

# GYDE

## Statement of Environmental Effects

Amending Development Application  
2 Colo Street, Mittagong

Submitted to Wingecarribee Shire Council  
on behalf of Maltings Holding Pty Ltd

1 March 2024

[gyde.com.au](http://gyde.com.au)

## Acknowledgment of Country

Gyde Consulting acknowledges and pays respect to Aboriginal and Torres Strait Islander peoples past, present, Traditional Custodians and Elders of this nation and the cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander people. We recognise the deep and ongoing connections to Country – the land, water and sky – and the memories, knowledge and diverse values of past and contemporary Aboriginal and Torres Strait communities.

Gyde is committed to learning from Aboriginal and Torres Strait Islander people in the work we do across the country.



**Towards Harmony by Aboriginal Artist Adam Laws**

**This report was prepared by:**

Approver: Mark Schofield  
 Author: Simon Ip  
 Project: Amending Development Application  
 Report Version: Final

This report was reviewed by: Mark Schofield

**Disclaimer**

This report has been prepared by Gyde Consulting with input from a number of other expert consultants (if relevant). To the best of our knowledge, the information contained herein is neither false nor misleading and the contents are based on information and facts that were correct at the time of writing. Gyde Consulting accepts no responsibility or liability for any errors, omissions or resultant consequences including any loss or damage arising from reliance in information in this publication.

Copyright © Gyde Consulting  
 ABN 58 133 501 774

All Rights Reserved. No material may be reproduced without prior permission.

# Contents

<b>1.</b>	<b>Executive Summary .....</b>	<b>1</b>
<b>2.</b>	<b>Site Analysis .....</b>	<b>4</b>
2.1	Local Context .....	4
2.2	The Site .....	5
2.3	The surrounding locality .....	6
2.4	Relevant Planning History .....	7
<b>3.</b>	<b>Description of Development.....</b>	<b>8</b>
3.1	The approved development .....	8
3.2	The amending development application .....	10
3.3	Development Statistics.....	11
3.4	Capital Investment Value .....	11
<b>4.</b>	<b>Pre-lodgement Consultation .....</b>	<b>13</b>
<b>5.</b>	<b>Statutory Planning Considerations .....</b>	<b>14</b>
5.1	Overview .....	14
5.2	<i>Environmental Planning and Assessment Act 1979</i> .....	14
5.2.1	Section 4.15 of EP&A Act 1979 .....	14
5.2.2	Section 4.46 – Integrated Development .....	14
5.3	Environmental Planning and Assessment Regulation 2021 .....	15
5.3.1	Clause 61 – Additional matters that consent authority must consider .....	15
5.3.2	Clause 69 – Compliance with Building Code of Australia .....	15
5.4	Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth) .....	15
5.5	Biodiversity Conservation Act 2016 .....	16
5.6	Water Management Act 2000 .....	19
5.7	Fisheries Management Act 1994 .....	20
5.8	State Environmental Planning Policies (SEPPs) .....	20
5.8.1	SEPP (Biodiversity and Conservation) 2021 .....	20
5.8.2	SEPP (Planning Systems) 2021 .....	25
5.8.3	SEPP (Resilience and Hazards) 2021 .....	26
5.8.4	SEPP (Transport and Infrastructure) 2021 .....	26
5.8.5	SEPP (Sustainable Buildings) 2022 .....	27
5.9	Wingecarribee Local Environmental Plan 2010 .....	29
5.9.1	Zoning and Permissibility .....	29
5.9.2	Relevant Clauses.....	30
5.10	Wingecarribee Development Control Plan .....	37
<b>6.</b>	<b>Assessment of Likely Impacts .....</b>	<b>42</b>
6.1	Natural Environment .....	43
6.2	Built Environment .....	47
6.3	Social and Economic Impacts .....	59
6.4	Suitability of the Site.....	59
6.5	Public interest.....	59
<b>7.</b>	<b>Conclusion .....</b>	<b>60</b>

## Figures

Towards Harmony by Aboriginal Artist Adam Laws .....	ii
Figure 1 Artist’s impression of M3/M4 (source: Snohetta) .....	2
Figure 2 Photographs of Malthouse M3. Upper left: Bird’s eye view of the subject site looking south-east, with M3 in the midground. Upper right: The north-western elevation of M3. Mid left: The south-eastern elevation of M3. Mid right: The roof of M3 as viewed from above. Lower left: Bird’s eye view of M3, looking south-west. Lower right: The roof sheeting is partly lost with the underlying timber framing exposed.....	6
Figure 3 Photographs of the site and the locality: Upper left: The subject site with the railway line in the foreground. Upper right: The existing detached houses on Colo Street immediately to the south of the site, which is seen in the right-hand side of the photograph. Lower left: The subject site (foreground) with the existing residential developments along Colo Street (background). Lower right: The subject site (foreground) and the town centre of Mittagong (background). .....	7
Figure 4 Validated vegetation communities on the site (source: Eco-Logical) .....	16
Figure 5 Excerpt of the Biodiveristy Values Map (source: NSW Planning Portal) .....	18
Figure 6 Riparian land on the site (source: Eco-Logical) .....	19
Figure 7 Excerpt of the Sydney Drinking Water Catchment Map (source: NSW Legislation website) .....	22
Figure 8 Excerpt of Land Zoning Map (data source: NSW Planning Portal).....	30
Figure 10 Excerpt of Lot Size Map (data source: NSW Planning Portal).....	32
Figure 11 Excerpt of Heritage Map (data source: NSW Planning Portal) .....	32
Figure 12 Excerpt of Natural Resources Sensitivity Map (data source: NSW Planning Portal) .....	36
Figure 13 Location of re-assessed trees in proximity to M3 and M4 (source: Ecological).....	43
Figure 14 Trees 294 (left) and 298 (right) adjacent to M3 (source: Eco-Logical) .....	44
Figure 15 Excerpt of Bushfire Prone Land Map (data source: NSW Planning Portal).....	45
Figure 16 Excerpt of Heritage Map (data source: NSW Planning Portal) .....	48
Figure 17 Significant views from outside the site (source: Paul Davies) .....	56
Figure 18 Significant views within the site (source: Paul Davies) .....	57
Figure 19 Shadow diagrams illustrating the impacts in mid-winter (source: Snohetta) .....	59

## Plans

Plan 1 Aerial map of the subject site (outlined in red and denoted by orange arrow) and the surrounding context (source: Nearmap, edited by Gyde) .....	4
Plan 2 Aerial view of the subject site (outlined in red) and subdivision pattern of the surrounding areas (data source: NSW Planning Portal) .....	5

## Tables

Table 1 Site dimensions .....	5
Table 2 Approved car parking provision.....	9
Table 3 Proposed changes to the conditions of consent (DA20/1400).....	10
Table 4 Development Statistics.....	11
Table 5 Pre-Lodgement discussions with Wingecarribee Shire .....	13
Table 6 Section 4.15 of EP&A Act 1979 .....	14
Table 7 Assessment against relevant provisions in Chapter 4 of SEPP (Biodiversity and Conservation) .....	20
Table 8 Assessment against relevant provisions in Chapter 6 of the SEPP (Biodiversity and Conservation) .....	22
Table 9 Assessment against relevant provisions in Chapter 2 of SEPP (Transport and Infrastructure).....	26
Table 10 Assessment against the matters for consideration in section 3.1 of SEPP (Sustainable Buildings).....	28

Table 11	Assessment against relevant provisions of Wingecarribee Local Environmental Plan 2010 .....	30
Table 12	Assessment against relevant provisions of Wingecarribee Development Control Plan 2010 .....	37
Table 13	Heritage listing of the site .....	47
Table 14	Heritage items in the vicinity to the site .....	47

## Appendices

The following plans and technical reports accompany the amending development application. Gyde has relied on the information in these reports, prepared by professionals in their field, for the preparation of this statement of environmental effects.

Appendix	Document	Prepared by
A1	Plan of Detail & Levels	Veris Australia
A2	Architectural drawing set	Snohetta
A3	Planning Application Report	Snohetta
A4	Statement of Changes to Plans (M3/M4)	Snohetta
A5	Heritage Impact Statement	Paul Davies
A6	Sustainability Report (M3/M4)	E-LAB
A7	Arboricultural Impact Assessment Addenda	Eco-Logical
A8	Flora and Fauna Assessment	Eco-Logical
A9	Koala Assessment Report Addenda	Eco-Logical
A10	Vegetation Management Plan	Eco-Logical
A11	Bushfire Advice	Peterson Bushfire
A12	Traffic and Transport Impacts – Statement of Advice	SLR
A13	Acoustic Assessment (M3 & M4)	Acoustic Logic
A14	Building Code of Australia 2022 Capability Statement (Building M3 M4)	Group DLA
A15	Building Code of Australia 2022 Report (Building M3 + M4)	Group DLA
A16	Access Report (Building M3 + M4)	Group DLA
A17	Fire Engineering advice (M3 and M4)	Credwell
A18	Geotechnical Investigation	EI Australia
A19	Structural Report (M3)	TTW
A20	Review of Civil Engineering Report	J Wyndham Prince
A21	Utilities Servicing Assessment	J Wyndham Prince
A22	Stormwater and Flood Management Strategy	J Wyndham Prince
A23	Soil and Water Management Plan	J Wyndham Prince
A24	Demolition and Construction Waste Management Plan	Waste Audit
A25	Operational Waste Management Plan	Waste Audit
A26	CIV Estimate Report (M3, M4)	MBM

# 1. Executive Summary

This Statement of Environmental Effects (SEE) has been prepared for Maltings Holdings Pty Ltd to accompany a development application (DA) to Wingecarribee Shire Council.

On 13 May 2022, consent was granted by the NSW Land and Environment Court for a staged development application relating to 2 Colo Street, Mittagong, commonly known as “The Maltings” (the **site**). The approved project consists of a development concept for adaptive re-use of the site and a detailed design scheme for alterations and additions to the former maltings known as M1, M2, the Southern Sheds and M3, construction of a new Northern Shed and a hotel known as M4, redevelopment of the former Maltster’s Cottage (stage 1) and associated landscape and site works. The approved uses encompass function centre, information and education facility, recreation facility (indoor), hotel or motel accommodation, restaurant and pub. The approved proposal also includes a concept scheme for potential residential accommodation, including seniors housing, and/or hotel or motel accommodation as part of the future M5/M6 (stage 2).

The subject DA seeks to amend the design of M3 and M4 (the **proposal**) as a result of further structural engineering investigations and design development, including:

- Demolition of the roof structures to the machine room of M3, which were previously approved for retention.
- Amendment to the design of the alterations and additions to M3 to accommodate a range of multi-purpose spaces for art, exhibition, gallery and indoor recreation uses, as well as dining and lounge rooms, a swimming pool and a guest suite associated with the hotel facility at M4.
- Changes to the façade design and minor adjustment to the interior layout of the M4 hotel.
- Provision of a private garage and storage facility to the south-east of M3/M4.

A concurrent section 4.56 modification application is made to amend the design of the alterations, additions and adaptive re-use of Maltings M1, M2 and the Southern Sheds, and the design of the new Northern Shed and redevelopment of Maltster’s Cottage, which is required to accommodate changes as part of the design development process.

This SEE has been prepared pursuant to section 4.12 of the *Environmental Planning and Assessment Act 1979* (the **EP&A Act**) and section 24 of the *Environmental Planning and Assessment Regulation 2021* (the **EP&A Reg**). The purpose of this SEE is to:

- describe the proposed development and its context;
- assess the proposal against the applicable planning controls and guidelines; and
- assess the potential environmental impacts and identify mitigation measures.

The subject proposal aims to facilitate the conservation, rejuvenation and adaptive re-use of a significant heritage site in Mittagong. The Maltings is a leading artefact of the Australian brewing industry; its history embodies the industry’s rapid consolidation and expansion during the twentieth century. Upon completion of the development, the site is expected to become an iconic destination for art and culture, supported by tourist and residential accommodation and associated recreation and entertainment facilities. The proposal would be pivotal in creating a place for cultural pursuits against a picturesque historic setting as well as generating new employment and businesses that would benefit the local and sub-regional economy.

The proposal has been formulated to respond to the conditions and constraints of the fabric and structural elements of the existing M3 building and its broader setting. It will facilitate the on-going protection and interpretation of the heritage values of the site. The proposal does not affect areas within the site that are identified to have Aboriginal archaeological sensitivity.

The former malting facilities have been in a dilapidated state since operation ceased in 1980, due to exposure to environmental conditions, vandalism and fire. Due to the advanced deterioration and degradation of the building structures, reconstruction and restoration of M3 to its former state is not feasible

and the proposed conservation approach is to allow new interventions to be distinguished from the existing ruinous fabric while interpreting its values.

The design changes are confined to the approved development footprint and will not affect the biodiversity and landscape values of the site. Specifically, there will be no additional impact on the Southern Highlands Shale Woodland community in the southern parts of the site. Other environmental constraints, such as flooding and bushfire, will continue to be mitigated and managed.

The proposal would not result in any significant additional environmental, social or economic impacts when compared to the original approved development. Any potential impacts can be adequately mitigated by appropriate conditions of consent. As such, approval of the application is warranted and within the public interest.

## Project vision



Figure 1 Artist's impression of M3/M4 (source: Snohetta)

The adaptive reuse of The Maltings site is a one-in-a-generation opportunity to revitalise the now derelict ruins of the former malthouses, due to the prolonged exposure of the heritage buildings to environmental conditions as well as vandalism.

The project involves the transformation of the disused industrial complex dating from the 19<sup>th</sup> and 20<sup>th</sup> century into a unique, globally focused art gallery showcasing the MIIA Foundation's art collection. The project will provide a hotel of distinguished quality accompanying the gallery and exhibition uses. The development will reimagine the intricate history of the site, embracing its role as a place of profound cultural significance.

MIIA has an emphasis on the collection and exhibition of the most innovative contemporary art practice in the 21<sup>st</sup> century. Working with leading Australian artists, as well as those who are forging new international

currents, MIIA has greatly enhanced access to, and a deeper understanding of, contemporary art in Australia.

The vision for The Maltings has evolved through a collaborative effort with the client, the Medich Family, and insights from the consultant team. While the overarching concept and design principles remain consistent with the approved development application, their interpretation has been adjusted to better align with the now enhanced understanding of the conditions of the site and the existing building fabrics.

The proposal outlined in the supporting documents will undergo further refinement as part of the detail design process at the post-consent stage.

## 2. Site Analysis

### 2.1 Local Context

The site is located in the suburb of Mittagong, within the Wingecarribee Shire local government area (LGA).

The site is located at the south-eastern edge of the Mittagong township, approximately 1km to the north-east of Mittagong train station and approximately 100m to the south-east of Old Hume Highway (a State road). It is approximately 120km south-west of Sydney.

The site has frontage to Ferguson Crescent to the north-west, Southey Street to the south-east and Colo Street to the south. It is adjoined by low density residential uses to the north-east, east and south. These residences are generally screened by dense tree planting. A rail corridor (Main Southern line) runs along the north-western boundary of the site. The historic Fitzroy Inn guest house, which is listed as a local heritage item, is located to the north-east of the site fronting Ferguson Crescent.

A variety of tourist and visitor accommodation as well as open space and recreational facilities, such as Mittagong Oval, Mittagong Swimming Centre and the Highlands Golf Club, are located on the north-western side of Old Hume Highway.

Refer to Figure 1 for an aerial map of the subject site (outlined in red and marked with an orange arrow) and the surrounding context.



**Plan 1** Aerial map of the subject site (outlined in red and denoted by orange arrow) and the surrounding context (source: Nearmap, edited by Gyde)

## 2.2 The Site

The subject site is described as Lot 21 in DP 1029384, 2 Colo Street, Mittagong, and is commonly known as “The Maltings”.

The site is irregular in shape and has a land area of 66,626m<sup>2</sup> (approximately 6.6ha).

The dimensions of the site are shown on the Survey Plan and are summarised as follows:

**Table 1 Site dimensions**

Boundary	Frontage	Dimension (m)
North-eastern	Shared boundary with properties fronting Southey Street	164.86m
South-eastern	Southey Street	159.125m
Southern	Shared boundary with properties fronting Colo Street	311.96m
North-western	Great Southern Railway	612.40m

The site is dissected by Nattai River and the riparian zone is generally in a degraded condition, with banks that are highly eroded, lack native trees and shrubs, and intruded by exotic woody and herbaceous weeds. The land has a moderate slope from the east towards the river bank with a relatively flat area in the south-western portion. It contains both remnant native and exotic vegetation, weeds and cleared areas. Established tree planting is primarily found on the edges of the site and along Nattai River.

A number of buildings in various states of deterioration and disrepair are located on the site. They comprise the former malthouses (“Malthouses M1, M2 and M3”) on both the eastern and western sides of the river; the ruins of the former company cottage (“Maltster’s Cottage”); the remains of former barley stores, engine room, battery room and other ancillary buildings; bitumen surfaces and bridges over Nattai River.

Access to the site is provided from Colo Street, Southey Street and Ferguson Crescent.

A threatened ecological community, being Southern Highlands Shale Woodland (SHSW), is identified within the south-western part of the site that is subject to statutory protection. The southern half of the site is identified as bushfire prone land. A significant portion of the site is flood prone land and is subject to Council’s flood related development controls.



 Site

**Plan 2** Aerial view of the subject site (outlined in red) and subdivision pattern of the surrounding areas (data source: NSW Planning Portal)

The Maltings is listed as a local heritage item and within The Maltings Conservation Area under the Wingecarribee Local Environmental Plan (LEP) 2010. It is identified as a major turn of the century industrial complex associated with the growth and centralisation of the brewing trade in NSW.

Photographs of the subject site are provided below.



**Figure 2** Photographs of Malthouse M3. **Upper left:** Bird's eye view of the subject site looking south-east, with M3 in the midground. **Upper right:** The north-western elevation of M3. **Mid left:** The south-eastern elevation of M3. **Mid right:** The roof of M3 as viewed from above. **Lower left:** Bird's eye view of M3, looking south-west. **Lower right:** The roof sheeting is partly lost with the underlying timber framing exposed.

## 2.3 The surrounding locality

The site is surrounded by low density residential uses to the north-east, east and south. These residences are generally screened by dense tree planting.

The historic Fitzroy Inn guest house, which is listed as a local heritage item, is located to the north-east of the site fronting Ferguson Crescent.

A rail corridor (Main Southern line) runs along the north-western boundary of the site. Mittagong Train Station is approximately 1km to the south-west of the site. Photographs of the surrounding developments to the site are provided below.



**Figure 3** Photographs of the site and the locality: **Upper left:** The subject site with the railway line in the foreground. **Upper right:** The existing detached houses on Colo Street immediately to the south of the site, which is seen in the right-hand side of the photograph. **Lower left:** The subject site (foreground) with the existing residential developments along Colo Street (background). **Lower right:** The subject site (foreground) and the town centre of Mittagong (background).

## 2.4 Relevant Planning History

A brief history of the staged development application for adaptive re-use of the site is outlined below:

- On 10 June 2020, a staged DA was lodged with Wingecarribee Shire Council.
- The DA was exhibited by Council from 10 July to 14 August 2020. A total of six submissions were received in response to the notification.
- The DA was re-exhibited from 11 March to 19 April 2021. No submissions were received in response to the re-notification.
- The DA became the subject of an appeal at the NSW Land and Environment Court for deemed refusal of the application. On 31 March 2022, representatives of the applicant and Council participated in a section 34 conciliation conference and reached an in-principle agreement regarding the granting of development consent.
- On 13 May 2022, development consent was granted by the Land and Environment Court.
- Between July 2023 and January 2024, several briefings to Council occurred regarding the proposed design changes to the approved development proposal for the site.

## 3. Description of Development

### 3.1 The approved development

Development Application No. 20/1400 was granted by the NSW Land and Environment Court on 13 May 2022 for:

*Concept development application for the alterations and additions to and the adaptive reuse of the Site for the purposes of a mixed use development together with a development application for consent to stage 1 of the development for the alterations and additions and adaptive re-use of Malthouses M1, M2, M3 and M4.*

Specifically, the approved DA includes the following components:

#### Detailed development proposal for stage 1

The detailed design proposal for stage 1 of the development includes:

- Alterations and additions to the existing malthouses known as Maltings 1 (M1) and Maltings 2 (M2) and the former barley stores (Southern Sheds) on the western side of Nattai River. The works also include the construction of a new shed immediately to the north-east of M2 (Northern Shed). These buildings will contain a variety of multi-purpose spaces for art, culture, exhibitions, performances and functions. A swimming pool and bar will be accommodated within M1. The multi-purpose spaces are also designed to allow use as a private gymnasium if required; however, this will not be operated as a commercial gymnasium for the general public.
- Alterations and refurbishment to the existing Maltings 3 (M3) on the eastern side of the river, and construction of a new Maltings 4 (M4) to its immediate south to create a unified building for use as a hotel with restaurant, exhibition and ancillary purposes.
- Demolition of the ruins of Maltster's Cottage and construction of a multi-purpose building in its place.
- Upgrades to the grounds including improved vehicular and pedestrian access, car parking, landscaping, selective tree removal and replacement planting.
- Repairs to existing bridges and weirs and construction of two new bridges.
- Rehabilitation of the riparian corridor along Nattai River, including stabilisation of the river banks, removal of weeds and revegetation.

#### Concept development proposal for stage 2

The concept proposal constitutes stage 2 of the development and includes:

- Building footprints and envelopes for new buildings to be known as Maltings 5 (M5) and Maltings 6 (M6) on the eastern side of the river to accommodate the following potential uses:
  - Residential accommodation,
  - Tourist and visitor accommodation, and/or
  - Seniors living.

Works associated with stage 2 of the development have not been approved and will be subject to separate development application/s.

#### Access and circulation

The site planning arrangement takes advantage of the multiple access points to and from the property and allows appropriate separation of access dependent on the types of users and occupants. The three access points are as follows:

- Colo Street will provide access for the majority of visitors to M1/M2 and hotel guests of M3/M4.
- Southey Street will be used for the outbound hotel guests of M3/M4, the future residents of M5/M6, and as a secondary access if required.

- Ferguson Crescent will be used for staff and back-of-house deliveries only. No public or visitor access is proposed.

Internally, a bridge will connect the at-grade car park adjacent to the driveway off Colo Street to the car park of M3/M4. This will be used by hotel guests. Pedestrian access will be provided from all road frontages. A system of internal pathways will be provided for circulation between buildings and facilities within the site.

This application does not seek any changes to the access and circulation arrangements.

### Car parking

The development incorporates on-site car parking for the various uses as follows:

**Table 2** Approved car parking provision

Type	Location	Number of spaces
M1 formal parking	At grade, to the immediate south of M1 and along driveway off Colo Street	74 (changed to 72 including 2 accessible spaces)
M2 back-of-house parking	At grade, to the immediate north of the Northern Shed	15 (changed to 12 standard spaces + 1 accessible space to accommodate turning paths for service vehicles)
M3 and M4 formal parking	At grade, to the east of M3/M4 in the area that will be occupied by M5/M6 in the future; these spaces will be relocated to the basement of M5/M6 when they are developed	46 (changed to 46 standard spaces + 1 accessible space, plus a new private garage with 4 spaces) = 51
M4 basement parking	Basement, below M4	4 (including 1 accessible space) (no change)

The indicative parking provision for M5/M6 is approximately 82 spaces, inclusive of the parking for M3/M4 that will be relocated to the basement when M5/M6 is developed. A detailed parking assessment will be submitted with any future DA for Stage 2 of the development (M5/M6).

This amending DA seeks minor changes to the car parking provision as a result of the design development process. An updated site plan has been prepared to clearly show the location and distribution of the on-site car parking. A private garage to the south-east of M3/M4 is now clearly shown on the drawings with approximately 4 spaces.

### Hours operation

The approved hours of operation are specified in Condition 135 of the development consent, which provides:

#### *Maltings 1 and Maltings 2:*

Sunday to Thursday: 8am to midnight

Friday and Saturday: 8am to 1am the following morning

In addition, up to 10 times in any 12-month period, the premises will operate until 2am (the following morning), including on New Year's Eve.

#### *Maltings 3 and Maltings 4:*

24 hours a day, every day of the week

### 3.2 The amending development application

The subject development application seeks to amend development consent number 20/1400 to implement the following changes to the approved stage 1 detailed design scheme.

The changes are the results of additional investigations of the structural conditions of the buildings and the design development process, including further resolution of the facades configuration and materiality.

Extensive structural investigations carried out following the issue of the consent have found that structural members and materials previously identified for retention at M3 are not suitable for re-use. In particular, the timber roof framing has been found to be deteriorated to an extent that cannot be re-used and are to be demolished. Most of the concrete slabs have also suffered from severe degradation and cannot be re-used. In lieu of re-construction, a contemporary addition characterised by interlocking volumes is proposed as a reference to the historic building’s monumental scale and presence.

Details of the floor-by-floor changes to M3/M4 are provided in the Statement of Changes prepared by Snohetta Architects. A summary is provided below:

#### M3 - Hotel

- Re-planning of the floor layout within the retained building to provide for a range of reception, exhibition and multi-purpose spaces.
- Removal of the originally proposed mezzanine level 1.
- Conversion of the approved lounge / bar and kitchen areas on level 2 to a gallery and void space.
- Demolition of the original roof structures to the east of the silos and replacement with a new, re-designed addition containing:
  - A restaurant, event / exhibition room and kitchen at level 3
  - A lounge room, amenities and outdoor swimming pool with terrace at level 4
  - A guest suite and landscaped terrace at level 5.

#### M4 - Hotel

- Alterations to the configuration and materiality of the facades to the building.
- Changes to the interior floor layout, including removal of maintenance areas originally proposed in between the external facades and glazing lines due to reconfiguration of the external enclosing walls.
- The revised design will accommodate a total of 40 hotel rooms, plus 1 owner’s suite and 1 guest suite (the guest suite is located at M3).

#### Ancillary facility

- Construction of a private garage with 4 spaces and storage facility to the south-east of M3/M4.

#### Changes to conditions

It is expected that this DA would be subject to appropriate conditions of consent. This may involve duplicating relevant conditions in the original consent 20/1400. However, the following conditions under consent 20/1400 cannot be duplicated and will require changes to reflect the current development scheme:

**Table 3 Proposed changes to the conditions of consent (DA20/1400)**

Condition No.	Title	Comments
11	Development in Accordance with Plans and Documents	Change the condition to make reference to the revised drawings.
40	Off-Street Parking Provision - General	Change the condition to make reference to the revised site plan.
127	Geotechnical Risk Assessment Report Compliance	Change the condition to make reference to the updated geotechnical assessment report.

Condition No.	Title	Comments
Various	Concurrence conditions	Change various conditions imposed by Rural Fires Service, Water NSW and Natural Resources Access Regulator (NRAR) to make reference to updated technical reports.

Section 4.24(2) of the EP&A Act 1979 provides that “*While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.*”

The design scheme for M3/M4 contained in the subject DA is consistent with the approved concept DA (20/1400) in that:

- The overall site planning, building layouts and footprints of M3/M4, landscape treatment and access arrangements remain unchanged.
- The land uses proposed in M3/M4 is consistent with the approved concept scheme, being a combination of hotel and ancillary uses as well as exhibition / gallery facilities.
- The existing building will be conserved to the extent that the materials and fabric can feasibly be retained.
- The gross floor area proposed in M3/M4 is commensurate with that approved under the previous consent with a difference of only 6.3%.

The subject DA is consistent with the approved concept in both qualitative and quantitative terms.

### 3.3 Development Statistics

The key statistics and elements of M3/M4 are shown in the table below:

**Table 4 Development Statistics**

Element	Proposal
Site Area	66,626m <sup>2</sup>
Gross Floor Area	5,529m <sup>2</sup> for M3/M4 (increased from 5,200m <sup>2</sup> ) 10,467m <sup>2</sup> for the entire development
Floor Space Ratio (FSR)	0.083:1 for M3/M4 0.157:1 for the entire development
Hotel	40 hotel rooms plus 1 owner’s suite and 1 guest suite (the approved DA provides 40 rooms plus 1 owner’s suite only)
Maximum Height	22.63m
Total Parking	M4 basement: 4 spaces (including 1 accessible space) At grade car park for M3/M4: 47 spaces (including 1 accessible space) Private garage: 4 spaces

### 3.4 Capital Investment Value

The capital investment value (CIV) of the M3/M4 group is estimated at \$47,282,441, which consists of:

- Hotel and ancillary dining, lounges, swimming pool, private and guest suites: \$37,247,727, and
- Exhibition and gallery: \$10,034,715.

Refer to the CIV Estimate Report for M3 and M4, prepared by MBM.

## 4. Pre-lodgement Consultation

Meetings with Wingecarribee Shire were undertaken to inform the preparation of the subject DA and the related section 4.56 modification. The matters discussed during these sessions are described in the following table.

**Table 5 Pre-Lodgement discussions with Wingecarribee Shire**

Date of engagement	Particulars
13 July 2023	<p>The project team presented draft plans to Council. The planning pathway for the re-design of M3 was discussed. Council expressed its preference for a new DA to be lodged for the M3 component, and that the design scheme should respect the heritage conservation approach in the approved DA. Council also recommended a pre-lodgement meeting and discussions with the heritage adviser.</p> <p>Consistent with Council’s advice, the design changes to M3/M4 are pursued through the preparation and submission of the subject DA. The conservation approach has been carefully formulated based on specialist heritage advice by Paul Davies and additional structural investigations.</p>
25 October 2023	<p>The project team provided a presentation to Council covering the proposed amended design for M1/M2, Maltster’s Cottage and M3/M4. Council highlighted the important issue of protecting the heritage significance of the site. Council’s heritage officer met with the project heritage consultant subsequently to discuss in more detail the heritage aspects of the scheme.</p> <p>The discussions with Council’s heritage advisor have informed the heritage conservation approach for the project.</p>
23 January 2024	<p>The project team provided an updated presentation to Council relating to the final draft design and confirmed the planning pathway for various elements and target submission date. Council acknowledged the information and advised that both the DA and modification would be managed by the same assessment officer.</p>

## 5. Statutory Planning Considerations

### 5.1 Overview

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

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2021*
- *Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)*
- *Biodiversity Conservation Act 2016*
- *Fisheries Management Act 1994*
- *Water Management Act 2000*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Wingecarribee Shire Local Environmental Plan 2010*

Where relevant, these are addressed below.

### 5.2 *Environmental Planning and Assessment Act 1979*

#### 5.2.1 Section 4.15 of EP&A Act 1979

Section 4.15(1) of the EP&A Act specifies matters which a consent authority must consider when determining a development application. The relevant matters for consideration under Section 4.15 of the EP&A Act are addressed in the table below.

**Table 6 Section 4.15 of EP&A Act 1979**

Section	Comment
Section 4.15(1)(a)(i) Any environmental planning instrument	Consideration of relevant instruments is discussed in Section 5 of this SEE.
Section 4.15(1)(a)(ii) Any draft environmental planning instrument	There are no draft environmental planning instruments that are directly relevant to the proposed development.
Section 4.15(1)(a)(iii) Any development control plan	Consideration of relevant the development control plan is discussed in Section 4 of this SEE.
Section 4.15(1)(a)(iiia) Any planning agreement	Not applicable.
Section 4.15(1)(a)(iv) Matters prescribed by the regulations	Refer to Section 5.3.
Section 4.15(1)(b) - (e)	Refer to Section 5 of this SEE for consideration of (b), (c) and (e). Matter (d) relates to submissions and is a matter for the consent authority following public exhibition of the development application.

#### 5.2.2 Section 4.46 – Integrated Development

This section of the EP&A Act defines integrated development as development that requires development consent and one or more approvals under related legislation. Under these circumstances, prior to granting

consent, the consent authority must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development.

The approved development constituted integrated development as it required the following approval:

- Authorisation under section 100B of the *Rural Fires Act 1997* in respect of bush fire safety of development for special fire protection purposes (hotel and ancillary uses in this case).
- Approval for 'controlled activity' relating to development on waterfront land from the Natural Resources Access Regulator (NRAR) pursuant to section 91 of the WM Act.

The GTA from the above agencies refer to drawings and documents that have been updated. Accordingly, this amending DA would need to be referred to these agencies to obtain updated terms of approval regarding the amended design.

## **5.3 Environmental Planning and Assessment Regulation 2021**

### **5.3.1 Clause 61 – Additional matters that consent authority must consider**

Clause 61(1) of the EP&A Regulation prescribes that the consent authority in determining a DA must consider Australian Standard AS 2601 – 2001: *The Demolition of Structures*. Any demolition works will be undertaken in accordance with the aforementioned Australian Standard. Appropriate conditions can be imposed in the development consent to address this matter.

### **5.3.2 Clause 69 – Compliance with Building Code of Australia**

Any building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA) pursuant to Clause 69 of the EP&A Regulation. The BCA Report, dated 27 February 2024, prepared by Group DLA, concludes that the proposed development is capable of complying with the provisions of the BCA through compliance with the deemed-to-satisfy provisions and formulation of performance solutions. This matter can be addressed by appropriate conditions of consent and resolved at the construction certificate stage.

## **5.4 Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)**

The primary objects of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) are to protect the environment, especially matters of national environmental significance (MNES), and to promote ecologically sustainable development, among other things.

The following communities / species are identified as matters of national environmental significance:

- Southern Highlands Shale Woodland (SHSW), which falls under the 'critically endangered' category; and
- Grey-headed Flying-fox (GHFF), which falls under the 'vulnerable' category.

If a development is likely to have a significant impact on MNES, it may be considered to be a 'controlled action' requiring assessment and approval by the Commonwealth.

SHSW is found in the southern part of the site and the development involves removal of 0.1 ha of this community. No new clearing of native vegetation is proposed. The native and exotic vegetation on the site may provide potential foraging and sheltering habitats for GHFF. As such, the Significant Impact Criteria apply to both SHSW and GHFF.

An updated Flora and Fauna Assessment, dated 27 February 2024, prepared by Eco-Logical accompanies the subject DA and the related section 4.56 modification. Following consideration of the administrative guidelines for determining a significant impact under the Act, Eco-Logical considers that the proposed development may cause a local population of the GHFF to decline and a referral to the Commonwealth Department of the Environment and Energy is recommended for this matter. Eco-Logical also considers that

the 0.1 ha of SHSW to be removed represents a small, already disturbed area of the community and the scale of impact is minor; a referral to the Commonwealth is not necessary for this matter.

The appendix to the Flora and Fauna Assessment contains full details of the evaluation against the Significant Impact Criteria.

### 5.5 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) lists and protects threatened species, populations and ecological communities that are under threat of extinction in NSW.

A Flora and Fauna Assessment, dated 30 April 2020, was prepared by Eco-Logical in support of the original DA. An updated Flora and Fauna Assessment, dated 27 February 2024, also prepared by Eco-Logical accompanies the subject DA and the related section 4.56 modification.

A field survey by a qualified ecologist was completed in October 2019. A further inspection of the site was carried out in January 2024 to reassess the conditions of the vegetation and confirm the validity of the original study. The recent inspection finds that the conditions of the vegetation have not significantly changed, and the mapped boundaries of the vegetation communities are accurate.



**Figure 4 Validated vegetation communities on the site (source: Eco-Logical)**

The inspections confirm that a vegetation community known as Southern Highlands Shale Woodland (SHSW) is present in the southern part of the site. SHSW is listed as an endangered ecological community under Part 2 of Schedule 2 to the BC Act. SHSW is also listed as a critically endangered ecological community under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (see discussions above). Approximately 0.1 ha of SHSW and 0.02 ha of exotic vegetation will be removed as part of the approved development. The current applications do not involve any additional clearing of native vegetation.

One significant finding of the recent field survey is the identification of an occupied camp of Grey-headed Flying-fox (GHFF), which is listed as a vulnerable species under the BC Act and the EPBC Act. There were approximately 50 to 75 individuals occupying the camp at the time of the survey. The GHFFs were observed roosting among the exotic Willows along the riparian corridor. These exotic trees are approximately 20-25m from the nearest building (M1). The proposed modification does not involve removal of any additional native or exotic vegetation. Both the updated Flora and Fauna Assessment and updated Vegetation Management Plan have recommended mitigation measures to minimise adverse impacts on this species.

Biodiversity Offsets Scheme consideration

The Biodiversity Offsets Scheme (BOS) is triggered by developments, projects or activities that meet certain thresholds for significant impacts on biodiversity (or on an opt-in basis). Development assessed under Part 4 of the EP&A Act that is likely to significantly affect threatened species will require a biodiversity development assessment report (BDAR) pursuant to section 7.7 of the BC Act if the impacts either:

- Exceed the BOS threshold under section 7.4 of the BC Act. The *Biodiversity Conservation Regulation 2017* (BC Regulation) establishes threshold levels for when the BOS will be triggered. The threshold consists of two elements:
  - Whether the amount of native vegetation being cleared exceeds an area threshold. The area threshold varies depending on the minimum lot size (shown on the Lot Size Maps under the relevant LEP) or actual lot size (where there is no minimum lot size specified in the relevant LEP). The area threshold applies to all proposed clearing of native vegetation associated with a development proposal, regardless of whether it is undertaken across multiple lots. The current threshold is set out below (source: Department of Planning and Environment):

Minimum lot size associated with the property	Threshold for clearing, above which the Biodiversity Assessment Method (BAM) and offsets scheme apply
Less than 1 ha	0.25 ha or more
1 ha to less than 40 ha	0.5 ha or more
40 ha to less than 1000 ha	1 ha or more
1,000 ha or more	2 ha or more

- Whether the impacts occur in an area mapped on the Biodiversity Values Map (BV Map). The BV Map identifies land with biodiversity values as defined by section 7.3(3) of the BC Regulation. The BOS applies to any clearing of native vegetation and other biodiversity impacts prescribed by section 6.1 of the BC Regulation on land identified on the BV Map.
- Are carried out on an Area of Outstanding Biodiversity Value (AOBV); or
- Are likely to significantly affect threatened species, ecological communities and their habitats according to the test under section 7.3 of the BC Act.

Evidence relating to the triggers for the BOS threshold and a test of significance (where relevant) are required when submitting the application.

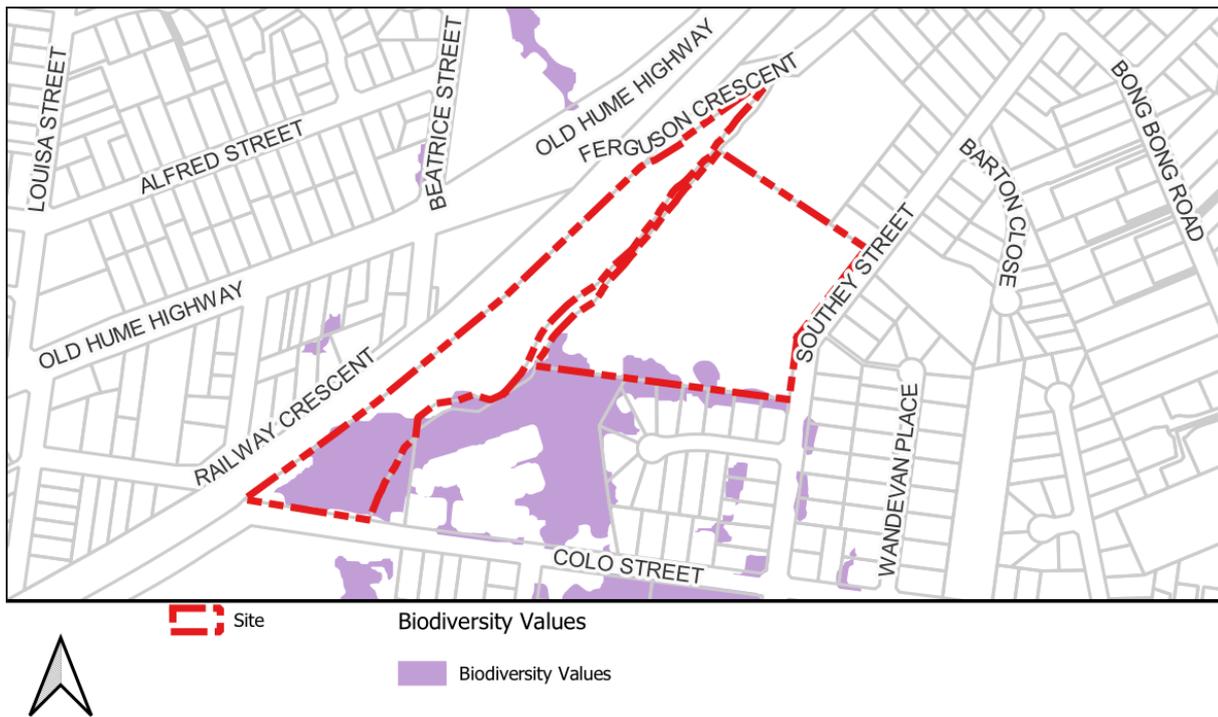
*Assessment:*

The paragraphs below assess the modification against the potential triggers for BOS:

- The Minimum Lot Size Map under the Wingecarribee LEP 2010 identifies a minimum subdivision lot size of 700m<sup>2</sup> for the site. The corresponding threshold for clearing of native vegetation is 0.25 ha. The proposed clearing is only approximately 0.1 ha of SHSW in moderate to good condition and approximately 0.02 ha of exotic vegetation. Approximately 0.9 ha of SHSW and 1.2 ha of native and exotic vegetation will be retained on the site. The updated Flora and Fauna Assessment confirms that BOS does not apply to the proposal.

- At the time of the original Flora and Fauna report (2020), the site was not affected by the Biodiversity Values Map (BV Map). However, the BV Map has since been updated and the southern part of the site is currently identified on the map as having biodiversity values. Refer to Figure 4 below.

The DA relates to design changes to M3 and M4, where their footprints are outside of areas with biodiversity values on the BV Map. The proposal does not involve any additional clearing of native vegetation beyond what has been approved. As such, a BDAR is not required and the BOS does not apply to the subject application.



**Figure 5** Excerpt of the Biodiversity Values Map (source: NSW Planning Portal)

- The section 10.7 planning certificate (dated 8 December 2023) obtained from Council states that the site is not in an area of outstanding biodiversity value under the BC Act.
- Tests of significance under section 7.3 of the BC Act was undertaken for the following threatened ecological communities and threatened species:
  - Southern Highlands Shale Woodland (SHSW)
  - Eastern False Pipistrelle
  - Large Bent-winged Bat
  - Greater Broad-nosed Bat
  - Grey-headed Flying-fox.

The assessments conclude that the proposed development is unlikely to have a significant impact on any threatened ecological community or species above as:

- The area of vegetation to be impacted is small.
- There is no critical habitat to be impacted for the above species.
- The proposal will not fragment or isolate any fauna habitat.
- Large amounts of similar habitat are available within the site and adjacent areas.
- The habitat is likely to be used in a transitory nature as no key breeding habitat is likely to be present within the site.

The full details of the tests of significance are in the Appendix to the Flora and Fauna Assessment.

## 5.6 Water Management Act 2000

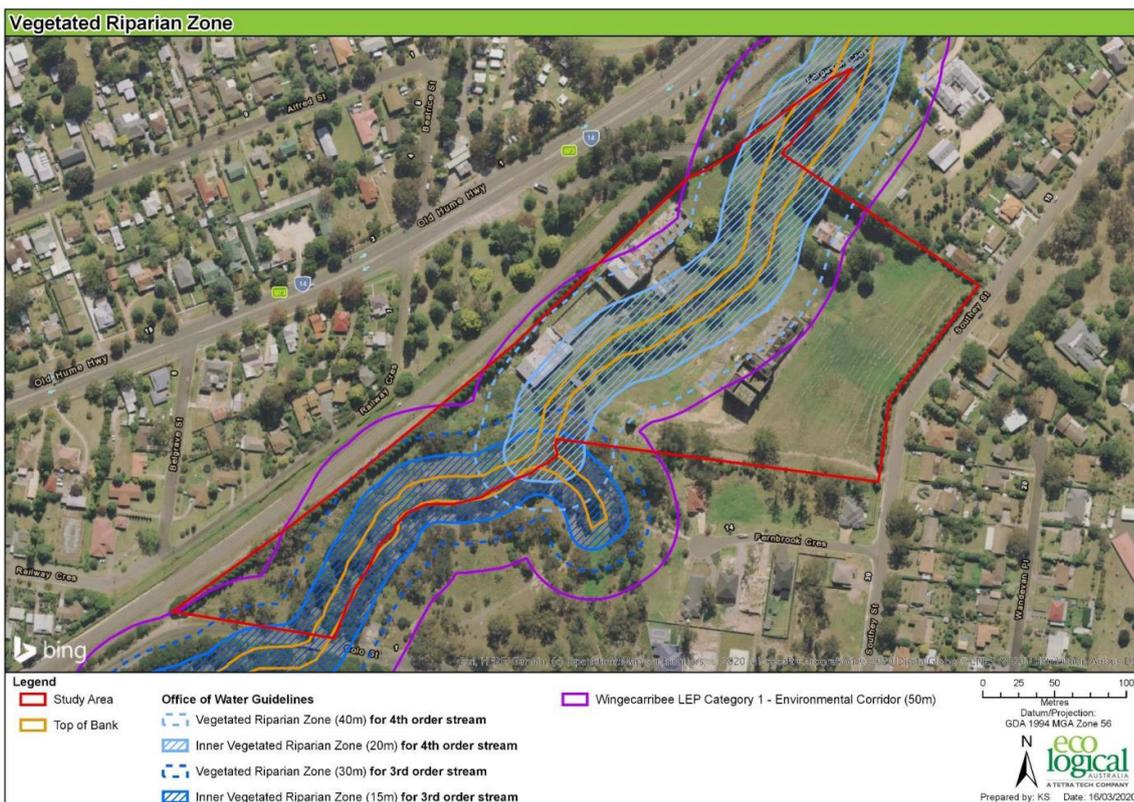
The objects of the *Water Management Act 2000* (WM Act) are to provide for the sustainable and integrated management of the water resources of the State for the benefit of both present and future generations.

The Dictionary of the WM Act provides a definition for ‘waterfront land’, which encompasses land within 40m from the highest bank of any river, lake or estuary. The proposed development involves rehabilitation works on waterfront land and constituted a ‘controlled activity’, and the original DA was referred to the Natural Resources Access Regulator (NRAR) for approval pursuant to section 91 of the WM Act. The development will be classified as integrated development under the EP&A Act.

The riparian zone of Nattai River is in a generally degraded condition with a mixture of exotic and remnant native vegetation and both man-made and natural landform. The creek exhibits a range of conditions, including weirs, shaped banks, filled land, pools and shallows. The original DA includes remediation works on ‘waterfront land’ of Nattai River.

The footprint of the approved new building of M4 is located outside of the riparian and waterfront land. The private garage and storage facilities are also outside the riparian and waterfront land.

A controlled activity approval was granted by NRAR with the terms of approval incorporated in the development consent for the original DA. These terms of approval would need to be updated to make reference to the current drawings and technical documents.



**Figure 6 Riparian land on the site (source: Eco-Logical)**

The proposal is for reconfiguration of the interior and changes to the upper floor additions to the retained M3 building as well as façade and interior changes to the M4 hotel. These design amendments would not affect the environmental quality of the waterfront land.

An updated Vegetation Management Plan (VMP), dated 20 February 2024, by Eco-Logical, has been prepared for the site to guide future vegetation works. The VMP incorporates strategies to improve the environmental quality of the riparian zone through staged / part removal of exotic species and revegetation

with native species; conserving cultural planting that has heritage values; and preserving the meadow and introducing native ground covers.

The updated VMP recommends the establishment of a 20m buffer zone around the Willow trees where GHFF have been found. The aim of the buffer zone is to limit any disturbance to the GHFF camp, so that the exotic tree species within the riparian corridor can continue to provide an important foraging and sheltering resource for this vulnerable species.

The proposal does not affect the ability of the overall redevelopment to meet the objectives of the WM Act.

## 5.7 Fisheries Management Act 1994

The objects of the *Fisheries Management Act 1994* (FM Act) are to conserve, develop and share the fishery resources of the State for the benefit of present and future generations. The Schedules to the Act list key threatening processes and threatened species, among other matters. The Act sets out requirements for permits in relation to harm to protected marine vegetation (sea grass, macroalgae, mangroves and saltmarsh), dredging, reclamation or obstruction of fish passage on or adjacent to key fish habitats. The above includes direct and indirect impacts, whether temporary or permanent.

The Flora and Fauna Assessment prepared by Eco-Logical finds that a key fish habitat is identified along Nattai River in the mapping supporting the FM Act. The subject proposal does not involve in any obstruction to fish passage, dredging or reclamation. A permit under the FM Act is not required.

## 5.8 State Environmental Planning Policies (SEPPs)

### 5.8.1 SEPP (Biodiversity and Conservation) 2021

The relevant provisions of the SEPP (Biodiversity and Conservation) are addressed as follows:

#### Koala habitat protection

Chapter 4 of the SEPP applies to the Wingecarribee LGA, which falls within the Central and Southern Tablelands and Central Coast koala management areas.

**Table 7 Assessment against relevant provisions in Chapter 4 of SEPP (Biodiversity and Conservation)**

Clause	Provisions	Comments
4.9 Development assessment process – no approved koala plan of management for land	<p>(1) <i>This section applies to land to which this Chapter applies if the land—</i></p> <p>(a) <i>has an area of at least 1 hectare (including adjoining land within the same ownership), and</i></p> <p>(b) <i>does not have an approved koala plan of management applying to the land.</i></p> <p>(2) <i>Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.</i></p> <p>(3) <i>If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.</i></p> <p>(4) <i>If the council is satisfied that the development is likely to have a higher level of impact on koalas or koala habitat, the</i></p>	<p>The subject proposal seeks to amend the design of the approved alterations, additions and adaptation of M3, in conjunction with the revision to the facades and interior floor layout of M4. The works in question are confined to the approved building footprints.</p> <p>The following considers the provisions of the SEPP in the context of the approved development and proposed changes.</p> <p>The subject site has a land area of approximately 6.6 ha and there is no approved koala plan of management applying to the land. A Flora and Fauna Assessment Report, dated 30 April 2020, and a Koala Assessment Report, dated 29 April 2020, both prepared by Eco-Logical Australia, accompanied the original DA. The Flora and Fauna Assessment found that:</p> <ul style="list-style-type: none"> <li>• The site does not contain any core koala habitat.</li> <li>• The site contains only limited amounts of potential koala habitat in the southern portion, where remnant native vegetation</li> </ul>

Clause	Provisions	Comments
	<p><i>council must, in deciding whether to grant consent to the development application, take into account a koala assessment report for the development.</i></p> <p><i>(5) However, despite subsections (3) and (4), the council may grant development consent if the applicant provides to the council—</i></p> <p><i>(a) information, prepared by a suitably qualified and experienced person, the council is satisfied demonstrates that the land subject of the development application—</i></p> <p><i>(i) does not include any trees belonging to the koala use tree species listed in Schedule 3 for the relevant koala management area, or</i></p> <p><i>(ii) is not core koala habitat, or</i></p> <p><i>(b) information the council is satisfied demonstrates that the land subject of the development application—</i></p> <p><i>(i) does not include any trees with a diameter at breast height over bark of more than 10 centimetres, or</i></p> <p><i>(ii) includes only horticultural or agricultural plantations.</i></p>	<p>is present. This vegetation has been subject to on-going disturbance.</p> <ul style="list-style-type: none"> <li>• There are feed tree species, such as Monkey Gum, Sydney Peppermint, White-topped Box and Narrow-leaved Peppermint, mainly in the southern portion of the site.</li> <li>• There were 103 previous records of koala within 5km of the site in the past 18 years leading to year 2020.</li> <li>• The remaining areas of the site contain very limited habitat value as they are cleared, dominated by exotic vegetation, or occupied by buildings. There is no connectivity to suitable habitats nearby due to the presence of roads, railway line and residential development.</li> </ul> <p>A revised Flora and Fauna Assessment was prepared in February 2024 and the above findings remain unchanged.</p> <p>The Koala Assessment concludes that:</p> <ul style="list-style-type: none"> <li>• Koalas may use the site for foraging on an intermittent basis. The site is unlikely to be significant to the local population for breeding or dispersal across the landscape.</li> <li>• The report has considered the management and protection of koalas and their habitat and has addressed all direct and indirect impacts of the proposed development on this species.</li> </ul> <p>Impacts on native vegetation will predominantly occur among degraded vegetation or at the periphery of cleared land. Approximately 0.1ha of understorey vegetation of the Southern Highlands Shale Woodland (SHSW) will be impacted. This will not result in direct loss of koala habitat but modification of habitat only.</p> <p>The approved development also involves revegetation of 0.65ha of SHSW (according to the updated Vegetation Management Plan due to the need to protect certain Willow trees where a camp of Grey-headed Flying-fox has been found) and assisted regeneration of 0.2ha of SHSW, which would result in a net increase of koala habitat. An updated Vegetation Management Plan, dated 20 February 2024, prepared by Eco-Logical Australia has been prepared to ensure on-going protection of vegetation on the site.</p> <p>An addendum letter, dated 8 February 2024, prepared by Eco-Logical Australia, confirms that there are no changes to the condition of the vegetation present on the site. As no additional trees or vegetation are proposed for removal, and that the footprints for M3/M4 will remain unchanged, the conclusions of the Koala Assessment Report (2020) continue to be valid.</p>

Clause	Provisions	Comments
		The design revision for M3/M4 as proposed in this application will not result in any increased impact on potential koala habitat.

Water catchments

The subject site is within a sub-catchment area of the Sydney Drinking Water Catchment and is identified on the Sydney Drinking Water Catchment Map (Sheet 015) to the SEPP. Accordingly, the provisions of Chapter 6 'Water catchments' apply to the proposal.

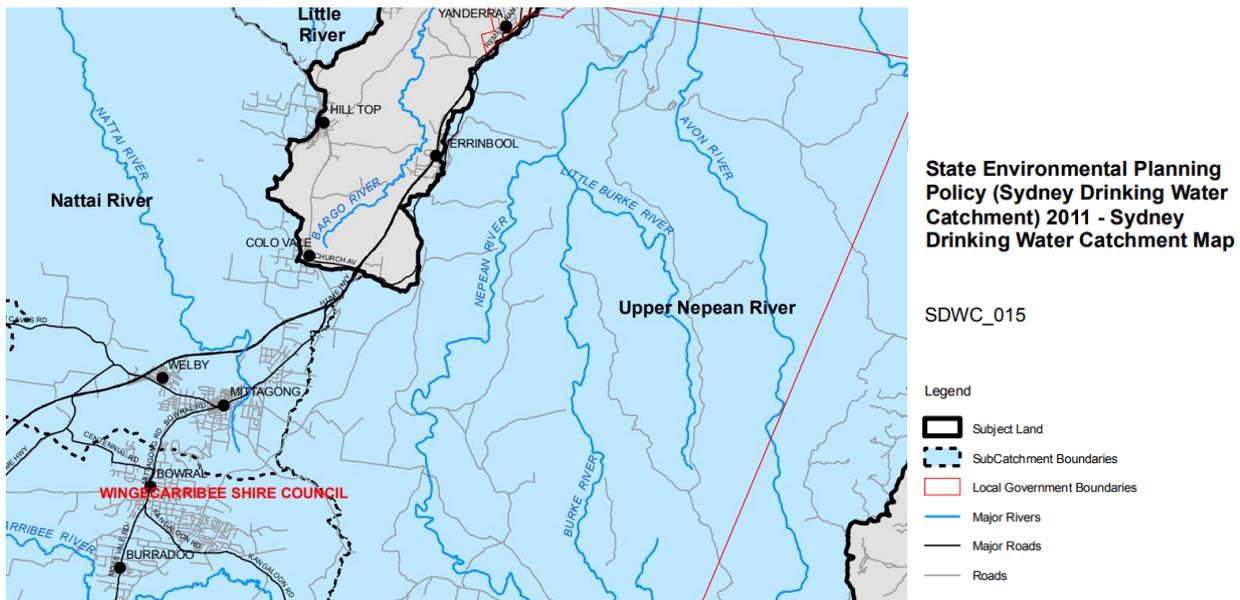


Figure 7 Excerpt of the Sydney Drinking Water Catchment Map (source: NSW Legislation website)

The relevant provisions of the SEPP are addressed in the table below.

Table 8 Assessment against relevant provisions in Chapter 6 of the SEPP (Biodiversity and Conservation)

Clause	Provisions	Comments
6.6 Water quality and quantity	<p>In deciding whether to grant development consent to development on land in a regulated catchment (note: this includes Sydney Drinking Water Catchment), the consent authority must consider the following:</p> <p>(b) whether the development will have an adverse impact on water flow in a natural waterbody,</p> <p>(c) whether the development will increase the amount of stormwater run-off from a site,</p> <p>(d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,</p> <p>(e) the impact of the development on the level and quality of the water table,</p> <p>(f) the cumulative environmental impact of the development on the regulated catchment,</p> <p>(g) whether the development makes adequate provision to protect the quality and quantity of ground water.</p>	<p>An updated Stormwater and Flood Management Strategy, prepared by J Wyndham Prince, supports the subject amending DA.</p> <p>The design revision for M3/M4 is confined to the existing, approved building footprints. The proposal will not adversely affect the quality of water draining into Nattai River. It will not result in any significant change to the quantity of overland flow as compared to the approved development for the site.</p> <p>The proposal only involves minor change to the finished ground levels of M3.</p> <p>The approved development incorporates various stormwater treatment and re-use measures, which will remain.</p> <p>The DA will not adversely affect the quality of water draining into Nattai River. It will not result in any significant change to the quantity</p>

Clause	Provisions	Comments
	<p>[note: part (a) is omitted as it does not apply to land within the Sydney Drinking Water Catchment]</p> <p>Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures the impact on water flow in a natural waterbody will be minimised.</p>	<p>of overland flow as compared to the approved development.</p>
<p>6.7 Aquatic ecology</p>	<p>In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following:</p> <p><i>(a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,</i></p> <p><i>(b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require—</i></p> <p><i>(i) a controlled activity approval under the Water Management Act 2000, or</i></p> <p><i>(ii) a permit under the Fisheries Management Act 1994,</i></p> <p><i>(c) whether the development will minimise or avoid—</i></p> <p><i>(i) the erosion of land abutting a natural waterbody, or</i></p> <p><i>(ii) the sedimentation of a natural waterbody,</i></p> <p><i>(d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,</i></p> <p><i>(e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,</i></p> <p><i>(f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody.</i></p> <p>Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</p> <p><i>(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,</i></p> <p><i>(b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,</i></p> <p><i>(c) if a controlled activity approval under the Water Management Act 2000 or a permit under the Fisheries Management Act 1994 is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,</i></p>	<p>The proposal would not result in adverse impacts on terrestrial, aquatic or migratory animals or vegetation.</p> <p>The original DA involves rehabilitation work within the riparian zone of Nattai River and constitutes a “controlled activity” under the <i>Water Management Act 2000</i>. Concurrence was received from Water NSW and the general terms of approval have been incorporated in the conditions of consent.</p> <p>The approved development includes the staged removal of weeds and revegetation with native species along the riparian zones, which would stabilise the river banks and reduce sedimentation. A revised Vegetation Management Plan, dated 20 February 2024, has been prepared to guide the above works. In particular, the revised VMP recommends the establishment of a buffer zone around those willow trees where the vulnerable species, Grey-headed Flying-fox were found during the January 2024 inspection. This is to protect the habitat for this species.</p> <p>The proposed stormwater treatment measures comprise a combination of the following to protect the aquatic ecology of the receiving waterways:</p> <ul style="list-style-type: none"> <li>• Grassed swales adjacent to Nattai River to capture, direct and provide primary treatment of runoff.</li> <li>• Bioretention areas to provide treatment of the runoff from the newly developed areas of the site.</li> <li>• Permeable pavement for car spaces.</li> <li>• Rainwater tanks to capture roof water run-off for re-use.</li> </ul> <p>The current proposal seeks to amend the approved design of M3/M4. It will not result in any adverse impacts on water quality of natural watercourses.</p>

Clause	Provisions	Comments
	<p><i>(d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,</i></p> <p><i>(e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.</i></p>	
6.8 Flooding	<p>The consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.</p> <p>Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not:</p> <p><i>(a) If there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or</i></p> <p><i>(b) Have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.</i></p>	<p>The proposal will not affect flood behaviour and overland flow pattern across the site or cause increased pollutants entering the Nattai River.</p> <p>Measures for treatment of stormwater are outlined in the paragraphs above.</p>
6.9 Recreation and public access	<p>In deciding whether to grant development consent on land in a regulated catchment, the consent authority must consider:</p> <p><i>(a) The likely impact of the development on recreational land uses in the regulated catchment, and</i></p> <p><i>(b) Whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.</i></p> <p>Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</p> <p><i>(a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,</i></p> <p><i>(b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,</i></p> <p><i>(c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.</i></p>	<p>The site is zoned R2 Low Density Residential under the Wingecarribee LEP 2010 and is not identified for acquisition by a public authority for public recreation purposes.</p> <p>The proposal will offer new opportunities for public access to the waterfront land via a system of pathways, improved site landscaping and rehabilitated and stabilised riparian zones.</p> <p>The proposal will enhance public access to the waterfront land.</p>
6.11 Land within 100m of natural waterbody	<p>In deciding whether to grant development consent to development on land within 100m of a natural waterbody in a regulated catchment, the consent authority must consider whether—</p> <p><i>(a) the land uses proposed for land abutting the natural waterbody are water-dependent uses, and</i></p>	<p>The proposed land uses in M3/M4 are not water-dependent uses. The subject proposal will not affect the environmental quality of the riparian zones and the natural waterbody of Nattai River. No conflicts between land uses will result.</p>

Clause	Provisions	Comments
	<i>(b) conflicts between land uses are minimised.</i>	
6.61 Requirement of neutral or beneficial effect on water quality	Development consent must not be granted to development relating to any part of the Sydney Drinking Water Catchment unless the consent authority is satisfied the carrying out of the development would have a neutral or beneficial effect on water quality.	The proposal will not result in adverse impacts on water quality.
6.63 Requirement of consistency with NorBE Guideline	Development consent must not be granted to development on land in the Sydney Drinking Water Catchment unless the consent authority is satisfied the development is consistent with the NorBE Guideline ( <i>Neutral or Beneficial Effect on Water Quality Assessment Guideline 2022</i> , published by Water NSW).	<p>An updated Stormwater and Flood Management Strategy, prepared by J Wyndham Prince, has assessed the proposal against the NorBE Guideline and confirms that:</p> <ul style="list-style-type: none"> <li>For pollutant loads, the total suspended solids (TSS), total phosphorus (TP) and gross pollutants will achieve the targets required by the SEPP.</li> <li>The post-development pollutant concentrations for total phosphorus and total nitrogen (TN) will be less than that in the pre-development scenario, and a neutral or beneficial effect will be achieved.</li> </ul> <p>The proposal will not result in any additional impacts on the water quality of Nattai River and its tributary.</p>
6.64 Concurrence of Regulatory Authority	Development consent must not be granted to development on land in the Sydney Drinking Water Catchment unless the consent authority has obtained the concurrence of the Regulatory Authority.	<p>Water NSW previously issued concurrence and general terms of approval as part of the original DA. The proposal does not alter the site layout, staging or external works in a manner that will have an impact on water quality.</p> <p>It is expected that amended concurrence conditions would be required from Water NSW to refer to the current drawings and technical documents.</p>

### 5.8.2 SEPP (Planning Systems) 2021

The proposed development relating to the M3/M4 group has a capital investment value (CIV) of \$47,282,441, which consists of:

- Hotel and ancillary dining, lounges, swimming pool, private and guest suites: \$37,247,727, and
- Exhibition and gallery: \$10,034,715.

Pursuant to section 2.6 and section 13 of Schedule 1 to the SEPP, development for information and education facilities, including museums and art galleries, having a CIV of more than \$30 million is identified as state significant development. Under the same section of the Schedule, development for other tourist related purposes having a CIV of more than \$100 million is also identified as state significant development. The CIV for the exhibition and gallery component of M3 is less than the \$30 million threshold. The CIV for the hotel component is under the \$100 million threshold. Accordingly, the proposal does not constitute state significant development.

Pursuant to section 2.19 and section 2 of Schedule 6 of the SEPP, the proposed development is regionally significant development as it has a capital investment value of more than \$30 million. The application is expected to be determined by the Southern Regional Planning Panel.

### 5.8.3 SEPP (Resilience and Hazards) 2021

The object of Chapter 4 of the SEPP is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Under section 4.6(1) of the SEPP, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated; if the land is contaminated, it is suitable in its contaminated state for the intended purposes of the development; and if the land requires remediation, it is remediated before the land is used for the intended purposes.

Section 4.6(2) further provides that the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned in accordance with the contaminated land planning guidelines.

A preliminary site investigation and a detailed site investigation have been completed regarding the proposed development, which confirm that the site is suitable for the land uses described in the proposal, subject to remediation, validation and auditing. Appropriate conditions regarding site remediation similar to that in development consent 20/1400 could be imposed.

The site will be remediated and made suitable for the purposes of the proposed development before the site is used for such purposes in satisfaction of the provisions of the SEPP.

Further details are provided at the end of this section of the report.

### 5.8.4 SEPP (Transport and Infrastructure) 2021

The aim of Chapter 2 of the SEPP is to facilitate the effective delivery of infrastructure across the State.

The site is located adjacent to a rail corridor; Part 2.3, Division 15, Subdivision 2 of the SEPP is relevant to the proposed development.

The relevant provisions are addressed in the table below.

**Table 9 Assessment against relevant provisions in Chapter 2 of SEPP (Transport and Infrastructure)**

Clause	Provisions	Comments
2.98 Development adjacent to rail corridors	<p>Section 2.98(1) applies to development on land that is in or adjacent to a rail corridor and is likely to have an adverse effect on rail safety.</p> <p>Section 2.98(2) sets out requirements for the consent authority to notify the rail authority and to consider any response received and any guidelines issued by the Secretary for the purposes of the section.</p> <p>However, the above requirements are overridden by the provisions of section 2.98(3) in circumstances where the development is on land adjacent to a rail corridor vested in or owned by the Australian Rail Track Corporation (ARTC).</p>	<p>The site is located adjacent to a rail corridor vested in or owned by the ARTC. A referral to the rail authority is not required.</p> <p>The proposed works at M3/M4 is not adjacent to the rail corridor.</p>
2.99 Excavation in, above, below or adjacent to rail corridors	<p>Section 2.99 applies to development involving the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m of a rail corridor.</p>	<p>The proposal does not include any excavation to a depth of at least 2m within 25m of the rail corridor.</p>
2.100 Impact of rail noise or vibration on non-rail development	<p>This section applies to development on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:</p> <p>(a) Residential accommodation,</p> <p>(b) A place of public worship,</p>	<p>The proposal does not concern with any uses identified in section 2.100.</p>

Clause	Provisions	Comments
	<p>(c) A hospital, (d) An education establishment or centre-based child care facility.</p> <p>Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.</p>	
2.122 Traffic-generating development	<p>“Traffic-generating development” within the meaning of section 2.122 is identified in Schedule 3 to the SEPP.</p> <p>Sub-section (4) requires that the consent authority consider any submission from RMS, the accessibility of the site concerned, and any potential traffic safety, road congestion or parking implications of the development.</p>	<p>The approved development for the site was determined to be “traffic-generating development” within the meaning of section 2.122 and Schedule 3, this is understood to be relating to: <i>Any purpose that generates – 200 or more motor vehicles per hour – site with access to a road (generally)</i></p> <p>The conditions of consent for the original DA have incorporated specific requirements stipulated by Transport for NSW.</p> <p>Based on advice from SLR, dated February 2024, the current proposal would not result in any significant increase in the traffic generating capacity as compared to the approved development.</p>

### 5.8.5 SEPP (Sustainable Buildings) 2022

The SEPP (Sustainable Buildings) 2022 (SB SEPP) came into effect on 1 October 2023 and applies to the whole of NSW. The SB SEPP incorporates the former SEPP (Building Sustainability Index: BASIX) 2004 (now repealed) and stipulates sustainability standards for residential and non-residential development.

Section 35BA of the EP&A Regulation 2021 stipulates that a DA for non-residential development under the SB SEPP must: (a) disclose the amount of embodied emissions attributable to the development, and (b) describe the use of low emissions construction technologies in the development.

A Sustainability Report, dated 2 February 2024, prepared by E-LAB Consulting accompanies the subject DA. The report outlines sustainability initiatives covering the following aspects:

- Energy systems and efficiency
- Thermal comfort
- Carbon reduction and elimination
- Climate change
- Water efficiency
- Materials and waste efficiency
- National Construction Code (NCC) – Building Code of Australia (BCA) Section J compliance.

#### Considerations for non-residential development

As the proposed development for M3/M4 exceeds the capital investment value (CIV) threshold specified in section 3.1 of the SEPP (CIV of \$5 million for a new building, and \$10 million for alterations, enlargement or extension of an existing building), the matters for consideration specified under section 3.1(1) must be

considered by the consent authority. These matters are addressed in the Sustainability Report and are summarised as follows:

**Table 10 Assessment against the matters for consideration in section 3.1 of SEPP (Sustainable Buildings)**

Matters for consideration	Comments
(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,	The Sustainability Report outlines strategies to minimise waste generation from demolition and construction, through the selective retention of building fabrics that are in sound structural conditions. (Refer to section 3.7 of the Sustainability Report.)
(b) a reduction in peak demand for electricity, including through the use of energy efficient technology,	Strategies are proposed to reduce peak demand of electricity and energy. The proposal is designed to be capable of achieving 5-Star NABERS energy rating. (Refer to section 3.2, 3.3, 3.4 and 3.8 of the Sustainability Report.)
(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,	Strategies are proposed to control lighting, heating, ventilation and air-conditioning in conjunction with adaptive thermal comfort. Additional passive design strategies are also included to address Section J of the NCC. (Refer to section 3.2 and 3.3 of the Sustainability Report.)
(d) the generation and storage of renewable energy,	The proposal will install solar photovoltaic (PV) arrays to support energy consumption through renewable energy generation, with a potential of a 50 kWp system across approximately 350 sqm.
(e) the metering and monitoring of energy consumption,	Metering and monitoring of energy usage and consumption are proposed. (Refer to section 3.2 of the Sustainability Report.)
(f) the minimisation of the consumption of potable water.	Strategies are proposed to minimise consumption of potable water. (Refer to section 3.6 of the Sustainability Report.)

Section 3.2(2) of the SEPP requires the quantification of embodied emissions attributable to the development, prior to the granting of any development consent. The embodied emissions of the development are detailed in the “Embodied Emissions Materials Form” completed by a qualified quantity surveyor from MBM.

### Considerations for large commercial development

Section 35C of the Regulation applies to DAs for large commercial developments, among other things. Where this provision applies, the DA must include evidence that the development will not use on-site fossil fuels after the commencement of occupation and use, or incorporates infrastructure or space for the infrastructure necessary for the development to not use on-site fossil fuels after 1 January 2035.

Section 3.3 of the SB SEPP stipulates that in deciding whether to grant development consent to ‘large commercial development’, the consent authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in NSW by 2050. Development consent must not be granted to ‘large commercial development’ unless the consent authority is satisfied the development is capable of achieving the standards for energy and water use specified in Schedule 3 of the SEPP.

Under the Dictionary of the SEPP:

**large commercial development** means non-residential development that involves—  
 (a) the erection of new prescribed office premises, prescribed hotel or motel accommodation or prescribed serviced apartments, or

*(b) alterations, enlargement or extension of prescribed office premises, prescribed hotel or motel accommodation or prescribed serviced apartments, if the development has a capital investment value of \$10 million or more.*

**prescribed hotel or motel accommodation** means hotel or motel accommodation with at least 100 rooms.

As M4 contains less than 100 rooms (46 rooms proposed), it is not a 'prescribed hotel or motel accommodation' and as such is not a 'large commercial development'. The energy and water use standards in Schedule 3 of the SEPP does not apply to the proposal.

## 5.9 Wingecarribee Local Environmental Plan 2010

### 5.9.1 Zoning and Permissibility

The site is zoned R2 Low Density Residential under the Wingecarribee Shire Local Environmental Plan 2010 (the **LEP**). The objectives of the R2 Zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The subject proposal is a new DA that operates alongside the original DA consent regarding the adaptive re-use of and alterations and additions to M3 and construction of a new M4 building. The proposed land uses are defined as hotel or motel accommodation, restaurant, pub, function centre, information and education facility, and recreation facility (indoor). With the exception of recreation facility (indoor), all other proposed uses are not ordinarily permitted under the land use table for the R2 zone. The permissibility of these other uses is sought through the heritage incentive provisions in clause 5.10(10) of the LEP.

The proposal seeks to adaptively re-use the site, which is listed as a heritage item and within a conservation area under Schedule 5 of the LEP, and to facilitate the on-going protection of its values. The proposal works in conjunction with the existing consent to conserve and revitalise the heritage buildings on the site that have been left in a derelict condition for decades and deliver significant environmental benefits through rehabilitation of the riparian land.

The proposal does not inhibit the potential of other parts of the site to meet the housing needs of the community. The approved DA incorporates concept envelopes for potential residential accommodation in the western part of the site adjacent to Southey Street. The proposal will also facilitate decontamination and remediation of the site, which is located in close proximity to established residential areas.

The proposal does not contradict the objectives of the zone.

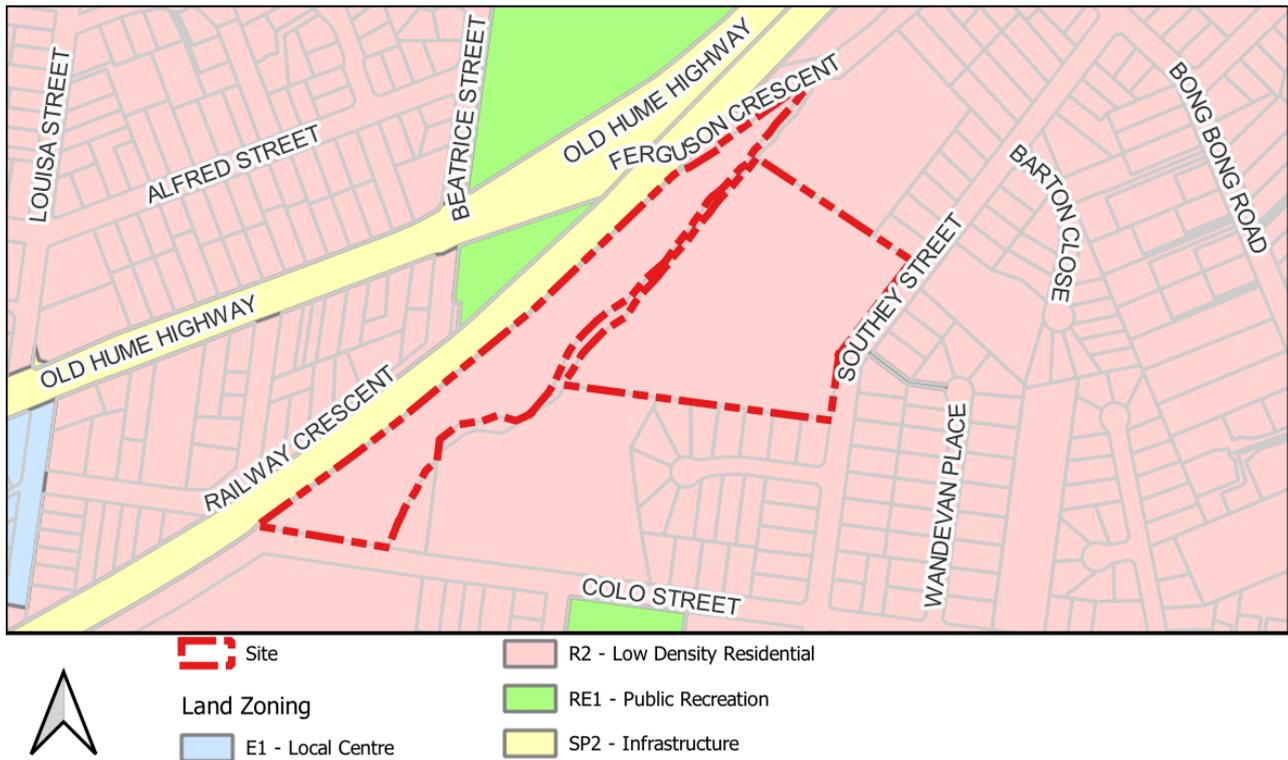


Figure 8 Excerpt of Land Zoning Map (data source: NSW Planning Portal)

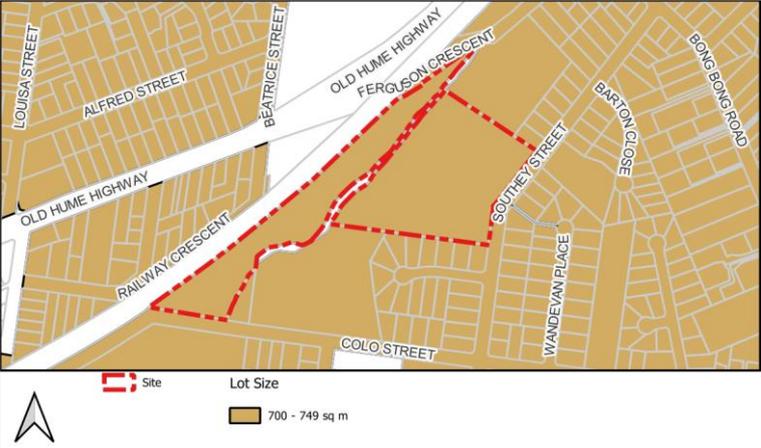
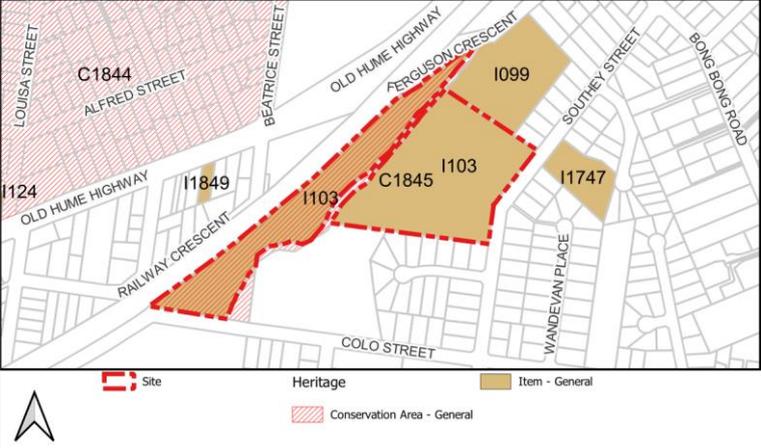
### 5.9.2 Relevant Clauses

An assessment of the proposal against the relevant provisions of the LEP is set out in the following table.

Table 11 Assessment against relevant provisions of Wingecarribee Local Environmental Plan 2010

Clause	Comments	Compliance
1.2 Aims of Plan	The proposal is consistent with the aims of the LEP. In particular, the proposed development will promote the use of land for arts and cultural activities and will conserve and enhance the ecological integrity, heritage and environmental significance of the Wingecarribee Shire.	Yes
2.1 Land use zones	The site is zoned R2 Low Density Residential pursuant to the Land Zoning Map of the LEP.	-----

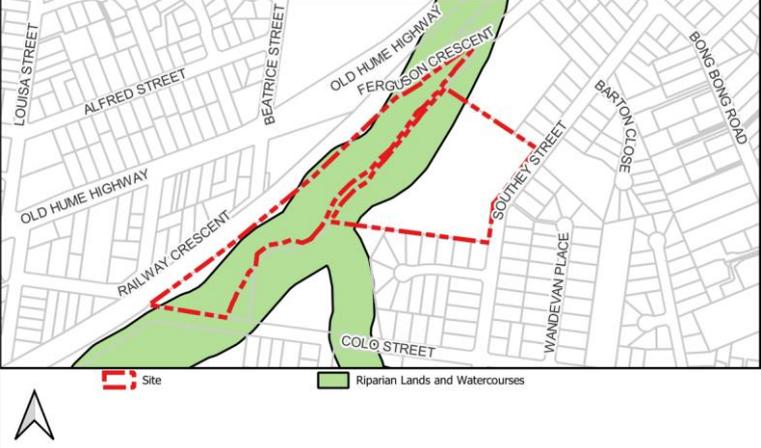
Clause	Comments	Compliance
	<p><b>Figure 9 Excerpt of the Land Zoning Map (data source: NSW Planning Portal)</b></p>	
<p>2.3 Zone objectives and Land Use Table</p>	<p>The objectives of the R2 Low Density Residential zone and land use table are extracted below.</p> <p><b>Objectives of zone</b></p> <ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a low density residential environment.</li> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> </ul> <p><b>Permitted without consent</b>  <i>Environmental protection works; Home-based child care; Home occupations</i></p> <p><b>Permitted with consent</b>  <i>Bed and breakfast accommodation; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home businesses; Home industries; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Seniors housing; Serviced apartments; Signage; Tank-based aquaculture</i></p> <p><b>Prohibited</b>  <i>Any development not specified in item 2 or 3</i></p> <p>The proposed development seeks to adaptively re-use the site, which is listed as a heritage item and within a conservation area under Schedule 5 of the LEP, and to facilitate the on-going protection of its values. The proposal will conserve and revitalise the heritage buildings on the site that have been left in a derelict condition for decades and deliver significant environmental benefits through rehabilitation of the riparian land.</p> <p>The proposal does not inhibit the potential of the eastern part of the site and adjoining land within the R2 zone to provide for the housing needs of the community or to provide facilities or services to meet their day to day needs. The proposal would also indirectly contribute to the above via the decontamination and remediation of the site, which is located in close proximity to established residential areas.</p>	<p>-----</p>

Clause	Comments	Compliance
	<p>The proposal concerns with the adaptive re-use of the M3 building, in conjunction with the construction of the new M4 hotel. The proposed land uses are defined as “hotel or motel accommodation”, “restaurant”, “pub”, “function centre”, “information and education facility”, and “recreation facility (indoor)”. With the exception of recreation facility (indoor), all other uses are not ordinarily permissible in the R2 zone. The permissibility of these uses is sought through the provisions of clause 5.10(10) of the LEP (refer to discussions below).</p>	
<p>4.1 Minimum subdivision lot size</p>	<p>The size of any lot resulting from a subdivision of land is not to be less than 700 sqm pursuant to the Lot Size Map to the LEP.</p>  <p><b>Figure 10 Excerpt of Lot Size Map (data source: NSW Planning Portal)</b></p> <p>No subdivision is proposed.</p>	<p>Not applicable</p>
<p>5.10 Heritage conservation</p>	<p>The site is subject to the following heritage listing under Schedule 5 of the LEP:</p> <ul style="list-style-type: none"> <li>• The Maltings – Southey, Colo and Ferguson Streets, I103</li> <li>• The Maltings Conservation Area, C1845</li> </ul> <p>The Heritage Map to the LEP is extracted below:</p>  <p><b>Figure 11 Excerpt of Heritage Map (data source: NSW Planning Portal)</b></p> <p>The objectives of this clause are to conserve the environmental heritage of Wingecarribee, heritage items, conservation areas, archaeological sites and Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>Yes</p>

Clause	Comments	Compliance
	<p>Before granting any consent, the consent authority must consider the effect of the proposed development on the heritage significance of the item or area concerned.</p> <p>A Conservation Management Plan was prepared in support of the original DA. An updated Heritage Impact Statement, dated February 2024, prepared by Paul Davies has also been prepared to accompany the subject amending DA and the associated section 4.56 modification.</p> <p>The proposal will work in conjunction with the approved development to facilitate the conservation and adaptive re-use of the significant fabric of the remnant buildings, landscape and setting.</p> <p>Further investigation finds that most of the elevated concrete slabs, much of the steelwork and all the timberwork within M3 are not capable of on-going use. While the approved proposal sought to stabilise and work with these elements, the extent of structural and material failure was beyond what was originally envisaged. This has necessitated a major change to the approved development scheme.</p> <p>The current proposal seeks to remove the roof structures, various concrete slabs and other deteriorated elements, and replace them with a contemporary addition. The addition will present overlapping rectilinear volumes with face bricks as the façade materials to provide a contemporary reference to the character and form of the remnant structures. As a result of the above changes, the facades to the M4 hotel will also be revised to maintain architectural coherence for the M3/M4 group.</p> <p>An Aboriginal Archaeological Survey Report was prepared to accompany the original DA. The site contains two areas of potential archaeological deposits (PADs) and archaeologically sensitive landforms. The current proposal relates to areas within the existing and approved development footprints and would not affect the PADs and the sensitive landforms.</p> <p><u>Impacts on heritage items in the vicinity</u></p> <p>The subject proposal relates to the M3/M4 group, which is located near the centre of the site. The boundary of the site is already screened by dense vegetation. The proposed design changes will not affect the setting, curtilage and visual presentation of heritage items in the vicinity.</p> <p><u>Conservation incentives</u></p> <p>Sub-clause (10) sets out provisions relating to conservation incentives, as follows:</p> <p><i>The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—</i></p> <ul style="list-style-type: none"> <li><i>(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and</i></li> <li><i>(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and</i></li> <li><i>(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and</i></li> <li><i>(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and</i></li> </ul>	

Clause	Comments	Compliance
	<p><i>(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.</i></p> <p>The proposal is consistent with the above provisions as:</p> <ul style="list-style-type: none"> <li>• The proposal is predicated upon uses that best suit the heritage values of M3 and the broader site. The cultural significance and attributes of the site do not warrant a typical suburban residential form of development.</li> <li>• Subdivision for low density residential development is permissible for the site. However, to properly conserve the heritage values of the large scale industrial complex, a holistic approach to protecting and revitalising the site as a precinct is necessary.</li> <li>• The proposed land uses are viable and appropriate to the architectural form, spatial character and remaining fabric of M3, allowing a high degree of conservation to occur. The proposal also contributes to the conservation and rehabilitation of the group of maltings buildings, remnant landscaping and the river as a whole entity.</li> <li>• The new uses are reasonable to enable the on-going usage and activation of M3 and to fund the necessary conservation and repair works.</li> <li>• The new architectural elements have been designed to be distinctive yet sympathetic to the remaining heritage fabric. The changes are introduced in a manner that minimises loss of significant fabric and respects the spatial qualities and setting of M3.</li> <li>• Due to the ruinous state of the M3 building, extensive reconstruction of lost fabric is not considered an appropriate or feasible option. The conservation approach is to design around the heritage values of the site to tell a layered story of hope, decline and abandonment amid new uses that focus on cultural achievements.</li> <li>• The proposal would halt the further deterioration of the remnant building, which is at risk of irrecoverable loss.</li> <li>• The proposal will allow public access and appreciation of the heritage item.</li> </ul> <p>The proposal is consistent with the conservation policies established in the Conservation Management Plan for the original DA and will not detract from the heritage values of the site.</p>	
5.19A Function centres	<p>Sub-clause (2) provides that the consent authority must not grant consent for development for the purposes of a function centre unless it is satisfied that the development:</p> <p><i>(a) will not result in the clearing of native vegetation, and</i></p> <p><i>(b) will be carried out having regard to the management of biodiversity outcomes set out in a biodiversity assessment report, and</i></p> <p><i>(c) will complement the rural or environmental attributes of the land and its surrounds, and</i></p> <p><i>(d) will not adversely affect the agricultural productivity of adjoining land, and</i></p> <p><i>(e) will not adversely affect the amenity of the neighbourhood, and</i></p> <p><i>(f) will be serviced by adequate access roads taking into account the scale of the development, and</i></p>	Yes

Clause	Comments	Compliance
	<p><i>(g) will provide for access to adequate wastewater systems to service the land without having an adverse impact on the water quality of the area, and</i></p> <p><i>(h) will have adequate provision for stormwater management measures to service the land without having an adverse impact on the water quality of the area, and</i></p> <p><i>(i) if the function centre has a gross floor area of more than 500 square metres—will not be carried out in an isolated area that is accessed by traversing—</i></p> <p style="padding-left: 40px;"><i>(i) through rugged and heavily timbered country, or</i></p> <p style="padding-left: 40px;"><i>(ii) along bushland for more than 200 metres on a dead-end road, and</i></p> <p><i>(j) will address the potential impacts of bushfires and floods, and</i></p> <p><i>(k) will not create a land use conflict due to visual impact or impact on noise, traffic, privacy or other amenities, and</i></p> <p><i>(l) will provide for, or will be subject to a management strategy for minimising the development’s impact on the natural environment or neighbourhood amenity that will provide for, the following—</i></p> <p style="padding-left: 40px;"><i>(i) measures to remove threats of serious or irreversible environmental damage,</i></p> <p style="padding-left: 40px;"><i>(ii) mechanisms for monitoring and reviewing the effect of the development on the amenity of the neighbourhood, including impact on noise or traffic.</i></p> <p>The proposal is consistent with the above provisions as:</p> <ul style="list-style-type: none"> <li>• The design revision does not involve any further vegetation clearing beyond what has been approved as part of the original DA. Rehabilitation of the riparian zones of Nattai River and revegetation and landscape improvements will be undertaken as per the approved proposal.</li> <li>• The proposal will complement the environmental and heritage attributes of the site.</li> <li>• Any potential environmental or amenity impacts on the surrounding can be mitigated and managed through appropriate conditions of consent for the subject DA.</li> <li>• There are no changes to the approved vehicular access and servicing arrangements.</li> <li>• Other environmental constraints, such as flooding, bushfire and site contamination can be addressed by appropriate conditions of consent for the current DA.</li> </ul>	
5.21 Flood planning	<p>The objectives of the clause are to minimise the flood risk to life and property; allow development on land that is compatible with the flood function and behaviour on the land; avoid adverse or cumulative impacts on flood behaviour and the environment; and enable the safe occupation and efficient evacuation of people in the event of a flood.</p> <p>Issues relating to flooding have been considered and assessed in the updated Stormwater and Flood Management Strategy. The proposal will not exacerbate or alter the flood behaviour. Refer to further discussion in the later part of this report.</p>	Yes
7.3 Earthworks	<p>The objectives of the clause are to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features on surrounding land,</p>	

Clause	Comments	Compliance
	<p>and to allow earthworks of a minor nature without separate development consent.</p> <p>The development of M4 includes a basement car park. A detailed geotechnical assessment has been undertaken to consider the excavation and ground water condition for the future basement. Appropriate conditions of consent could be imposed to manage and mitigate any potential impacts of earthworks associated with the development.</p>	
<p>7.5 Natural resources sensitivity - water</p>	<p>The objectives of the clause are to maintain the hydrological functions of riparian land, waterways and aquifers.</p> <p>The site is identified on the Natural Resources Sensitivity Map as containing a Category 1 Environmental Corridor (within 50m from the top of stream bank on each side).</p>  <p><b>Figure 12 Excerpt of Natural Resources Sensitivity Map (data source: NSW Planning Portal)</b></p> <p>Sub-clause (4) provides that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> <li>(a) <i>the development is designed, sited and managed to avoid any potential adverse environmental impact, or</i></li> <li>(b) <i>if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or</i></li> <li>(c) <i>if that impact cannot be minimised—the development will be managed to mitigate that impact.</i></li> </ul> <p>The land within the corridor is already disturbed and suffers from varying degrees of degradation. The approved works under the original consent are for adaptive re-use and upgrade of the heritage buildings and rehabilitation of the riparian zone.</p> <p>The current proposal seeks approval for design changes that will occur within the existing development footprints of M3 as well as the approved footprints of M4. The private garage and storage facility is outside the environmental corridor. The siting and design of the new works will not result in adverse environmental impacts on the corridor.</p>	<p>Yes</p>
<p>7.10 Public utility infrastructure</p>	<p>This clause applies as the site is zoned R2 Low Density Residential under the LEP.</p> <p>Sub-clause (2) provides that development consent is not granted for development unless the Council is satisfied that any essential public</p>	<p>Yes</p>

Clause	Comments	Compliance
	utility infrastructure is available, or that adequate arrangements have been made to provide that infrastructure. Essential utility services and civil infrastructure will be provided for the development.	

## 5.10 Wingecarribee Development Control Plan

Under section 3.42 of the EP&A Act, the purpose of a development control plan (DCP) is to provide guidance on the following matters:

- giving effect to the aims of the LEP;
- facilitating development that is permissible under the LEP; and
- achieving the objectives of the land use zone/s applying to the site.

The provisions of a DCP made for that purpose are not statutory requirements. Consideration of the Wingecarribee DCP 2010 has been made within this context.

An assessment of the proposal against the relevant provisions of the Wingecarribee DCP – Mittagong Township is set out in the following table. In any instances where the proposal departs from a numerical requirement, they are assessed in the context of the objectives or aims of such requirement (where available) and the principal purpose of the DCP.

**Table 12 Assessment against relevant provisions of Wingecarribee Development Control Plan 2010**

Provisions	Comments
<b>Mittagong Township Development Control Plan</b>	
<b>Part A All Land</b>	
Section 3 Biodiversity A flora and fauna assessment is required for a DA where the site: <ul style="list-style-type: none"> <li>• Contains native vegetation;</li> <li>• Contains remnant native trees;</li> <li>• Is adjacent to native vegetation;</li> <li>• Contains sensitive environmental areas likely to contain important habitat resources for fauna, such as watercourses, wetlands or swamps, and rocky outcrops, caves or cliffs.</li> </ul> If the site exceeds 1 ha, the flora and fauna assessment is to identify whether 'potential koala habitat' or 'core koala habitat' is present.	Impacts on biodiversity are discussed in detail at a later section of this report. A flora and fauna assessment (updated in 2024) and koala assessment (accompanied by an addendum letter in 2024) have been carried out.
Section 4 Water Management <ul style="list-style-type: none"> <li>• A vegetation management plan (VMP) is required for any development identified in the Natural Resources Sensitivity Map of the Wingecarribee LEP 2010.</li> <li>• Development on land within the Sydney drinking water catchment areas must satisfy the provisions of the SEPP (Sydney Drinking Water Catchment) 2011. A water cycle management study is required for development within drinking water catchments.</li> <li>• A stormwater management plan is required for development that will result in an increase in the impervious area of the site or a change in direction of overland flow.</li> </ul>	Parts of the site has been identified as Riparian Lands and Watercourses on the Natural Resources Sensitivity Map to the Wingecarribee LEP. Updated Vegetation Management Plan, Stormwater and Flood Management Strategy and Soil and Water Management Plan have been prepared for the proposed development. A detailed discussion about the proposal's consistency with the provisions of the SEPP (Biodiversity and Conservation) and the Wingecarribee LEP regarding water management has been provided earlier.

Provisions	Comments
<ul style="list-style-type: none"> <li>An erosion and sediment control plan is required for development involving building or earth works.</li> </ul>	
<p>Section 5 Flood Liable Land</p> <p>This section of the DCP sets out controls for development on flood affected land.</p> <p>The controls seek to manage the risk to human life and damage to property caused by flooding through controlling development on flood prone land.</p>	<p>A discussion about flood management is provided at a later part of this report.</p> <p>The proposal has incorporated adequate flood management measures.</p>
<p>Section 6 Vegetation Management and Landscaping</p> <p>This section of the DCP sets out controls for management of vegetation, including significant trees.</p> <p>The controls seek to preserve the amenity, biodiversity, ecology and heritage value of the Mittagong township through the reservation of trees and other vegetation.</p>	<p>A detailed discussion about biodiversity, including management of vegetation, is provided earlier.</p>
<p>Section 7 Subdivision, Demolition, Siting and Design</p> <ul style="list-style-type: none"> <li>Any application for demolition of a heritage item or a building within a heritage conservation area must be accompanied by a landscape plan, which identifies any cultural planting and its heritage value.</li> <li>Where cut and fill is required, the development must be stepped to accommodate the contours of the site.</li> <li>In relation to alterations to heritage items, Council is to be satisfied that the development:             <ul style="list-style-type: none"> <li>Is sympathetic to the retained elements of the heritage item and its setting.</li> <li>Retains as much of the existing building fabric as possible.</li> <li>Minimises modification to original door or window openings, spacings and proportions.</li> <li>Removes any unsympathetic building elements, additions or accretions.</li> <li>Reinstates original architectural elements.</li> <li>Retains natural surface finishes, or applies colour schemes that reflect the relevant historical period.</li> </ul> </li> <li>In relation to development within the vicinity of heritage items, Council is to be satisfied that the development will:             <ul style="list-style-type: none"> <li>Remain compatible with the average height, bulk and scale of buildings on the adjoining or nearby land.</li> <li>Seek unification with existing built forms on adjoining or nearby land.</li> </ul> </li> </ul>	<p>The proposal includes partial demolition of M3, primarily due to the degree of deterioration of specific components and fabric.</p> <p>A landscape plan was prepared in support of the original DA; the proposal does not affect the overall layout and landscape design strategy for the site.</p> <p>The proposal relates to design changes concerning the interior layout, façade treatment and upper floor additions at M3/M4. The proposal does not increase the extent of excavation for the basement car park at M4 as compared to the approved development.</p> <p>A detailed discussion on the heritage aspects of the proposal has been provided earlier (in the LEP section) and will be further considered at the later part of this report.</p> <p>The proposal involves demolition of the roof structures at M3 due to its advanced state of deterioration. The proposal will retain the original window or door openings in the remaining facades.</p>
<p>Section 8 Safer by Design</p> <p>The DCP sets out principles and requirements for crime prevention through environmental design to promote the safety and security of development:</p> <ul style="list-style-type: none"> <li>Well-defined building entrances.</li> <li>Internal spaces are open and visible.</li> <li>Walkways and connecting paths are open with good visibility.</li> </ul>	<p>The proposal does not detract from the principles for crime prevention through environmental design.</p> <p>The proposal will provide well-defined entries to buildings and parking areas and legible circulation routes with good visibility.</p>

Provisions	Comments
<ul style="list-style-type: none"> <li>• Signs and vegetation are located so that they do not create 'entrapment' points.</li> <li>• On-site garaging provides clearly defined exit point and be lit at night.</li> <li>• Building entrances, walkways, connecting paths and garage are well lit.</li> </ul>	
<p>Section 9 Construction Standards and Procedures</p> <p>A waste management plan is required for all demolition works and construction works (with a value greater than \$50,000).</p>	<p>A demolition and construction waste management plan has been prepared in support of the proposal.</p>
<p>Section 11 Outdoor Lighting</p> <p>This section of the DCP sets out controls relating to outdoor lighting.</p> <ul style="list-style-type: none"> <li>• Outdoor lighting must not cause light dispersion or direct glare above a 90-degree, horizontal plane from the base of the fixture.</li> <li>• All outdoor lighting fixtures are designed, installed, located and maintained to avoid glare on to adjacent properties or streets.</li> <li>• All direct illumination shall be kept within the boundaries of the subject property.</li> <li>• Accent lighting shall be directed downward onto the building or object and not toward the sky or the adjacent properties.</li> <li>• Spot lighting on landscape and foliage shall be limited to 150 watts incandescent.</li> <li>• Timers shall be accurately set to ensure that lighting is used only when natural light is insufficient.</li> </ul>	<p>The M3/M4 group is located within a landscaped setting. It is unlikely that the proposal would result in significant light overspill.</p> <p>The development consent for the original DA specifies requirements relating to external lighting. An appropriate condition similar to the above could be imposed to ensure the development will not cause unreasonable light overspill that affects the amenity of the surrounding properties or public places.</p>
<p>Section 12 Development Near Rail Corridors and Busy Roads</p> <p>Development is to:</p> <ul style="list-style-type: none"> <li>• Avoid any new direct vehicular access to road and remove any existing access where alternative rear lane or other access is achievable.</li> <li>• Allow all vehicles to enter and leave the site in a forward direction.</li> <li>• Restrict vehicular access, car parking and loading / unloading facilities to an alternative access, such as a rear lane.</li> </ul>	<p>The vehicular access and loading and unloading arrangements are generally maintained. The Southey Street entry will now also be used by in-bound traffic of guests/patrons to ease the demand for the Colo Street entry. The proposal provides more details relating to vehicular access and circulation through the site.</p>
<p><b>Part B Business Zoned Land</b></p>	
<p>Section 4 On-site Car Parking</p> <p>The DCP sets out requirements for the provision and design of car parking.</p> <p>In particular, it requires that full details of anticipated vehicle sizes, volumes and frequency of delivery and other service vehicles to be provided in a DA.</p>	<p>The updated site plan shows the provision of a private garage with approximately 4 spaces to the south-east of M3/M4. The visitor/patron car park for M3/M4 will provide 47 spaces, an extra 1 space when compared to the approved scheme.</p> <p>The design revisions to M3/M4 will not result in any material changes to the traffic generation capacity of the development.</p>
<p>Section 5 Loading Facilities and Waste and Resource Recovery</p> <p>The DCP sets out requirements relating to loading and unloading facilities for non-residential development.</p>	<p>No changes to the location of the approved loading and unloading facilities are proposed as part of the subject DA. The current drawings seek to clarify the layout of the loading facilities.</p>

Provisions	Comments
<p>Section 10 Tourist and Visitor Accommodation</p> <p>The objectives of this part of the DCP are to ensure development for tourist and visitor accommodation:</p> <ul style="list-style-type: none"> <li>• Is appropriate to the locality and contribute to the supply of a range of accommodation types throughout the shire.</li> <li>• Shall not adversely impact on the amenity of the surrounding area.</li> <li>• Shall provide a satisfactory level of health, safety, comfort, amenity and facilities for both workers and visitors.</li> </ul>	<p>The M4 building has been approved as a hotel. The ancillary restaurant, pub, a private suite and other facilities will be contained within the conserved M3 building and the upper level addition. The current proposal involves minor internal changes to the hotel room layout.</p> <p>An amended plan of management has been prepared to provide strategies and measures to mitigate any potential impacts on the amenity of surrounding residences.</p>
<p><b>Part C Residential Zoned Land</b></p>	
<p>Section 15 The Maltings Heritage Precinct</p>	
<p>C15.2 Preferred Development Outcomes</p>	
<p>Objectives:</p> <p>(a) residential flat buildings, multi dwelling housing and detached housing accommodation mixed with recreation, tourism, light industrial, and limited small scale specialty retail uses.</p> <p>(b) The cultural heritage significance of the former Maltings industrial complex will be conserved as part of any adaptive redevelopment and reuse of the complex.</p> <p>(c) development around the perimeter of The Maltings precinct should remain compatible with the existing streetscape character and spatial pattern of development in adjoining existing detached housing neighbourhoods.</p>	<p>The proposed modification does not concern with residential accommodation, which will be subject detailed design as part of the future stage of M5/M6.</p> <p>The proposal will protect the heritage values and facilitate adaptive re-use of M3, which is one of the core maltings buildings on the site.</p> <p>The proposal will not affect significant views within the site or the streetscape of Colo Street, Southey Street and Ferguson Crescent.</p>
<p>C15.3 Additional Development Controls</p>	
<p>(a) Any development, including subdivision, within the Maltings precinct shall be consistent with the recommendations of a Conservation Management Plan for the site, approved by the Council, and which provides for the adaptive reuse of the Maltings buildings and site, ensuring:</p> <ul style="list-style-type: none"> <li>(i) the retention, stabilisation and enhancement of the remaining fabric and setting of the former Maltings industrial complex,</li> <li>(ii) the protection of prominent view corridors across the site to the former industrial buildings that have a landmark significance,</li> <li>(iii) the retention of significant landscape elements,</li> <li>(iv) the siting, design, and construction of new buildings and other structures that complement the visual prominence, architectural character and heritage significance of the former industrial buildings, and</li> <li>(v) the protection of the setting and heritage significance of the Fitzroy Inn.</li> </ul>	<p>A Conservation Management Plan (CMP) has been prepared to guide the adaptive re-use and conservation of remnant buildings on the site. The CMP is referenced in Condition 11 of the development consent for the original DA.</p> <p>The proposal will selectively retain building fabric and materials of M3, which are capable of being re-used. The setting and spatial relationship between the conserved malting buildings will be protected.</p> <p>There will be no impact on any significant views and sightlines across the site as a result of the proposal.</p> <p>The proposal does not alter the approved landscape design for the site (apart from some additional landscaping for Maltster's Cottage as shown in the related section 4.56 modification).</p> <p>The proposal does not diminish the heritage significance of M3 in terms of siting, architectural character and spatial relationship between built elements and the landscape. The contemporary addition is sympathetically designed to interpret the scale, solidity, materiality and industrial character of the M3 building.</p>
<p>(b) The existing pattern of low density detached houses on separate allotments, that front Southey Street, shall be extended along the Southey Street frontage of the Maltings neighbourhood, ensuring that no development is higher than</p>	<p>The proposal does not concern with the Southey Street frontage of the site. The approved development scheme has incorporated a site planning strategy where the new M5/M6 will be</p>

Provisions	Comments
2 storeys with the second storey being contained within a pitched roof space.	designed as a group surrounded by landscaped areas.
(c) Vehicular access to the Maltings precinct via Colo Street shall be restricted to access relating to residential development only.	<p>The proposal does not change the approved vehicular access arrangements, which provide separate access points for different user groups.</p> <p>The approved development designates Colo Street as the main entry point for visitors to the multi-purpose facility at M1/M2. A road bridge provides connection across Nattai River for access to the basement car park at M4 and the visitor/patron car park to the south-east of M3/M4.</p> <p>Access to the future residential and/or hotel accommodation at M5/M6 will be via Southey Street.</p> <p>The access arrangements aim to locate parking facilities away from the centre of the site and to minimise traffic across the river.</p>
(d) Vehicular access to any non-residential development or public car parking associated with same, shall be made via the Old Hume Highway, where such vehicular access arrangements do not compromise the safety or efficiency of the Old Hume Highway and the local road network.	<p>The proposal will generally maintain the approved vehicular access arrangements. Southey Street will now also be used by inbound traffic of guests/patrons.</p> <p>The use of Ferguson Street as the main entry for non-residential visitors / patrons is not feasible due to the constrained geometry of the driveway and limited space for parking at the northern end of the site.</p> <p>The approved access arrangements serve to protect the heritage values of the site. This is achieved by avoiding large parking areas at the centre of the site where the significant maltings buildings are located and minimising vehicular traffic traversing across the river.</p> <p>To preserve the setting of the significant maltings buildings, the primary vehicular access needs to be provided from Colo Street and Southey Street.</p> <p>Colo Street has a relatively flat terrain, which would minimise the degree of cut and fill to create off-street car parking. The use of Colo Street for patrons / visitors will also limit the amount of traffic entering the residential areas to the north, east and south of the site.</p>
(e) All car parking and loading/unloading facilities associated with non residential development shall be provided within the Maltings precinct.	A site plan has been prepared for the current application that clearly shows the location of car parking adjacent to M3/M4. The drawings also show the basement car park underneath M4.
(f) Any new building or structure within the neighbourhood and not physically associated with the stabilisation or restoration of the former industrial buildings, shall be restricted to 2 storeys.	It is acknowledged that this control serves to minimise impact from future development through limiting its scale. The proposal will increase the height and scale of M3. The design of the additions interprets and reinforces the rustic industrial character of the building. Given its location deep within the site, the proposal will not result in unacceptable visual impacts on the surrounding residential neighbourhood.
(g) the end use of development within the Maltings precinct shall not place at risk the health and safety of occupants or visitors, given any potential:	See comments below.
(h) land or soil contamination, and	Appropriate site investigations have been completed. Appropriate conditions similar to that under development consent 20/1400 can be imposed to

Provisions	Comments
	ensure the site will be remediated prior to being used for the purposes encompassed in the proposal.
(i) the structural adequacy of, and presence of any potentially harmful construction materials within, existing buildings and structures within the Maltings neighbourhood.	A Structural Report has been prepared to assess the conditions of various elements within M3/M4. A BCA Report has been prepared to confirm that the proposal is capable of achieving compliance with the provisions of the code.  Issues regarding structural adequacy and site remediation (including hazardous building materials) can be addressed by appropriate conditions of consent.
(j) Any development within the Maltings neighbourhood shall incorporate improvements to the ecological value of the foreshores and adjoining riparian zones of Nattai Creek and the quality of water flowing from land within the Maltings precinct, into the Creek.	The proposal will not affect the ecological value of the riparian zones of Nattai River and the quality of water flowing from the land into the creek.

**Development contributions**

The following *Wingecarribee Section 7.11 Developer Contributions Plans* apply to the proposed development:

- Roads and Traffic Management Facilities
- Resource Recovery Centre
- Central Library Facility
- Section 7.11 Administration
- Open Space and Recreation Facilities

It is expected that an appropriate condition of consent will set out the requirements for section 7.11 contributions.

Council’s *Section 64 Development Servicing Plan – Water and Sewer Development Servicing Plan (2017)* applies to the proposed development.

While it is noted that the Section 64 Plan does not set out exemptions for private developments, in light of the public benefits of the project in revitalising and conserving an iconic local heritage item and expected flow-on positive economic and social impacts, it is requested that Council consider a reduction in the relevant charges under this plan.

## 6. Assessment of Likely Impacts

This section identifies and assesses the impacts of the development with specific reference to the heads of consideration under Section 4.15 of the Act.

### 6.1 Natural Environment

#### Biodiversity and ecology

Requirements concerning biodiversity and terrestrial and aquatic ecology, as stipulated in various legislation at both State and Commonwealth levels, have been discussed in the earlier parts of this report.

#### Tree retention

The proposed changes to the approved development are contained within the building footprints of the M3/M4 group. No additional tree removal is proposed.

An Arboricultural Impact Assessment, dated 22 May 2020, prepared by Eco-Logical accompanied the original DA. An arborist's addendum letter, dated 21 February 2024, prepared by Eco-Logical supports the subject amending DA and the related section 4.56 modification. To validate the key findings of the previous Arboricultural Impact Assessment, a qualified arborist inspected trees in the vicinity of M3, M4 and Maltster's Cottage on 16 January 2024.



Figure 13 Location of re-assessed trees in proximity to M3 and M4 (source: Ecological)

The trees in the vicinity of M3/M4 are in similar condition as the previous inspection, with natural growth observed. The retention value for these trees was over-estimated and should be revised to 'medium' due to their relatively small size and lack of maturity (apart from trees 294 and 298).

There are no additional trees proposed to be removed when compared to the original approval.



Figure 14 Trees 294 (left) and 298 (right) adjacent to M3 (source: Eco-Logical)

The approved development will retain the majority of the high-valued trees on the site. The new roadways and building footprints have been sited to minimise encroachment and impact on significant trees, and as a result will only require limited removal of trees (as approved).

### Flooding and stormwater

An updated Stormwater and Flood Management Strategy, dated February 2024 and prepared by J Wyndham Prince accompanies the subject DA and the related modification. The report presents the results of investigations relating to the performance and feasibility of stormwater and flood management strategies proposed for the site.

Nattai River traverses the site and conveys flows from a contributing catchment of 675 ha. A substantial portion of the site is located below the flood planning level (the level of a 1% annual exceedance probability (AEP) plus 500mm freeboard). The approved development does not include any habitable floor space below the flood planning level.

The site experiences significant flooding under existing conditions with mainstream flooding breaching the river banks in the 10% AEP event. According to the Nattai River Flood Study (dated 2014, by Catchment Simulations Solutions, commissioned by Council), the site receives approximately 116m<sup>3</sup>/s of flow during a 1% AEP storm event, which results in a peak flood level of 624.42m AHD. This inundates a large portion of the site, including the existing M1 and M2 buildings on the west bank. 'Mainstream' flooding generated by flows within Nattai River accounts for a significant proportion of the flood affectation. There are overland flows entering the site from Southey Street to the east, which create visible flooding in the area around the existing M3 building and the proposed M5 and M6 buildings. This takes the form of sheet flow in the order of 0.0 to 0.2m in depth and 0.5m/s in velocity.

The existing Southern Sheds, M1, M2 and M3 are affected by flooding in the 1% AEP event. The new M4 is proposed to be located clear of flooding, while M5 and M6 will be within minor overland flow path from Southey Street.

The majority of the existing finished floor levels (FFLs) of the buildings will be maintained, meaning that no material changes to the surrounding flood levels would occur. There are no habitable uses proposed for the ground floor level of M3, so as to be compatible with the expected 1% AEP flood inundation over the FFL.

Based on J Wyndham Prince’s assessment, the proposal will not affect the existing flood behaviour across the site.

Appropriate stormwater management requirements may be imposed via conditions of consent.

The potential impacts on water quality due to the site’s location within the Sydney Drinking Water catchment has been discussed in section 5.8 above.

**Bushfire**

The site is identified as ‘bush fire prone land’ according to the bush fire prone land map (refer to figure below). A Bushfire Assessment, dated 30 April 2020, prepared by Peterson Bushfire was submitted with the original DA.

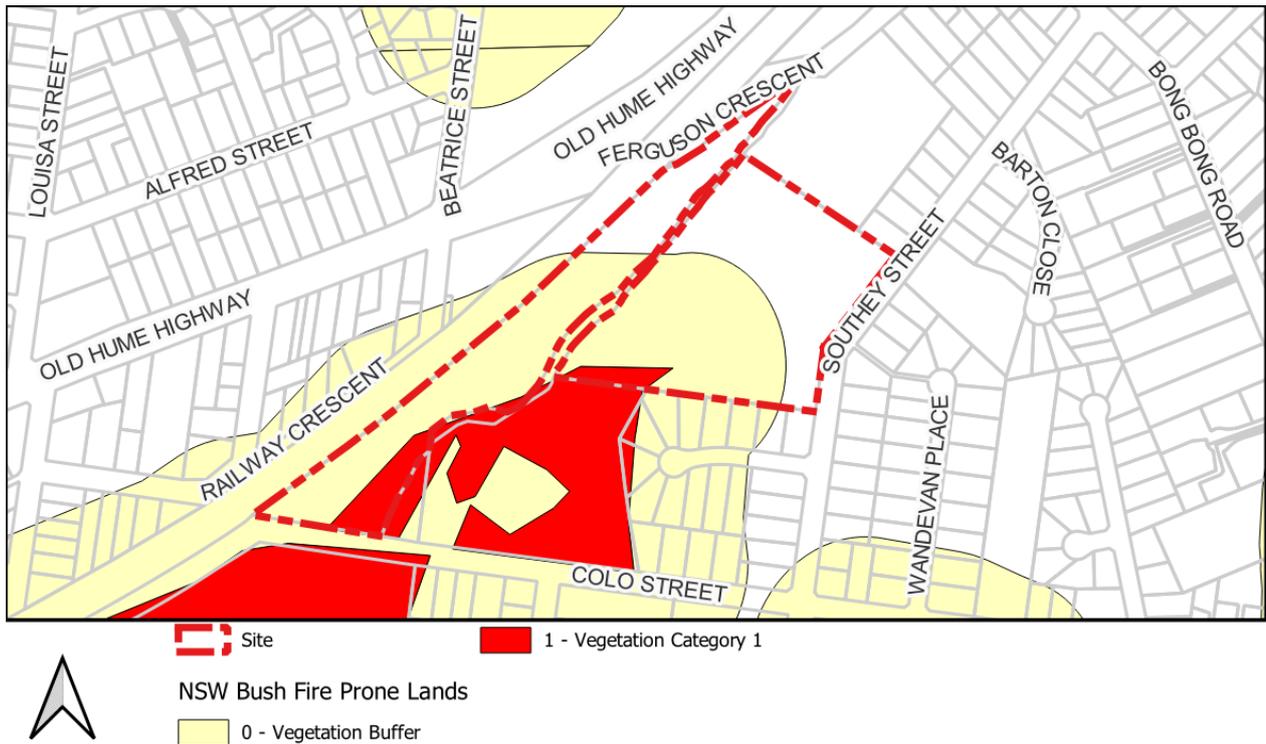


Figure 15 Excerpt of Bushfire Prone Land Map (data source: NSW Planning Portal)

The proposed development falls within the definition of ‘special fire protection purposes’ under section 100B of the *Rural Fires Act 1997* (RF Act) as it includes hotel or motel accommodation (note: seniors housing in concept form is proposed for the future M5/M6 group). The approved development was integrated development under section 4.46 of the EP&A Act and section 100B of the RF Act, and a bush fire safety authority was obtained from NSW Rural Fire Service (RFS). The general terms of approval issued by RFS has been incorporated in the development consent for the original DA.

A Bushfire Advice letter, dated 15 February 2024, prepared by Peterson Bushfire, accompanies the subject DA. The letter advises that the proposed changes to the M3/M4 complex are minor in the context of the approved building footprints and will not impact on the bushfire protection measures recommended in the 2020 bushfire assessment and requirements in the bush fire safety authority issued by RFS. The provisions in the above bushfire assessment and terms of approval by RFS remain valid.

The proposal is satisfactory having regard to bushfire safety. Appropriate conditions of consent will address matters regarding establishment of asset protection zones, construction standards, provision of internal access roads, connection to water and utility services, and preparation of an emergency management and evacuation plan.

## Contamination

The site has a history of agricultural, industrial and railway related operations involving the use of chemicals and fill materials for site levelling, and hence is considered to have contamination potential. According to Council's section 10.7 planning certificate, the site is not significantly contaminated land pursuant to the *Contaminated Land Management Act 1997*.

A Stage 1 Preliminary Site Investigation (PSI), dated 17 April 2020, was carried out by JK Environments. The report concludes that the historical land uses and potential sources of contamination identified would not preclude the proposed development, subject to the completion of a detailed site investigation, remediation action plan, hazardous building materials survey and asbestos management plan. The site can be made suitable for the proposed development, subject to implementation of the recommendations in the above additional assessments.

Subsequent to the above, JK Environments undertook a Detailed Site Investigation (DSI), dated 2 June 2022. The scope of the DSI included a review of the PSI, a walk-over site inspection, soil sampling from 60 in-situ locations, sampling from seven fill stockpiles, ground water sampling from eight monitoring wells and surface water sampling from three locations along Nattai River. The sampling exercise did not target all potential sources of contamination as their locations were largely inaccessible during the investigation. JK Environments is of the opinion that the site can be made suitable for the proposed development, subject to the preparation of an asbestos management plan, data gap investigation, remediation action plan and site validation assessment.

The proposal will provide additional space within the addition at M3 for hotel and related uses, including restaurants, lounges/pubs, as well as exhibition and multi-purpose spaces. The proposal does not result in a fundamental change to the approved land uses in the M3/M4 building group.

Appropriate conditions of consent will ensure the site will be remediated, validated and audited to be suitable for the proposed uses.

## Geotechnical consideration

A Geotechnical Assessment, dated 16 April 2020, prepared by JK Geotechnics accompanied the original DA. The report provided an assessment of the suitability of the site for redevelopment addressing aspects of excavation, ground water, shoring design, footing design and earthworks. It included preliminary advice on the geotechnical aspects to inform the proposed civil and structural design. The report recommended a detailed geotechnical investigation must be carried out prior to preparing any contract documents and specifications.

A Geotechnical Investigation, dated 23 January 2024, prepared by EI Australia, has been prepared to inform the subject DA and related section 4.56 modification. EI Australia has assessed the site surface and subsurface conditions at 5 boreholes and 18 test pits. The site would be suitable for the proposed works, subject to the recommendations in the report, including demolition, excavation, ground water management, footing construction and site preparation. It also recommends:

- Additional geotechnical investigations for the future M5/M6 area
- Long-term groundwater monitoring and seepage modelling
- Stability assessment of temporary batters
- Dilapidation surveys
- Design of working platforms (if required) for construction plant by a qualified geotechnical engineer
- Classification of all excavated materials to be transported off site
- Geotechnical inspections of all new footings / piles by a qualified geotechnical engineer before concrete or steel are placed to verify their bearing capacity and the in-situ nature of the founding strata
- On-going monitoring of groundwater inflows into the bulk excavation

## 6.2 Built Environment

### European heritage

A Conservation Management Plan, dated December 2020, prepared by Paul Davies Pty Ltd, was submitted with the original DA and approved as part of the existing consent. An amended Heritage Impact Statement, dated February 2024, also prepared by Paul Davies Pty Ltd has been prepared to support the subject DA and associated section 4.56 modification.

The existing heritage listing of the site under Schedule 5 of the Wingecarribee LEP 2010 is as follows:

**Table 13** Heritage listing of the site

Suburb	Item name	Address	Property description	Significance	Item no.
Mittagong	The Maltings	Southey, Colo and Ferguson Streets	Lot 21, DP 1029384	Local	I103
Mittagong	The Maltings Conservation Area	-----	-----	Local	C1845

The site is located in the vicinity of the following heritage items:

**Table 14** Heritage items in the vicinity to the site

Suburb	Item name	Address	Property description	Significance	Item no.
Mittagong	Nattai Creek Bridge	Ferguson Crescent	Nattai Creek	Local	I1885
Mittagong	“Fitzroy Inn” (former “Oaklands”)	1 Ferguson Crescent	Lot 16, DP 1005636	Local	I099
Mittagong	“Wandevan” house including interiors	20-24 Southey Street	Lot 8, DP 1201829	Local	I1747

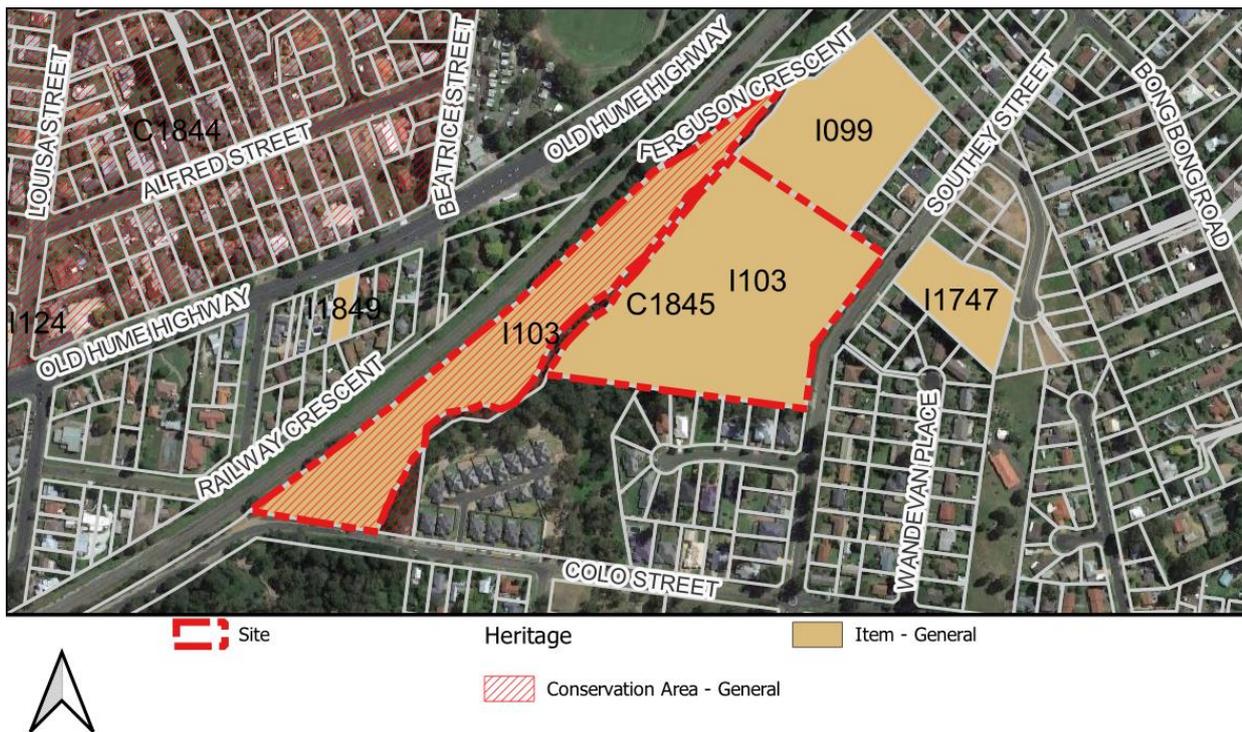


Figure 16 Excerpt of Heritage Map (data source: NSW Planning Portal)

The maltings complex on the site is currently in a ruinous state and is set in a deteriorated landscape. The heritage values of the site pertain to the historical use and physical elements remaining from that use, including the remnant architectural form, disposition and setting around Nattai River. The malthouses are a major specimen of masonry industrial architecture of the Federation era and are of great aesthetic appeal for their design, detailing and setting. The buildings are significant as a ruin that has existed for over 40 years and is a local landmark. The group is the only major maltings complex in NSW outside of Sydney. It is also a rare example of a rural maltings complex designed around an English landscape concept.

Since the original development consent was issued, more detailed work has taken place, including detailed structural and material analyses of the various remaining elements of the site. That work has established that some of the fabric that was intended to be retained is not capable of further life, and that conversely some elements proposed to be removed are sufficiently sound to be retained.

The proposed modification does not alter the heritage conservation approach adopted in the approved development scheme, as outlined below.

- *A particular difficulty of working with a site that is in an advanced state of ruin is to develop an approach to the site that manages heritage values, re-use and severe fabric deterioration. Restoration of the buildings is not feasible or actually possible, nor is it desirable given the very advanced state of decay. What remains after many years of deterioration due to weather exposure, stripping out of contents and interiors, removal of the working elements of the place and extensive vandalism are building shells in various degrees of decay. (Page 4 of HIS)*
- *The design decision has been to work with the ruined form and not to attempt reconstruction to an earlier either known or a conjectural form. However, it is noted that several elements in M1 and M2, such as roof forms, will be reinstated but not to their early detail. (Page 6 of HIS)*
- *The design intent has also been to work with what fabric can be retained and then to add new elements that are contemporary and which do not involve recreation of earlier forms. This maintains the values of the ruin, conserves the materiality and allows the addition of new forms that are in part adaptation but which are largely new work to exist in juxtaposition to the ruined elements. (Page 6 of HIS)*

- *There is no attempt to recreate heritage or rebuild long lost elements. Existing elements will be conserved, repaired, will have minor fabric replacement where needed to ensure the lieft of the surrounding elements but the proposal does not involve 'reconstruction' as it is defined in the Burra Charter. (Page 6 of HIS)*
- *When a building complex has deteriorated to the stage that the Maltings has reached, any concept of 'reconstruction' or 'restoration' is not realistic. The approach that has been developed is to maintain the place, in part, as a ruin, to recover some parts of the buildings by adding new roofs and rebuild remnant roofs and to insert new built elements within the existing spatial arrangement of the buildings as well as provide some new elements on the site. (Page 15 of HIS)*
- *The adaptation is to make new linkages, add stairs and lifts, create access corridors, enclose open areas with new elements and open up some areas to accommodate new uses so that the buildings have viable uses that are in part enclosed and in part open. The proposal also reinstates stairs which are almost all missing and adds lifts and services along with compliance with current codes. (Page 15 of HIS)*
- *New work is clearly new work whether it is a new inserted room, a new roof or a new window frame within or adjacent to an opening. The concept of retaining the ruin extends through all aspects of the site and the fabric. The re-use and adaptation of the ruined buildings and features is the major aspect of site interpretation (noting that other interpretation is proposed) as the ruin. People who use the site will explore the ruin as much as use the facilities. (Page 15 of HIS)*

The proposal is consistent with the above conservation approach and will protect the heritage significance of the site as:

- Due to the extensive damage and deterioration, the roof structures, various floor slabs and other elements of M3 could not be retained as envisaged in the approved scheme.  
The concept behind M3 is to use the existing building footprint and remaining masonry and construct a new building within and above them. The proposal seeks to provide a contemporary addition, which will present overlapping rectilinear volumes with face bricks as the façade materials to provide a reference to the architectural form and rustic industrial character of the remnant structures. It will conserve the remaining brick enclosing walls of the building. Some of the timber roof frames may be used on site for interpretation.
- As a result of the above changes, the facades to the M4 hotel have been revised with face bricks as the principal material to maintain architectural coherence for the M3/M4 group.
- The proposal is consistent with the overall conservation approach for the site with the retention of ruinous building structures while creating new spaces for appropriate new uses.
- The proposal retains the existing open spaces and spatial arrangement of buildings around the river, which together define the character of the site. The proposal will not affect any significant views to and within the site.

It is acknowledged that the removal of the roof and other structures at M3 entails a significant impact on the heritage values; however, given the condition of the building and the components in question, they are an inevitable loss due to the prolonged neglect and exposure to weather and vandalism.

### **Aboriginal heritage**

An Aboriginal Archaeological Survey report, dated 8 May 2020, prepared by Kayandel Archaeological Services was submitted with the original DA.

A search of the Aboriginal Heritage Information Management System (AHIMS) was undertaken for an area of 14km by 14km, square centred upon the subject site (with a 1km buffer). A total of 106 Aboriginal sites are registered within the search area. There is no record of any Aboriginal item within the subject site. An Aboriginal site was identified in proximity to the corner of Colo Street and Evans Street.

There are two areas of potential archaeological deposit (PAD) associated with the creek line identified on the subject site. Archaeologically sensitive landforms were also identified in the eastern parts of the site, which have the potential to contain artefact bearing deposits.

The report concludes that the proposed development may have an impact on the two PADs and archaeologically sensitive landforms.

The proposal relates to M3/M4, where their building footprints are outside the identified PADs and archaeologically sensitive landforms. The modification is not expected to result in any additional impact on the Aboriginal heritage values of the site beyond the approved development scheme.

The conditions of consent for the original DA stipulate requirements for an Aboriginal cultural heritage assessment, consultation with the Aboriginal community, test excavation, an Aboriginal Heritage Impact Permit (AHIP) and management and notification of unexpected finds. Appropriate conditions can be imposed to ensure this DA will appropriately manage Aboriginal cultural heritage.

### **Structural assessment**

A Civil and Structural Engineering Report, dated 1 May 2020, prepared by ARUP, accompanied the original DA. The report provides concept structural design advice having regard to the proposed uses, design approach and conservation requirements. The advice is based on the principle to “minimise intervention and maximise the use and authenticity of existing material and framing where this can be effectively revitalised” (p. 7).

The report finds that the M3 building is of unreinforced masonry construction; the floorings are primarily supported by rivetted steel columns and steel joists, with arched brick flooring at the lower level and timber framed flooring above. Some floors and roofs had been removed.

Following the approval of the original DA, further investigations of the structural conditions of the building, including inspection and material testing, have been undertaken. A Structural Report, dated 6 February 2024, prepared by TTW, has been prepared to support the subject DA.

The assessment advises that the masonry walls, piers and footings, steelwork and concrete silos may be retained, subject to repair works to remediate defects. However, all structural timbers and roof sheeting / tiling cannot be retained. As part of the design development, a comprehensive review of the structures for lateral load resistance will need to be carried out.

Due to the conditions of the building, the design envisaged in the original DA could no longer be pursued. In particular, the existing roof forms for the machinery room (northern section of M3) and kiln room (central section of M3) cannot be retained:

- Based on an inspection conducted in March 2023, only less than 5% of the existing timber in the machinery room, including floor structures, timber posts and roof framing, may be re-used. As such, the structural assessment recommends all timber elements to be replaced.
- For the kiln room, the timber roof elements have experienced significant weather exposure and deterioration due to the loss of roof cladding. These timbers are unsuitable for re-use and should be removed. The concrete roof slab at the top of the kiln room is also unsuitable for re-use due to the prolonged exposure of the top side of the concrete and the widespread surface corrosion.

Based on heritage advice (see discussions above), a new addition will be constructed within and above the existing M3 facades (note that the internal components will be largely removed due to their deteriorated state) along with a new lift core within M3. The new structural elements will be designed and certified in accordance with the National Construction Code (NCC) and the applicable Australian Standards. Where existing building elements are not able to be upgraded to achieve compliance with the NCC, for example seismic loading for existing unreinforced masonry, performance solutions will be sought.

The structural adequacy and building code compliance can be addressed by appropriate conditions of consent.

### **Civil engineering**

A Review of Civil Engineering Report, dated 7 February 2024, prepared by J Wyndham Prince, accompanies the subject application. The report provides a peer review of the Civil & Structural Engineering Report, dated 1 May 2020, prepared by ARUP. Specifically, it reviews the civil engineering items, being road design, pavement and bulk earthworks, in the context of the proposed amendments to the approved development scheme.

The report confirms that the internal roads and car parks are required to meet relevant Australian Standards and technical specifications. The internal roads would need to cater for the largest vehicles servicing the site, which in this case will be a 10.2m long vehicle. The proposed development may include a range of pavement treatments for the roads and parking areas; the paving needs to attain a 25-year design life.

The above matters can be addressed in detail at the construction certificate stage.

The review also provides updated estimates of bulk earthworks associated with the access roads, which would be less than the original estimates provided by ARUP.

### **Building code and fire engineering**

A Building Code of Australia (BCA) Report, dated 27 February 2024, and BCA 2022 Capability Statement, dated 27 February 2024, prepared by Group DLA, accompany the subject DA.

The report provides a preliminary assessment of the proposed development against the Building Code of Australia 2022. It concludes that the proposal is capable of satisfying the BCA through compliance with the deemed-to-satisfy provisions and formulation of performance solutions. Specific matters, including fire resistance, access and egress, services and equipment, health and amenity and energy efficiency, can be addressed in detail at the construction certificate stage.

A Fire Engineering advice, dated 20 February 2024, prepared by Credwell has also been prepared. The advice identifies areas that do not meet the deemed-to-satisfy provisions of the BCA and recommends performance-based fire engineering solutions.

Matters relating to compliance with the Building Code of Australia can be addressed by appropriate conditions of consent and resolved at the construction certificate stage.

### **Accessibility**

An Access Report, dated 28 February 2024, prepared by Group DLA accompanies the subject application. It provides an accessibility compliance assessment of the development against the *Disability (Access to Premises – Buildings) Standards 2010*, the BCA (2022) and Australian Standards adopted by reference, and the objectives of the *Disability Discrimination Act 1992* (DDA) to ensure adequate access provisions for people with a disability.

The report concludes that the proposed design is capable of complying with the statutory accessibility requirements. This will be achieved through compliance with the deemed-to-satisfy provisions and performance requirements of the BCA. Further development and refinement of the design, such as landscape, pedestrian access and linkages, internal fit-out, stairs, walkways, ramps, lifts, sanitary facilities and other facilities and features will be addressed at the construction certificate stage.

Appropriate conditions can be imposed to require compliance with the BCA and DDA and provision of access for people with a disability. Accessibility issues can be addressed in detail at the construction certificate stage.

### **Utilities servicing**

A Utilities Servicing Assessment, dated 7 February 2024, prepared by J Wyndham Prince, accompanies the subject DA.

The report finds that the site is within reasonably close proximity to service mains for sewer, potable water, electricity, gas and National Broadband Network (NBN). The site has Telstra and Optus mobile coverage, and Telstra landline is present in the surrounding streets. Sewer and water systems modelling using

Wingecarribee Shire Council's network information and expected loadings from the proposed development confirms that sewer capacity and water supply are available. No significant impediments are envisaged to service the site; the servicing could also be staged.

## **Traffic, parking and access**

The original DA was supported by a Traffic Impact Assessment, dated 12 May 2020, and supplementary technical memorandums dated 22 December 2020 and 8 June 2021, all prepared by Cardno. A Traffic and Transport Impact Statement of Advice, dated 28 February 2024, prepared by SLR accompanies the subject amending DA and related section 4.56 modification.

The number of hotel rooms in the original DA is 40 rooms plus 1 owner's suite. The current DA provides 40 rooms and 1 owner's suite at M4, and an extra guest suite at M3 (being an addition of 1 room).

The previously approved floor space for exhibition / gallery at M3 was approximately 912m<sup>2</sup>. This will be changed to approximately 869m<sup>2</sup>, plus an outdoor gallery of approximately 114m<sup>2</sup> at M3. The previously approved swimming pool and terrace facilities will be relocated from M1 to M3.

### Previous traffic assessment and consent conditions

The original traffic assessment considered that traffic associated with the use of the M1/M2 group and Maltster's Cottage is likely to have cross-over with that related to the hotel at M3/M4. The future residential accommodation at M5/M6 is subject to detailed design and a further traffic assessment as part of a separate DA. The previous assessment also noted that the DCP does not stipulate parking rates that correspond to the proposed uses.

The existing consent includes conditions that stipulate controls on patron numbers for M1/M2 and the number of on-site car parking spaces. They include:

#### **40. Off Street Parking Provision – General**

*139 off-street car parking spaces suitably marked in accordance with Site Plan prepared by Snohetta; drawing number SD-A003; revision 1; dated 04/05/2020 with minimum dimensions in accordance with Australian Standard AS2890.1 Off Street Car Parking. Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate showing compliance with this condition.*

**Reason:** To ensure adequate parking and access.

#### **112. Traffic Management Plan (TMP)**

*The applicant shall prepare a TMP that includes, for events where the occupancy of the M1 and M2 buildings combined exceed 200 persons, details on the on-site traffic management measures to be implemented to preclude significant traffic (more than 50% of the site occupants of the M1 and M2 buildings) exiting the site between 3pm and 6pm on a weekday (excluding public holidays). The TMP shall be provided to Council for approval prior to the issue of an Occupation Certificate.*

**Reason:** To comply with the general terms of approval issued by TfNSW

#### **Condition 142 Transport for New South Wales**

**3. Prior to issuing the Occupation Certificate for the Stage 1 buildings (M1, M2, M3 and M4), the developer must:**

*(c) Prepare a Traffic Management Plan (TMP) that includes, for events where the occupancy of the M1 and M2 buildings combined exceed 200 persons, details on the on-site traffic management measures to be implemented to preclude significant traffic (more than 50% of the site occupants of the M1 and M2 buildings) exiting the site between 3pm and 6pm on a weekday (excluding public holidays). The TMP shall be provided to Council for approval.*

**4. For the life of the development:**

*(a) No events are to finish between 3pm to 6pm on a weekday (excluding public holidays) where the total attendance numbers associated with the use of the M1 and M2 buildings combined are greater than 200 persons.*

## Statement of Advice by SLR

The Statement of Advice considers that the design amendments proposed in the amending DA and modification are unlikely to result in any significant change to the traffic generating capacity and parking demand of the development.

- The above consent conditions may be duplicated and utilised to control the number of patrons at M1/M2, the overall development is unlikely to affect the capacity of the local road network and level of service of the nearby intersections. The section 4.56 modification will reduce the gross floor area of M1/M2 from the approved 4,869m<sup>2</sup> to the proposed 4,754m<sup>2</sup> due to the relocation of the terrace bar facility to M3.
- There is a small change to the total number of hotel rooms at M3/M4, which is an addition of a guest suite. This would have minimal effects on the development's traffic generation and parking demand.
- The floor space for the gallery / exhibition facilities at M3 is slightly reduced from the approved development, being from 912m<sup>2</sup> to 869m<sup>2</sup>.
- The gross floor area of Maltster's Cottage (gallery space) is reduced from 217m<sup>2</sup> to 184m<sup>2</sup>.

The proposal has included 140 on-site car parking spaces and will be consistent with the requirements of Condition 40; the break-down and location are as follows:

- M1/M2 car park: 72 spaces
- M1/M2 staff car park: 13 spaces
- M3 basement car park: 4 spaces
- M3/M4 car park and private garage: 51 spaces

SLR advises that the parking provision would be adequate and a new traffic impact assessment would not be necessary. The design of the car park would meet the requirements of Australian Standard 2890.1.

Based on the provisions of the BCA relating to parking for people with a disability, 1 accessible space for every 50 car parking spaces or part thereof (up to 1,000 parking spaces) is required. The site plan shows the provision of 4 accessible parking spaces for a total of 140 in the whole development, which would satisfy the BCA requirements.

Council's DCP does not specify bicycle parking provisions. The existing consent conditions do not prescribe any quantum of bicycle parking provision. SLR recommends bicycle parking to be provided for staff members. Details on bicycle parking can be prepared at the construction certificate stage.

## Vehicular access

Minor changes to the use of the three access points to various components of the development are proposed:

- The Colo Street driveway will provide access for the majority of visitors to M1/M2, as well as the hotel guests of M3/M4.
- Southey Street will be used by the hotel guests of M3/M4 and staff as well as service vehicles for M3/M4. This entry was originally envisaged for outbound only traffic of hotel guests. The amended arrangement would relieve reliance on the Colo Street entry. Future access to M5/M6 will also be obtained from Southey Street, subject to further assessment as part of a separate DA.
- Ferguson Crescent will continue to be used by staff and deliveries only. No visitor access is proposed from this street.

Internally, a bridge connection is provided for vehicular access from the Colo Street car park to the basement car park at M3/M4. This will be for use by hotel guests only and sign-posted.

SLR has undertaken swept path analysis (refer to Appendix H of the Statement of Advice). The analysis indicates that all driveways have sufficient width for the 10.2m long rear-loading refuse collection vehicle. The Ferguson Crescent access will be able to accommodate infrequent emergency vehicles, such as a 12.5m long fire truck.

Pedestrian access is provided from all road frontages, with internal links across Nattai River and pathways through the landscaped gardens on the site.

## Acoustic impact

An Acoustics Assessment, dated 1 February 2024, prepared by Acoustic Logic, accompanies the subject DA. The report considers the acoustic aspects of the construction and operation of the development, conducts a quantitative assessment of the potential noise impacts on surrounding sensitive receivers, and identifies mitigation or management measures to control noise and vibration.

The report identifies the primary operational noise sources from M3/M4 with potential impacts on the surrounding noise sensitive uses, which are:

- Mechanical plant and equipment
- Outdoor terrace to dining room at level 3
- Outdoor terraces to lounge room and swimming pool at level 4
- Loading and servicing activities

It also identifies potential noise intrusion from adjacent roadways and railway.

From an acoustic perspective, most of the indoor spaces will be controlled by the building envelope design and will have a low risk with respect to noise emission. As for the outdoor areas, noise generated by the patrons and background amplified music will need to be managed. Further acoustic review will be undertaken at the construction certificate stage to determine acoustic treatments for mechanical plant and equipment.

The acoustic assessment finds that noise emission can be mitigated to ensure compliance with the identified noise criteria, subject to the following measures:

- Limit operation hours for the outdoor terraces and swimming pool to: 7:00am to 12:00am, Mondays to Saturdays, and 8:00am to 12:00am for Sundays and Public Holidays. Doors to the terraces may remain open during these times.
- Limit amplified music level to 75dB(A)<sub>L10</sub>, and no playing of music in the outdoor areas after 10pm.
- Speakers are to be vibration isolated.
- Control the number of patrons occupying the outdoor areas as follows:
  - Level 3 dining room terrace: 32 patrons
  - Level 4 lounge terrace and swimming pool: 50 up to 10pm and 30 after 10pm
- Barrier or balustrade to the terrace and swimming pool is to be a minimum of 1.2m above the finished floor level.
- Install signage at the entry and exit of the venues reminding patrons to minimise noise when departing the premises, especially after 10pm.
- Deliveries and waste collection are to be completed within the following hours:
  - 7:00am and 6:00pm
  - Disposal of glass bottles must not occur after 10:00pm.

The potential noise emission from redesigned M3/M4 can be managed and mitigated without causing unreasonable impacts at residential boundaries. In addition, potential noise emission will be mitigated by the management measures outlined in the Plan of Management.

### **Waste management**

An Operational Waste Management Plan, dated February 2024, prepared by Waste Audit has been prepared to support the subject DA and the related section 4.56 modification. The plan sets out the following details for waste management during the operational phase of the development:

- Storage facilities – size, construction, equipment and number and type of bins
- Collection vehicles – type, specification and servicing frequencies
- On-site handling and management practices
- Collection and loading processes
- On-going management, monitoring and reporting systems

A centralised, enclosed waste storage area will be provided adjacent to the private garage to the south-east of M3/M4, which will have capacity to accommodate waste generation from the hotel, ancillary services and gallery and exhibition uses, including general wastes, recyclables and organic wastes. Waste materials from Maltster's Cottage will also be transferred to the above storage area for collection. Service vehicles will access the storage facility via the driveway off Southey Street.

A Demolition and Construction Waste Management Plan, dated February 2024, prepared by Waste Audit has been prepared to support the subject DA and the related section 4.56 modification. It sets out the following details relating to the minimisation and management of construction and demolition wastes:

- Identifies types and volumes of materials that can be re-used or recycled.
- Identifies types and volumes of materials that are necessary to be disposed at landfills.
- Sets out management and monitoring procedures, including processes for handling hazardous wastes.

### **Plan of management**

An updated Plan of Management (PoM), prepared by Gyde, accompanies the subject DA and the associated section 4.56 modification.

The PoM provides a framework for the management and operation of the premises and aims to achieve a satisfactory level of amenity and safety for the occupants and the surrounding community. The management measures set out in the PoM address the following aspects:

- Hours of operation
- Operational procedures for licensed premises
- Security
- Public liability
- Patron management
- Accommodation management
- Gallery management
- Waste management
- Noise and vibration management
- Traffic and parking
- Evacuation and emergency closing
- Signage strategy
- Rail corridor environs
- Swimming pool operation
- Incident reporting
- Complaint handling

## Views and visual amenity

Views to significant buildings on the site are primarily obtained from the nearby public realm, including from the railway corridor, Old Hume Highway, overbridge and entry gate on Ferguson Street and entry gate on Southey Street. Although there is a clearer view of the maltings buildings at the Southey Street gate, it was not intended or planned as an important vista. There are limited views to the site from the surrounding residences due to the dense vegetation along the property perimeter.

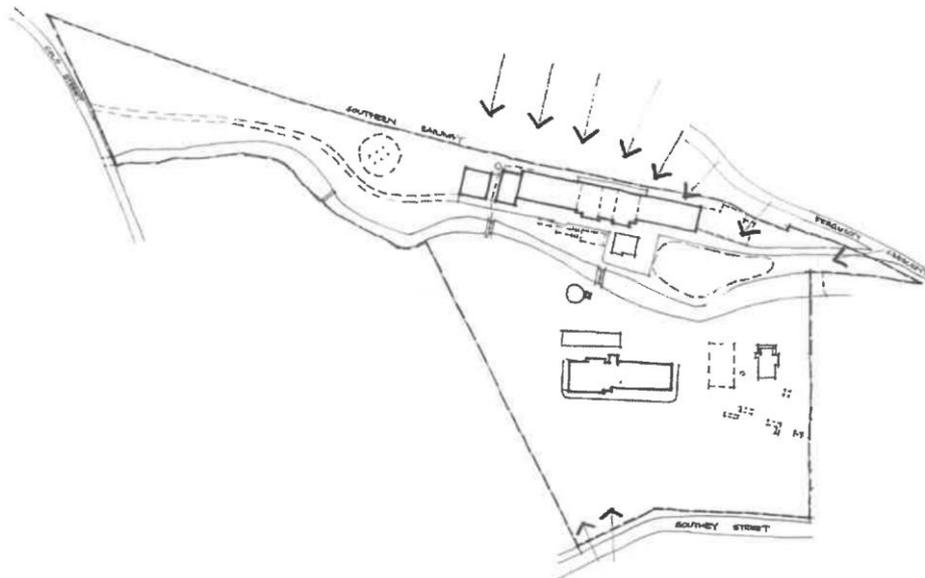
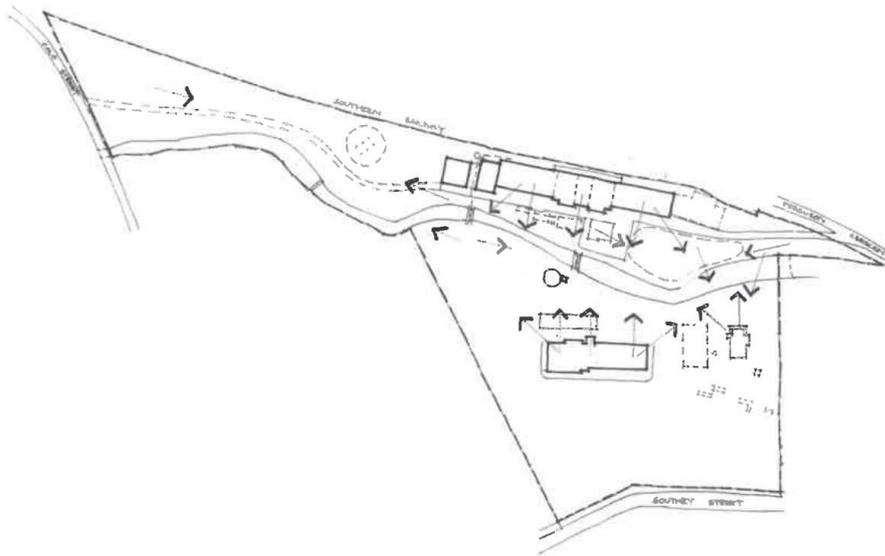


Figure 17 Significant views from outside the site (source: Paul Davies)

The existing buildings have remained within an expansive landscaped setting and the significant views from within the site comprise:

- Views between the major buildings cross Nattai River and over largely open land;
- Views to the major buildings from the open space; and
- Views along the creek line.



**Figure 18 Significant views within the site (source: Paul Davies)**

The proposal will increase the height of the M3/M4 complex from RL646.86 (roof ridge above the silos) to RL 648.65.

M3 is currently the tallest element among the former maltings buildings. The upper floor additions to M3 would reinforce the monumental scale and rustic industrial character of the remnant building and are appropriate having regard to its heritage and landmark values. Furthermore, the additions to M3 are contained within the existing building footprints. The revised design to M3/M4 will not alter the visual order among the former maltings buildings, their spatial relationship and their setting within the landscape.

The proposal would have limited visual impact on areas outside the site, due the location of the M3/M4 group at the centre of the site, and the dense tree planting along the property perimeter. The proposal would not result in any material or undesirable change to the views and visual amenity of the site and surrounding land.

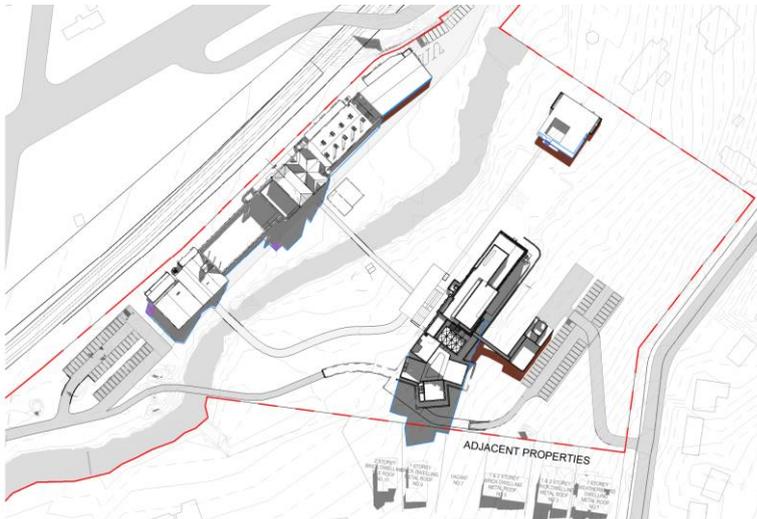
**Overshadowing**

The proposal will not result in any unreasonable impact on the surrounding residences, particularly between 9am and 3pm in mid-winter. The new M4 and additions to M3 have been designed to ensure all surrounding residences will retain in excess of 3 hours of solar access to at least 50% of their private open space. There will be no impact on any of their north-facing windows.

The shadow diagrams below illustrate the shadows that will be created by the development, including additional (brown) and reduced (purple) shadows when compared to the original approved scheme.



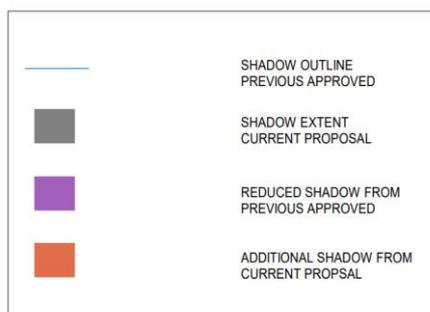
Shadows at 9am, 21 June



Shadows at 12noon, 21 June



Shadows at 3pm, 21 June



**Figure 19** Shadow diagrams illustrating the impacts in mid-winter (source: Snohetta)

### 6.3 Social and Economic Impacts

The proposal would deliver positive social and economic impacts as follows:

- The adaptive re-use, conservation and activation of a heritage item, which if not carried out as part of the proposed development, would lead to the continued deterioration, degradation and ruination of the building, and ultimately to a degree at which the heritage values would be lost and irrecoverable.
- The provision of hotel accommodation and ancillary services and recreation facilities, which would enhance tourism in the Mittagong area with positive flow-on benefits to the local economy.
- The accommodation and promotion of art and cultural activities on a revitalised historic site in close proximity to Mittagong town centre, which would become an iconic destination upon completion.
- Any amenity impacts arising from the use and operation of the development can be adequately mitigated and managed.
- The creation of local employment during construction and operational phase of the development.

### 6.4 Suitability of the Site

The suitability of the site for the proposed development was established by the granting of consent to the original DA by the NSW Land and Environment Court.

A suite of technical studies have been completed, which demonstrate that the site characteristics and constraints, including geotechnical conditions, contamination, flooding, bushfire hazard and biodiversity significance, can be managed to support the proposed development.

### 6.5 Public interest

According to the decision for the Land and Environment Court case, *Ex Gratia Pty Limited v Dungog Shire Council [2005] NSWLEC 148*, a development proposal is in the public interest when the public advantages of the proposal outweigh the public disadvantages.

The proposal is consistent with the provisions of relevant legislation and the statutory controls prescribed in the applicable SEPPs and the Wingecarribee LEP 2010. Any deviation from the guidance in the Wingecarribee DCP is justified and is a considered response to facilitate a better planning outcome.

Subject to the mitigation measures recommended in the supporting reports, the proposal would not result in adverse environmental, social and economic impacts on the site and surrounding land. The proposal would deliver net benefits to the community and outweigh any disadvantages, and therefore is within the public interest.

## 7. Conclusion

This SEE has undertaken an environmental assessment of the proposal to amend the design of the alterations, additions and adaptive re-use of a former maltings building complex at 2 Colo Street, Mittagong, which were approved by the NSW Land and Environment Court in May 2022.

The assessment presented in this statement and the accompanying documentation conclude that the proposal is:

- A suitable and desirable outcome for the site that meets the relevant heads of consideration under section 4.15 of the EP&A Act;
- Consistent with the aims, objectives and provisions of the applicable environmental planning instruments and controls;
- Satisfactory having regard to the mitigation of potential environmental and amenity impacts on the site itself and surrounding land; and
- Within the public interest.

The proposal has been carefully formulated to halt the progressive deterioration of the ruinous and derelict building on the site and to conserve, revitalise and interpret the historic fabric that is capable of retention. The proposal has been informed by additional investigation and will facilitate the protection and adaptive re-use of the heritage item. It presents a unique opportunity to create a new destination of art, culture, tourism and entertainment in Mittagong that would have significant flow-on economic and social benefits at the community and shire level and warrants approval by the consent authority.

# **Appendix A**

Drawings & Technical Reports

**GYDE**

