the town centre and acknowledge the reciprocal link between residential and commercial development.*” Furthermore, this growth can be underpinned by “*removing restrictions on development*” and “*new buildings should be contemporary.*”

The proposed development is consistent with the findings and recommendations of these strategic directions.

Further consideration of the Bega Valley Commercial Land Strategy is provided in the accompanying planning proposal.

#### 4.7.2 Residential Land Strategy 2040

Council has recently adopted the *Residential Land Strategy 2040*, which seeks to address the future needs for residential land in Bega Valley Shire and provide a vision and framework for the development of the Shire’s residential areas over the next 20 years.

Council’s 20-year vision for residential land identifies amongst other things:

*Our residential areas provide housing choices for our local community and into the future.*

Amongst the general recommendations proposed, the Strategy seeks to achieve housing diversity opportunities for major centres including Merimbula by encouraging ‘*medium-rise apartments and townhouses – two to four stories [sic] close to the commercial centre...*’

The Strategy identifies that there is an ‘*insufficient supply of residential zoned land in existing centres in the Merimbula-Millingandi District Profile Area*’. Specifically, a shortfall of 83 dwellings has been identified by 2036 based on current and forecast demand.

The proposed development is consistent with the findings and recommendations of these strategic directions and seeks to increase the supply of residential housing within a commercial centre.

Further consideration of the Bega Valley Residential Land Strategy is provided in the accompanying planning proposal.

## 5. Assessment of Environmental Impacts

This section of the SEE identifies potential impacts which may occur as a result of the proposed development and are relevant matters for the consideration of the DA under Section 4.15(1)(b) to (e) of the EP&A Act 1979.

These impacts and mitigating measures have been identified following comprehensive analysis of the site and the development plans. The analysis and impact identification were undertaken by:

- Site analysis and visual inspection of the subject land and surrounding properties.
- Analysis of the proposed plans for development.
- Desktop review of applicable Environmental Planning Instruments
- Consideration of the Councils Development Plans and Policies including the DCP
- Consultation with Council

### 5.1. Context and Setting

The subject land is zoned B2 Local Centre and is located within the heart of the Merimbula town centre surrounded by a range of residential, commercial, tourist and civic land uses. Buildings in this area range in height from single storey up to four storeys.

The subject land is currently developed and includes single storey and two storey commercial developments.

The scale, form, character, density and design of the proposed development is considered to be compatible with adjoining developments and will facilitate the redevelopment of a key landmark site within the Merimbula town centre, particularly when viewed from the southern Gateway entrance.

The building has been designed to minimise building bulk and scale as the building has been setback from the front property boundary at the street level and also includes upper level setbacks, thereby minimising the overall visual bulk and appearance of the development.

The development includes active street frontage, as well as an activated pedestrian accessway that will pass through the development and connect the rear council car park area to Market Street. The owner also proposes to undertake a number of public domain and street improvement works consistent with the Merimbula CBD Landscape Masterplan, which will be provided as part of a separate planning agreement.

Furthermore, the development incorporates a variety of materials and finishes to help break up the appearance of the building and reduce bulk. Car parking and storage areas have also been located at the rear of the property so as not to detract from the overall appearance of the site.

The proposal seeks to enhance the appearance of the area with infill development, which will hopefully lead to further revitalisation of the Merimbula town centre.

### 5.2. Traffic, Access and Parking

Matters regarding traffic and access have been appropriately considered through the design and provision of carparking spaces that enables appropriate access, egress and moveability throughout the site.

A Traffic Impact Assessment has been prepared by Varga Traffic Planning in support of the proposed development and is included in Appendix L.

Consideration of traffic generation rates has been considered as part of the TIA. Upon assessment, the report concludes that it is likely that the proposed development will result in a 'net decrease' in the traffic generation potential of the site (based on current day built form and planning controls). For these reasons, the proposed development will not have unacceptable traffic implications in terms of road network capacity.

An assessment of car parking against the requirements of the DCP has been undertaken as part of the enclosed TIA. It is noted that no car parking currently exists on-site and the proposed commercial/retail component of the building (1,150m<sup>2</sup>) is less than existing commercial floor space (3,600m<sup>2</sup>). Additional retail car parking spaces are therefore not required in accordance with discussions with Council as the site operates with a 'historical deficiency' of 90 spaces (based on 1 space per 40m<sup>2</sup> GFA).

In accordance with the requirements of the Section 5.9 of the DCP, the development would require the provision of 52 car spaces and 52 bicycle spaces.

In response, the development proposes 114 car spaces and 52 bicycle spaces, which will be contained across the ground floor, upper ground floor and first floor levels of the building, which complies with the requirements of the DC, as well as the requirements of SEPP 65. Of these spaces, 11 will be for persons with a disability and will include an adjoining shared space.

Access to the proposed car parking area will be via the rear Palmer Lane and will adjoin the existing Council car parking area at the rear.

Vehicular access is also provided from Palmer Lane to the proposed back of house, waste, plant and loading zone contained within the proposed building. Due to the size of vehicle accessing this area (Medium Rigid Vehicles) and the need for vehicles to enter and exit the site in a forward direction, a turntable is proposed.

Storage areas will be provided either at the end of each individual car parking space or within a communal location, which will be accessible to each resident. Service/plant rooms and waste disposal areas are also located within the car parking area and are accessible to residents.

Pedestrian access through and within the site has been provided via a new pedestrian accessway that will connect the rear council car park to Market Street. This accessway will be activated and will have retail tenancies directly facing this area.

### 5.3. Infrastructure and Services

The subject land is commercially zoned and developed and therefore has access to all relevant infrastructure and services including reticulated water, sewerage, electricity, drainage, telecommunications, gas and vehicular access.

A civil engineering assessment has been prepared for the site and is included in Appendix I.

This report confirms that the site is capable of being serviced and will not place undue demands on existing services.

### 5.4. Heritage

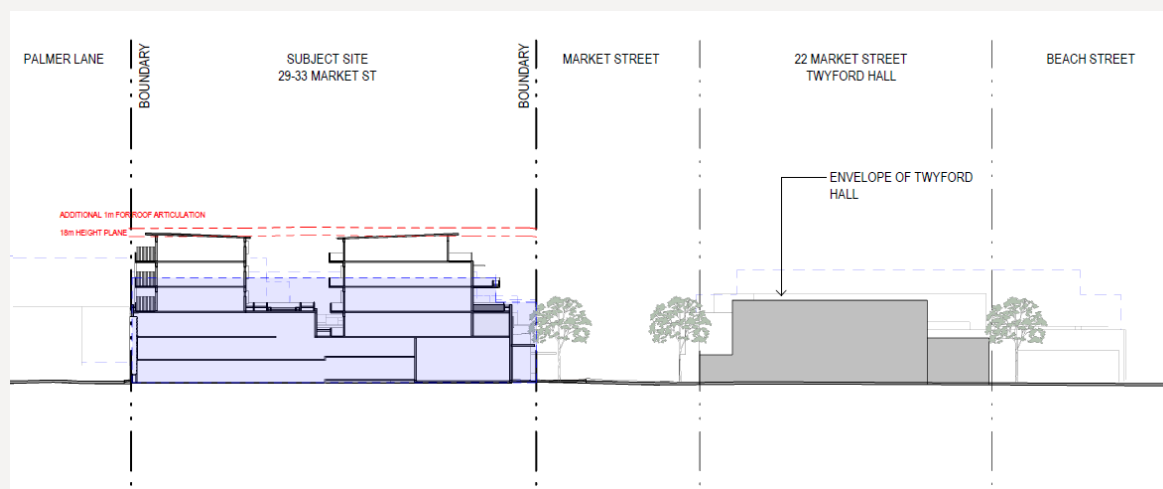
As outlined in Section 4.6.4, the subject land is not identified as a heritage item nor is it located within a heritage conservation area following a review of Schedule 5 and the Heritage Map of the LEP.

Notwithstanding, consideration needs to be given to the height of the proposed building as sought by this DA and its potential impacts on adjoining heritage items. The only heritage item located within proximity to the site is local Heritage Item No. I221 – Twyford Hall, which is located at 16 Market Street to the east.

Upon further review, the proposed development is not expected to adversely affect this heritage item as it will not create overshadowing impacts for this property. The proposed building has been designed to reduce the building bulk and street wall height of the building by stepping in the top floors of the building, which will not be visible from Market Street.



Cross sections and longitudinal profiles have also been provided detailing potential impacts on this heritage-listed building (Figure 46). Given the location of the subject land on the western side of Market Street and the stepped nature of the building, the proposed development is not expected to adversely affect the heritage values of this building, particularly when considered against a recent two storey extension of Twyford Hall theatre located to the immediate north (see Development Consent No. 2007.0144).



**Figure 46 Cross-section of proposed building envelope in relation to heritage listed Twyford Hall**

## 5.5. Cultural Heritage

Matters regarding Aboriginal Cultural Heritage have also been investigated as part of the proposed works. A review of the Aboriginal Heritage Information Management System (AHIMS) database was undertaken and it is confirmed that there is a recorded item of Aboriginal cultural significance within 200 metres of the subject site.

The subject land is already developed and highly disturbed and is therefore not expected to contain any items of Aboriginal cultural heritage significance. A due diligence assessment of Aboriginal Cultural Heritage was undertaken by On Site Cultural Heritage Management and is included as Appendix G.

In summary, this report concluded the following:

- *the entire project area is disturbed land and subject to massive disturbance that is likely to have substantially diminished the potential of this landscape to contain Aboriginal objects in-situ.*
- *Assessed the project area as having a low potential and 'very unlikely' to contain Aboriginal objects with any spatial integrity.*
- *This assessment concludes that the site does not contain any items of Aboriginal cultural heritage significance and that further investigation is not warranted.*

Notwithstanding the above, in the event that a site or artefact (as defined by the *National Parks and Wildlife Act 1974* or *Heritage Act 1977*) is identified during construction works, works shall cease at the location and no further harm to the object shall occur. The find shall be immediately reported to the developer, and the regulator in accordance with legislation.

No work shall commence in the vicinity of the find until any required approvals have been given by the regulator. In the event that skeletal remains are encountered during the activity, works will stop immediately, the area secured to prevent unauthorised access and NSW Police, BCD and the developer contacted.

## 5.6. Soils and Groundwater

The proposed works will involve disturbance of the existing site during both demolition and construction. Excavation works will be required as part of the extension and connection of services, as well as the construction of the proposed building and car parking areas, as well as the connection/extension of services.

Soil and water management devices will be installed and managed throughout the construction stage. These measures will prevent the uncontrolled movement of stormwater and sediment off-site.

As referred to in the DCP compliance table, any excavated material suspected of showing evidence of contamination shall be sampled and analysed by a NATA Registered laboratory and managed in accordance with the Waste Classification Guidelines (EPA, 2014), the Guidelines on the Duty to Report Contamination (EPA, 2015) and the Contaminated Land Management Act 1997.

Whilst the subject land has been developed for commercial purposes and is not known to be contaminated, the site does immediately adjoin a former Mobil service station site at 27 Market Street, Merimbula, which was previously identified as a NSW EPA listed contaminated site.

Notwithstanding, in December 2012 Council resolved to purchase this former service station site for the purposes of constructing the Merimbula CBD bypass, subject to certification the property had been remediated to a residential standard.

In response, the EPA advised Council via letter dated 4 April 2017 that regulation under the *Contaminated Land Management Act 1997* is no longer required because:

- *Former service station infrastructure has been removed from the site and contaminated soil excavated to the extent practicable.*
- *Groundwater monitoring results indicate that potential offsite migration of petroleum hydrocarbons would be limited in extent beneath Market Street and would not present an unacceptable risk to human health or the environment under the current land use; and*
- *An EPA-accredited Site Auditor has issued a Site Audit Statement certifying that the site is suitable for certain land uses, including residential with minimal opportunity for soil access (including units) and commercial/industrial, subject to compliance with the Environmental Management Plan prepared for the site. The Site Auditor notes that groundwater should not be extracted for use.*

*The public list of notified sites on the EPA website will be updated to note that the site does not require regulation under the CLM Act.*

A copy of the relevant reports is included as Appendix M.

All pollution incidents that threaten or harm the environment shall be reported immediately to relevant authorities, in accordance with the *Protection of the Environment Operations Act 1997* (POEO Act).

Similarly, matters regarding geotechnical investigations have previously been undertaken on-site by ACT Geotechnical Engineers (see Appendix H). This report identifies the geological profile of the site and expected groundwater conditions, which has informed a preliminary engineering assessment including structural footing details, and pavement and ground slab subgrades.

An Erosion and Sediment Control Plan (ESCP) shall be prepared as part of the CEMP. All erosion and sediment control measures shall be designed, implemented and maintained in accordance with relevant sections of *Managing Urban Stormwater: Soil and Construction Volume 1* (Landcom, 2004) ('the Blue Book') (particularly Section 2.2) and *Managing Urban Stormwater: Soil and Construction Volume 2A – Installation of Services* (DECC, 2008).

## 5.7. Flora and Fauna

The property contains no remnant vegetation only several small landscaped garden beds as the site has been developed for commercial purposes. The land is also not identified as being environmentally sensitive and is not subject to any environmental overlays.

Therefore, the development is not expected to have any impacts upon biodiversity or habitat values.

## 5.8. Waste

A Waste Management Plan has been prepared by MRA Consulting and is included in Appendix P.

The proposal will generate waste during the demolition and construction phase that will typically include excavated building materials, soil, off-cuts and excess construction material, concrete; and domestic and putrescible waste (including food waste, bottles, cans and paper).

Construction works will include provision of on-site waste receptacles, including separate collection points for waste bricks/tiles/concrete, plaster and general rubbish.

All waste generated during demolition and construction would be collected and stored in appropriate locations and either removed from the site for disposal or reused in the construction works if appropriate.

Similarly, ongoing waste management measures have also been addressed as each apartment has access to a waste chute, which will allow for the disposal of waste to a central collection point. Designated areas within the car parking are identified for the disposal of waste and all wastes will be collected by a contractor via the rear waste collection area. Due to the need to have to enter and exit the site in a forward direction, a turntable has been proposed.

A private waste contractor will service waste generated by the proposed retail component while either a private or Council's waste contractor will service the residential waste generated on-site.

It is understood existing waste disposal arrangements for Merimbula can accommodate waste generated by the proposal. See Appendix P for further details.

## 5.9. Noise

The impacts of demolition and construction noise will be only for a short period of time and will be limited to appropriate hours. It is considered that some level of demolition and construction noise is acceptable given that it will only occur for a finite period and will be controlled by relevant conditions of development consent.

The anticipated noise generated from the proposed commercial and residential uses is considered acceptable given the general character of the area.

## 5.10. Natural Hazards

The subject land is not identified as being bushfire prone and the land is also not known to be contaminated.

As outlined earlier in this report, the subject land immediately adjoins Merimbula Lake and Council officers have advised that the land less than 2.27m AHD is considered to be subject to "interim extreme water level inundation. This level is adopted as the FPL for the purposes of considering this clause of the LEP.

Consideration has been given to the requirements of Clauses 5.21 and 6.4 of the LEP, which relate to flood planning and coastal risk planning. Consideration has also been given to the recommendations of the *Merimbula Back Lake Flood Study*.

In summary, the proposed works will achieve a minimum FFL of 2.27m AHD with the ground floor of the building only proposed to be used for commercial and car parking purposes. All habitable buildings (apartments) will be located well above this height and the building will be constructed of flood compatible materials. The subject site has readily available ingress and egress and is setback from the adjoining Merimbula Lake, which is protected via rock beaching.

The proposed development has therefore appropriately addressed matters regarding natural hazards.

### 5.11. Public Domain

Residents of the development will have excellent and immediate access to the main commercial centre of Merimbula and the public foreshore along Merimbula Lake.

Safety of building users will be protected through minimisation of concealment opportunities and casual observation of outdoor areas from the apartments.

Security systems to be provided for access to the car park and the residential areas of the building.

The proposed development will clearly indicate areas and access points for the visitors with no general public access provided to the facilities as they are for the exclusive use of the residents. These areas will also be secured to limit unauthorised access to the general public.

As outlined earlier in this report, the development proposes to undertake a number of street improvement and public domain works including landscaping, paving, street furniture and public art etc.

### 5.12. Social Impacts

The development will have an overall positive social effect as it will improve local facilities, increase housing stock close to public transport and amenities, provide greater housing choice as well as improve public domain facilities and the pedestrian interface with surrounding streets.

The development will increase the range of both commercial and residential land uses within the Merimbula town centre consistent with the recommendations of the *Bega Valley Commercial Land Strategy 2040* and *Bega Valley Residential Land Strategy 2040*.

Other social benefits will include:

- Activation and investment in the Merimbula town centre consistent with the recommendations of the Residential Strategy 2040.
- Provision of approximately 52 residential apartments (1, 2 and 3 bedrooms) to meet housing demand and provide a range of housing choice for new and existing residents, incorporating a diversity of product in a location which is highly accessible with excellence access to employment and transport.
- Improve housing diversity with apartment dwellings.
- Facilitate resident work-from-home needs.
- An activated public domain that offers increased passive surveillance and retail activation.
- The proposal will encourage sustainable transport use and discourage car dependence, which in turn has positive flow-on effects for the local and wider traffic network reducing energy consumption and resulting in a smaller ecological footprint.
- Reduce demand for additional town centres.
- Reduce public costs of extending infrastructure to greenfield housing sites.

### 5.13. Building Bulk, Overshadowing and View Loss

Details regarding the built form and impacts of the proposed development on site have previously been addressed above, with the Planning Proposal seeking to achieve a built form that is respectful of the surrounding environment and provides an activated street frontage.

The development seeks to minimise the social impacts of the works through an appropriate building form and design. Specifically, the development seeks to reduce building bulk and scale at the street frontage as it has been stepped to accommodate the slope of the land.

Furthermore, the building has been provided with articulation and fenestration through the use of varying materials and finishes, the inclusion of windows and upper level setbacks to reduce the overall visual appearance of the development.





Privacy and amenity impacts have been appropriately addressed for residents living within the development and for adjoining properties. Specifically, the development has been orientated to overlook adjoining public roads and internal communal open space areas and where necessary, fixed or retractable privacy screens/louvres are proposed.

The development has also been designed to minimise impacts of overshadowing, which has been confirmed via the preparation of shadow diagrams. A copy of these diagrams has been included in Appendix A and are reproduced below.

The shadow diagrams show minimal overshadowing to the south, east and west on all neighbouring properties and the public domain and footpath. These diagrams demonstrate that the public domain in Market Street will be provided with solar access between 9-12pm with only marginal additional overshadowing at 3pm. Similarly overshadowing of the adjoining residential apartment building to the south west will be limited to only between 9-10am at the Winter solstice and will be unobstructed for the remainder of the day.

This has been achieved by arranging the building massing to minimise solar impacts on neighbouring properties in mid-winter. In particular, the street wall has been setback from the property boundary and the top levels of the building have been strategically located and setback further again to alleviate overshadowing to public spaces and streets.

#### LEGEND

-  SHADOW FROM COMPLIANT ENVELOPE
-  ADDITIONAL SHADOWS BY PROPOSED BUILDING





**Figure 47 Shadow Diagrams**

Matters regarding view loss have also been considered from key vista points to determine the likely impacts of the additional building height. These vista points include along Market Street ('Views A-C') in the immediate vicinity and further afield from Beach Street ('View D'), Reid Street ('View E') and Fishpen ('View F').

As demonstrated in Figures 48-50, the proposed development will not have an adverse visual impact on key vista points and is respectful to the built form and view corridors. Specifically, the proposed design does not break the ridge line when viewed from its surrounds, including Fishpen and the top of Market Street as the fifth storey is generally only visible at long distances and cannot be seen from Market Street due to the setback of the top levels.

To further illustrate the potential impacts of the proposed development in relation to its immediate context and surrounds, longitudinal cross sections of Market Street, Palmer Lane and Monaro Street has been undertaken and are reproduced in Figures 50-52.

These sections identify the existing topography of the area and current building height controls that apply. In summary, these figures demonstrate that the design 'steps' down Market Street, which rises up to the north and provides appropriate building separation and relief from adjoining buildings.



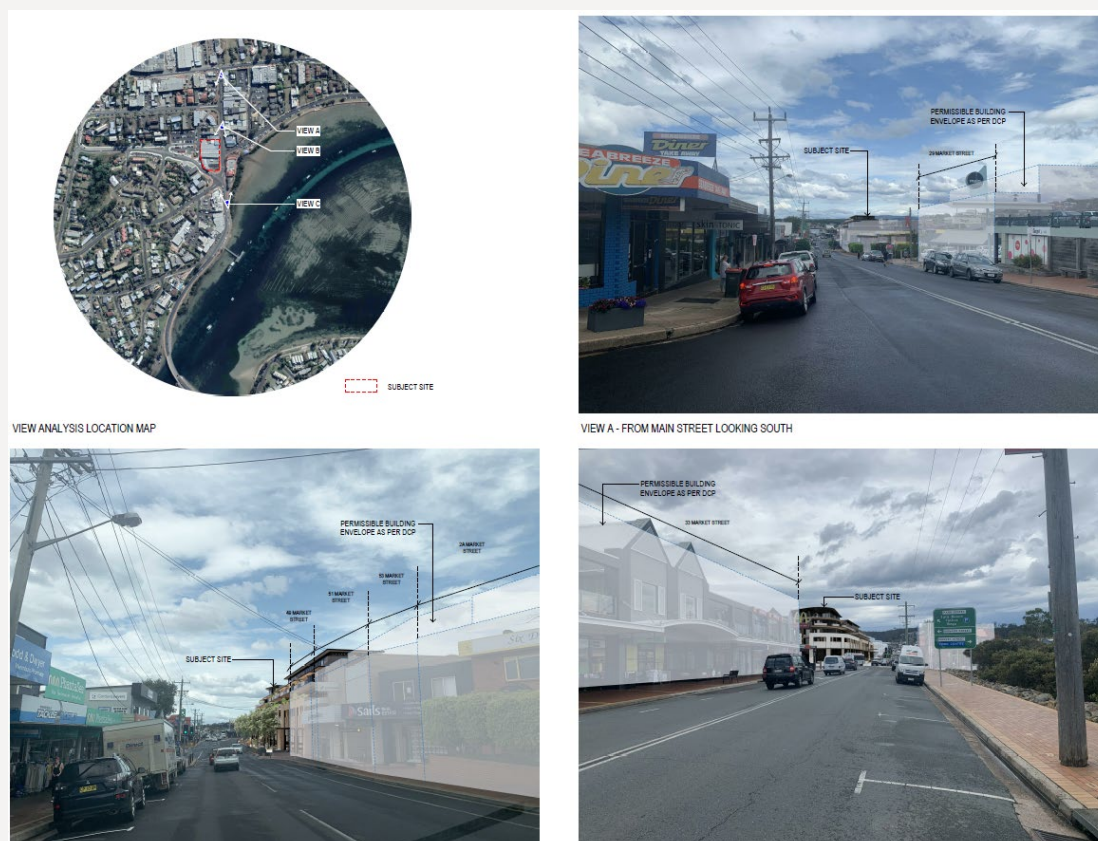
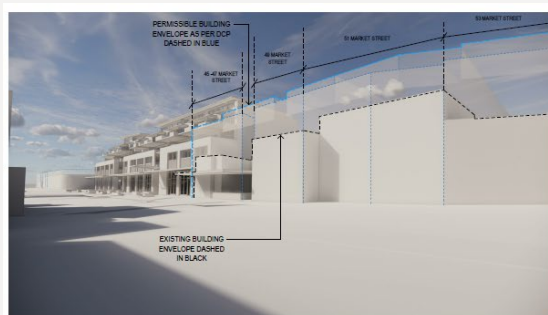


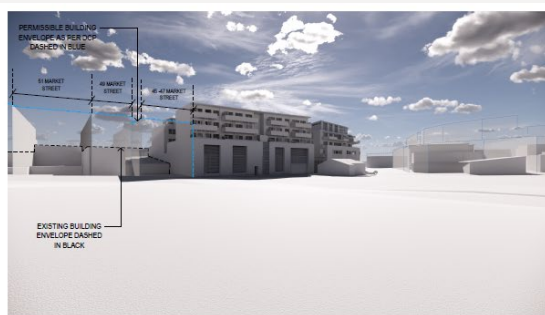
Figure 48 View Analysis Plans – Market Street



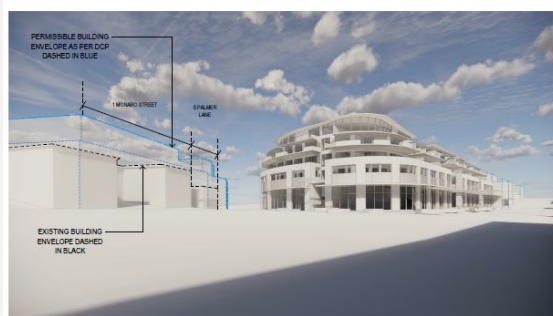
Figure 49 View Analysis Plans – Other Locations



BULK STUDY FROM MARKET STREET LOOKING NORTH



BULK STUDY FROM CARPARK LOOKING NORTH EAST



BULK STUDY FROM MARKET STREET LOOKING SOUTH

Figure 50 Bulk Study Analysis Plans

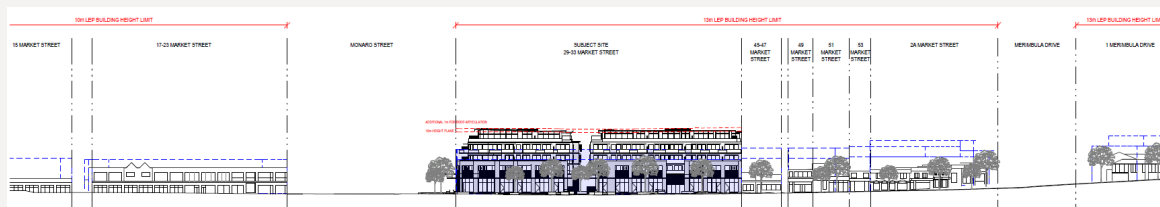


Figure 51 Longitudinal streetscape cross section – Market Street

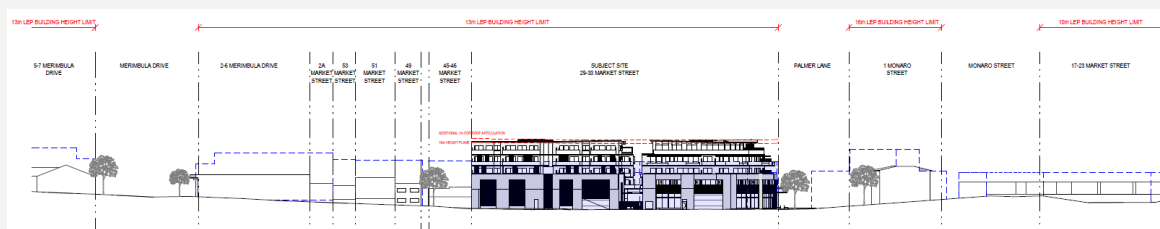


Figure 52 Longitudinal streetscape cross section – Palmer Lane

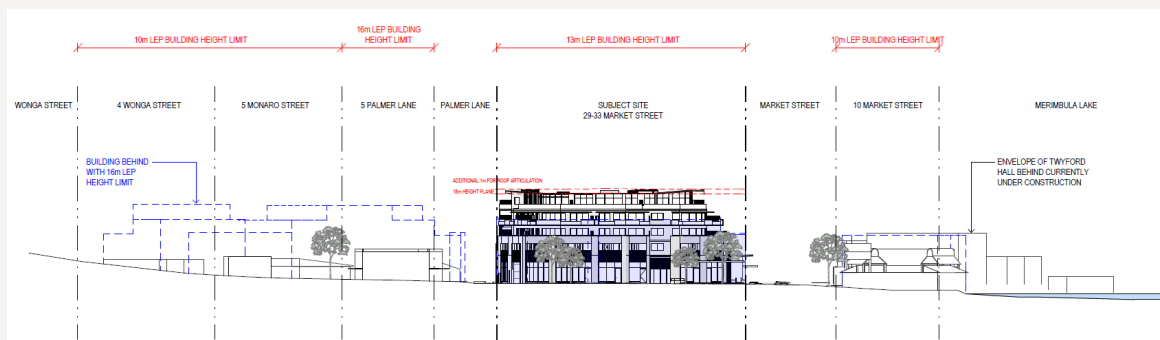


Figure 53 Longitudinal streetscape cross section – Monaro Street



### 5.14. Economic Impacts

A socio-economic impact assessment has been prepared by Urbis and is included in Appendix J.

The proposed development represents continued investment in high-quality mixed use infill development within proximity to the Merimbula town centre, which expands the availability and choice of commercial and residential development for the locality.

It is expected that the proposal will also generate flow on effects, including to local trades and services and indirect impacts of additional spending in the city.

Economic benefits will include:

- Activation and investment in the Merimbula town centre consistent with the recommendations of the Commercial Strategy 2040.
- Investment stimulus from the redevelopment of the Merimbula town centre to meet the changing demographic and housing needs of the community including motivation for other sites to undergo redevelopment.
- Maintenance and enhancement of existing commercial activities on-site including fine-grain retail.
- Provision of more housing closer to jobs and contribution towards increasing local housing supply and diversity.
- Provision of more housing which is supported by public transport services.

Specific economic impacts to result from the proposal are outlined in the attached socio-economic impact assessment and are reproduced below:

The construction of the proposed development over two years would generate:

- 43 jobs in the Bega Valley Shire LGA.
- 8 indirect jobs in the Rest of NSW.
- \$6.2 million Gross Value Added (GVA) per annum to Bega Valley Shire LGA.
- \$1.6 million GVA per annum to the Rest of NSW.

Operation of the proposed retail will generate:

- 73 jobs on site (140% more jobs than currently).
- 10 indirect jobs in the Bega Valley Shire LGA and 6 indirect jobs in the rest of NSW.
- \$7.1 million GVA per annum to Bega Valley LGA.
- \$1.1 million GVA per annum to the Rest of NSW.
- Jobs for local residents currently travelling outside of the LGA for work.

### 5.15. Access and Mobility

To ensure that the building is accessible to all users, an access compliance assessment report has been prepared by AED Group and is included in Appendix O. The purpose of this report is to identify compliance with the relevant accessibility related Deemed to Satisfy requirements of the BCA as contained within Part D3 and Clause E3.6 and F2.4, as well as Australian Standard AS4299019915 (Adaptable Housing).

In summary, the report highlights that the current design contains some non-compliances with the Deemed to Satisfy provisions of the BCA, however, such can be readily resolved by minor design changes or BCA Alternative Solution(s), as nominated at Part 2.0 of the report.

#### **5.16. Suitability of the site**

The subject land is centrally located within the Merimbula town centre and redevelopment of this site as sought by this application will result in the creation of a landmark site. The land is not subject to any environmental hazards or constraints and it is hoped that the redevelopment of this will result in the revitalisation of the main Merimbula town centre.

#### **5.17. Submissions**

No submissions have been received as the development has yet to be notified.

It is expected that the development will be advertised in accordance with Council's notification policy.

#### **5.18. Public Interest**

The proposed development is considered to be in the public interest for the reasons outlined in this report and accompanying planning proposal.

## 6. Conclusion

The development application seeks approval for a five storey residential and commercial development (shop top housing) and associated works at Lot 11, DP838058 and Lot 112, DP1227927 and addressed as 29-33 Market Street, Merimbula.

The application seeks development consent under Part 4 of the EP&A Act and has been assessed against the provisions of Section 4.15(1) of the EP&A Act.

As demonstrated by the detailed assessment above, the proposal satisfies the intent of the provisions of the applicable EPIs and will result in a positive development outcome in terms of social, environmental, and economic impacts.

The proposal has been designed having regard for the design quality principles of SEPP 65 and the provisions of the Apartment Design Guidelines and will result in a built form that will result in a landmark building within the Merimbula town centre.

Having regard for the content of this report, the proposal deserves the support of Council because:

- it is consistent with the relevant environmental planning instruments and development control plan including a draft planning proposal that is seeking amendment to the LEP;
- it represents a land use which is permissible and appropriate in the B2 Local Centre;
- it proposes a built form that is appropriate and responsive to the surrounding context;
- it is an appropriate location for higher density housing within the Merimbula town centre consistent with the recommendations of the Bega Valley Shire Residential Land Strategy 2040;
- It will provide for an improved streetscape at ground level, particularly through greater activation and activity focussed at the frontages;
- It encourages continued investment in residential and commercial development in Merimbula;
- It will have a generally positive social and economic impact as the building has been designed to incorporate a number ameliorative design measures to minimise impacts on adjoining properties
- It will not have any adverse environmental impacts;
- it is highly accessible by a number of transport modes;
- it can be appropriately serviced with all relevant infrastructure and services.

In light of the above considerations, it is our opinion that the proposal is appropriate from a planning point of view and is in the public interest. The proposed development warrants support by Council.

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## Appendix A: Architectural Plans

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## Appendix B: BASIX Certificates

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## Appendix C: Qualified Designers' Statement

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## Appendix D: State Environmental Planning Policy (Coastal Management) 2018 Compliance Table

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Table 5 – Division 3 Coastal Environment Area Compliance Table

Consent must not be granted unless:	Response
<b>Council has considered whether the proposed development is likely to cause an adverse impact on:</b>	
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	Being located central to the urban area of Merimbula, the subject land is within a highly modified natural environment. This includes all adjoining development and nearby foreshore that has been modified. As the integrity of the natural environment is already compromised, the development will have little impact in this regard.
(b) coastal environmental values and natural coastal processes,	Natural coastal environmental values are diminished in this location due to development surrounding the subject land. Some of these works, such as the rock beaching, have been installed to protect the foreshore from erosion both from natural (tidal movement) and man-made causes (boat movement).
(c) the water quality of the marine estate (within the meaning of the <i>Marine Estate Management Act 2014</i> ), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	Council have advised there will be no requirement for detention of stormwater due to the proximity of the foreshore. Merimbula Lake is not identified as a sensitive coastal lake in Schedule 1 of the SEPP.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	There will be no impact on marine or native vegetation from the development. There is no native vegetation on the subject land.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	The proposed development will not alter existing public open space arrangements and will in fact permeability and movement through the creation of a new pedestrian accessway through the development which will connect the rear council car park through to Market Street.
(f) Aboriginal cultural heritage, practices and places,	The Aboriginal Site Assessment (see Appendix G) concluded there is no evidence of any archaeological items on the subject land. Assuming the recommendations made in that assessment translate to conditions of consent, adequate safeguards will be implemented to ensure the appropriate management of any items unearthed during site works.



Consent must not be granted unless:	Response
(g) the use of the surf zone.	The subject land is not within the surf zone. 'Surf zone' is defined in the <i>Coastal Management Act 2016</i> as the area from the line of the outer most breaking waves to the limit of wave run up on the beach.
<b>Council is satisfied that:</b>	
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or	The development is sited approximately 50 metres from the foreshore of the lake. There is significant modification to the environment within this setback area including a commercial building and constructed roads, footpaths and foreshore areas including rock beaching at the water's edge. The subject land is currently developed and is not a natural environment. Having regard for these circumstances, Council can be satisfied there will be no additional adverse impacts on the 'coastal environment' area.
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or	Not applicable having regard for (a) above.
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.	Not applicable having regard for (a) above.

Table 6 – Division 4 Coastal Use Area Compliance Table

Consent must not be granted unless:	Response
<b>Council has considered whether the proposed development is likely to cause an adverse impact on:</b>	
(i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	The development will have no impact on access to and along the foreshore to the nearby Merimbula Lake.
(ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,	The development will not impact on the amenity of any public place and it will not overshadow foreshore land. The only public place that will be affected by the development is a rear council car park area. Any impacts upon this car park including view loss are considered to be appropriate in this instance.
(iii) the visual amenity and scenic qualities of the coast, including coastal headlands,	There will be a visual impact from the perspective of a multi-storeyed commercial/residential development being constructed on-site. However, the building will be set amongst other urban developments, including adjoining and nearby multi storey commercial developments. Furthermore, the development is of a high quality design and will provide a landmark building for the Merimbula town centre, whilst also minimising impacts on the adjoining coastal area.
(iv) Aboriginal cultural heritage, practices and places,	The Aboriginal Site Assessment (see Appendix G) concluded there is no evidence of any archaeological items on the subject land. Assuming the recommendations made in that assessment translate to conditions of consent, adequate safeguards will be implemented to ensure the appropriate management of any items unearthed during site works.
(v) cultural and built environment heritage, and	The subject land is not identified as a local heritage item within Schedule 5 or the heritage map of the LEP. Nonetheless, consideration of the proposed works upon the adjoining heritage listed Twyford Hall needs to be undertaken. An assessment of these impacts has previously been discussed in this report. In summary, the works will not have an adverse impact on this adjoining heritage item.

Consent must not be granted unless:		Response
<b>Council is satisfied that:</b>		
(i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or		The development is sited on land zoned for urban purposes and currently developed for commercial purposes. The building has been designed to accord with the ADG's and will ensure any impacts are within acceptable limits. Having regard for these circumstances, Council can be satisfied there will be no additional adverse impacts on the 'coastal use' area.
(ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or		Not applicable having regard for (a) above.
(iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and		Not applicable having regard for (a) above.
<b>Council has taken into account:</b>		
the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.		The built form and character of the area in the vicinity of the subject land is one of multi-storeyed commercial and residential development. The development is consistent with that characteristic and hence will not appear out of place despite the additional building height sought by the separate planning proposal. Taking this into account, Council can be satisfied that the proposal is a suitable development for the subject land.

Table 7 – Division 5 General Compliance Table

Consent must not be granted unless:	Response
<b>Council is satisfied that:</b>	
the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.	The development is setback approximately 50 metres from the waters' edge. The foreshore along Merimbula Lake has been formally rock beached to both protect Council's assets and prevent erosion. The development will not exacerbate any existing hazards on the subject land or adjoining lands such as flooding and storm damage from the sea.
<b>Council has taken into consideration:</b>	
the relevant provisions of any certified coastal management program that applies to the land.	There is no known coastal management program currently applicable to the subject land. It is understood Council is in the process of finalising the Merimbula & Back Lake Coastal Management Program. Council's website indicates this process is yet to be concluded.



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## Appendix E: DCP Compliance Table

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Table 8 – Section 2: Commercial and Industrial Development

Consent must not be granted unless:	Response
<b>2.4 Merimbula Town Centre</b>	
<b>2.4.4.1 Statement of Desired Future Character</b>	
<p>The Merimbula town centre will exhibit a distinctive Australian coastal village character comprising the elements of built form, streets, public spaces surrounding residential and commercial areas. It will offer choice in resident and tourist accommodation and non-residential activities. It will exhibit a high-quality hospitality oriented lifestyle for both residents and visitors.</p> <p>Attractive buildings will distinguish development. Building heights may be higher in places than those that currently exist in the area. Such buildings will be appropriately located and set within attractive streetscapes so that their visual appearance fits in with the coastal town character and lake front setting.</p> <p>The Merimbula town centre will be a prominent mixed-use area containing offices, residential above ground level, motel/hotel and leisure/entertainment uses. Market Street and the lake foreshore will be the physical and perceptual heart of the commercial centre.</p>	<p>The subject land is located within the following Merimbula Town Centre Precincts No's 2 – Monaro Street, 3 – Town Square and 7 – Palmer Street</p> <p>See below for specific responses to individual development controls.</p>

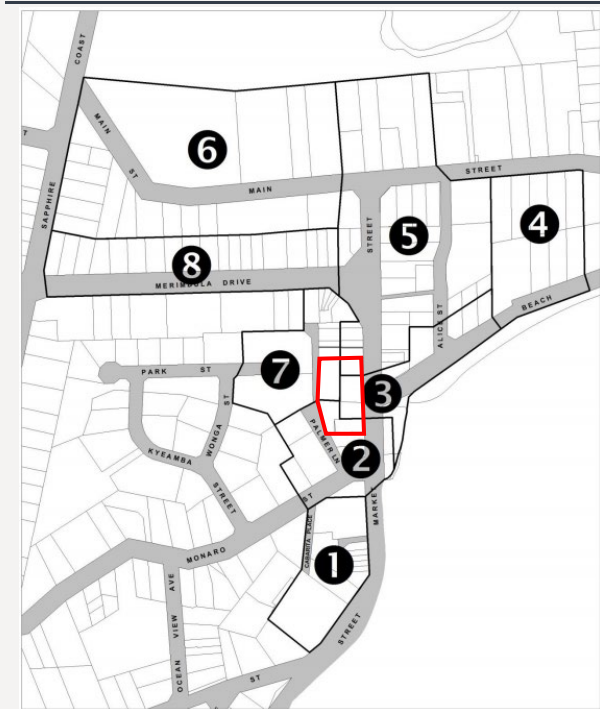


Figure 54 Merimbula Town Centre Precincts

2.4.4.3 Precinct specific objectives

*Precinct 2 – Monaro Street*

Monaro Street will develop as a primary area in Merimbula, with high activity mixed uses that will enhance the areas retail focus.

Noted this is not expressed as a control.

<p>Mixed uses including commercial retail, together with other commercial uses such as offices and residential uses on the first and second floors are encouraged in this area.</p>	<p>The proposal is consistent with the future desired outcomes for this precinct of the town centre. The proposal provides a mixture of commercial and residential uses that will enhance the areas retail focus.</p>
<p><b>Precinct 3 – Town Square</b></p> <p>The town square will continue to develop as the heart of Merimbula town centre, with commercial, residential and civic uses adding to the recreational opportunities of the foreshore. It will develop in such a way so that buildings interact with the open spaces and the foreshore positively, allowing for a vibrant community space with a wide range of activity possibilities.</p> <p>The town square precinct will develop according to the desired future character of the site, promoting style and landscaping that is distinctively coastal Australia. This future character will aid to improve visual amenity of the area when viewed from numerous sites in other parts of Merimbula.</p> <p>A mix of high activity uses, including residential uses, with encouragement being given to appropriate night time uses, which address the open spaces of the square and ensure a vibrant, safe and well-used square precinct.</p>	<p>Noted this is not expressed as a control.</p> <p>The proposal is consistent with the future desired outcomes for this precinct of the town centre. The proposal provides a landmark building that will define the heart of the Merimbula town centre that positively interacts with the surrounding land uses.</p> <p>The development incorporates high activity uses, as well as residential uses and new public domain works including a new activated pedestrian accessway that will connect the rear Council car park through to Market Street.</p>
<p><b>Precinct 7 – Palmer Street</b></p> <p>Palmer Street will develop as a vibrant mix of car parking and commercial land uses. Commercial uses and the public domain will be highly active, to capitalise on the high pedestrian numbers generated by car parking.</p>	<p>Noted this is not expressed as a control.</p> <p>The proposal is consistent with the future desired outcomes for this precinct of the town centre. The proposal builds upon the existing car parking access and improves and simplifies pedestrian movements via the creation of a new activated pedestrian accessway.</p>

Tourist accommodation land uses are also encouraged in this precinct above ground level in order to increase the safety and security of the precinct after dark.	
<b>2.4.5 General requirements</b>	
<b>2.4.5.1 Setbacks</b>	
<p>Refer to Section 2.7.2.3 of this plan for the objectives and requirements for setbacks in the Merimbula Town Centre.</p> <p>The minimum building setback to all boundaries for the ground and first floor is zero or as nominated in Figure 2.8.</p>	<p>Refer to response in Section 2.7.2.3.</p> <p>Figure 2.8 allows for a 0 metre front setback to all property boundaries.</p> <p>The development complies with this requirement and in fact proposes a 3 metre front setback at the ground floor level. In addition, the upper floor levels of the building have been setback an additional 2 metres, which achieves the requirements of Figures 2.16 and 2.17.</p>
<b>2.4.5.2 Height</b>	
<p>Refer to Section 2.7.1.3 of this plan for the objectives and requirements for heights in the Merimbula Town Centre.</p>	<p>Refer to response in Section 2.7.1.3.</p> <p>It is noted that Figure 2.9 in this section of the DCP expresses building height in the Merimbula town centre however there is no reference to it. This figure indicates a maximum height limit of <i>13m (three storeys)</i> for the subject land. As outlined earlier in this report, the development does not comply with this requirement and the proponent is seeking an amendment to the LEP to increase the building height controls applicable to the land from 13 metres up to 18 metres.</p> <p>It is considered the height controls within the LEP takes preference over the DCP. See enclosed Planning Proposal for further details.</p>



<b>2.4.5.3 Building form</b>	
<p>Medium rise buildings will contain highly articulated façade elements to break down the scale of the street wall, clearly showing a “base”, “middle” and “top”.</p>	<p>The design of the building has prioritised articulation through variation in the setbacks between levels to provide clear delineation in the change of floor levels throughout the development. Furthermore, the development incorporates an upper level setback to reduce the overall building bulk and visual appearance of the development.</p> <p>In addition, the building design has softened its appearance of hard standing surfaces and reduced sheer walls and ‘boxy’ elements from the building’s façade via different materials, colours and textures.</p> <p>More specifically, the service and car parking components of the building have been located at the rear of the property and will be out of public view, whilst the street frontage will be improved by public domain works.</p> <p>The use of balconies further assists in delineating the change in floor level of the building when viewed from the street.</p>
<b>2.4.5.4 Public domain</b>	
<ul style="list-style-type: none"> <li>• The design of all development in the public areas will reflect and enhance the natural character of the Merimbula area as demonstrated by the Fishpen to Merimbula walkway.</li> <li>• Engineering and traffic management works will adopt a high quality of design and promote an attractive and comfortable streetscape and public areas.</li> <li>• All pedestrian paved areas will be designed to accommodate structural loads associated with emergency services and waste and resource recovery collection vehicles.</li> <li>• The provision of street trees and public area landscaping must be consistent with the themes and strategy adopted for the centre. If planting into the road is proposed it must be protected with tree grates or bollards. Where there is not space required for planter beds, or as traffic requirements dictate; or in built out tree bays, with</li> </ul>	<p>The ground level components of the building provide articulation and visual interest and encourage interaction between the street and the commercial development.</p> <p>Together, the use of a variety of materials, colours as well as extensive articulation and window fenestration provide a high level of visual stimulation and interest when viewed from the street.</p> <p>A combination of paving and landscaping is proposed in the adjoining footpath as the owners propose to undertake a number of street improvement and public domain works consistent with the recommendations of the Merimbula CBD Master Plan.</p>

<p>a minimum width of 100mm, at centres appropriate to the tree species selected.</p> <ul style="list-style-type: none"> <li>• Larger trees will be used along the side of streets without power lines, and small species used under power lines, as appropriate to provide shade. Advanced plantings are to be utilised.</li> <li>• The provision of paving and street furniture will follow the natural theme as seen at Fishpen. Street furniture can be custom designed, or a propriety item with a more natural character than the existing blue powder coated items.</li> <li>• Paving must be a continuation of the existing program, to replace concrete paving with brick paving. The paving details must be used to highlight incidents along the path, for example; outside shops, or indicating and intersecting pathway.</li> </ul>	
<p><b>2.4.5.5 Land adjoining foreshore</b></p>	
<ul style="list-style-type: none"> <li>• Development will address the foreshore zone in an appropriate way and ensure environmental values are maintained and/or rehabilitated.</li> <li>• Development will address the foreshore with active frontages at ground floor and balconies/terraces above ground floor.</li> <li>• No structures, car parking or external storage will be permitted within the area facing the foreshore.</li> <li>• Existing and possible views and vistas from the Centre to the foreshore will be maintained or established and not obstructed by the alignment and setbacks, façade treatments, advertising signage and vegetation or new buildings and/or redevelopment.</li> </ul>	<p>The subject land does not immediately adjoin the foreshore.</p> <p>Nonetheless, the building is located within close proximity to the foreshore and due to its height has been orientated and designed to overlook this area.</p> <p>Apartments at the front of the complex are afforded generous balcony sizes and active frontages to encourage use of that space, while the commercial area on the ground floor provides direct access from the street and has been setback by 3 metres to provide additional public space.</p> <p>All car parking is located within the development and does not disrupt the interface of the development and the foreshore.</p> <p>The view from the buildings to the west will be partially blocked by the development which is non-compliant. It is an established planning principle that 'you cannot own a view' i.e. loss of view is not a valid ground for objection. It is noted that the development complies with the proposed height limits expressed in the LEP and DCP except for the roof articulation. Similarly, the building has been articulated and designed to minimise the overall bulk and mass of the building, which will still allow for some views through the site.</p>

<b>2.4.5.6 Traffic &amp; access</b>	
<ul style="list-style-type: none"> <li>• Vehicular access and service access into and through the town centre will be in accordance with Figure 2.10.</li> <li>• The first order traffic arteries would carry large traffic flows. Intersection controls (lights or roundabouts or other median devices) would be installed progressively. Some reduction in on-street car parking would likely be required to improve the through flow while accommodating turning lanes at intersections.</li> <li>• Possible use of clearways for peak periods of flow in tourist season may be necessary.</li> <li>• Second order arteries will take some load off the first order arteries and will ensure improved direct access to public parking areas from the fringes of the town centre. (Thus lessening loads on the first order arteries within the centre).</li> </ul>	<p>The subject land immediately adjoins the recently constructed CBD bypass route and a Council public car park as shown in Figure 2.10. The development does not conflict with the requirements of these controls and seeks to minimise impacts on traffic flow and parking by providing all the required car parking on-site, as well as locating the entrance to this car parking area at the rear of the building rather than the front.</p> <p>A traffic impact assessment has been prepared in support of the application and is included in Appendix L.</p>
<b>2.4.6 Precinct specific requirements</b>	
<b>2.4.6.2 Precinct 2 – Monaro Street</b>	
<ul style="list-style-type: none"> <li>• Promotion of view corridors or visually permeable sections of buildings with foreshore frontages in order to increase visual and physical access to the foreshore from Monaro Street and pedestrian pathways</li> <li>• Improve pedestrian amenity in all main streets with liberal provision of public seating opportunities between frontages and the footpath</li> <li>• Protect laneway development in foreshore developments in order to protect number of access points to the foreshore boardwalk.</li> </ul>	<p>The development complies with this requirement as it seeks to remove the current semi-enclosed arcade and replace this with a new activated pedestrian accessway that will connect persons through from the council public car park at the rear through to Market Street and the foreshore and Merimbula Lake and beyond.</p> <p>Similarly, the development encourages public seating opportunities and on-street dining as the development has been setback 3 metres behind the forward building line as compared to a zero lot line development. In addition, the owner proposes to undertake street improvement and public domain works, which will make this area more attractive for customers and patrons alike whilst more broadly activating the wider CBD precinct.</p>

<b>2.4.6.3 Precinct 3 – Town Square</b>	
<ul style="list-style-type: none"> <li>• Allow for outdoor spaces for use by high activity uses such as restaurants and cafes</li> <li>• Ensure that all development addresses town square, with open outdoor spaces to increase the visible activity of the site</li> <li>• Encourage night time uses that will increase the security and safety of the area after dark</li> <li>• Maintain and enhance view corridors to the foreshore wherever possible</li> <li>• Connection with paths and visual style to passive recreation area at Beach Street</li> <li>• Town Square to exhibit design which can facilitate a variety of community activities</li> <li>• Public seating sufficient for people to interact with the foreshore.</li> </ul>	<p>The design of the proposal complies with these requirements as it seeks to encourage public interaction and high quality design. More specifically, the development provides a larger ground level setback to provide for greater opportunities for on-street dining.</p> <p>The development also maintains view corridors to and from the lake and also encourages connectivity and permeability via the creation of a new pedestrian accessway.</p> <p>A number of street improvement and public domain works are also proposed including the provision of public seating consistent with the recommendations of the Merimbula CBD Landscape Masterplan.</p>
<b>2.4.6.7 Precinct 7 – Palmer Street</b>	
<ul style="list-style-type: none"> <li>• Protect or increase pedestrian connections through developments to Market Street</li> <li>• Ensure that development on large lots comprises smaller building sections connected by outdoor spaces or alleyways in order to break up the visual bulk of the buildings and achieve pedestrian access ways</li> <li>• Ensure that car parking design is integrated with the site and surrounding buildings and provides sufficient space for active uses on the ground floor</li> </ul>	<p>The development complies with these requirements as it involves the construction of two detached buildings, which will be separated by an on grade pedestrian accessway that will pass through the development. In doing so, this will break up the appearance, bulk and scale of the development, whilst allowing for pedestrian connections.</p> <p>Similarly, the development achieves all relevant car parking requirements and integrates this into the overall design of the building, whilst also allowing for active street frontages and commercial opportunities.</p>

<b>2.6 General Commercial &amp; Industrial Development</b>	
<b>2.6.1 Design</b>	
<b>2.6.1.1 Roofs</b>	
<ul style="list-style-type: none"> <li>Buildings are to include distinctive roof forms that contribute to the architectural design of a building. Elements such as parapets, skillion roofs, eaves must be utilised where appropriate.</li> <li>Roof forms must not result in excessive bulk and overshadowing.</li> <li>The design of the roof will be integrated into the overall façade and building composition.</li> <li>All plant and equipment and any other potentially intrusive elements are to be concealed within roof forms to minimise visual impact.</li> <li>The use of the roof for the following sustainable functions will be considered: <ul style="list-style-type: none"> <li>rainwater tanks</li> <li>renewable energy applications</li> <li>innovative design solutions, such as water features or ‘green’ roofs</li> <li>solar hot water.</li> </ul> </li> </ul> <p>Note that lighter coloured roofs absorb less heat which may result in energy savings.</p>	<p>The development complies with these requirements as it provides a well articulated and low scaled roof that reduces the overall bulk and scale and visual appearance of the overall development.</p> <p>The roof has been integrated as part of the overall design of the building and is in keeping with the modern design of the development.</p> <p>The flat roof is a largely unobtrusive element of the development proposal and is consistent with the overall design of the building with rigid corners and straight edges.</p> <p>Furthermore, all plant and equipment will be suitably integrated into the building and will not be readily visible from public places.</p>



2.6.1.2 Fencing & retaining walls	
<ul style="list-style-type: none"> <li>• Screen walls which face a road, pedestrian walkway, reserve or public place will be constructed from high quality materials. Consideration is to be given to sight lines for vehicles.</li> <li>• Large expanses of continuous masonry or timber fencing having frontage to a street, public reserve or other public place is not permitted.</li> <li>• Bonded sheet metal fencing is not permitted at any location other than alongside and rear boundaries shared with other private property, where such fencing is not directly visible from the street, public reserve or other public place.</li> <li>• Fencing to rear and side boundaries (behind the building alignment) will be a maximum 1.8m in height.</li> <li>• In the case of a corner allotment, fencing placed on the secondary building alignment will be located behind the primary building alignment. The fence will be articulated, incorporate landscaped treatment and complement the design and finish of the development. Fencing on corner allotments will not obstruct the sight distance of traffic.</li> <li>• Security fencing must be of high quality materials, integrated with walling and appropriate low-scale landscaping to reduce visual impact.</li> <li>• No barbed wire, razor wire (or the like) fencing will be placed on any land where such fencing is visible from a public place.</li> <li>• Fencing will not obstruct power, water, sewer, gas or telephone services, drainage systems, (including overland flow paths) or any easements or rights of way.</li> </ul>	<p>There is no front fencing or publicly visible retaining walls proposed as part of the development.</p> <p>All services are underground and will not be adversely affected as a result of the works as per the enclosed civil engineering assessment report.</p>

<ul style="list-style-type: none"> <li>• Cut and fill and the associated use of retaining walls will be minimised.</li> <li>• Any retaining wall visible from a public place will be sited, designed and constructed in materials and colours to ensure that the retaining wall complements the development as well as the character and quality of the streetscape.</li> </ul>	
<b>2.6.2 Amenity</b>	
<b>2.6.2.1 Setbacks</b>	
<ul style="list-style-type: none"> <li>• In IN1 and IN2 zones the minimum building setback is 3m to public roads or front boundaries. Council will consider reduced setbacks due to site constraints and location where appropriate.</li> <li>• Refer to Section 2.7.2.3 of this plan for the objectives and requirements for setbacks in the B2 and B4 zones</li> </ul>	Refer to response to Section 2.7.2.3 below.
<b>2.6.2.2 Access &amp; equity</b>	
<ul style="list-style-type: none"> <li>• Access is to be provided for people with a disability in accordance with the requirements of Section 5.3 of this plan.</li> <li>• Any new development must be designed to allow equitable access to all people, including people with disabilities by ensuring an accessible path of travel from the footpath.</li> <li>• Integrated and shared access ramps for adjoining sites will be provided wherever possible.</li> <li>• Accessible paths of travel will be provided linking public buildings, open space and accessible car parking.</li> <li>• The cross fall of footpaths across driveways will not exceed 2.5%.</li> </ul>	<p>The development achieves a high level of accessibility for people with a disability via the use of lifts and level footpaths throughout.</p> <p>The layout supports the movement of people with mobility scooters or other devices throughout the whole development and allows persons to turn around.</p> <p>Internal lifts within each building provide ease of access to each floor for people with physical disabilities.</p> <p>See enclosed access report for further details.</p>

<ul style="list-style-type: none"> <li>• A centrally located power point for recharging electric wheelchair or scooter batteries shall be provided in every large commercial development.</li> <li>• One well-located accessible public payphone, designated by signage, must be provided in every large commercial development.</li> <li>• Where an accessible lift is required by the BCA, Council require that the lift be a passenger lift designed to provide for the turning of wheelchairs and prams and independent operation by people with disabilities.</li> <li>• Council prefer that designated accessible toilets are unisex and include baby changing facilities that to not impact on the circulation space and are raised to the highest level (approximately 480mm. Electronic sliding doors operated by a toggle switch are preferred or inward facing doors.</li> </ul>	
<b>2.6.2.3 Traffic &amp; access</b>	
<ul style="list-style-type: none"> <li>• New streets, laneways and pathways through large blocks, must be incorporated into development designs where this can improve access and function of the centre. (See Section 2.4 of this plan for detailed access requirements applicable in Merimbula town centre).</li> <li>• Pedestrian arcade style development will provide an inviting width of not less than 6m, be lined with active shop fronts on both sides, be straight and maintain a line of sight through the arcade and be open for extended periods.</li> <li>• Footpath will be provided along all street frontages.</li> <li>• Street and public space lighting will be provided at the cost of the developer along key pedestrian routes and adjoining the development in accordance with Council specifications.</li> </ul>	<p>The development seeks to replace the existing enclosed arcade and replace this with a new pedestrian accessway. This accessway will be a minimum of 6 metres wide and will be activated by adjoining commercial tenancies located either side, as well as overhanging balconies from the apartments above.</p> <p>This area will be further embellished with landscape, footpath seating, public lighting, signage and other design elements to make it more inviting. The development maintains public safety and allows for clear sight lines through the development.</p> <p>Footpaths and on street dining is proposed along the street frontage and the development will incorporate both public and security lighting.</p> <p>The development will maintain existing gradients and the proposal separates car parking, loading and unloading areas from pedestrian to avoid conflicts by locating these areas at the rear of the building.</p>

<ul style="list-style-type: none"> <li>• Pedestrian and vehicle access to buildings will be separated where achievable.</li> <li>• Access to parking and loading facilities will be provided from secondary streets or laneways where possible to protect the amenity of the public domain and reduce conflicts.</li> <li>• Finished levels for all external and internal pedestrian spaces surrounding and within buildings will connect directly with the natural ground floor level of any development and adjoining footpath space.</li> <li>• Service lanes and access ways can either be in the form of a public road or as a private road but must have the appearance of a 'public road' with street tree planting, pedestrian footpaths and appropriate directional signage.</li> <li>• All service and delivery activities are to be accessed from an access way where one is required.</li> </ul>	
<b>2.6.3 Environment</b>	
<b>2.6.3.1 Energy conservation &amp; solar access</b>	
<ul style="list-style-type: none"> <li>• The design of buildings will have regard to siting, layout and construction methods that minimise the need for fossil fuel-based heating, cooling and lighting, and encourage the use of water saving features and energy efficient heating systems.</li> <li>• Roof pitch and orientation of all buildings will be suitable for the installation of solar collectors.</li> <li>• All development must demonstrate how sustainable design principles and features have been incorporated into the proposed development in accordance with Section 5.5 of this plan.</li> </ul>	<p>The roofing of the development is capable of supporting the installation of solar collectors.</p> <p>The proposed building utilises a range of external cladding materials that are both visually appealing and contribute to energy efficiency.</p> <p>Window glazing will be utilised to assist in temperature control.</p> <p>The development will incorporate water, energy and thermal efficient design and achieves the minimum requirements of BASIX (see Appendix B).</p> <p>A further assessment of building sustainability principles has been addressed in response to Section 5.5.</p>

2.6.3.2 Landscaping	
<ul style="list-style-type: none"> <li>• Landscaping is to be appropriately scaled and located relative to building bulk.</li> <li>• All landscaping work is to enhance the existing natural features of the site and adjoining unfenced areas.</li> <li>• All parts of the site not built-upon or paved are to be landscaped with grass, trees, shrubs and/or other vegetation. As many trees as possible are to be retained on the site.</li> <li>• Development is to contribute to water and stormwater efficiency by integrating landscape design with water and stormwater management, for example by:             <ul style="list-style-type: none"> <li>– using plants with low water demand to reduce mains consumption</li> <li>– using plants with low fertiliser requirements</li> <li>– using plants with high water demand, where appropriate, to reduce run off from the site</li> <li>– utilising permeable surfaces</li> <li>– using water features</li> <li>– incorporating wetland filter systems.</li> </ul> </li> <li>• Active rooftop spaces will be landscaped.</li> <li>• Deep soil planting zones, where available, are required within development sites to facilitate the accommodation of mature tree planting.</li> <li>• Any portion of a development site that remains unused or vacant following development will be landscaped or turfed and maintained.</li> </ul>	<p>The development incorporates extensive landscaped areas through the provision of two large communal open space areas split across levels 1 and 2. These areas will be located internally within the development and will be available to all residents. They will comprise deep soil zones, and will be extensively embellished.</p> <p>Embellishments will include a variety of shade trees, ornamental shrubs and lawned (synthetic) areas, as well as hard landscaped features such as fire pits, deck areas and communal gathering areas such as BBQ areas. These areas will include pedestrian pathways, seating and dining areas and will provide for the needs of individual apartment owners.</p> <p>A detailed landscape plan has been prepared and is included in Appendix F.</p> <p>Landscaping will be used to create permeable surfaces, capable of absorbing high volumes of stormwater and all unbuilt portions of the site will either be landscaped or paved.</p> <p>Similarly, the development will involve a number of street improvement and public domain works, which amongst other things will include landscaping consistent with the requirements of Merimbula CBD Landscape Masterplan.</p>



<ul style="list-style-type: none"> <li>Planting adjacent to intersections and driveways will be less than 900mm high (to maintain sightlines for safety purposes).</li> <li>All outdoor at-grade car parking areas must be provided with 1 tall branching mature shade tree for every 10 linear car spaces.</li> <li>In streetscape works, trees will be tall branching, and ground covers and shrubs will have a maximum height of 0.6m to maintain clear pedestrian, resident and vehicle sightlines.</li> <li>The provision of street trees and public area landscaping must be consistent with the themes and strategy adopted for the place.</li> </ul>	
<b>2.6.3.3 Waste management</b>	
<ul style="list-style-type: none"> <li>Developments will demonstrate appropriate resource recovery and recycling strategies and actions.</li> <li>Waste and recycling systems are to be easy to use and, where necessary, collection vehicles are able to safely access buildings to remove waste and other resources.</li> <li>Practices for the storage, handling and collection of waste and recycling materials are healthy and safe.</li> <li>Stormwater pollution that may occur as a result of poor waste storage and management arrangements is prevented.</li> </ul>	<p>All waste management practices will be carried out in a manner which is safe for workers and members of the public and minimises pollution of the surrounding area and waterways.</p> <p>Where possible waste will be recycled either on site or collected and removed for processing elsewhere.</p> <p>Waste from the demolition and construction of the development will be stored in a location close to the roadway to allow for convenient access for the collection vehicles.</p> <p>Waste collection areas are proposed within the building and will be picked up via contractor.</p> <p>Further details regarding waste are outlined in the enclosed sustainability management report and waste management report.</p>
<b>2.6.3.4 Potable water &amp; stormwater</b>	
<ul style="list-style-type: none"> <li>Developments are to incorporate the principles of water sensitive urban design. These include minimisation of impervious surfaces and use of integrated systems that are used for collecting, reusing, flood controlling and applying treatment to stormwater run-off. Internally, water minimisation measures that reduce the demand on potable supplies are to be incorporated.</li> </ul>	<p>The development achieves the requirements of this control as it minimises the amount of impervious surfaces via the use of landscaping and deep soil zones within the central portions of the site.</p> <p>Appendix B of this submission contains BASIX Certificates confirming compliance with relevant water, energy and thermal efficiency requirements. As part of these commitments, the development will incorporate water efficient fittings and fixtures.</p>

<ul style="list-style-type: none"> <li>• The objectives of water management are to be consistent with the BASIX tool and incorporate the 40% reduction targets in potable water usage through reduction methods and/or rainwater utilisation. This may be achieved by the: <ul style="list-style-type: none"> <li>– installation of a rainwater tank that meets Councils requirements</li> <li>– connection of a rainwater tank to at least 1 external outdoor tap and for the flushing for internal toilets.</li> </ul> </li> <li>• All developments are required to demonstrate that they will not have an adverse impact on the stormwater flows / flooding of any adjoining properties.</li> <li>• Development must incorporate water efficient fixtures such as taps, showerheads and toilet suites. The fixtures must be rated to at least AAA under the National Water Conservation Rating and Labelling Scheme.</li> <li>• Where a site proposed for development is unable to discharge stormwater to the street frontage and on site detention is not practical, the development application must include the written agreement from all downstream property owners stating that they have no objection to the discharge of stormwater through their properties to reach Council's drainage system nor do they have objection to the creation of necessary easements over the pipelines.</li> </ul>	<p>The building will be connected to Council's constructed stormwater management system, which is available within the adjoining Market Street. A concept stormwater management plan has also been prepared, which confirms that the development will achieve pre-development flows.</p>
<b>2.7 Specific Requirements – Commercial &amp; Retail Development</b>	
<b>2.7.1 Design</b>	
<b>2.7.1.1 Context &amp; Articulation</b>	

<ul style="list-style-type: none"> <li>• Overt (strong) non-complimentary colours or buildings painted a specific noncomplimentary colour to suit advertising requirements will not be supported.</li> <li>• A palette of roof colours ranging from red to subtle greens, greys and off white or natural galvanised iron must be considered in new development.</li> <li>• Alterations and additions to existing facades must have consideration for the existing style, materials and finishes.</li> </ul>	<p>The commercial space is located on the ground floor of a five-storey complex and subsequently does not have a roof.</p> <p>The proposed commercial tenancies will include small business identification sign located at the front of the property.</p> <p>The facade of the building has been well articulated and provided with a variety of materials and finishes and effectively blends into and is complimentary of its position in a larger complex.</p>
<b>2.7.1.2 Built form</b>	
<ul style="list-style-type: none"> <li>• Buildings and structures will be appropriately modulated and articulated in their facade and adjoining walls to provide well-proportioned elevations and human scale.</li> <li>• Buildings will demonstrate continuity with the streetscape and surrounding buildings through the use of similar floor/ceiling and awning heights, materials, colours, building elements and architectural styles.</li> <li>• Large expanses of blank, featureless walls and curtain walling will be avoided.</li> <li>• Garage doors/loading docks will be recessed so that they are not the dominant element in the overall presentation of the development.</li> <li>• The visibility, functionality and safety of building entrances must be optimised by: <ul style="list-style-type: none"> <li>– facing entrances towards the public street</li> <li>– providing clear lines of sight between entrances, foyers and the street</li> </ul> </li> </ul>	<p>The building design effectively incorporates a mixture of materials and finishes into the façade along with articulation and window fenestration.</p> <p>The entrances address the street and internal pedestrian accessway and provides immediate access to the adjacent footpath.</p> <p>The ground floor frontage of the building is consistent with other commercial developments in Market Street and Palmer Street.</p> <p>There is a broad range of commercial developments with no one theme being dominant in the streetscape.</p> <p>Access to the commercial and residential elements is well defined in the frontage of the development.</p> <p>The development screens and locates car parking and loading and unloading areas at the rear of the building and provide passive surveillance of all adjoining public open space areas.</p> <p>Similarly, the building design limits opportunities for concealment, provides centralised access lifts and public lighting consistent with the requirements of CPTED.</p>

<ul style="list-style-type: none"> <li>– providing direct and well-lit access between car parks and lift lobbies and to all entrances</li> <li>– designing buildings to overlook streets and public and communal spaces to provide casual surveillance</li> <li>– facing living areas with views over public or common open space areas, where possible</li> <li>– using bay windows and balconies, which protrude beyond the main facade and enable a wider angle of vision to the street</li> <li>– using corner windows that provide oblique views of the street</li> <li>• The use of roller shutters or the like is not permitted on doors and windows facing the street or public open space. Any security railings must be designed to complement the architecture of the building.</li> <li>• Adequate lighting and directional signage is to be provided to all pedestrian and access ways, building entries, driveways and car parks.</li> <li>• All developments are to incorporate the principles of Crime Prevention through Environmental Design.</li> </ul>	
<b>2.7.1.3 Building height</b>	
<ul style="list-style-type: none"> <li>• The maximum building height is defined in the LEP. In addition, the maximum rise (or number) of storeys in the Bega, Eden and Merimbula Town Centres will be limited in relation to the maximum height as defined in the LEP as follows: <ul style="list-style-type: none"> <li>– 10m height limit – maximum 2 storeys</li> <li>– 13m height limit – maximum 3 storeys</li> <li>– 16m height limit – maximum 4 storeys</li> </ul> </li> </ul>	<p>As outlined earlier in this report, the development proposes an overall building height of 18 metres (five storeys), which exceeds the maximum building height control of 13 metres (3 storeys) and the applicant is seeking to amend the LEP via a separate planning proposal, which is being submitted to council concurrently as this proposal.</p> <p>Whilst it is acknowledged that a small portion of the roof does encroach upon this proposed 18 metre height limit, this is considered appropriate in this instance for the reasons outlined in this control, as the development is seeking approval under clause 4.6 of the LEP and the roof encroachment does not exceed more than 1 metre.</p>

<ul style="list-style-type: none"> <li>• Development above two storeys will generally only be considered in Heritage Conservation Areas at the rear of properties, particularly in Carp Street, Bega, in order to maintain the two storey character of the streetscape.</li> <li>• Where any portion of a basement protrudes 500mm or more above existing ground level, it will be counted as a storey for the purposes of determining the maximum rise in storeys. All applications that propose a basement level that protrudes above existing ground level must demonstrate that the protrusion is necessary due to topographical constraints and that the design is in keeping with the bulk and scale of adjoining development.</li> <li>• A portion of the roof of a development may encroach the maximum height stipulated under the LEP to encourage articulation of roof form. Such encroachments are subject to LEP Clause 4.6 and are only permitted where the roof projects no more than 1000mm above the maximum height limit, achieves an average height encroachment of no more than 500mm, and complies with the relevant setback requirements. Figures 2.12 – 2.17 illustrate examples of permissible roof encroachments for 2, 3 and 4 storey development.</li> <li>• Where a roof volume is used as an attic, mezzanine or storey, it will be counted as a storey for the purposes of establishing the maximum rise in storeys of a development.</li> </ul>	
<b>2.7.1.4 Awnings</b>	
<ul style="list-style-type: none"> <li>• Continuous awnings are to be provided where there are ground floor retail uses and active frontages are required. See Section 2.1 of this plan for requirements relating to the Bega Town Centre.</li> <li>• Awnings are to be horizontal or near horizontal to the footpath.</li> </ul>	<p>Complies, the proposed development incorporates a covered awning around the ground floor component of the building.</p>



<ul style="list-style-type: none"> <li>• Adjoining awnings are to be of a consistent height and depth, allowing for variations in the camber of roads where required.</li> </ul>	
<b>2.7.1.5 Corner elements</b>	
<ul style="list-style-type: none"> <li>• Provide vertical elements to the building design by concentrating the tallest portion of the building on the corner itself. Utilise design devices such as increased wall heights, splayed corner details, expression of junction of building planes and other architectural features to reinforce the way finding attributes of street corners.</li> <li>• Design corners to add variety and interest to the street and clarify the street hierarchy.</li> <li>• Present each frontage of a corner building as a main street frontage.</li> <li>• Shopfronts will be wrapped around corners.</li> </ul>	<p>The subject land is located on the corner of Market Street and Palmer Street and proposes a building design that specifically addresses and wraps around this corner including the use of curved balconies and roof form.</p> <p>The overall design and appearance of the development will provide a high degree of visual interest to the street via the use of fenestration and articulation, as well as a variety of building materials and finishes.</p> <p>The design presents each frontage of a corner building as a main street frontage and the development incorporates ground floor commercial tenancies that wrap around this corner.</p>
<b>2.7.1.6 Landmark buildings</b>	
<ul style="list-style-type: none"> <li>• Buildings occupying corner sites, at the termination of vistas along streets, at key bends in a street will be of a larger scale and include elements such as: <ul style="list-style-type: none"> <li>– articulated tall elements, e.g. towers</li> <li>– entrances</li> <li>– balconies</li> <li>– strong sense of material and colour</li> <li>– roof forms</li> <li>– articulated parapets or gables</li> <li>– built elements encroaching on the setback of an upper level.</li> </ul> </li> </ul>	<p>The subject proposal is considered to represent a landmark development within the context of the Merimbula town centre due to its prominent location on a main intersection and its location within the heart of the town centre.</p> <p>For this reason, the proponent is seeking to increase the maximum building height permitted on the land from 13 metres to 18 metres to allow for a building that will become a landmark and precedent for the future redevelopment and revisitation of the Merimbula town centre.</p> <p>The building proposes additional building height, particularly when viewed from the intersection of Market Street and Palmer Street, which will form a gateway marker, particularly for those entering from the south.</p> <p>Further design elements include large ground level commercial frontages, upper-level balconies, strong sense of materials and colours, as well as an articulated and considered design response which has regard for the context and setting of the area.</p>

<p>Explanation:</p> <p>The character of many country towns is a product in part of its landmark features in their unique contextual settings. These buildings and features must anchor the emergence of new town centres.</p>	
<b>2.7.1.7 Street frontages</b>	
<ul style="list-style-type: none"> <li>• Active street frontages must enable direct contact (visual and physical) between the street and the interior of an adjoining building.</li> <li>• Active ground floor uses are to be accessible and at the same level as the footpath.</li> <li>• An active frontage must not accommodate fire exits, service cupboards, and vehicle or service entrances unless there are no other feasible alternatives.</li> <li>• Shopfronts are not to be concealed behind heavy colonnade structures that would restrict the visibility of any commercial tenant from the road or limit natural daylight along footpaths.</li> </ul>	<p>The development provides for a strong connection between the public and private realms and in fact provides a larger front setback than the DCP requires in order to provide additional public space and outdoor dining opportunities.</p> <p>The front commercial spaces will be easily accessible and at the same level as the adjoining footpath. Similarly, there are no obtrusions between the pedestrian footpath and the floor space of the commercial areas and the development proposes an activated accessway that will also be accessible.</p> <p>Lastly, there are strong lines of sight between the commercial floorspace and the adjoining streets.</p>
<b>2.7.2 Amenity</b>	
<b>2.7.2.1 Views</b>	
<ul style="list-style-type: none"> <li>• Development will appropriately respond to important views and vistas.</li> <li>• Existing landmarks/landscapes must be preserved, with established vistas to and from them protected.</li> <li>• Views along public streets to the distant surrounding landscape or seascape will be retained and embellished through appropriate tree planting, landscaping and the like.</li> </ul>	<p>No views of important landmarks are inhibited as a result of the development and the development will be located below the ridge line when viewed from a distance. Similarly, the development will maintain view corridors as demonstrated above and in the attached planning proposal and the building has been designed to integrate with its surrounds.</p> <p>Views from within the development onto the street and the water are preserved.</p> <p>The scale of the building, whilst larger than its surrounds blends in with similar developments in the immediate vicinity due to the articulated nature of the design and the fact that the upper</p>

<ul style="list-style-type: none"> <li>• Opportunities for new access corridors must be pursued with a prospect of providing further view opportunities.</li> <li>• Opportunities to preserve and enhance strategic plantings in the centre and immediate environs must be pursued.</li> <li>• The concept of “view sharing” must be considered in the design of development proposals (see Section 3.2.2.6 of this plan).</li> <li>• Large-scale buildings will generally blend in with other developments in the town centre when viewed from a distance.</li> <li>• Buildings will generally be site responsive, stepping down slopes.</li> <li>• The removal, relocation and / or screening of features and buildings, which detract from the ambience and views of the centre and environs, will be promoted.</li> <li>• Signature buildings/structures having a significant impact will be conserved and enhanced, whilst new buildings performing such functions will be encouraged and existing buildings “retrofitted”.</li> </ul>	<p>levels have been stepped in so they are not visible from the footpath and reduce the overall building bulk and scale of the development.</p> <p>A cross section and longitudinal profile has been prepared which demonstrates that the building is not out of character with the existing planning controls that apply to the area, as well as the topography of the land, which slopes upwards towards Main Street.</p> <p>Similarly, the building has regard to the specific features of the site as it steps to accommodate the topography of the land, which slopes upwards towards Main Street.</p> <p>The development encourages permeability and legibility and proposes a new activated pedestrian accessway that will connect pedestrians from the rear council car park through to Market Street and beyond to Merimbula Lake.</p> <p>The building has been designed to become a landmark building within the Merimbula town centre due to its prominent and strategic location on one of the key intersections. This building will become a landmark and gateway marker, particularly for vehicles to the south and has been orientated and designed to purposefully address the corner of Market Street and Palmer Street.</p>
<b>2.7.2.2 The public domain</b>	
<ul style="list-style-type: none"> <li>• Clear boundaries between the public and private domain will be provided.</li> <li>• Public spaces will be designed to provide an appropriate interface with commercial activity, adequate opportunities for integrated public facilities, public art and relevant recreational experiences.</li> <li>• All use of public areas by business requires an Approval under the Local Government Act and compliance with Local Approvals Policy No. 1 “Use of Public Land”.</li> <li>• Lighting and directional signage will be provided to all pedestrian paths, car park areas, building entries, and public spaces.</li> </ul>	<p>The development seeks to undertake a number of street improvement and public domain works for the betterment of the immediate and surrounding areas. These works are proposed to be undertaken as part of a planning agreement to be negotiated between the owner and Council, but indicatively include, street paving, landscaping, street furniture, landscaping, public art and an upgrade to Council’s public toilet facilities.</p> <p>A landscape and public domain plan has been prepared and is included with this application and is consistent with the recommendations of the recently endorsed Merimbula CBD Landscape Masterplan.</p> <p>It is reiterated that the proposed building has been purposefully setback 3 metres behind the forward most building line to allow for greater public domain and street activities including public dining. Separate approval will be sought under the Local Government Act for the use</p>

<ul style="list-style-type: none"> <li>• Linkages between public assets and the broader community will be enhanced.</li> <li>• New community facilities will generally be multipurpose in nature.</li> <li>• Specific additional requirements for Merimbula town centre are detailed in Section 2.4 of this plan.</li> <li>• All development with floor area greater than 1,000m<sup>2</sup> will provide creative, innovative, attractive and distinctive public art works in streets and public spaces in accordance with Council's Public Art Policy.</li> </ul>	<p>of public land including outdoor seating, dining and the erection of any structures or landscaping works.</p> <p>The building has been architecturally designed and includes appropriate signage, lighting, car parking and clearly defined entries.</p> <p>As outlined above, the development seeks to remove an existing narrow enclosed arcade and replace this with a new activated pedestrian accessway that will connect persons from the rear council car park through to Market Street and beyond.</p> <p>See responses to Section 2.4 for further details.</p>
<p><b>2.7.2.3 Setbacks</b></p>	
<ul style="list-style-type: none"> <li>• The minimum building setback to all boundaries for the ground and first floor is zero or as nominated in the Sections 2.1, 2.3 and 2.4 of this plan for Bega, Eden and Merimbula town centres.</li> <li>• Where buildings are required to maintain a minimum front setback of 3.0m or align with existing neighbouring buildings the following applies: <ul style="list-style-type: none"> <li>– Where adjacent buildings have a similar setback, the front setback of the existing adjacent buildings applies.</li> <li>– Where adjacent buildings have different front setbacks, the average setback of the two adjacent buildings applies.</li> <li>– Where there are no existing buildings adjacent to a proposed development, a 3m front setback applies.</li> </ul> </li> <li>• Where a proposed development abuts a residential zone boundary, a minimum 3m setback for all floors will apply between the proposed development and the residential zone boundary.</li> <li>• Appropriate setbacks will apply to developments adjacent to heritage listed buildings:</li> </ul>	<p>Section 2.4 of the DCP allows for a zero lot line setback. Notwithstanding, as outlined above the development proposes a 3 metre front setback to allow for a larger public domain, whilst also reducing building bulk and scale through an articulated design. This setback has also been chosen to minimise impacts on the adjoining heritage listed Twyford Hall and reduce impacts of overshadowing on the public domain.</p> <p>Furthermore, the building has been setback to allow for compliance with the upper level setback requirements of this control. Whilst it is acknowledged that the upper levels of the building have not been setback 5 metres behind the forward most wall of the ground level this is considered appropriate in this instance as the entire building has been shifted further back behind the front property boundary and therefore achieves the relevant setback requirements of this control.</p> <p>In consideration of setbacks, Council should refer to and give preference to, the requirements of the ADG and the Qualified Designers Response at <b>Appendix C</b> as these controls override the DCP where there is an inconsistency.</p>

- To provide sufficient separation between a new development and an existing heritage listed building. In this regard the required setback will increase in proportion to the difference in bulk, height and scale of the proposed development in comparison to the existing heritage listed building.
- Setbacks for development adjacent to heritage listed buildings will be in accordance with the requirements of Section 5.2.3.1 of this Plan.
- Where a zero setback to the front boundary is proposed, the building above the first floor must be setback a minimum of 5m from the main street frontage. No balconies are permitted to encroach into this setback. Window awnings and other architectural treatments within the 5m setback will be considered if they contribute to the building's design and streetscape. Figures 2.14 and 2.16 illustrate examples of front setbacks for 3 and 4 storey development.
- Where a zero setback to the side and rear boundaries is permitted for 3 storey developments, setbacks for all residential development above the second floor will be in accordance with the principles of SEPP 65 Design Quality of Residential Flat Development. Figures 2.14 and 2.15 illustrate examples of side, front and rear setbacks for 3 storey development.
- Where a zero setback to the side and rear boundaries is permitted for 4 storey developments, all development above the second floor must be set back a minimum of 6m from the rear boundary, and development above the third floor will be setback a minimum of 6m from the side boundaries. In this regard, the principles of SEPP 65 Design Quality of Residential Flat Development will be taken into consideration. Figures 2.16 and 2.17 illustrate examples of side, front and rear setbacks for 4 storey development.



Table 9 – Section 3: Residential Development

Consent must not be granted unless:	Response
<b>3.2 General Requirements</b>	The general requirements of the DCP are not applicable to residential development in a business zone (including the B2 zone).
<b>3.3 Specific Requirements – Mixed Use Development</b>	
<b>3.3.1 Design</b>	
<ul style="list-style-type: none"> <li>The residential component will not affect the lawful consent of existing non-residential land uses.</li> <li>Ensure the building positively contributes to the public domain and streetscape by: <ul style="list-style-type: none"> <li>fronting onto major streets with active uses.</li> <li>avoiding the use of blank walls at the ground level.</li> </ul> </li> <li>Design circulation systems which ensure the safety of users by: <ul style="list-style-type: none"> <li>providing accessible and seamless paths of travel with appropriate lighting, stair and pathway recognition</li> <li>isolating commercial service requirements, such as loading docks, from residential access, servicing needs and primary outlook</li> <li>locating clearly identified residential entries directly from the public street and separate from commercial / retail entries</li> <li>providing secure entries to private areas, including car parks and internal courtyards</li> <li>providing safe pedestrian routes through the site, where required.</li> </ul> </li> </ul>	<p>Whilst the development seeks to redevelop land currently developed for commercial purposes, the overall development will result in a positive outcome and will lead to a greater variety and mixture of land uses, which will further improve the strength of the town centre.</p> <p>The commercial area on the ground floor accounts for much of the street frontage which along with the use of floor to ceiling windows provides a visually interactive space. When combined with street improvement and public domain works this will make for an attractive public domain.</p> <p>The pedestrian entries into the residential component of the development are clearly legible and separated from commercial activities, whilst also achieving relevant disability access requirements via the use of lifts.</p> <p>The location of the commercial tenancies along the street frontage provides easy identification and passive surveillance of public spaces and the development incorporates activated pedestrian accessways, commercial tenancies and other features that will encourage use.</p> <p>The proposed car parking and back of house areas have been separated from other activities and located at the rear of the building to avoid potential conflicts and are appropriately secured to avoid unwanted access. These areas will be secured, monitored via security cameras.</p>

Consent must not be granted unless:	Response
<ul style="list-style-type: none"> <li>• Pedestrian entries to the residential component of a mixed-use development are to be separated from other uses in a building.</li> <li>• The car parking will be exclusive of any proposed or existing car parking required in respect of the non-residential component of the development and be accessible at all times.</li> </ul>	
<b>3.3.2 Amenity</b>	
<ul style="list-style-type: none"> <li>• The residential component will be designed with reference to the existing and/ or proposed commercial uses in terms of: <ul style="list-style-type: none"> <li>– Hours of operation</li> <li>– Noise</li> <li>– Privacy</li> <li>– Solar Access and light spill</li> <li>– Pedestrian and vehicular traffic</li> <li>– Service deliveries</li> </ul> </li> <li>• The design and location of all mechanical plant and equipment (such as air conditioning units, mechanical ventilation, duct work and exhausts) will be considered early in the design process. The commercial use will not have a detrimental impact on the residential use in terms of noise or odour.</li> <li>• Address acoustic requirements for each use by: <ul style="list-style-type: none"> <li>– separating residential uses, where possible, from ground floor leisure or retail uses by utilising an intermediate quiet-use barrier, such as offices</li> <li>– design for acoustic privacy from the beginning of the development to ensure that future services, such as air conditioning, do not cause acoustic problems later.</li> </ul> </li> </ul>	<p>The residential component of the building has been designed with consideration of the proposed commercial activities to be conducted within the building. It is expected that the commercial tenancies will comprise retail tenancies, cafes and restaurants, which will allow the two land uses to co-exist harmoniously.</p> <p>Pedestrian accessways for both private residents and the general public are provided throughout and appropriately separated, whilst car parking and back of house activities have also been separated to avoid conflicts.</p> <p>All mechanical and plant equipment will be located in the rear portions of the building and separated from residential occupants to minimise impacts on these users.</p> <p>The development has been designed to achieve a high degree of amenity for residents with large landscaped communal open space areas, clearly defined entries, easily accessible car parking and waste disposal locations. The development has also been designed in accordance with the ADG's and achieves standard of architectural design.</p>

Consent must not be granted unless:	Response
<ul style="list-style-type: none"> <li>• Ensure loading bays, waste and recycling collection areas, noise and odour generating aspects of buildings are located away from sensitive receivers (such as residential and some forms of commercial and retail activities).</li> <li>• The private open space required for a studio/one-bedroom dwelling is 10m<sup>2</sup>. At least 25m<sup>2</sup> is to be provided for units with two bedrooms or more. This private open space can be divided into a number of areas including balconies, decks and terraces.</li> </ul>	
<b>3.3.3 Environment</b>	
<ul style="list-style-type: none"> <li>• Building design and site layout will ensure adequate sunlight access to the internal living spaces of the proposed development and adjoining properties.</li> <li>• Any residential development must consider the historical use of the site with particular reference to potential site contamination.</li> </ul>	<p>The development achieves passive solar design and sunlight access to internal living spaces. More specifically, 73% of all apartments with living and private open space areas receive a minimum of 2 hours direct sunlight between 9am to 3pm at the winter solstice, which is consistent with the requirements of Section 4A Solar and Daylight Access of SEPP 65.</p> <p>Furthermore, a larger number of the proposed residential apartments receive more than 2 hours of direct sunlight as shown on the submitted Solar Access Plans (Ref No. DA-601).</p> <p>Consideration of the historical use of the land and surrounding properties has also been undertaken in respect to matters regarding land contamination. An assessment of the requirements of SEPP 55 has been undertaken.</p> <p>In summary, the adjoining property to the south was previously used as a service station. Nonetheless, following previous site remediation works and ongoing testing and monitoring the EPA via a site auditor has confirmed that this site has been appropriately remediated to a standard that is suitable for residential purposes. The relevant land contamination reports also confirmed that no site leaching or transfer has occurred from this adjoining property onto the subject site and that groundwater monitoring results indicate that potential offsite migration of petroleum hydrocarbons would be limited in extent beneath Market Street and would not present an unacceptable risk to human health or the environment under the current land use.</p>

Consent must not be granted unless:	Response
	Therefore, the development has satisfied the relevant requirements of SEPP 55 and is considered appropriate in this instance.
<b>3.3.4 Accessibility</b>	
<ul style="list-style-type: none"> <li>• Shop top housing and mixed-use developments containing five or more dwellings must provide a minimum of one adaptable dwelling for every five dwellings or part thereof designed in accordance with the <i>Australian Standard (AS) 4299 – Adaptable Housing</i>. The adaptable dwelling/s will be detailed on the plan.</li> <li>• One accessible parking space will be provided for the adaptable dwelling/s with a safe and accessible path of travel from the parking space to the dwelling/s.</li> </ul>	<p>It is understood Council's preference is to apply the <i>Liveable Housing Guidelines</i> rather than AS4299 for accessibility. These guidelines have been applied to the development and each apartment and the intention is to achieve a silver or bronze standard of design.</p> <p>Notwithstanding, 11 of the 52 apartments (ratio of 1 per 5 units) have been designated as accessible/adaptable housing as per the enclosed plans, which complies with this requirement.</p>

Table 10 – Section 5: General Development

Consent must not be granted unless:	Response
5.1 Aboriginal Heritage	
5.1.1 Application Requirements	
<p><b>Due Diligence Assessment</b></p> <p>Where a development will disturb the ground surface and/or may impact on Aboriginal cultural or spiritual values, the development application must demonstrate that a Due Diligence assessment has been undertaken by the applicant or a suitably qualified person. This includes (but is not limited to) submitting the following documentation in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW:</p> <ul style="list-style-type: none"> <li>• A statement and results of a basic 200m AHIMS search. Where a site is identified within 200m of the development site the results of an extensive AHIMS search are required.</li> <li>• A statement identifying whether the development site is partially or wholly within the area identified as having a high probability of Aboriginal cultural heritage values on the Aboriginal Cultural Heritage Landscape Map (see Figure 5.1b).</li> <li>• A statement indicating whether there are landscape features that indicate the potential presence of Aboriginal objects. Landscape features include foreshore areas, creek lines, rocky areas, wetlands, ridge tops, ridgelines, headlands, sand dunes and caves. Figure 5.1a illustrates several landscape features where there is potential for Aboriginal sites to occur.</li> <li>• A statement indicating if previous Aboriginal Cultural Heritage studies have been undertaken on the subject land Note: if any previous Aboriginal Cultural Heritage studies demonstrate that</li> </ul>	<p>The proposed development involves ground disturbance and therefore consideration of Aboriginal Cultural Heritage is required.</p> <p>In response and consistent with the requirements of this control, a review of the Aboriginal Heritage Information Management System (AHIMS) database was undertaken and it is confirmed that there is a recorded item of Aboriginal cultural significance within 200 metres of the subject site.</p> <p>A due diligence assessment of Aboriginal Cultural Heritage was undertaken by On Site Cultural Heritage Management and is included as Appendix G.</p> <p>In summary, this report concluded the following:</p> <ul style="list-style-type: none"> <li>• <i>the entire project area is disturbed land and subject to massive disturbance that is likely to have substantially diminished the potential of this landscape to contain Aboriginal objects in-situ.</i></li> <li>• <i>Assessed the project area as having a low potential and 'very unlikely' to contain Aboriginal objects with any spatial integrity.</i></li> <li>• <i>This assessment concludes that the site does not contain any items of Aboriginal cultural heritage significance and that further investigation is not warranted.</i></li> </ul> <p>Consequently, the report concludes that no further site investigations are warranted due to the heavily disturbed nature of the site.</p>

Consent must not be granted unless:	Response
<p>adequate Due Diligence was undertaken at that time, those reports can be taken into consideration. Council staff may be able to assist you in locating any previous reports.</p> <ul style="list-style-type: none"> <li>• A statement indicating if the development site is within a declared Aboriginal Place of Significance as listed in Schedule 5 of the Bega Valley Local Environmental Plan 2013.</li> </ul>	
<p><b><i>Due Diligence Report</i></b></p> <p>If the results of the Due Diligence Assessment find that there is the potential for Aboriginal objects or cultural heritage values on the land and that the development may impact these values or objects a comprehensive Due Diligence Report must be prepared by a suitably qualified person such as an archaeologist or someone with training in recognising Aboriginal landscapes and values</p>	<p>As outlined above, the due diligence report did not identify the need to undertake further, more detailed heritage investigations.</p>
<p><b><i>Aboriginal Cultural Heritage Assessment Report (ACHAR)</i></b></p> <p>An Aboriginal Heritage Impact Statement or Aboriginal Cultural Heritage Assessment Report prepared in accordance with the Office of Environment and Heritage Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales, may be required where:</p> <ul style="list-style-type: none"> <li>• The Due Diligence Report has identified the potential for the site to contain an Aboriginal object or place of significance, or</li> <li>• The development will have an impact on a known Aboriginal object or place.</li> </ul>	<p>Not applicable, see above for further details.</p>
<p><b><i>Aboriginal Heritage Impact Permit</i></b></p> <p>Where a proposal seeks to destroy, remove or impact on an Aboriginal object, any development will be Integrated Development for the</p>	<p>Not applicable, see above for further details.</p>



Consent must not be granted unless:	Response
purposes of the Environmental Planning and Assessment Act 1979 as approval is required under the National Parks and Wildlife Act 1974.	
<b>5.2 Non-Aboriginal Heritage</b>	
<b>5.2.3 Requirements for development in the vicinity of heritage items</b>	
<ul style="list-style-type: none"> <li>• New or infill development on vacant land in a Heritage Conservation Area will be sympathetic with surrounding heritage buildings. For more detail see the publication Design in Context – Guidelines for Infill Development in the Historic Environment available free from the NSW Heritage Office website.</li> <li>• New buildings may be “of the time in which they are built” and not reproductions of earlier historic building styles.</li> <li>• The height, scale and bulk of new development will not adversely impact on heritage places within the Heritage Conservation Area or on the character of the Heritage Conservation Area in general.</li> <li>• New development will maintain the historically significant pattern of development within the Heritage Conservation Area.</li> <li>• Materials and colour of new buildings must be sympathetic with the prevailing heritage character of the area.</li> <li>• Front setbacks will generally be equal to or greater than prevailing setbacks so that heritage and contributory buildings remain the prominent items in the streetscape.</li> <li>• Side setbacks will generally be consistent with prevailing setbacks elsewhere in the Heritage Conservation Area.</li> <li>• New development will not obstruct important views or vistas to buildings and places of historic and aesthetic significance.</li> </ul>	<p>As outlined in Section 4.6.4, the subject land is not identified as a heritage item nor is it located within a heritage conservation area following a review of Schedule 5 and the Heritage Map of the LEP.</p> <p>Notwithstanding, consideration needs to be given to the proposed building design (namely height) and its potential impacts on adjoining heritage items. The only heritage item located within proximity to the site is local Heritage Item No. I221 – Twyford Hall, which is located at 16 Market Street to the east.</p> <p>Upon further review, the proposed development is not expected to adversely affect this heritage item as it will not create overshadowing impacts for this property. The proposed building has been designed to reduce the building bulk and street wall height of the building by stepping in the top floors of the building, which will not be visible from Market Street.</p> <p>Cross sections and longitudinal profiles have also been provided detailing potential impacts on this heritage-listed building (Figure 46). Given the location of the subject land on the western side of Market Street and the stepped nature of the building, the proposed development is not expected to adversely affect the heritage values of this building, particularly when considered against a recently constructed two storey extension of Twyford Hall (see Development Consent No. 2007.0144).</p>

Consent must not be granted unless:	Response
<ul style="list-style-type: none"> <li>Fences within Heritage Conservation Areas and around individually significant buildings must reflect the style of fence that was typical of the historic period.</li> <li>Ribbed metal sheet fencing must not be used within Heritage Conservation Areas or around a significant place unless it is at the rear of the property and will not be readily visible from the public domain. Traditional corrugated galvanized iron may be appropriate if suitably detailed.</li> <li>Contributory items must be sympathetically restored so that their contribution to the overall character of the Heritage Conservation Area or streetscape is enhanced.</li> <li>Where a structure is unable to achieve a suitable design standard, for example because of its utilitarian or specific nature, it is to be lower, set back from adjacent structures and incorporate suitable screening.</li> </ul>	
<b>5.3 Access &amp; Mobility</b>	
<b>5.3.1 Access and mobility impact assessment</b>	
<ul style="list-style-type: none"> <li>When assessing development applications Council requires compliance with Australian Standards 1428 - Design for Access and Mobility (Parts 1 and 2) and the intent and implications of the Disability Discrimination Act 1992, as well as the relevant requirements of this plan.</li> <li>Supporting documentation concerning the impacts on access and mobility may be required by Council in the form of an Access and Mobility Assessment lodged with the development application. In some cases a formal assessment by a suitably qualified person in relation to access and mobility assessment and compliance with the Disability Discrimination Act 1992 will be required.</li> </ul>	<p>The development complies with the requirements of Australian Standard AS 1428 - Design for Access and Mobility (Parts 1 and 2) and the Disability Discrimination Act 1992, which has been demonstrated in the enclosed access report.</p> <p>This has been achieved via the use of at grade pedestrian accessways and centrally located and accessibly designed lifts.</p>

Consent must not be granted unless:	Response
<ul style="list-style-type: none"> <li>• Council may refer specific public space development applications to its Access Advisory Committee for comment.</li> </ul> <p>Council may require an access management plan:</p> <ul style="list-style-type: none"> <li>• For a change of use of existing premises where minimal alterations and additions are proposed</li> <li>• In cases where it may be difficult to physically configure an existing building or space so as to provide access for people with a disability</li> <li>• An access management plan submitted to Council must:               <ul style="list-style-type: none"> <li>– identify the type of service (or operation) being proposed in the development application</li> <li>– identify where the service would not be accessible in the proposed premises</li> <li>– identify alternative methods of providing the service</li> <li>– if alternative (accessible) premises are proposed for providing the service, identify the arrangements that need to be put in place to ensure that those premises are able to be used</li> <li>– identify the methods by which the alternative service can be promoted to potential clients</li> <li>– identify what can be done over time (such as through a building upgrade plan) to improve the accessibility of the primary premises.</li> </ul> </li> </ul>	
<b>5.4 Social &amp; Economic Impacts</b>	
<b>5.4.1 Social and Economic Impact Assessment</b>	

Consent must not be granted unless:	Response
<ul style="list-style-type: none"> <li>• In order to assess the impact of certain developments on the community a statement of the social and economic impacts of the development, known as a socio-economic impact assessment, will be provided with the development application for applicable development types.</li> <li>• The objectives of requiring a Socio-Economic Impact Assessment are to ensure that: <ul style="list-style-type: none"> <li>– The amenity created by services and facilities is preserved.</li> <li>– A liveable and sustainable community is achieved by considering both environmental and economic issues.</li> <li>– The views of the people most affected are taken into account.</li> <li>– Effective community/local government participation is promoted.</li> <li>– Positive and negative impacts are identified early so as to allow the proper consideration of proposed developments.</li> <li>– Determine and assess possible measures for the management or mitigation of likely impacts.</li> <li>– The impacts on amenity are equitably distributed in the community.</li> <li>– The applicant can present the anticipated effects of the development in a detailed and balanced form for Council consideration, showing how it will meet Council's Social Plan and other relevant planning instruments and policies.</li> <li>– Impacts that are acceptable to the community can be identified.</li> </ul> </li> </ul>	<p>Consistent with the requirements of this section, a Socio-Economic Assessment has been prepared and is included in Appendix J.</p> <p>A summary of the key social and economic impacts resulting from the development are outlined below:</p> <p><u>Social Effects</u></p> <p>The development will have an overall positive social effect as it will improve local facilities, increase housing stock close to public transport and amenities, provide greater housing choice as well as improve public domain facilities and the pedestrian interface with surrounding streets.</p> <p>The proposed development will have a number of public benefits including the provision of a pedestrian accessway from a rear council car park (Palmers Lane) through to Market Street, as well as street beautification works along Market Street consistent with the Merimbula town centre Landscape Master Plan</p> <p>The building provides articulation and visual interest to the street, as well as a built form that provides a break through the site to reduce building bulk and appearance and achieve high levels of internal open space and amenity for residents.</p> <p>Other social benefits will include:</p> <ul style="list-style-type: none"> <li>• Activation and investment in the Merimbula town centre consistent with the recommendations of the Residential Strategy 2040.</li> <li>• Provision of approximately 50 residential apartments (1, 2 and 3 bedrooms) to meet housing demand and provide a range of housing choice for new and existing residents, incorporating a diversity of product in a location which is highly accessible with excellence access to employment and transport.</li> <li>• Improve housing diversity with apartment dwellings.</li> </ul>

Consent must not be granted unless:	Response
	<ul style="list-style-type: none"> <li>• Facilitate resident work-from-home needs.</li> <li>• An activated public domain that offers increased passive surveillance and retail activation.</li> <li>• The proposal will encourage sustainable transport use and discourage car dependence, which in turn has positive flow-on effects for the local and wider traffic network reducing energy consumption and resulting in a smaller ecological footprint.</li> <li>• Reduce demand for additional town centres.</li> <li>• Reduce public costs of extending infrastructure to greenfield housing sites.</li> </ul> <p><u>Economic Effects</u></p> <p>The development will result in a number of short and long-term economic benefits through the generation of local employment opportunities during construction and operation. The density will permit a development, which has a higher capital investment value that will generate more construction jobs than a smaller development which currently exists.</p> <p>Economic benefits will include:</p> <ul style="list-style-type: none"> <li>• Activation and investment in the Merimbula town centre consistent with the recommendations of the Commercial Strategy 2040.</li> <li>• Investment stimulus from the redevelopment of the Merimbula town centre to meet the changing demographic and housing needs of the community including motivation for other sites to undergo redevelopment.</li> <li>• Maintenance and enhancement of existing commercial activities on-site including fine-grain retail.</li> <li>• Provision of more housing closer to jobs and contribution towards increasing local housing supply and diversity.</li> </ul>

Consent must not be granted unless:	Response
	<ul style="list-style-type: none"> <li>Provision of more housing which is supported by public transport services.</li> </ul> <p>Specific economic impacts to result from the proposal are outlined in the attached socio-economic impact assessment and are reproduced below:</p> <p>The construction of the proposed development over two years would generate:</p> <ul style="list-style-type: none"> <li>43 jobs in the Bega Valley Shire LGA.</li> <li>8 indirect jobs in the Rest of NSW.</li> <li>\$6.2 million Gross Value Added (GVA) per annum to Bega Valley Shire LGA.</li> <li>\$1.6 million GVA per annum to the Rest of NSW.</li> </ul> <p>Operation of the proposed retail will generate:</p> <ul style="list-style-type: none"> <li>73 jobs on site (140% more jobs that currently).</li> <li>10 indirect jobs in the Bega Valley Shire LGA and 6 indirect jobs in the rest of NSW.</li> <li>\$7.1 million GVA per annum to Bega Valley LGA.</li> <li>\$1.1 million GVA per annum to the Rest of NSW.</li> <li>Jobs for local residents currently travelling outside of the LGA for work.</li> </ul>
<b>5.5 Sustainable Design Principles</b>	
<b>5.5.1 Sustainable Design Requirements</b>	
<ul style="list-style-type: none"> <li>All development is encouraged to achieve best practice in addressing SDPs from the design stage through to construction and operation.</li> <li>A Sustainable Design Management Plan (SDMP) is required for the following developments: commercial development greater than</li> </ul>	<p>A Sustainability Management Report has been prepared and is included in Appendix K of this report and addresses the key principles of sustainable design outlined in Table 5.1, which include:</p> <ul style="list-style-type: none"> <li>Energy efficiency</li> </ul>



Consent must not be granted unless:	Response
<p>1,500m2, development of 4 or more storeys, residential subdivision for 5 or more allotments and developments of 10 or more dwellings (including units).</p> <ul style="list-style-type: none"> <li>The principles of sustainable design are outlined in Table 5.1</li> </ul>	<ul style="list-style-type: none"> <li>Water efficiency</li> <li>Ecology</li> <li>Stormwater Management</li> <li>Transport</li> <li>Waste Management</li> <li>Indoor Environment Quality</li> <li>Innovation and Area</li> </ul> <p>Further consideration of sustainable design principles is also addressed in the Qualified Designers Statement at Appendix C.</p>
<p><b>5.6 Tree &amp; Vegetation Preservation</b></p>	<p>Not applicable as the development does not involve the removal of any trees as the land is already developed.</p>
<p><b>5.7 On-site Sewerage Management</b></p>	<p>Not applicable.</p>
<p><b>5.8 Planning for Hazards</b></p>	<p>Flooding hazards are addressed in the response to clause 5.21 of the LEP. It is reiterated that the subject land is not subject to the 1 in 100 year ARI event, but a small portion of the site is subject to the PMF.</p> <p>Coastal hazards are addressed in the response to clause 6.4 of the LEP. In addition to the LEP provisions, this section of the DCP requires applications for new residential development to include the impact of a 0.4m sea level rise by 2050 and 0.9m sea level rise by 2100.</p> <p>Council officers have advised that the <i>“interim extreme water level inundation planning benchmark for Merimbula Lake remains at 2.27m AHD.”</i> Council are currently in the process of finalising the Floodplain Risk Management Study and Plan for Merimbula and Back Lake.</p>

Consent must not be granted unless:	Response
	<p>Whilst it is acknowledged that the ground floor level of the building will be below the predicted sea level rise of 2100, the development achieves the current minimum FFL requirement of Council of 2.27m AHD. Furthermore, the ground level of the building contains no habitable uses only commercial tenancies and car parking areas.</p> <p>In response, all electrical components within the building at the ground floor level will be raised up and the building will be constructed of flood compatible materials.</p> <p>Matters regarding land contaminated land have already been addressed in the response to SEPP 55. In summary, the land is not known to be contaminated.</p> <p>The subject land is not identified as bushfire prone on Council's bushfire prone land map.</p>
<p><b>5.9 Off-Street Car &amp; Bicycle Parking</b></p> <p>Note that under clause 30 of the <i>State Environmental Planning Policy No 65— Design Quality of Residential Apartment Development</i> the requirements for parking in the ADG override those in the DCP to the extent of any inconsistency.</p>	<p>The provision for car parking has been calculated and provided separately for the commercial and residential components of the development.</p> <p>A Traffic Impact Assessment has been prepared and is included in Appendix L.</p> <p>The requirements for car parking associated with residential flat buildings are met because:</p> <ul style="list-style-type: none"> <li>• each apartment is provided with a designated car parking space in accordance with the DCP and ADG's;</li> <li>• provision has been made for loading, unloading and waste collection, including the use of a turntable;</li> <li>• there is no parking in the front setback;</li> <li>• all vehicles can enter and leave in a forward direction;</li> <li>• the parking areas will be lit; and</li> <li>• secure bicycle storage (52 spaces) is provided in a designated location within the car parking area.</li> </ul>
<p><b>5.10 Subdivision Standards</b></p>	<p>Not applicable.</p>
<p><b>5.11 Signage &amp; Advertising</b></p>	<p>Not applicable. Approval for any signage requiring consent will be sought separately.</p>
<p><b>5.12 Tourist Accommodation &amp; Caravan Parks</b></p>	<p>Not applicable.</p>

Table 11 – Section 6: Engineering Requirements

Consent must not be granted unless:	Response
<b>6.1 Roads and Easements</b>	Not applicable, the development does not involve the construction of a public road.
<b>6.2 Parking and Driveways</b>	
<ul style="list-style-type: none"> <li>• Access to parking areas will be designed to minimise conflict between pedestrians, cyclists and traffic. Council may require road and traffic management works to ensure safe access to parking areas. Where developments front a busy road, access to rear lanes (if available) must be provided.</li> <li>• Driveways will be located to the street with the lowest traffic volume. In particular, driveways will not be located opposite a 'T' intersection or closer than 6m to an intersecting street as measured from the property boundary, but preferably 9m to an intersecting street as measured from the property boundary.</li> <li>• Parking areas and driveways are to be designed, surfaced and graded to reduce run off and allow stormwater to be controlled on site or disposed of to the Council controlled drainage system.</li> <li>• Driveway design will make provision for service vehicles where applicable.</li> </ul>	<p>The proposed mixed use development complies with this control as the car parking, loading and unloading areas have been located at the rear of the building away from the main pedestrian areas to minimise land use conflicts and safety concerns.</p> <p>More specifically, the driveway accessways are located from the rear Palmer Street, which is the lower order road and does not conflict with any adjoining intersections.</p> <p>All stormwater will be captured and collected on-site and the development makes provision for service vehicles accessing the back of house, waste and loading dock area. Given the size of these vehicles and the need for vehicles to enter and exit the site in a forward direction, the development proposes a turntable.</p>
<b>6.3 Soil and Stormwater Management</b>	
<ul style="list-style-type: none"> <li>• The development will incorporate the principles of water sensitive urban design. These include minimisation of impervious surfaces and provision for the collection, reuse and management of stormwater to reduce reliance on potable water and ensure that predevelopment water quality is maintained or enhanced in post-development runoff.</li> </ul>	<p>A civil engineering assessment has been prepared and is included in Appendix I.</p> <p>Amongst matters that have been considered include stormwater run-off and collection. The development will achieve water sensitive urban design as stormwater will be captured and collected from roofed areas into water tanks that will be used to irrigate proposed landscape</p>

Consent must not be granted unless:	Response
<ul style="list-style-type: none"> <li>• The management of water must address cumulative environmental impacts and be carried out in accordance with the objectives of integrated water cycle management.</li> <li>• In order to minimise land degradation, water pollution and damage to infrastructure from accumulated sediment, development must be constructed in a manner which minimises erosion and sedimentation to current best practice.</li> <li>• Inter-allotment drainage systems will be designed and constructed to minimise the number of allotments using each easement so that maintenance responsibilities are as simple as possible. As a general rule, each inter-allotment drainage easement must serve no more than two allotments, except where no feasible alternative exists.</li> <li>• Subdivisions will be designed so that stormwater flows for rainfall events of a 100 year average recurrence interval (ARI) and greater can pass without causing damage to property and infrastructure. Stormwater flows for events larger than the 5 year ARI for residential development and 10 years for commercial and industrial development are not required to be contained within piped drainage systems however the overflow path must be planned, clearly evident on the site and contained within suitable easements, public reserves and road reserves</li> <li>• Subdivisions in zones R2, R3, RU5, B1, B2, B4, IN1, IN2, SP2 and SP3 will be designed and constructed to produce no net increase in peak stormwater flows downstream, generally through the use of on-site stormwater detention facilities, and re-use of stormwater on site.</li> <li>• The development of land within Wonboyn Village must achieve best practice soil and water management controls as detailed in the report: "Stormwater, Septic and Water Leachate Management Plan</li> </ul>	<p>areas. Extensive landscaping is proposed throughout thereby increasing the amount of pervious surfaces and deep soil zones, which will have a positive environmental benefit.</p> <p>The development will incorporate appropriate sediment and erosion control measures during both demolition and construction, thereby reducing environmental harm.</p> <p>The development does not involve a residential subdivision.</p>

Consent must not be granted unless:	Response
<p>Wonboyn Lake" 4 April 2005. The report is available on request from Council.</p>	
<p><b>6.4 Utility Services</b></p>	
<ul style="list-style-type: none"> <li>Where land being subdivided is identified by Council as being within the Development Servicing Plan for Water Supply or identified by Council as being within the Development Servicing Plan for Sewerage all lots will be provided with access to these services.</li> <li>The subdivider will provide the reticulation mains and all works necessary to enable these mains to operate, including reservoirs, trunk mains, pumping stations, telemetry systems and any associated works, all at no cost to Council.</li> <li>Any existing water services and any existing internal sewer drainage lines are to be wholly within the boundaries of the allotment they are to serve.</li> <li>Easements for services may be required to allow public utility services.</li> <li>Electricity substations and telecommunications service multiplexers will be located within suitable easements and will not be located within public road reserves.</li> <li>Where development other than subdivision requires sewerage or water supply works outside of normal connection to existing mains, Council will select the appropriate equivalent service requirements.</li> </ul>	<p>As outlined above, a civil engineering assessment has been prepared and is included in Appendix I.</p> <p>No subdivision is proposed and it is expected that council will charge infrastructure contributions in accordance with its Development Servicing Plan.</p>

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## Appendix F: Landscaping Plans

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## Appendix G: Aboriginal Cultural Heritage Due Diligence Assessment

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## Appendix H: Geotechnical Investigations

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## Appendix I: Civil Engineering Assessment and Structural Engineering Details

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## Appendix J: Socio-Economic Impact Assessment

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## Appendix K: Sustainability Management Report

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## Appendix L: Traffic Impact Assessment

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## Appendix M: Land Contamination Reports

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## Appendix N: Survey Details

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## Appendix O: Access Compliance Assessment Report

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## Appendix P: Waste Management Plan

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## Appendix Q: Planning Proposal to amend Bega Valley Local Environmental Plan 2013

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## Appendix R: DA Cost Summary Report

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