

JOINT REGIONAL PLANNING PANEL (Southern Region)

JRPP No	2010STH029
DA Number	LUA 10/0863
Local Government Area	Wingecarribee Shire Council
Proposed Development	Mixed Use Development Comprising 7 Retail Units & 52 Residential Units (basement car parking)
Street Address	Cnr 1 - 3 Victoria Street & 184 - 186 Mittagong Road, Bowral
Applicant/Owner	Nicolas Daoud & Co Pty Ltd
Number of Submissions	24
Recommendation	Approval with Conditions
Report by	Kate Wooll, Town Planner, Wingecarribee Shire Council

A development application (DA) has been lodged for a mixed use development comprising 4 retail units and 44 residential units, with basement car parking for 114 cars, 4 motor cycles and 16 bicycles, at Nos.1 to 3 Victoria Street and Nos. 184 to 186 Mittagong Road, Bowral.

The development originally proposed 7 retail units and 52 residential units and was valued at \$12,077,792. Therefore the development is subject to the provisions of *State Environmental Planning Policy (SEPP) (Major Development) 2005* and will be determined by the Joint Regional planning Panel.

REPORT

Assessment Team

The independent assessment team within Council for this application is as follows:

Les Pawlak – Manager Environmental Services
 Kate Wooll – Town Planner
 Paul Kalanoski – Development Engineer
 Frank Iacono – Design Engineer
 Robert Cox – Building Surveyor

Proposal

When first lodged, the DA proposed a mixed use development comprising 52 residential units and 7 retail units with basement parking. The proposed development was three storeys, and therefore the provisions of *SEPP 65 - Design Quality of Residential Flat Development* applied.

When first publicly exhibited, a number of submissions related to design principles. There is currently no Design Panel for the Wingecaribee Shire area, so an independent panel of local architects was appointed by assessment staff to provide advice on the design in relation the Design Quality Principles in the SEPP.

Based on the advice from the panel, the applicant chose to lodge an amended proposal comprising:

- Demolition of all existing structures/improvements;
- Consolidation of the allotments;
- Construction of 3 x two storey buildings to accommodate mixed uses including:
 - 4 retails spaces;
 - 44 residential/office apartments (5 x 2 bedroom units and 39 x 2 bedroom plus study units); and
 - Basement car park for a maximum of 114 car spaces (82 residential spaces, 17 retail spaces and 15 visitor spaces) 4 motorcycle spaces, and 16 bicycle spaces;
- Landscaping; and
- Associated drainage works.



Photo Montage View of Victoria Street South along Mittagong Road



Photo Montage Victoria Street looking west.

Given that the proposed development is now only two storeys, the provisions of SEPP 65 no longer apply.

A copy of the proposed plan including site plan and elevations is included as Attachment 1 to this report.

Site Description, Context and Setting

Site Description

The site is located on the northern entry to the Bowral Town Centre and consists of the following parcels - Lot 3 DP 1104038 (1 Victoria Street), Lot 4 DP 1104043 (1A Victoria Street), Lot 5 DP 1104045 (1B Victoria Street), Lot 6 DP 1104052 (3 Victoria Street), Lot 2 DP 1104027 (184 Mittagong Road), and Lot 2 DP 1097653 (186 – 188 Mittagong Road), Bowral.

Five of the six lots contain single storey detached dwellings while the remaining lot contains a car park, enclosures and tin sheds.

The site is located on the south eastern corner of the intersection of Victoria Street and Mittagong Road Bowral.



Aerial view showing subject site and immediate locality



The site is irregular in shape with a combined area of 6,088m² with a primary frontage of 48 metres to Mittagong Road and a secondary frontage of 67 metres to Victoria Street.

The site is relatively flat with a maximum change of 1 metre in gradient across the site. It is however within approximately 125 metres (variable) from Mittagong Creek and is identified as being flood affected, falling within the low to fringe low risk precinct.

There are a number of trees on site but the site has not been identified on Council's vegetation mapping as containing any significant vegetation communities as most of the plant species are exotic garden plantings.

Mittagong Road is an arterial or classified road forming a link between Bowral Mittagong and Moss Vale through to the Hume Highway.

Victoria Street is a local road with no through access as the road bridge over Mittagong Creek is not suitable for vehicles. Therefore, Victoria Street is effectively operating as a cull-de sac with approximately 30 properties accessing it.

Surrounding development

The site is located in a transitional area between the residential section of Bowral to the east and the Bowral Town Centre to the south.

The Mittagong Road frontage leads into the commercial area of Bowral with a range of buildings one to two storeys in height. The opposite side of Mittagong Road faces the Main Southern Railway Line.

The northern corner of the intersection of Mittagong Road and Victoria Street contains a mostly vacant site which has development consent for a motel development and a seniors living development.

Victoria Street falls within the Bowral Conservation Area and contains a number of modest single storey detached dwellings dating from the Victorian and Federation eras. Victoria Street also contains a Swimming School and a secondary frontage to St. Thomas Aquinas Primary School.

Development History of Site

The site has been the subject of a number of development applications, and the following is a brief summary of these:

- **LUA2003/1885:** Proposed Kmart comprising a 3800m² discount department store and 681m² of retail specialty shops over basement car parking with 130 car spaces. The application was refused on the basis that the Victoria Street elevations (which include “back of house” functional areas such as loading area, storage area, garbage area and car park entry/exit) were not considered to be satisfactorily designed/located and are not considered consistent with the existing predominantly residential/heritage character of Victoria Street.
- **LUA2006/0879:** Proposed Commercial Building and Car Park. This application proposed a commercial complex with approximately 4000m² floor space within 2 storeys (originally 3 storeys was proposed) with ground level car parking for 137 cars. The application was approved by the NSW Land and Environment Court, which required that the building be reduced to two storeys and that the façade along the Victoria Street frontage be provided with a “terrace house” façade treatment to the easternmost section. The application was approved on 13 August 2007 and the consent is still valid.
- **LUA2009/0998:** Proposed Mixed Use Commercial Retail Building and Underground Car Park. This application was lodged under the provisions of Wingecarribee Local Environmental Plan 1989. Under this plan the site was zoned Business 3(a) which prohibited residential flat buildings and only allowed dwellings which were attached to shops. This had been tested in a previous Land and Environment Court Appeal which found that two storeys of residential proposed over another proposed commercial building in Bowral did not provide the connection required to satisfy the LEP requirements. This application was withdrawn with a view to re-lodgement upon the publication of Draft Wingecarribee Local Environmental Plan 2009 which permitted shop top housing and residential flat buildings within the proposed B4 zone.

SECTION 79C ASSESSMENT

The following is an assessment of the relevant provisions under Section 79c of the NSW Environmental Planning and Assessment Act 1979.

State Environmental Planning Policy (SEPP) (Major Development) 2005

The development originally proposed 7 retail units and 52 residential units and was valued at \$12,077,792 and therefore the development is subject to the provisions of *State Environmental Planning Policy (SEPP) (Major Development) 2005* with the Joint Regional Planning Panel being the determining authority.

State Environmental Planning Policy (Infrastructure)

The application was referred to the Roads and Traffic Authority (RTA) as it exceeded the traffic generating thresholds for a classified road (Mittagong Road). The RTA has issued its concurrence subject to conditions including signalisation of the intersection of Victoria Street and Mittagong Road. The RTA's conditions are included within the draft consent which is included as Attachment 2.

State Environmental Planning Policy (Building Sustainability Index (BASIX))

A BASIX certificate has been provided with the application in accordance with the requirements of the SEPP. The certificate demonstrates that the proposed design achieves the energy, water and thermal targets.

There are a few items specified on the certificate which are not shown or fully labelled on the submitted plans. This includes the individual gas hot water systems to each unit and the size/capacity for the rainwater tanks on Building A.

A condition of consent will require the submission of an amended set of plans including all details specified to be shown in the BASIX Certificate.

Drinking Water Catchments Regional Environmental Plan (REP) No 1

The application was referred to the Sydney Catchment Authority (SCA) for assessment and concurrence under the provisions of Clause 28 of the Drinking Water Catchments Regional Environmental Plan No 1 (deemed SEPP). The SCA has made the following comments:

"It is noted that the proposed stormwater quality management measures for the development only include a single 10,000L rainwater tank to collect runoff from Building One for outdoor irrigation use, together with 180 square metres of bio-retention basin. While proposed stormwater management measures have been derived using MUSIC stormwater quality modelling to achieve a neutral and beneficial effect (NorBE) on water quality, the collection of roof runoff and water reuse for such a large scale development is minimal. The SCA notes that the proposed stormwater management measures:

- are not consistent with the SCA's current recommended practices relating to stormwater which seek to include rainwater tanks for the collection and reuse of **all** roof runoff as part of a stormwater treatment train;*
- are inconsistent with Water Sensitive Urban Design principles which seek to treat and reuse stormwater as much as possible at the source;*

- *has a high risk to water quality through the reliance on a single stormwater treatment measure which if it fails or its performance degrades has a high risk to water quality;*
- *do not enable rainwater tank water reuse during and following wet weather when the soils are saturated or wet;*

Consequently the SCA will require a substantially larger rainwater tank capacity together with internal reuse in all residential and commercial units. Because of the design of the stormwater collection system it is likely that the requirement for larger rainwater tanks will mean these have to be located under the building, which could potentially result in a loss of two parking spaces. This has been discussed with Council which has indicated that the currently proposed development has significantly more than the number of parking spaces required under the relevant Development Control Plan.”

The SCA has assessed the application and issued its concurrence subject to the conditions contained in the attached draft consent.

It should be noted that it may be possible to undertake a deeper excavation within the basement to accommodate the tank thereby reducing the impact on car parking.

Illawarra Regional Environmental Plan No. 1

This Plan (now a deemed SEPP) still applies to the Wingecarribee area, however much of this plan has been repealed. The only relevant provision of this plan to this application is as follows:

“79 Residential uses in business zones

The consent authority should consider permitting residential uses in mixed development in business zones, above commercial property.”

The application is considered to be consistent with the Plan’s objectives.

Wingecarribee Local Environmental Plan (WLEP) 2010

Zoning

The site is zoned B4 - Mixed Use, with the proposed development defined as being both “shop top housing” and a “residential flat building” which are both permissible subject to Council approval. The zone objectives are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure that new development has regard to the character and amenity of adjacent and nearby residential areas.*

It is considered that this development complies with the zone objectives as it provides a compatible mixture of land uses within an accessible location, being on the fringe of the Bowral town centre.

The design of the amended proposal provides for a more commercial façade with parapet facing the Mittagong Road frontage, which is compatible with the town centre, and a more residential gabled style roof line for the residential section fronting Victoria Street.

It is noted that in the immediate corner of Victoria Street and Mittagong Road (a splay of 6m from the corner on both frontages) is zoned SP2 - "Local Roads" this corner will be dedicated to Council as a condition of consent.

Height of Buildings

Clause 4.3 Height of Buildings applies, with a 10 metre height limit identified for this site. The amended plan is two storeys and 8.780 metres in height, thereby complying with the development standard.

Floor Space Ratio (FSR)

Clause 4.4 applies with a 1.1:1 FSR identified for this site. The amended proposal has a FSR of 0.9:1 and complies with the development standard.

Heritage

The site is within the Bowral Heritage Conservation Area (HCA) but contains no individually listed items of heritage.

The provisions of clause 5.10 apply, and accordingly a Heritage Impact Statement (HIS) was submitted with the DA. This was referred to Council's Heritage Consultant for comment. Council's Heritage Consultant raised a number of issues in relation to the original 3 storey proposal, particularly in relation to its bulk and scale.

However, the following advice has been received from Council's Heritage Consultant with regard to the amended proposal:

"I have read the amended drawings.

Recommendations are:

- Generally the problems of bulk and scale have been reduced by a height reduction from three to two storeys.*
- Detailed landscape plan has not been sighted, but should be provided as an emailed .pdf for comment.*
- Detail of materials, finishes, profiles and colours of the Victoria Street (gable roofed building) frontage has not been sighted, but should be provided for comment."*

The landscape plan and schedule of finishes were referred with no further comment being made concerning the landscape plan. The only comment made in relation to the proposed schedule of finishes was in relation to the proposed roofing material

which is black. Council's Heritage Consultant has recommended a galvanised finish. It is intended to require a galvanised roof material as a condition of approval (see Attachment 2).

It is worth noting that the NSW Land and Environment Court approved the demolition of the existing dwellings (refer LUA2006/0879). The Heritage Impact Statement submitted with the application comments:

"The buildings and structures that require demolition for the proposed development are not heritage listed and are in generally poor condition. However, they do represent rural utilitarian building stock, the significance of which should be captured in a photographic archival record prior to demolition."

A condition of consent would require an archival photographic record of the existing buildings.

Flooding

Clause 7.9 applies in relation to flood planning and, as previously stated, the site is identified as being flood affected falling within the low to fringe low risk precinct.

The applicant has submitted a statement in relation to the flooding from KF Williams Environmental Services which states:

"Information received from WSC indicated the adjacent 1 in 100 year flood level to be RL 673.05 AHD. The majority of the site is above this level with Mittagong Road adjacent to the service lane exit and north of Victoria Street being inundated with water."

The minimum proposed floor level for retail areas is RL 673.10 AHD (i.e. 0.07m above flood level). The minimum floor level for habitable areas is RL 673.65 AHD (0.62 m above flood level).

The car park basement levels varies but averages RL.670.275AHD [note that in the amended plans this level is now 670.8], the basement needs to be waterproofed and tanked accordingly, the entry to the basement is at 673.65 AHD (0.62m above the flood level)."

Bowral Town Development Control Plan (DCP)

The site is within the Northern Entrance Precinct of the Bowral DCP which describes the area as *"an important precinct, forming as it does the northern entrance to Bowral. The B4 zoning particularly along the Mittagong Road frontage, provides the opportunity to enhance this entry and the style and quality of future development needs to maximise this opportunity to do so."*

The preferred outcomes for this Precinct as set out in the DCP are as follows:

- a) *encourage site amalgamation and redevelopment in order to achieve efficient and co-ordinated redevelopment within this precinct.*

Comment: The proposed development will involve the amalgamation of a number of lots and the co-ordinated redevelopment of the site.

- b) *Provide a mix of commercial and residential development, with an emphasis on residential development and low traffic generating commercial activities.*

Comment: The proposal provides a mix of commercial and residential development. Given the traffic issues on this site the higher proportion of residential to commercial usage will be a better outcome in terms of traffic generation.

- c) *Provide a size and scale of development which respects the precinct's inclusion in the Bowral Heritage Conservation Area (HCA).*

Comment: The size and scale of the development has been reduced in the amended proposal to respect the site's location within the Bowral HCA. The residential section of the development facing Victoria Street is described in the applicant's HIS as:

"The proposed residential components along Victoria Street are two storey with pitched roofs and covered balconies on the Victoria Street façade. The entire residential section on this façade is setback from the pavement with landscaping. Each residence is accessed via a covered courtyard at ground floor level. The dwellings present to the street with a gabled façade and pitched roof providing an interesting roof form so as to distinguish the residential element from the commercial element and to respond to the varied street uses on Victoria Street and Mittagong Road."

- d) *Provide an attractive streetscape with appropriate landscaping and screen planting along both Mittagong Road and Bundaroo Street.*

Comment: No landscape screen planting is proposed along the Mittagong Road façade which is in keeping with the zero lot line setbacks along Mittagong Road and Bong Bong Street leading into the town centre. Street tree planting and paving is included along the Mittagong Road façade

The setback to the Victoria Street frontage varies from 3.120 metres from the western side to 5.720 metres on the eastern side. As previously stated, access to the units would be via the courtyards which will have a massed shrub planting along the boundary interspersed with trees, the plans also include street tree planting.

- e) *Ensure that ingress and egress directly onto Mittagong Road is limited and appropriately located and designed to provide for existing high traffic volumes.*

Comment: The RTA advised that the site access must be located on the easternmost boundary on Victoria Street in order to minimise disruption to existing traffic. The access in the proposed design is consistent with the RTA's requirements.

A turning area has been incorporated into the driveway design to allow service vehicles to manoeuvre on site and to enter and leave in a forward direction. All service vehicle movements are done on site with no impact on the public road.

DCP Requirement for Residential Flat Buildings

Other than the Precinct controls discussed above, there are no specific controls for mixed use or residential development within the B4 zone.

Reference is made to the section on Residential Flat Buildings in the Bowral DCP (Section 5) but some of the controls in this section conflict with the provisions in the LEP. For instance, the maximum permissible FSR for a residential flat building in the DCP is 0.6:1 but the LEP allows 1.1:1 specifically for this site. Also the height limit for a residential flat building in the DCP is 8 metres but the height limit in the LEP for this site is 10 metres.

Due to the site being a mixed use site but primarily zoned business, some setback provisions, landscape provisions and private open space provisions are not applicable.

Bowral Conservation Area Precinct

There are a number of controls for new development within the Bowral DCP for the Heritage Conservation Area. However, given the zoning and the planning controls for this site (Permissible Uses/FSR/Height) many of the controls are not applicable in this instance. A consideration of heritage issues is the previous section of this report in the assessment of the LEP provisions.

Flooding

The Bowral DCP contains provisions relating to flood liable land. Issues relating to flooding are dealt with under the LEP provisions in the previous section of this report and in the later section addressing submissions.

Design and Streetscape

The proposed amended design is for a two storey building fronting both Mittagong Road and Victoria Street.

The Victoria Street frontage as shown below is of a similar scale in terms of height to surrounding development. The roof form and articulation of balconies assists in breaking up the length of the building. The design for this section of the building has picked up elements from the surrounding residential architecture such as the gable roof form with the steeper roof pitch.

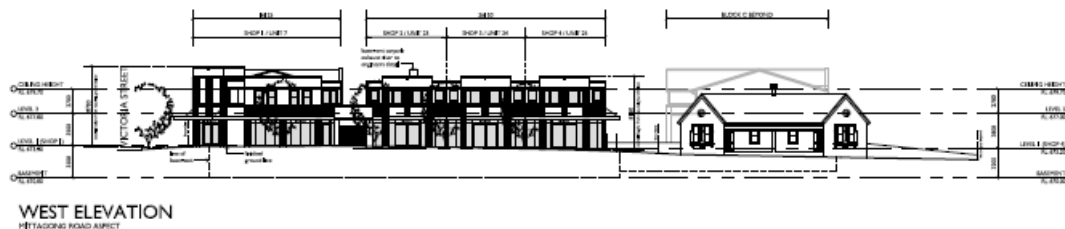


The entire residential section along the Victoria Street façade is setback with landscaping. The residential units are located on an east west axis and mostly (Blocks B and C) located internally, being obscured behind the street façade.



Overlay of proposed development footprint on aerial photo

The section of the development fronting Mittagong Road has a parapet roof form which is common to many commercial buildings in Bowral.



The corner treatment, whilst slightly higher than the surrounding parapet and gabled roof areas, does not dominate the design. The applicant's HIS describes the corner treatment as follows:

"The corner module is constructed from red brick and cream render but has been treated so as to accentuate its purpose as a commercial entrance and contributes to the continuation of the building rhythm around the corner, as opposed to the abrupt stop and return of a right angle treatment to the façade at this juncture. The parapet of this corner element is raised above the parapets on the two roadside facades and has a brick soldier course capping with a central gap to provide detail."

It is considered that the proposed treatment adequately addresses the corner.

Furthermore, it is considered that the design is suited to both its commercial and residential streetscapes, whilst providing some architectural differentiation between the two uses. In other words, it is considered that the building is consistent with both streetscapes.

It is noted that the Victoria Street streetscape is dominated by a number of modest detached single storey Victorian era cottages, however, given the difference in zoning, height limit and FSR controls between this site and the conservation area, the design has reached a reasonable compromise.

Traffic/Access

The application was referred to the RTA as access to the development proposed from Victoria Street via Mittagong Road (Mittagong Road being a classified road). There are no other streets connecting to this end of Victoria Street due to the state of the bridge over Mittagong Creek.

The RTA originally had a requirement to ban the right turn from Victoria Street onto Mittagong Road. This would have directed all traffic to the Bong Bong Street/Merrigang Street roundabout which is already at capacity.

Council informed RTA that this was undesirable, and the RTA reconsidered this requirement subject to traffic modelling.

Traffic modelling showed signals addressed problems at Victoria Street as a result traffic was being “platooned” at the already congested Merrigang Street/Bong Bong Street roundabout. Additional traffic modelling was undertaken to investigate various options to achieve an efficient and effective solution.

A proposal to signalise Bundaroo Street showed measurable improvements for traffic movements within this area of Bowral. The RTA then reviewed and endorsed the proposal.

The RTA’s final conditions of consent require signals at Victoria Street, but recommend a modification to signals at Bong Bong Street/Station Street to open up access to Bundaroo Street concurrently and address issues at the roundabout.

It is also noted that signals at Victoria Street (and formalisation of the cul-de-sac) could allow vehicle pick up from St Thomas Aquinas School, leaving Bundaroo Street for bus pick up and reducing congestion for through traffic.

Car Parking

The design provides the following car parking:

Component	DCP Rate	Proposal	Spaces Required	Spaces Proposed
Retail	1 space per 30m ²	535m ²	17.8	17
Residential (2 Bed)	1 space per unit	44 units	44	82
Visitor	1 space per 3 units	44 units	14.7	15
Motor Cycle	n/a	4	n/a	4
Bicycle	n/a	15	n/a	15

The car parking proposed exceeds Council's requirements for residential development of this type by 38 spaces. Furthermore, additional motor cycle and bicycle spaces are provided in excess of Council requirements.

Given the requirement of the SCA to provide a larger tank, a couple of car spaces may be affected.

Amenity Issues

Overshadowing

Shadow diagrams were submitted with the amended plans. None of the residential units are oriented solely to the south, and accordingly, direct sunlight access is available for a significant part of the day.

The diagrams show that all residential units, by virtue of being a cross over arrangement (that is having access to both sides of the building front and back), are capable of receiving solar access for a minimum of 2 hours between 9am and 3pm on 21 June (winter solstice).

No adjoining properties will be overshadowed by the proposal for more than three hours. It is noted that the properties on the southern side of the subject site are also zoned B4 Mixed Use.

Privacy

The size location and treatment of the balconies ensure that there are no significant overlooking impacts from neighbouring apartments within the complex.

Windows are located and treated to ensure privacy is retained for adjoining residents with overlooking minimised.

Internally the residential buildings (blocks A, B & C) are each separated by 12 metres, with this area being dedicated to communal open space and court yards.

A 1.8 metre high timber fence is proposed along the site boundaries (except the Victoria St and Mittagong Road frontage).

Noise

The proposal has been design to minimise internal noise transmission where possible by:

- Locating busy active areas such as living rooms next to each other;
- Locating quieter areas such as bedrooms next to each other; strategically locating kitchens, bathrooms/utility areas and internal circulation zones (i.e. internal stairs) to buffer noise generated from the foyer and lift areas; and
- Ensuring that a maximum of two walls are shared with other apartments.

The proposal has been designed to minimise noise impacts on adjoining residents through window and door treatment/location.

CONSULTATION

Pre-lodgement meeting

Pre development consultation was held with the applicant prior to the lodgement of the current application and the previous application (LUA09/0998).

Community Consultation

The application was notified by mail to surrounding landowners for a period of four weeks with a site sign and notice in the local paper.

Fifteen submissions were received objecting to the proposal, primarily from residents within Victoria Street.

As previously stated, when first lodged, the application proposed a mixed use development comprising 52 residential units and 7 retail units with basement parking. The proposed development was three storeys, therefore, the provisions of *SEPP 65 - Design Quality of Residential Flat Development* applied. When first publicly exhibited a number of submissions related to design principles. There is currently no Design Panel for the Wingecarribee Shire area, so an independent panel of local architects was appointed by assessment staff to provide advice on the design in relation the Design Quality Principles in the SEPP. Based on the advice from the panel the applicant chose to lodge an amended proposal.

Amended plans were received by Council on 3 March 2011, and the application was re-notified for a period of approximately 3 weeks from 4 March 2011 to 29 March 2011.

All those previously notified and those who had made submissions were notified of the amended proposal. A total of seven (7) submissions were received in relation to the amended proposal.

The issues raised are summarised as follows:

- *The proposal is out of character with the Bowral Heritage Conservation Area. The design is out of scale with surrounding development, and the materials proposed are unsympathetic to those of the surrounding buildings. The reduction in height of the proposal from three to two storeys is appreciated but the complex is still too large and unattractive and will set a precedent for new buildings in Bowral. The turret corner treatment is ugly and unsympathetic as is the parapet façade to Mittagong Road. The new proposal will have three flat buildings side by side creating a canyon like spaces between them.*

Comment: Whilst within a heritage conservation area the site has a business 'mixed use' zoning with height and floor space controls which do not reflect the Victorian era cottages in Victoria Street. It is considered that the development does include design elements which will allow this site to form a transition between the conservation area and the Bowral Town Centre. For further discussion of the design elements please refer to the *Design and Streetscape* section of this report.

- *Victoria Street is predominantly residential and quiet, the proposed development will impact on the existing amenity.*

Comment: The site currently contains 5 detached dwellings on individual lots but has had a commercial zoning since at least 1989. The current LEP has a mixed use zone for the site to provide some transition in uses between the commercially oriented area on the main street to the residential area in Victoria Street. Over time, the town centre has grown out towards Victoria Street and as a result the nature of this locality will change.

- *The Gross Floor Area may exceed the 1.1:1 requirement.*

Comment: Gross floor area as defined in WLEP 2010 excludes lifts and stairs, the basement, plant rooms and lift towers, terraces and balconies with outer walls less than 1.4 metres high.

The gross floor area is 5,446.7m² and the site area is 6,088m² so the floor space ratio is 0.9:1 which complies with the development standard.

- *Victoria Street has inadequate drainage.*

Comment: On site detention (OSD) would be a requirement for this development to discharge stormwater at a fixed rate of flow to ensure that there is no adverse impacts over the existing conditions. Therefore post-development flows would not exceed pre-development flows. Consent conditions address this matter.

- *There are existing traffic problems in Victoria Street exacerbated at times by both St. Thomas Aquinas School and Jan – Dee Swim School. The increase in traffic would also result in an increased threat to safety with larger trucks and delivery vans accessing the site. Access and egress to the site is inadequate with no turning circle provided on site for trucks.*

Comment: Existing traffic conditions in Victoria Street, particularly in relation to access to Mittagong Road, are at a poor level of service. The intersection is currently unsignalised and operates inefficiently during peak times.

Council has undertaken traffic modelling in conjunction with the RTA for both Victoria Street and the Bowral Town Centre. Traffic lights would address the existing issues while having minimal impact over existing vehicle movements.

The RTA has advised that the site access must be located on the easternmost boundary on Victoria Street in order to minimise disruption to existing traffic. A turning area has been incorporated into the driveway design to allow service vehicles to manoeuvre on site and to enter and leave in a forward direction. All service vehicle movements are done on site with no impact on the public road.

A merits based assessment has determined that the nature of the development, including the size and location of the retail component in comparison to similar commercial development within the Shire, makes it unlikely that a 12.5 metre heavy rigid vehicle (HRV) would be used. In the interest of efficient land use it was agreed that the design for a 8.8 metre medium rigid vehicle (MRV) would be acceptable.

This satisfies Section B3.4 of the Bowral DCP.

- *There is insufficient landscaping with approximately 17% proposed, the development does not comply with the 50% landscaping requirements. There is no communal open space and a very small deep soil area for tree planting. There is inadequate private open space per unit.*

Comment: The landscaping provisions within the Bowral DCP were designed for a residential flat building with a 0.6: FSR and a height limit of 8 metres. Given the business zoning of the site and the higher floor space ratio and height limit, it is considered that this landscape requirement is not applicable for this development.

Communal open space is limited to those areas between the courtyards between the buildings. However, given the location of the site within the town centre, there a number of public parks nearby and within walking distance of the site which provide off site open space.

The private open space for each unit varies from 15m² to 18m² which is considered to be adequate. The Bowral DCP only requires an area of 15m² for above ground floor units with a minimum length of 3 metres.

- *The opposing corner has had an approval for a seniors living development. This added with the current proposal will have a significant impact on traffic. Consideration should be given to opening the road bridge at Victoria Street.*

Comment: The traffic modelling considered the zoning of each site and the potential development yield for this area when fully developed.

As previously stated the signalisation of the intersection will adequately address this matter.

The reopening of the bridge at Victoria Street was considered during the assessment process as a possible solution to traffic issues. However, this solution was not pursued due to uncertainty relating to costs and of reaching an acceptable design solution.

- *There is a sufficient supply of retail shops in Bowral – it would be more sensible to offer the space as professional rooms.*

Comment: Whilst the shops are shown for retail use, the future use of each shop could potential be for office use as the zoning allows for professional rooms/offices or shops. The car parking rate is the same for either use under the DCP.

- *Victoria Street is within the 1:100 year flood area with Council having stringent controls on further development for residential dwellings. How is it possible that an underground car park is permitted in the same area.*

Comment: The site is located within the low to fringe low risk precinct. The adjacent 1 in 100 year flood level is RL 673.05 metres AHD. The majority of the site

is above this level with Mittagong Road adjacent to the service lane exit and north of Victoria Street being inundated with water.

The minimum proposed floor level for retail areas is RL 673.10 metres AHD (i.e. 0.07 metres above flood level). The minimum floor level for habitable areas is RL 673.65 metres AHD (0.62 metres above flood level).

These levels satisfy the requirements within the flood section of the DCP.

The entry point to the basement car park has been set at a height above the flood level to ensure water cannot enter the basement during a major stormwater event. The car park basement levels vary but averages 670.8AHD. As the basement needs to be waterproofed (including storage tanks for water reuse), the entry to the basement is at 673.65 metres AHD (0.62 metres above the flood level).

Many of the houses located along Victoria Street either back directly onto Mittagong Creek or are lower than the subject site. Accordingly, depending on the level of constraint there are greater controls.

The proposed development complies with the relevant flooding controls in the LEP and DCP.

- *Whilst the car parking provided on site complies with Council requirements there is still concern over the potential for overflow parking into Victoria Street.*

Comment: The car parking proposed exceeds Council's requirements for residential development of this type by 38 spaces. Furthermore, additional motor cycle and bicycle spaces are provided in excess of Council requirements.

- *Loss of property value.*

Comment: This is not a matter for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979.

- *Proposed method of garbage collection is not workable. There are insufficient bins for the number of units. The reality will be that bins are lined up along the street. No turning circle is available for the garbage trucks.*

Comment: There is sufficient area within the proposed driveway to support service vehicle manoeuvres. This has been confirmed with swept path analysis templates.

The application proposes two garbage rooms within the basement area, one for the commercial development and the other for the residential development. The number of bins indicated on the plans is less than the number of units but it is understood that this is a communal facility.

It is proposed that once a week the bins will be taken up the ramp manually to the garbage truck which will be located within the vehicle bay (off the driveway) on site.

It is considered that this is a reasonable approach to waste management.

- *The development proposes residential units on the ground floor Clause B19.3 of the Bowral DCP indicates that they should be above commercial uses.*

Comment: The development is a mixed use development comprising residential above the commercial area on the Mittagong Road frontage and residential fronting the Victoria Street frontage.

The DCP also states in clause B19.2 that one of the preferred outcomes is for the development to have an emphasis on residential development and low traffic generating activities.

The development complies with the preferred outcomes and, given the traffic issues associated with the site, it is considered that having a greater proportion of residential to commercial is preferable as residential has lower traffic generation rates according to the RTA's guidelines.

- *The views of Mt. Gibraltar along Mittagong Road will be lost, as will attractive rural views when moving west along Victoria Street.*

Comment: It is considered that the loss of views would mainly be at street level in the immediate vicinity of the development.

- *The development design limits cross ventilation, solar access and natural ventilation to the kitchen of many of the flats.*

Comment: The application was submitted with a BASIX Certificate which demonstrates that the site achieves the energy, water and thermal targets. Each unit has a north south elevation and windows allowing solar access and cross ventilation.

- *The local environmental plan provisions for this location should be reviewed so as to be more specific about the type of development that would suit this site.*

Comment: This application can only be assessed based on the planning legislation, instruments and policies currently in place. The LEP is a relatively new one and there are no plans at this point to review these provisions.

- *The floor to ceiling heights for the proposed units does not comply. If they are made to comply the building will exceed the height limit.*

Comment: The Bowral DCP does not contain controls for floor to ceiling heights.

It is assumed this comment was in relation to the previous design which sought a variation to the floor to ceiling height provisions under the Residential Flat Code (SEPP 65).

The minimum floor to ceiling height for a residential flat building is 2.4 metres. This proposal has internal floor to ceiling heights of 2.6 metres to 2.8 metres and therefore complies.

ECOLOGICAL SUSTAINABLE DEVELOPMENT ISSUES

i) Environmental Factors

The site has to some extent already been developed, and there is no native vegetation remaining. The development of this site (and other sites within the town), however to a higher density will alleviate pressure for further development of Greenfield sites on the periphery of the towns and villages.

The main impacts resulting from the development of this site will relate to traffic, however, the requirement for the intersection of Victoria Street and Mittagong Road to be signalised will alleviate the existing delays during peak times.

The heritage significance of the individual dwellings within the proposed development site is relatively low partially due to their poor condition.

Therefore, the removal of these buildings is considered to be acceptable in this instance.

The proposed development will not affect flood flows.

ii) Social Factors

The provision of 44 residential units within the town centre will contribute to the range of housing available.

Furthermore, fifteen units (33% of the total) are designated as adaptable units.

iii) Economic Factors

Apart from the provision of additional dwelling stock, there will be limited employment opportunities created by this development once the construction phase is complete.

The addition of 4 retail units will not make a significant impact on the viability of the Bowral Town Centre.

CONCLUSION

In conclusion, the proposed development complies with the provisions of the relevant State policies, Local Environmental Plan and Development Control Plan.

It is worth noting that an existing consent is still valid for the commercial building approved by the NSW Land and Environment Court.

This current proposal is considered to be a preferable outcome for the site given the current zoning.

Furthermore, the large residential component is more sympathetic to the adjoining residential area and generates less traffic. The development proposes a basement car park which is also preferable to the ground level parking proposed for the commercial development.

It is recommended that the application be approved.

ATTACHMENTS

There are two attachments to this report:

1. Site plan and elevations.
2. Draft conditions of consent.

RECOMMENDATION

THAT development application LUA2010/0863 for a mixed use development comprising 4 retail units and 44 residential units, with basement car parking for 114 cars, 4 motor cycles and 16 bicycles, at Nos.1 to 3 Victoria Street and Nos.184 to 186 Mittagong Road, Bowral.(being Lot 3 DP 1104038 (1 Victoria Street), Lot 4 DP 1104043 (1A Victoria Street), Lot 5 DP 1104045 (1B Victoria Street), Lot 6 DP 1104052 (3 Victoria Street), Lot 2 DP 1104027 (184 Mittagong Road), and Lot 2 DP 1097653 (186 to 188 Mittagong Road), Bowral be approved subject to the draft conditions as set out in Attachment 2.
