

Statement of Environmental Effects
for
proposed residential flat building
at

Lots 1 and 4 DP916166, Lot 1
DP1091496, Lot 1 DP794957 and Lot 3
DP74728

164-178 Mittagong Road
Bowral

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prepared by



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Introduction

This Statement of Environmental Effects has been prepared to support the lodgement of a Development Application for the construction of a new residential flat building at 164 -178 Mittagong Road, Bowral.

The application has been made pursuant to Section 78A of the *Environmental Planning and Assessment Act 1979*. The development is of a local scale, it is not state significant or designated. It is integrated development pursuant to section 91 of the *Environmental Planning and Assessment Act 1979* due to the need to carry out work within 40 metres of a waterway and therefore requiring a controlled activity approval under the provisions of the *Water Management Act 2000*.

Due to the Capital Investment Value of the project exceeding \$25M, the consent authority will be the Southern Joint Regional Planning Panel.

The proposed development is permissible under the provisions of the Wingecarribee Local Environmental Plan 2010. The proposal has considered the relevant matters contained within the State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the Bowral Town Plan Development Control Plan.

In addition to this Statement, the Development Application is supported by:

- Architectural drawings prepared by MMA Architects
- SEPP 65 Design Analysis - Apartment Design Guide prepared by MMA Architects
- BCA and Access report prepared by BCA Logic
- Traffic Assessment report prepared by Varga Traffic Planning
- Heritage Assessment prepared by NBRS Architecture
- Flood Analysis prepared FloodMit Pty Ltd
- Civil Engineering (Stormwater) prepared by AJ Whipps
- Landscape Strategy and Plan prepared by James Pfeiffer Landscape Architect

The site is suitable for the proposed development, there are no adverse impacts arising from the proposal and support for the development is requested.

Subject Site

The site is legally described as Lots 1 and 4 DP916166, Lot 1 DP1091496, Lot 1 DP794957 and Lot 3 DP74728

It has a street address of 164 -178 Mittagong Road, Bowral and sits on the corner of Victoria Street, approximately 300 metres north of the Bowral town centre and immediately south of the Bowral Swimming Centre. Refer to Figure 1.

It is roughly rectangular in shape on a north south alignment with dimensions of approximately 87 metres frontage to Mittagong Road and 62 metres to Victoria Street. It has a site area of approximately 5484 square metres.

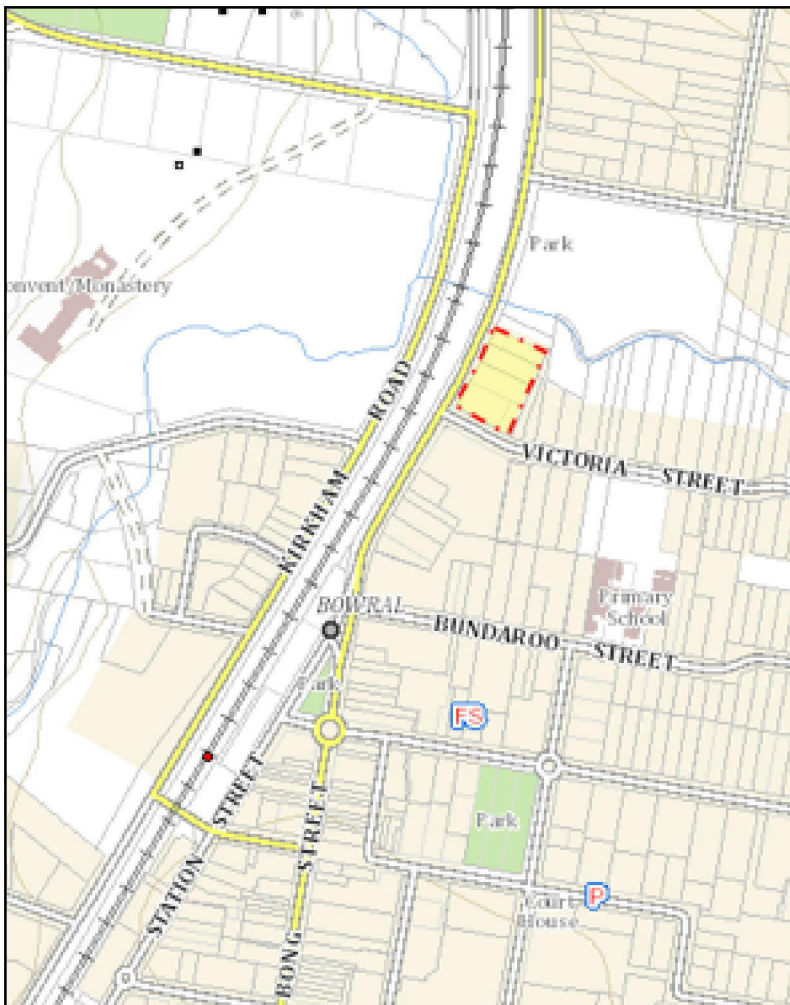


Figure 1: Site Locality Map (Source Sixmaps)

The site is currently vacant except for a derelict single dwelling house that occupies the south west corner of the site. The dwelling has been unoccupied for many years and is fenced off for security purposes.

It is opposite the Floria Apartments development, a mixed use commercial/residential development on the south side of Victoria Street. East of the subject site and the Floria Apartments, Victoria Street is a low density residential locality with the exception of St

Thomas Aquinas Primary School. Victoria Street is not a through road, terminating at the Mittagong Rivulet where there is pedestrian access only.

Figures 2 to 6 show the site and the surrounding development.



Figure 2: Aerial view of site and surrounds (Source Google)



Figure 3: View of site from Mittagong Road looking south towards intersection with Victoria Street



Figure 4: View of site from corner of Mittagong Road and Victoria Street, looking north



Figure 5: View looking directly east along Victoria Street from the intersection with Mittagong Road



Figure 6: View from Mittagong Road looking south across Council's public recreation reserve towards the site, well screened by existing landscaping

Site History

There is a significant history for the site with previous development approvals issued by Council.

LUA1999/1754, was approved on 6 April 2000, for a 72 bed motel, function centre, restaurant and car parking. This consent was activated and Council has previously acknowledged, in written correspondence, that it remains valid. Refer to the most recent letters from Council dated 31 July 2012 and 22 February 2013. This development could be completed although it is considered to be an inferior outcome in terms of architectural merit, would have higher traffic generation rates and would be less compatible with the residential character of its neighbours.

LUA04/1899 was approved for 28 seniors living units, however this consent has lapsed.

More recently LUA10/0863 was issued for the Floria Apartments opposite the subject site. The relevance of this consent are the conditions relating to traffic management. LUA10/0863 was initially required to provide traffic signals at the intersection of Mittagong Road and Victoria Street. This was a requirement of the RMS. The applicant successfully challenged this requirement and as a result the existing seagull intersection treatment was determined to be the most appropriate treatment. This took into account not only the Floria development but also anticipated the likely development from the subject site.

Description of Proposed Development

The proposed development involves the construction of a new residential flat building. It also requires the demolition of the existing single storey cottage situated on the corner of Mittagong Road and Victoria Street that is dilapidated and has been unoccupied for over 15 years.

The development is fully described within the architectural drawing package prepared by MMA. The demolition of the cottage is discussed in detail in the submitted Heritage Assessment report prepared by NBRS & Partners.

The building will contain a total of forty seven (47) residential apartments serviced by four (4) lifts from the basement level to all residential levels above.

There will be 3 x 1 bed, 10 x 2 bed and 34 x 3 bed apartments.

The basement will be accessed from a new driveway crossing onto Victoria Street at the eastern end of the site, approximately 65 metres from the intersection with Mittagong Road. There will be ninety seven (97) car parking spaces for use by residents and visitors within the basement. These spaces will be allocated in accordance with a future strata plan of the development. There are fifteen (15) allocated visitor spaces in the first aisle of the basement so that they are most easily identified by visitors. There is a dedicated accessible space adjacent to the lift at the end of the first aisle. The basement will also

accommodate a garbage storage room, individual storage rooms for use by residents and bicycle racks.

The basement acts as a podium for the buildings above, which are part two storey and part three storey. Pedestrian access to the podium is provided at two locations off Mittagong Road and one off Victoria Street, which is considered to be the main address and is an accessible entry point. The podium is well landscaped and provides some communal open space areas. Ground floor apartments fronting Mittagong Road have individual pedestrian access points directly onto Mittagong Road that further activate this street frontage.

There is a good variety of internal configurations and apartment sizes including a number of 'up and over' two storey apartments. With the exception of the one bedroom apartments, all have main and ensuite bathrooms. The full range of apartment floor areas range from approximately 66sqm for a 1 bedroom unit up to approximately 130sqm for a three bedroom unit.

All apartments have been provided with either an open courtyard or covered balcony to provide private open space/recreation space. These spaces, which are generally have a minimum dimension of 2 metres and areas of 10-15sqm, flow directly from the internal living spaces of the apartments, receive good solar access and avoid direct overlooking into adjacent apartments. Therefore they maximise their usability as outdoor entertaining and recreation spaces.

The built form has taken account of the flood prone nature of the northern portion of the site and the limitations that this enforces upon development. The basement excavation has been kept outside of the identified flood zone. The ground floor then extends over but above the flood affected area by a distance of approximately ten (10) metres. Finished floor levels for all ground level apartments are a minimum 500mm above the 100 year flood level as required. This is fully described on the architectural drawings.

There is significant deep soil landscaping provided around the perimeter of the site outside of the basement footprint that sits below the buildings. This is particularly evident and important along the eastern side boundary, that is the interface between the site and the low density residential development that is characteristic of the rest of Victoria Street. A landscaped area of approximately 3 metres x 15 metres is proposed in the south east corner of the site immediately adjacent to the closest dwelling house, which is on a minimal side boundary setback from the site. This landscaped area will provide a buffer between this dwelling and the new driveway of the proposed development and in effect will act as a private garden for that dwelling. Deep soil planting then extends along the entire eastern boundary to soften the interface between high and low density.

At the northern end of the site there is another very large deep soil open space area. In account of the flood liable nature of the northern part of the site, the opportunity has been taken to provide a substantial landscaped area of approximately 15 metres wide and approximately 800sqm in total area. This landscaped parcel will integrate with Council's public reserve that adjoins the site to the north and is part of the Cherry Tree Walk reserve. It will give the development site a 'soft' edge as well as providing future residents with a large communal open space area. The details of this area are fully described on the Landscape Plans prepared by James Pfeiffer.

Assessment of Environmental Impacts

Every Development Application is subject to assessment under the provisions of Section 79C of the *Environmental Planning and Assessment Act 1979*. In relation to the matters that are of relevance to this particular development application, the following comments are provided.

Federal and State Legislation

Water Management Act 2000

Under section 91 of the *Water Management Act 2000*, a controlled activity approval allows works on waterfront land. Waterfront land is defined as land within 40 metres of a waterway. The need to secure the controlled activity approval places the development proposal within the integrated development category pursuant to Section 91 of the *Environmental Planning and Assessment Act 1979*. In this case, the development site is in proximity to the Mittagong Rivulet which is approximately 25 to 30 metres from the northern boundary of the site. The proposed development therefore involves work within 40 metres of the waterfront land.

State Environmental Planning Policy (Infrastructure) 2007

This policy aims to ensure compatibility between existing infrastructure, such as main roads and proposed development. It is applicable in this case because of the sites relationship with Mittagong Road which is a RMS managed classified road.

Section 101 of the SEPP deals with development that has a frontage to a classified road. It requires the consent authority to be satisfied of the following:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The development will utilise Victoria Street rather than seek access directly onto Mittagong Road. The efficiency and safety of the road system has been assessed in the Traffic and Parking Assessment report prepared by Varga Traffic Planning. The use of the land for residential purposes is considered to be suitable and any potential noise impacts from traffic on Mittagong Road can be managed through appropriate construction standards. It

is noted that the adjacent Floria Apartments approval was not subject to any particular conditions of consent related to acoustic treatments.

Section 104 of the SEPP deals with traffic generating development. The proposed access to the development site is within 90 metres of a classified road (Mittagong Road) and therefore referral to the RMS is necessary. The suitability of the intersection of Victoria Street and Mittagong Road has been assessed in the Varga report.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

This policy aims to ensure development within the Sydney drinking water catchment does not compromise water quality. To that end, Council needs to be satisfied that development will have either a neutral or beneficial impact upon water quality. In this case, the site is within the area serviced by the Bowral Sewerage Treatment Plant and therefore there are no effluent disposal issues to compromise water quality.

The issue for consideration is the proper management of stormwater. The Water Cycle Management report prepared by AJ Whipps properly deals with stormwater management to satisfy the requirements of the Drinking Water Catchment policy.

State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development

Under Clause 4 of the State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (the SEPP), the proposed development is for the purpose of a residential flat building. Clause 4 states in part:

4 Application of Policy

- (1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:*
- (a) the development consists of any of the following:*
 - (i) the erection of a new building,*
 - (ii) the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) the conversion of an existing building, and*
 - (b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
 - (c) the building concerned contains at least 4 or more dwellings.*

The development involves the erection of a new building of at least three storeys and contains more than four dwellings.

The general objective of the SEPP is to improve the design quality of residential apartment development.

The more specific objectives are as follows:

- (3) Improving the design quality of residential apartment development aims:*

- (a) to ensure that it contributes to the sustainable development of New South Wales:*
 - (i) by providing sustainable housing in social and environmental terms, and*
 - (ii) by being a long-term asset to its neighbourhood, and*
 - (iii) by achieving the urban planning policies for its regional and local contexts, and*
- (b) to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- (c) to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- (d) to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- (e) to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions, and*
- (f) to contribute to the provision of a variety of dwelling types to meet population growth, and*
- (g) to support housing affordability, and*
- (h) to facilitate the timely and efficient assessment of applications for development to which this Policy applies.*

The proposed development satisfies these objectives by providing residential apartments close to business, retail and transport services, by improving the built form of the locality, by maximising the amenity of future residents and supporting housing affordability by increasing housing stock and choice.

Clause 6A confirms that the provisions of any local Development Control Plan cannot be inconsistent with the Apartment Design Guide in terms of:

- (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.*

The Apartment Design Guide is a supporting document to the State Policy and has been produced to provide a number of 'rules of thumb' to follow in the design of residential flat buildings. They are 'benchmarks' that must be considered and are generally required to be met. The development therefore has been assessed against the provisions and requirements of the Apartment Design Guide.

The Bowral Development Control Plan has also been considered however, in terms of the issues covered by Clause 6A of the SEPP, the DCP is of no effect.

Clause 28 of the SEPP requires the consent authority to consider the following before making any determination of a Development Application under the SEPP.

- (2) In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*

- (a) the advice (if any) obtained from the design review panel, and*
- (b) the design quality of the development when evaluated in accordance with the design quality principles, and*
- (c) the Apartment Design Guide.*

Wingecarribee Shire Council does not have a constituted design review panel. To support the Development Application, a Design Principles Statement has been prepared by MMA Architects addressing the nine (9) design quality principles as set out in Schedule 1 of the SEPP.

In summary, the statement prepared by MMA concludes that the development has properly considered the design quality principles and the development is worthy of support. The following comments summarise this position.

Context and Neighbourhood character

The proposal seeks to work within the planning controls provided by Council (land use, height, FSR) and produce a development that respects the neighbouring form and scale of development. The site is at the interface between approved mixed use of a higher density, as evidenced by the Floria Apartments and lower density residential as evidenced by the single dwelling housing stock to the east along Victoria Street. The design approach has been to consider the development as one separate building (the combined basement) but with three separate built forms above, allowing address to the street frontages, some articulation to a smaller scale and for the building to relate to the context of the surrounding streets.

Built form and scale

The scale and form has been designed to respond to the development on adjacent sites. Land to the north is open space. The development has a significant setback and will be well screened by existing and proposed landscaping.

To the west is Mittagong Road and the railway line. Pedestrian access onto Mittagong Road is encouraged and the design provides a strong street presence to Mittagong Road.

To the east is single storey dwelling houses. The development proposes generous setbacks with extensive deep soil plantings.

To the south is a two storey mixed use building comparable in scale to the proposed development.

Overall the development results in:

- minimal overshadowing to the neighbouring property
- a good definition of the public domain at the north
- an attractive, high quality building which is appropriate on this gateway site to Bowral CBD
- a very positive to both Mittagong Road and Victoria Street streetscapes

- a positive contribution to the neighbouring park due to the significant north setback and substantial 'deep bed' landscaping adjacent to that park which will 'visually extent' this area of landscaping
- provides good outlooks and views to most of the apartments
- provides good privacy to adjacent neighbours with setbacks and privacy screens

Density

The density of the development is a function of the maximum floor space ratio that has been set for the site and the choice of how to distribute this floor space across the building form. Overall the development achieves a density of approximately 1 dwelling per 120 square metres. The density takes advantage of the sites proximity to public transport, shopping and business, Bowral Pool, library, churches and walking paths. It is clearly a site that is suitable for higher density. It is important to note that neither SEPP65 or Council's LEP/DCP describe a density outcome in terms of dwellings per square metre.

Sustainability

Natural sunlight to and ventilation of, apartments has been maximised within the constraints of the site orientation. The roof design lends itself to the placement of photovoltaic cells which are proposed to provide power generation for the site.

Landscape

The opportunities for significant site landscaping have been taken, in particular along the eastern site boundary and the extensive northern setback area adjacent to Council's public reserve.

Amenity

The development complies with the requirements of SEPP65 in relation to the broad sweep of elements that combine to ensure high residential amenity. This includes solar access, ventilation, minimum dwelling size and room sizes, private open space areas, storage, level pedestrian access. The proposed building design provides excellent amenity including –

- provision of a good mix of apartment sizes with some two storey types
- generous floor areas relative to each apartment type
- 'adaptable' apartments (spread across the mix of apartment types)
- all apartments are well-planned with room sizes and juxtaposition appropriate for their purpose
- all habitable rooms have access to natural light
- all habitable rooms 2700mm ceiling heights

- individual laundry facilities
- lift access to all levels and apartments from both street (pedestrian) and basement
- lift lobbies and stairs benefit from natural light and ventilation
- garaged car parking to DCP requirements
- visitor car parking to DCP requirements
- garbage areas and appropriate waste management
- built forms promote passive solar and cooling benefits with cross ventilation

Safety

There is secure resident only access. There is good passive surveillance of the public domain and of internal open space areas.

Housing Diversity and social interaction

The majority of apartments are three bedroom, but there are a variety of sizes and styles. This is a response to market research that indicates the preferred apartment configuration. There is an appropriate number of adaptable apartments suitable for occupation by persons with disabilities.

Aesthetics

Building massing, scale and bulk provides a balanced form that will contribute to the streetscape. A variety of materials, colours, textures are used on the building that will help integration with the streetscape and the landscaping of the site.

the provisions of any environmental planning instrument

The relevant environmental planning instrument for consideration of this Development Application is the Wingecarribee Local Environmental Plan 2010 (the WLEP2010).

Under the WLEP2010, the subject site is zoned B4 Mixed Use. The objectives of this zone are:

- *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.*

The proposed development will support the attainment of these objectives by providing an opportunity for new residents to live within close proximity to the town centre close to potential jobs, services and transport. It will provide a development of a high architectural quality and will maximise the efficient use of a key gateway site that has been languishing vacant for many years with no sign of any other likely development options.

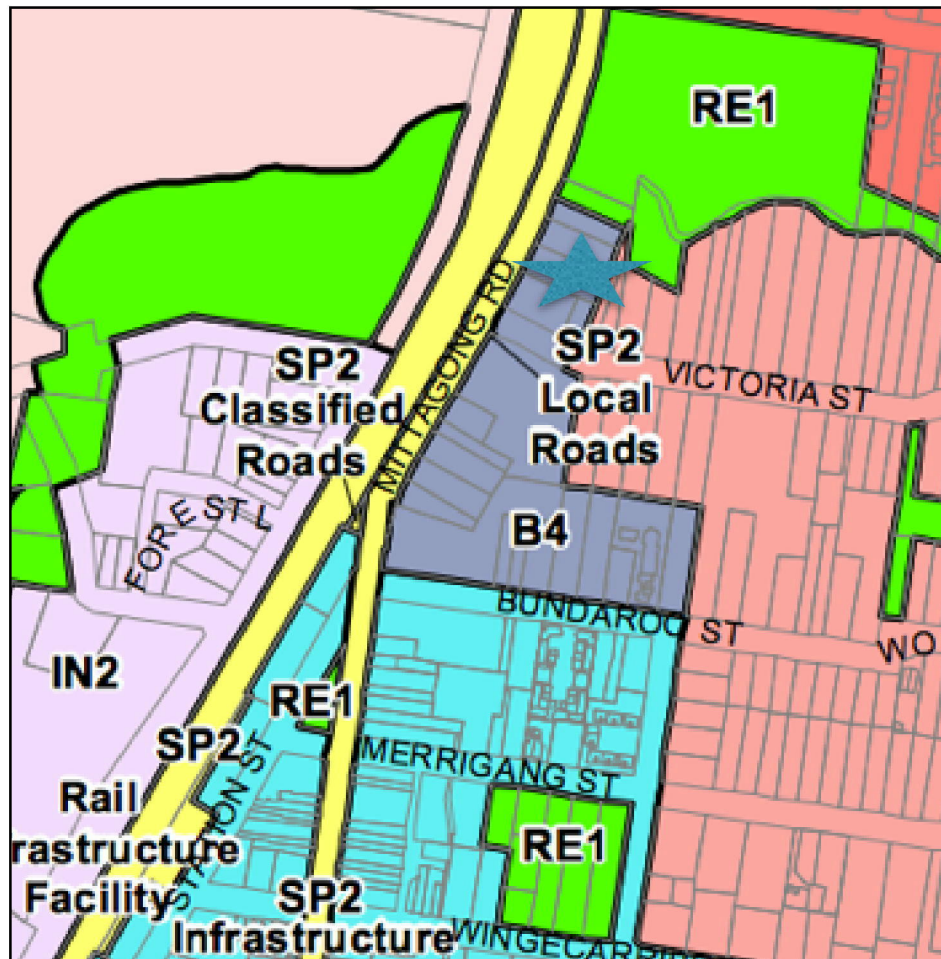


Figure 7: Extract from zoning maps of WLEP2010

Within the B4 Mixed Use zone a broad range of land use types are permissible. Although the zone is mixed use, this does not translate to each and every development being mixed use. Single use developments are permissible, including a number of residential development types. Within the B4 Mixed Use zone, *residential flat buildings* are permissible with consent.

Clause 4.3 of the WLEP2010 is relevant to the proposed development. This Clause, through reference to the Height of Buildings Map, imposes a maximum height of building standard upon proposed developments. In this case, the relevant Height of Buildings Map indicates a maximum 10 metre building height.

In accordance with the definition of height provided within WLEP2010, the maximum building height proposed is approximately 11.339 metres.

To support this variation, a formal written variation request pursuant to the provisions of Clause 4.6 of WLEP2010 has been prepared and is at Attachment 1 to this Statement.

With a site area of approximately 5484 square metres, this equates to an allowable maximum floor area of approximately 6,032 square metres. By definition, the basement is not floor area, so therefore, using the appropriate definitions of Clause 4.5 of WLEP2010 to measure the floor area of the development, over the three levels of the building above, there is approximately 5,460 square metres of floor area. This equates to a complying FSR of approximately 1:1. The calculation of this total floor area is indicated on the architectural drawings prepared by MMA.

In this case, the site is within the Bowral Conservation Area but not within proximity to any Schedule 5 listed items. Refer to Figure 8.

Figure 8: Showing the full extent of the Bowral Conservation Area and the sites location at the far north west extremity of the conservation area

To properly analyse this issue, the Development Application is supported by a Statement of Heritage Impact prepared by NBRIS.

The conclusion of this report is that the site has been cleared of any historical setting that supports the interpretation of the Bowral Conservation Area. This is further discussed later in this Statement.

Clause 7.5 deals with Natural resources sensitivity - water. The site is not affected by any identified water course, however it is in proximity to the Category 2 stream, Mittagong Rivulet, as shown on the WLEP2010 maps. Refer to Figure 9.

A Category 2 - Aquatic & Terrestrial Habitat stream, require minimum 30 metre setbacks from the top of the stream banks on each side. The boundary of the development site is approximately 30 metres from the top of the southern bank of the stream. In any event, the application is considered to be integrated development requiring an approval under the terms of the Water Management Act 2000.



Figure 9: Extract form WLEP2010 Natural Resources Sensitivity Maps

Clause 7.9 deals with Flood planning and makes reference to the flood planning maps of the WLEP2010. The site is identified on the flood planning maps as a flood planning area 100year + 0.5m Flood Extent. Refer to Figure10.

To properly analyse this issue a comprehensive flood assessment report has been prepared by FloodMit Pty Ltd. This has been prepared following extensive liaison with Council engineers. It demonstrates compliance with the Council's flood policies.

The report makes the following conclusion:

The footprint of building at ground level (ie the basement parking area) has been adjusted so that it is located outside the high flood risk precinct. This reduces development within the most hazardous area of the site and allows open space where compensatory flood management measures can be undertaken.

Potential flood impacts from the proposed development have been investigated using the Tuflow model developed as part of the floodplain management study. Three options have been assessed:

- . i) Proposed development with no compensatory measures;*
- . ii) Proposed development including compensatory excavation to match the estimated loss in floodplain storage from the open space area between the basement parking and the northern boundary of the site;*
- . iii) Proposed development including compensatory excavation extending about 10m beyond the northern property boundary, including the removal of a masonry wall and mound within the public reserve.*

Either Option 2 or Option 3 provides a satisfactory flood solution that ensures that there will be no adverse impacts from the proposed development.

The proposal has been assessed against Council's flood risk management requirements that are specified in the Bowral Town Plan DCP 2015. It is considered that the proposal complies, or can comply with all requirements subject to the following recommendations:

- . i) That all building components below the 100 year flood level plus 0.5m freeboard (RL 673.1m AHD) are of flood compatible materials;*
- . ii) The building is designed to withstand the forces of floodwater up to the PMF flood level (RL 675.4m AHD) with a flood velocity of the order of 1.0m/s. Appropriate scour protection around the base of column supports is also required;*
- . iii) Measures identified in Option 2 or Option 3 are implemented;*
- . iv) Adequate warning signs are installed within the basement parking area warning of the risk of sudden immersion in extreme flood events;*
- . v) Any new fencing provided in the high flood risk area at the front of the property is constructed of a security/permeable/open type safety fencing to ensure that it provides no impediment to the flow of floodwater.*

Through the assessment of the application and further discussion with the applicant, Council can determine which of Option 2 or 3 is preferred and this can be included as a condition of development consent. Although Option 3 involves Council land, this work can be designed to improve the amenity and usability of this open space area.



Figure 10: Extract from WLEP2010 Flood Planning map

There are no other provisions of the WLEP2010 relevant to the assessment of this development proposal.

the provisions of any development control plan

The relevant Development Control Plan is the Bowral Town Plan Development Control Plan (the DCP).

The following sections of this Statement provides an analysis of the proposed development against the relevant sections of the DCP.

Part A Section 2 General Objectives

The DCP contains a range of general objectives against which all development proposals are judged.

economic function - the proposed development will assist in enhancing the role Bowral plays as an important service centre within the Shire; it will allow a number of people to live within the town centre representing a redevelopment of a significant site in keeping with the sites capacity. It will generate additional economic activity for nearby businesses

urban function - the proposed development will minimise any potential for vehicular and pedestrian conflict and has good connections to public transport. It will be a positive addition to the Bowral centre and will improve the centres urban function by making a positive use of a site which currently is under utilised and in need of an injection of vitality

heritage conservation - the proposed development does not impact upon the heritage values of Bowral, nor the visual quality or amenity of any historic buildings. The current 'eyesore' that is the vacant site, needs to be addressed and this development will improve the visual amenity of the area

residential amenity - the proposed development will not detract from any adjacent residential area and there will be no impact from light spill. The configuration of the floor areas within the proposed built form has endeavoured to maximise residential amenity for the future occupants

residential diversity - as a B4 Mixed Use zoning, the site is identified as being potentially suitable for a broad range of uses including residential development. It has a location that is well suited to a residential purpose and will provide a positive addition to the diversity of housing stock within the Shire

visual amenity - the proposed development will provide for improvement to the existing visual presentation of the site that will result in a well articulated and attractive building to address a significant site at the gateway to the Bowral town centre. Through height, scale and building materials, the proposed development is both appropriate for the site and an improvement to the existing situation

public views and vistas - there are no particular public views or vistas to consider and therefore the proposed development will have no impact

environmental sustainability - the building will satisfy the necessary Basix requirements for this building type

the public domain - the proposed development will enhance the public domain with improved footpaths and a better transition between the adjoining public recreation reserve to the north

Part A Section 3.3 Development in Sydney's Drinking Water Catchment

The site is currently largely pervious, however there was previous development upon the land that would have contributed to stormwater flows. The proposed development will increase the quantity of stormwater runoff above the current volume, but the quality of runoff will not be detrimentally affected. The submitted Water Cycle Management Plan demonstrates that the development will have at least a neutral effect on water quality.

Part A Section 3.9 Management of Contaminated Land

Previous development and assessment processes have not resulted in any need to impose conditions associated with site contamination. There are no known restrictions on the subject land. It is not necessary to require any further site contamination investigations.

Part A Section 4 Flood Liable Land

The site is flood affected. This matter has been thoroughly analysed in the Flood Assessment Report prepared by FloodMit Pty Ltd. The design of the proposed development has taken account of the recommendations contained within that report. See previous comments.

Part A Section 5 Vegetation Management and Landscaping

There are no significant trees or vegetation existing upon the site. Opportunities for new landscape planting have been fully exploited and a comprehensive landscaping plan has been prepared by James Pfeiffer. The key component of this landscape plan is the large deep soil open space area at the northern end of the site that will integrate with the adjoining public open space that is part of the Council's linear park along Mittagong Rivulet.

Part A Section 8 Construction Standards and Procedures

All construction work will be to the required standards. This will include any work within Mittagong Road or Victoria Street to provide new driveway crossing or improved pedestrian footpaths.

Section 8.12 deals with waste management and disposal. As a residential building, waste management is simplified to that of a commercial or mixed use building. Waste storage areas are provided within the basement suitable for individual waste bins. The design of the basement does not allow for any commercial waste vehicles to enter the site for the pick up of larger waste receptacles. Weekly pick up is intended to be from the kerb primarily on Victoria Street.

Part A Section 9 Signage

There will be minimal signage associated with the proposed development because it is a residential only building. Flush wall mounted building identification signs will present to both street frontages.

Section 10 Outdoor Lighting

The site is at a location that is already well lit due to its town centre location and main road frontage. Lighting associated with the building will be discreet and will not be apparent over and above existing street lighting and that associated with adjoining properties.

Part B Business zoned land

Part B of the DCP relates specifically to land that has a business zoning, including land within the B4 Mixed Use zone. The majority of this Section is written with the expectation that predominately commercial development will be proceeding in these zones. Therefore there are some sections that have little or no relevance to this particular Development Application.

Section B1.3 identifies a number of business precincts. The site is within the area identified as the Northern Entrance Precinct.

Part B Section 2 Design Considerations

The following sections of the DCP relate specifically to business zoned land and it is stated that some additional key design elements are specific to commercial development only and therefore not relevant to this particular Development Application.

B2.2 Height of Buildings

This Section requires compliance with the Height of Buildings Map of the WLEP2010. As noted earlier, a variation to the maximum 10 metre height limit is requested and the required Variation request pursuant to Clause 4.6 of the WLEP2010 is at Attachment 1.

B2.3 Floor space ratios

This Section requires compliance with the Floor Space Ratio Map of the WLEP2010. As noted earlier the proposed development has a FSR of approximately 1:1 and is therefore compliant with the maximum allowable FSR under the WLEP2010 of 1.1:1.

B2.4 Designing for Pedestrian Access within the Town

The proposed development does not impact upon pedestrian movements within the Bowral Town Centre. In fact with public footpaths on the two main frontages of Mittagong Road and Victoria Street that connect to existing footpaths in the area, pedestrian movement around the site is encouraged. The open space proposed in the northern section of the site, adjacent to the Council's public reserve, will in fact further improve pedestrian connectivity as it will allow a direct linkage to this open space from the development site.

B2.5 Signage

Refer to the comments in relation to Section A9.

Part B Section 4 On site Car parking

This Section is clear that it relates to commercial development and not residential development.

Section B4.2 of the DCP provides the objectives behind the DCP controls for access and off-street parking. These are:

- (a) To ensure that adequate off-street parking is provided in conjunction with development in order to discourage the use of streets for the parking of vehicles associated with additional traffic generated by new developments.*
- (b) To provide communal public car parking in appropriate areas, funded from developer contributions, where the development cannot accommodate adequate on-site parking, and/or where Council chooses to aggregate parking into a centralised location(s).*
- (c) To ensure that car parking areas are safe and functional.*
- (d) To ensure that car parking areas are visually attractive.*
- (e) To ensure that vehicular access points to the site are located to minimise danger or disruption to vehicles and pedestrians on the public street system.*

In relation to the above, the proposed basement to service the development has a single access off Victoria Street which is located in a safe location for traffic management purposes. The number of spaces provided within the basement is commensurate with the demand generated by the number of residential apartments. It therefore meets the first objective of discouraging on street parking. The adequacy of the on site parking has also been considered within the Traffic and Parking Assessment report prepared by Varga Traffic Planning.

B4.5 Requirements for New Development or Redevelopment

Section B4.5 directs applicants to a Table entitled Schedule of Car Parking Requirements (page 130 Figure B5.4 of the DCP). There is no reference to residential development types in this Table. This Section then advises that in such circumstances, reference should be had to the Roads and Traffic Authority Guide for Traffic Generating Developments. As an alternative, it is considered that reference should be had to the standard residential car parking rates as set out in Part C of the DCP. Acceptance of this assessment approach is therefore necessary. This is discussed later in this Statement when considering Part C of the DCP and when dealing with the likely impacts of development.

B4.7 Use of parking Areas

All identified car parking spaces within the basement are solely for use as parking spaces associated with residents of and visitors to the development. The basement will be secured as is standard practice.

B4.8 Disabled Parking Requirements

The basement provides a minimum of one disabled parking space in accordance with the applicable standards. The space is located in proximity to the lifts within the basement that then provide access to all levels of the development.

Part B Section11 Residential Development in Business zones

This Section confirms the permissibility of residential flat buildings within the B4 Mixed Use zone.

This Section recognises that non commercial land uses are critical to the long term health and vitality of the commercial areas of Bowral. It has stated objectives as follows:

- (a) To provide a range of housing types throughout Bowral.*
- (b) To provide a greater range of affordable housing options.*
- (c) To ensure the location of affordable accommodation is close to transport, shops and services.*
- (d) To ensure that residential development within business precincts provides a satisfactory standard of residential amenity.*
- (e) To stimulate and promote the orderly and economic use and development of land on appropriate sites within Bowral.*
- (f) To integrate new development into established areas by maintaining streetscape and building quality.*
- (g) To ensure new development preserves the quality of the built environment for all existing and future residents.*
- (h) To encourage development of a high standard of architectural merit and design.*
- (i) To ensure that new residential development provides appropriate private open space for residents.*

The proposed development works towards a positive outcome for all of these objectives. It provides housing of a type that improves housing diversity across the Shire; the range of units will assist with affordability; appropriate amenity for residents will be achieved; the

built form will be improved to what exists and is responsive to both the planning controls applicable to the site and to the context of the site.

Applicants are also referred to the relevant design controls within Part C of the DCP.

Part B Section 14 Northern Entrance Precinct

This section of the DCP is specific to the Northern Entrance Precinct in which the site is located. This Precinct incorporates all of the land within the B4 Mixed Use zone that fronts Mittagong Road and then extends east along part of Bundaroo Street. It is a subset of the broader Bowral Heritage Conservation Area. The maximum height of building (10 metres) and maximum FSR (1.1:1) are reconfirmed.

Section B14.2 sets out some preferred development outcomes. The main focus is on achieving site amalgamation to ensure efficient and co-ordinated redevelopment. The site is a logical and efficient parcel for redevelopment purposes. It also seeks to maintain and enhance the heritage value of the location.

Section B14.3 provides some additional controls. There are two particular controls relevant to this Development Application. The first is that the development provides all required car parking on site. The second is that through the provision of an extensive landscaped open space area at the northern end of the site, the development integrates with the public open space with the Cherry Tree Walk parkland and adjacent Bowral Pool complex. The development achieves this.

Part C Provisions Applicable to Residential zoned Land

This Part of the DCP was not drafted with the proposed development in mind. However, as advised in Part B Section 5, certain design requirements of Part C should be considered when dealing with residential development within a commercial or mixed use zoning. Such design considerations would be those within Part C Section 3 Medium Density Development.

However, the appropriate and overriding design considerations are those within the *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development*.

It is not intended to undertake any detailed analysis of the proposed development against Part C Section 3 of the DCP. All relevant issues have either been considered against the development standards contained within the WLEP2010 or within the submitted SEPP65 Design Report that addresses the design criteria of the Apartment Design Guide. Clause 6A of SEPP 65 specifically states that a DCP cannot be inconsistent with the Apartment Design Guide. Clause 6A is reproduced in full below:

6A Development control plans cannot be inconsistent with Apartment Design Guide

(1) *This clause applies in respect of the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide for the following:*

- (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.

(2) If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.

(3) This clause applies regardless of when the development control plan was made.

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

Traffic management

The likely traffic impacts associated with the proposed development have been considered in the Traffic and Parking Assessment report prepared by Varga Traffic Planning.

This report analyses the projected traffic generation from the development and the current traffic conditions including the existing traffic controls that apply to the road network in the vicinity of the site. These controls include speed limits, give way restrictions in Victoria Street and Oxley Drive where they intersect with Mittagong Road and importantly, the seagull turning treatment in Mittagong Road at the intersection with Victoria Street. This facility was introduced approximately 4 years ago to better manage movements at this intersection, taking account school traffic, the Floria Apartments development and the future development of the subject site.

The traffic generation from the proposed development is estimated to be in the order of 25 vehicles per hour in the AM commuter peak period and just 15 trips in the PM peak period. These traffic generation rates are minimal and will not have any unacceptable traffic implications for the road network capacity.

Provision of Car parking Spaces

The proposed development provides the required number of on site car parking within the proposed basement parking area. This matter was assessed in the Traffic and Parking Assessment report prepared by Varga Traffic Planning.

Because it is exclusively a residential development, parking demand will be less than if there were commercial floor space included that would generate a higher number of daily traffic movements into Victoria Street, placing greater pressure upon kerb side parking. Kerb side parking is not restricted on either side of Victoria Street although there is no parking provision on Mittagong Road.

A total of ninety seven (97) on site spaces are provided within the basement with all spaces fully compliant with the relevant AS2890 and compliant with the requirements of Part C Section 4.6 Off Street Parking of the Bowral DCP.

Car parking should not be considered to be an issue of any significance in terms of potential impacts arising from the proposed development.

Heritage impacts

The development site is within the Bowral Heritage Conservation Area and the proposal seeks approval for the demolition of an existing cottage, estimated to have been originally constructed in the late nineteenth century. The potential impact of demolishing this cottage has been assessed in the Heritage Assessment report prepared by NBRS. The conclusion of this report is:

The site at 164 - 178 Mittagong Road, Bowral, has been cleared of any historical setting that supports the interpretation of the Bowral Conservation Area or the retained house. This diminishing of the setting on this northernmost portion of the conservation area is further reinforced by the character of the recent commercial and residential development across from the site on both Victoria Street and Mittagong Road.

The existing house has been altered and is not associated with any person of identified historical importance to the development of the town of Bowral. The house has no known significant association with a significant individual or community group. The condition of the fabric of the house is poor, and includes later additions, also in poor condition. Whilst the architectural character of the house has been retained, it has lost its historical context and setting, and is not considered representative or rare in the town of Bowral.

On the basis of this assessment, the impact of the development, including the demolition of the cottage, on the Bowral heritage conservation area can be considered to be neutral.

Flooding

The site is flood affected. This matter has been thoroughly analysed in the Flood Assessment Report prepared by FloodMit Pty Ltd. The design of the proposed development has taken account of the recommendations contained within that report so that the impact arising from the development upon flood behaviour and flood affectation of any downstream properties is neutral. Two particular options are provided in terms of compensatory excavation to match the estimated loss in floodplain storage arising from the development. This compensatory work could be either contained within the site in the northern open space area or extend into the Council's open space further north. Either option is satisfactory and ensures no impacts from the development on flood behaviour.

natural environment

Because the site has previously been developed and because of the nature of that development, there are no particular natural environment characteristics to consider. The site is devoid of any natural features such as significant trees. It is a site within a mixed use zone that is ready for redevelopment and will not impact upon the broader natural environment of the Shire. The development will provide the opportunity to reintroduce

some deep soil tree planting which will help enhance the street appeal of the building and improve the amenity for residents of the building.

built environment

The proposed development will have a positive impact upon the built environment of the Shire. The current state of the site is detracting from the architectural and urban design merit of the entrance to Bowral town centre. Its vacant and derelict state is not befitting of the highly prominent corner location it occupies. The proposed development seeks to provide a strong street address with architectural features and building materials that will help to mark out the site as a strong entrance statement to the town centre while managing the perceived bulk and scale of the building so that it is sympathetic to the context within which it sits.

social environment

The proposed development will be a positive social benefit to the community as it contributes to the range of housing choice and diversity available in the Shire. Access to housing choice, including more affordable options, is an important consideration. Access to services across the Shire is a very important planning objective and this development will help to improve access to existing town centre services within one of the main centres of the Shire. The growing, but ageing, population of the Shire needs housing choice to keep pace with demand and this proposal will play a role in that.

economic environment

The proposal represents a significant economic investment in the Shire. Short term jobs will be created through the construction phase, however it is the utilisation of a long dormant site that is the most important economic result from this development proposal.

The site has been in its current state for approximately 15 years. A centre like Bowral can ill afford to have prime sites sitting in a derelict state at any time, yet alone for this period of time. The proposal is a viable proposition that will ensure the land is developed and no longer left unproductive.

the suitability of the site for the development

Through a thorough assessment of all of the relevant planning controls and the circumstances of the case, it is concluded that the site is suitable for the proposed development for the following reasons:

- it will allow for an economic use of a currently derelict site
- the final architectural resolution of the building elements - facades, balconies, verandahs, roof form, windows, materials - are all appropriate to the dual challenges of a main road frontage to the west and a low density residential interface to the east
- the provision of higher density housing within an established town centre is supportive of the future vitality of that town centre

- the provision of higher density housing within an established locality is supportive of the Council's housing strategy that relies in part on in-fill development opportunities where housing can be located to take advantage of existing infrastructure and services
- the proposed residential apartments will offer an appropriate level of amenity for future residents
- the site is not environmentally sensitive
- the significant issue of the site being flood prone land has been thoroughly assessed through the Flood Assessment Report from FloodMit Pty Ltd, with the design approach to the building being responsive to the constraints imposed
- there will be no off site impacts to any adjoining properties

any submissions made in accordance with this Act or the regulations

It is understood that the Development Application will be notified in accordance with the Council's standard procedures. Any issues arising from the public exhibition process will be addressed as necessary.

the public interest

This Development Application, for a residential flat building, would generally not be considered to be of a type, or of such significance, that gives rise to issues of public interest. However, in this case the circumstances dictate that the public interest can be served in a positive fashion through the approval of the development.

Not only are the impacts negligible from the proposed development for residential purposes, the fact that the site can be put to a productive end use avoids the ongoing dilemma of having a derelict site at the main entrance to the Bowral town centre. It will represent an use on the site, of a type that can also generate many economic multipliers across the Shire.

This should be viewed as a positive outcome in terms of the public interest.

Conclusion

The proposed development of the site for a residential flat building is both permissible and appropriate.

The development is well suited to the location. The major constraint of site flooding has been thoroughly assessed and the design of the development has responded accordingly.

The proposal will integrate in a positive fashion with the adjoining public open space to the north of the site as required by the Bowral DCP.

The site can accommodate the required number of on site car parking spaces within the proposed basement.

There are no environmental issues associated with the development, either in terms of the site or impacts upon adjoining properties.

The proposal has overwhelmingly positive social and economic benefits through the development of a site that has unfortunately languished vacant for a number of years, clearly to the detriment of the entrance to the Bowral town centre.

The proposal is worthy of support and approval is recommended with appropriate conditions of consent.

Variation Request Pursuant to Clause 4.6 of Wingecarribee Local Environmental Plan 2010 in relation to maximum height of building

WLEP 2010 contains “*Clause 4.6 Exceptions to development standards*”. Clause 4.6 supersedes State Environmental Planning Policy No. 1 in circumstances where a standard template LEP is in force. It sets out the mechanism that allows for the proper consideration of a request to vary a development standard contained within the local plan. A properly considered argument in favour of an exception to a development standard should provide a determining authority with confidence that support for such a variation will not undermine the objectives of the development standard in question, nor be rightfully argued as setting a precedent for others.

The relevant text of Clause 4.6 is set out below with comments to support the request for variation.

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The stated objectives of Clause 4.6 both offer the consent authority the opportunity for flexibility. The cornerstone of good administration of the planning system is the recognition of when such flexibility is warranted and when it is not.

Objective (a) refers to an “*appropriate degree of flexibility*”. In this case, it is argued that it is appropriate to afford flexibility to the applicant due to the fact that the propped development seeks to complete a substantially constructed building that was approved at the height to which it has been built. Without the exercise of some flexibility in dealing with the question of building height, the proposed completion of the building cannot proceed and it will continue to remain an unfinished ‘eyesore’ in the heart of Mittagong.

- (2) Objective (b) refers to “*better outcomes*” in “*particular circumstances*”. In this case it can be demonstrated that there are no adverse environmental impacts that would arise from the proposed development. One of the objectives of the EPA Act is the orderly and economic use and development of land and from this perspective, development of the subject property in the way proposed achieves a far better outcome than the current disused and unfinished state of the land.

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

The maximum 10 metre height as described in Clause 4.3 of Wingecarribee Local Environmental Plan 2010 is a development standard that is not excluded from the operation of Clause 4.6

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

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

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

(a) the consent authority is satisfied that:

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

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

(b) the concurrence of the Director-General has been obtained.

This Attachment to the Statement of Environmental Effects is a written request to vary a development standard and satisfies the requirement of Clause 4.6. It is open for council to accept the merits of the arguments being put forward. If the Council is of a mind to support the requested variation to the 10 metre height standard in this case, it has the discretion to do so.

(5) In deciding whether to grant concurrence, the Director-General must consider:

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

It is unlikely that this type of Development Application raises any matters of significance for State or regional planning. It is a site specific issue, with a set of circumstances peculiar to this application only.

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

There are no particular public benefits that would accrue through the strict adherence of the development standard in this case. There are no particular public interest issues arising from this proposal. The precedent impacts of this matter range from negligible to non-existent due to the particular site conditions.

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

For the Director-General to determine.

Written application providing grounds for variation to development standards as per Department of Planning and Infrastructure Guidelines

1. What is the name of the environmental planning instrument that applies to the land?

Wingecarribee Local Environmental Plan 2010

2. What is the zoning of the land?

B4 Mixed Use

3. What are the objectives of the zone?

- 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.

4. What is the development standard being varied? e.g. FSR, height, lot size!

Maximum building height

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3

6. What are the objectives of the development standard?

- (a) to identify maximum heights of buildings,
- (b) to ensure that the heights of buildings are compatible with the character of the existing development within the surrounding area.

7. What is the numeric value of the development standard in the environmental planning instrument?

Building Height Map indicates a maximum building height of 10 metres

8. What is proposed numeric value of the development standard in your development application?

The highest point of the proposed building is approximately 11.339 metres as described within the architectural drawings prepared by MMA and shown specifically on Section C of the building and upon the 3D CAD View drawing that shows where the 10 metre maximum is exceeded. The height excellence occurs at the northern end of the building, with the greatest variation towards the eastern edge.

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The highest point on the proposed building represents a maximum variation of 1.339 metres or an approximate 13% variation.

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

The breach of the development standard occurs as a result of the Development Application responding to the constraints of the flood prone nature of the land. The flood levels for the site dictate a minimum ground floor level which in turn dictates the floor levels above. It would be unreasonable to penalise the development for working to the required flood levels.

The building design/form is not affected by the variation sought. Regardless of the flood level, the building would be a part two storey part three storey above a basement. The building height is compliant at the street frontages of the southern and western elevations, which are the critical elevations viewed from the public roads where the majority of the public will observe the building. The view from the north will be screened by the significant landscaped open space to the north of the building.

Although marginally higher than the 10 metre height limit, there are no impacts arising on any adjoining properties as a result of the proposed development. There is no greater overshadowing impact on properties to the east or south, no loss of views or loss of privacy that would arise as a result of the development as proposed. The building is height compliant where it adjoins other residential development to the east. At the northern end of the site, the land to the east is vacant and because of its flood prone nature, will not be developed.

It is considered to be both unreasonable and unnecessary to have strict compliance with the standard in this case as the starting point for the height of the building is compliance with the minimum floor level to achieve satisfaction of flood levels. Once this level is struck, there is nothing in the design of the building that contributes further to the height standard being exceeded.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

These two objectives relate to the proper management of land and the coordination of orderly and economic use of land. This site is a prime site at the main entrance to the Bowral town centre. It offers an opportunity for a suitable development proposal to maximise this opportunity including taking advantage of its proximity to services and public transport. As a residential use it will stimulate activity within the town centre for the other land uses within the town.

If strict compliance of the height control was imposed, then it would clearly not be possible to utilise the capacity of the site allowed for in Council's primary planning controls of height and FSR. That would not be supportive of the objectives of the *Environmental Planning and Assessment Act 1979*.

Planning uses a range of development standards to generally guide development towards appropriate outcomes. However, they should never be given primacy over sensible decisions based on the facts of a case. In this case, the building height is dictated by the need to set the floor levels in accordance with the adopted flood levels. The subsequent height of the levels above are then just a consequence of this with no excessive floor to floor heights or architectural features adding to the height of the building to push it over the 10 metre maximum. The request to vary the relevant development standard is both fair and reasonable.

12. Is the development standard a performance based control? Give details.

The height control is both performance based and arbitrary. It aims to ensure some compatibility with adjoining development and to avoid negative impacts. Issues such as overshadowing and view loss can be measured and are therefore performance based. Other considerations such as compatibility with character are not necessarily measurable, rather they are objective and more reliant upon the particular circumstances of any one location.

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?

Yes, strict compliance would be both unreasonable and unnecessary. This is due both to the circumstances that give rise to the variation and the lack of any resultant impacts.

In this case the site is within a mixed use zone where the scale and character of development is clearly intended to be different to that of the low density residential development of the land immediately to the east along Victoria Street. The 10 metre height limit specifically allows for three storey development, as proposed, whereas the land to the east is expected to be either single level or at most, two storey.

The resultant building form of a maximum three storeys is clearly within the scale envisaged by the planning controls. It retains a scale in keeping with these controls and the anticipated urban design outcomes. It relates well to the prominent corner position and gives rise to no off site impacts.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

Yes, there are sufficient grounds to justify the variation. The proposed development achieves a suitable outcome consistent with the objectives of the height standard, without impact on other properties. There is a significant and identifiable reason why the building is above the allowable height - it is responding to the necessary floor level of the basement taking into account the adopted flood levels affecting the site. Without the imposition of those levels, the basement could be lowered to the extent necessary to achieve compliance with the 10 metre height limit. Importantly, nothing in the design of the building above the basement is contributing to the building height being exceeded.

The circumstances of the case will not provide a precedent for other proposed developments to seek variations to the standard.