

habitat

Statement of Environmental Effects

Construction of a Dwelling & Ancillary Shed

Lot 21 Bombowlee Ave, Bombowlee

30 JULY 2021

Submitted to Snowy Valleys Council
On behalf of Chad & Elaine Lensing

Contact

Matthew Yeomans, Town Planner
David Hunter, Director

Habitat Planning
409 Kiewa Street
Albury NSW 2640
02 6021 0662
habitat@habitatplanning.com.au
habitatplanning.com.au

Habitat Planning Pty Ltd
ABN 29 451 913 703
ACN 606 650 837

Document Control

The information contained in this document produced by Habitat Planning is solely for the use of the person or organisation for which it has been prepared. No section or element of this document may be removed from this document, reproduced, electronically stored or transmitted in any form without the written permission of Habitat Planning.

PROJECT NUMBER
20096

REVISION NO	REVISION DATE	VERSION STATUS	AUTHOR	APPROVED
C	30/07/2021	Updated for Section 8.2 Review	MY	DH

20096 Construction of a Dwelling & Ancillary Shed

2

Contents

1. Introduction.....	4
2. Site Analysis	5
2.1. Site Location and Context	5
2.2. Site Description	5
3. Description of Proposal	7
3.1. Overview.....	7
3.2. Dwelling	7
3.3. Ancillary Outbuilding.....	9
4. Planning Assessment	10
4.1. Applicable Environmental Planning Policies, Instruments and Controls.....	10
4.2. Environmental Planning and Assessment Act 1979	10
4.3. State Environmental Planning Policy No. 55 - Remediation of Land	11
4.4. State Environmental Planning Policy (Koala Habitat Protection) 2021	11
4.5. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	11
4.6. Tumut Local Environmental Plan 2012	12
4.7. Snowy Valleys Development Control Plan 2019.....	17
5. Assessment of Environmental Impacts	19
6. Conclusion	25

1. Introduction

This Statement of Environmental Effects (SEE) has been prepared by Habitat Planning on behalf of Chad and Elaine Lensing and is submitted to Snowy Valleys Council in support of a Development Application (DA) for rural dwelling and ancillary shed at Lot 12 DP1252902 and addressed as Bombowlee Ave, Bombowlee near Tumut.

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

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

2. Site Analysis

2.1. Site Location and Context

The land upon which the development is proposed is described as Lot 12 in DP1252902 and addressed as Lot 12 Bombowlee Avenue, Tumut ("the subject land"). An aerial view of the subject land within the context of its surrounds is shown in **Figure 1**.

The lot is more or less triangular in shape with an area of approximately 5.8 hectares. It has frontage of 260 metres to the sealed Bombowlee Avenue on the eastern side and 415 metres to the Tumut River on the southern side. The northern boundary abuts a vacant rural lot. The lot extends around 430 metres from the east to the west at the widest point.

The subject land is on the floodplain of the Tumut River and used for extensive agriculture (cropping and grazing).

The topography of the land is generally flat with some gentle undulations. With the exception of two large examples central to the lot, there is no remnant vegetation on the subject land. There are no structures or buildings on the lot except for an electricity line contained within an easement that traverses the lot north-south and some stockyards and small shed in the north east corner.

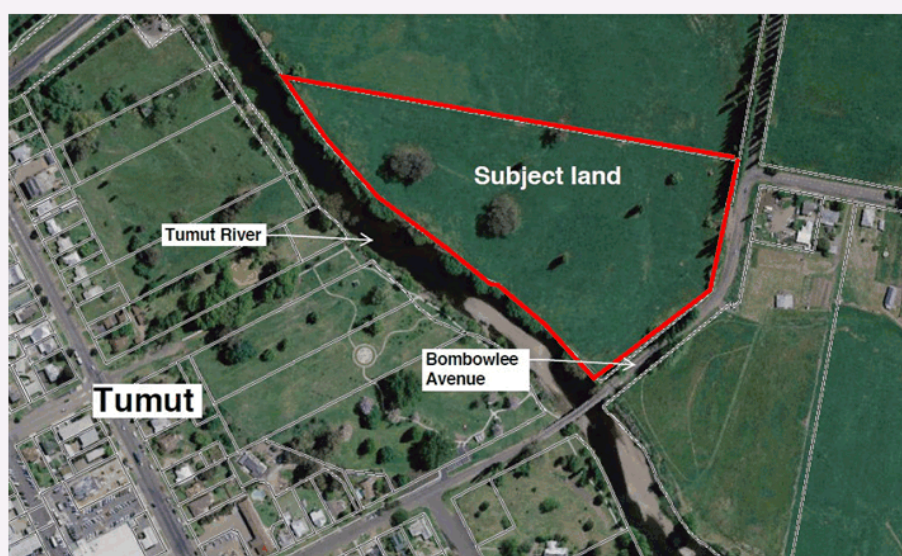


Figure 1: Location of the subject land within the context of Tumut

2.2. Site Description

The surrounding area is characterised by a mix of small and larger commercial rural landholdings used for broadacre cropping and grazing purposes. The Tumut River is adjacent to the southern boundary beyond which is Bila Park.

The nearest dwelling to the boundaries of the subject land is 70 metres to the west on the opposite side of Bombowlee Avenue.

Whilst the lot is effectively on the opposite of the river to the Tumut township, it slightly more than a kilometre by road because of the route required to access the bridge on Wee Jasper Road.



Figure 2 – Subject site from Bombowlee Ave looking north west



Figure 3 – Subject site from Bombowlee Ave (from bridge)

20096 Construction of a Dwelling & Ancillary Shed

6

3. Description of Proposal

3.1. Overview

The subject development application is for a dwelling on a small rural allotment on the opposite site of the Tumut River to the Tumut township. Plans of the proposed dwelling are attached.

3.2. Dwelling

The proposed dwelling will be located 75 metres (approx.) from Bombowlee Avenue and 6 metres from the southern boundary.

The dwelling will be constructed of brick walls and a colourbond roof. It will be two storeys in height with a verandah around three sides.

The dwelling will have three bedrooms, open living kitchen area and laundry.

No reticulated water, sewerage or gas is available to the site. More specifically, potable water will be provided via roof collection and storage, whilst wastewater will be treated and disposed via an on-site wastewater disposal system. The waste water will be treated in accordance with the submitted LCA, and absorption trenches will be located away from the river in a location that will not be impacted by flooding.

The dwelling has a proposed Finished Floor Level (FFL) of RL 264.5 (AHD) complying with the recommendations of the Flood Assessment carried out by WMA Water.

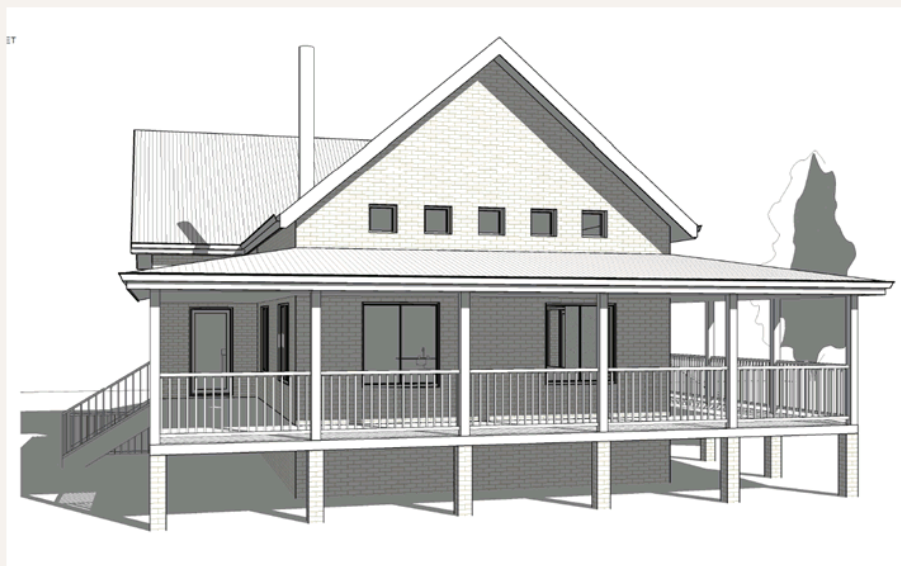


Figure 4: 3D Render of Proposed Dwelling

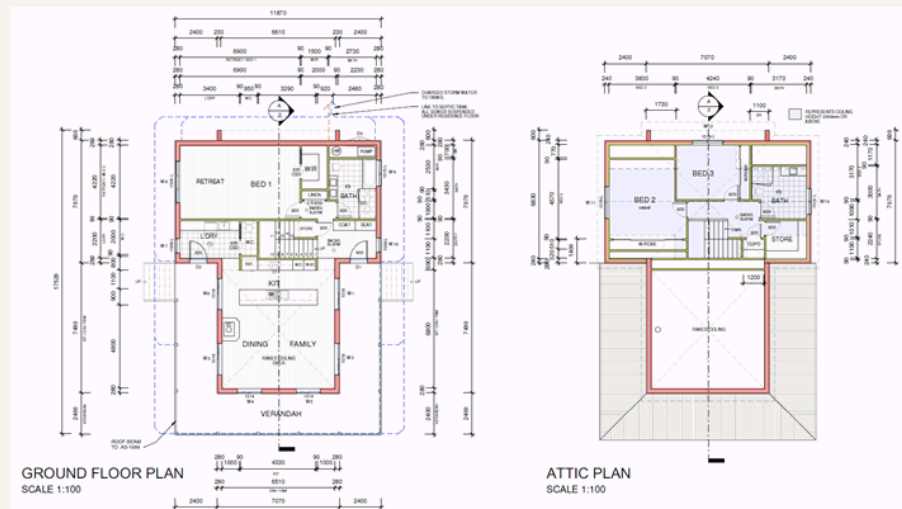


Figure 5: Floor Plans

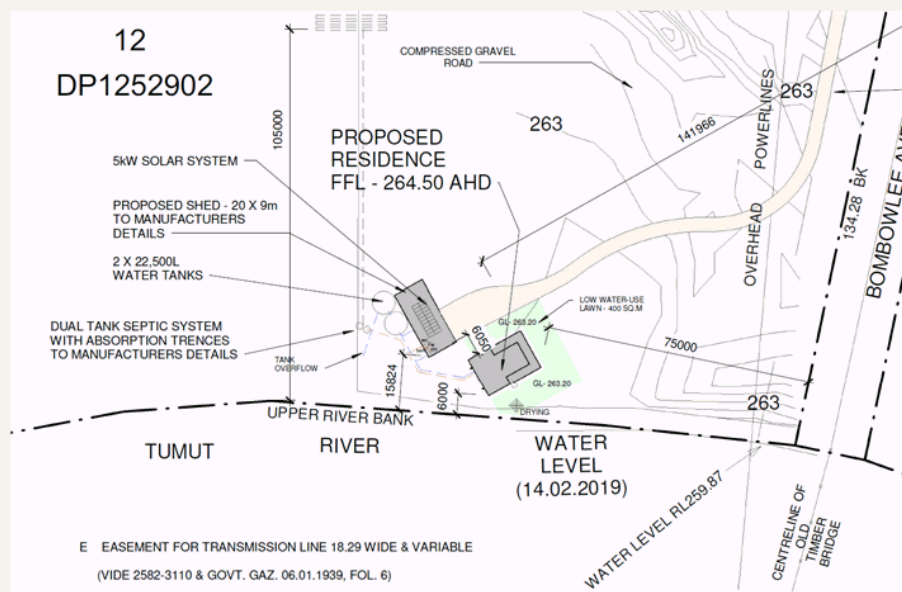


Figure 6: Site Plan

3.3. Ancillary Outbuilding

The proposed shed is 20m by 9m and will contain a 5kw solar system and two 22,500L water tanks. The shed will be constructed of colourbond and steel and will stand 5.6m in height (to the ridge line).



Figure 7: Front Elevation of Proposed Shed

4. Planning Assessment

Under Section 4.15(1) of the EP&A Act when considering an application for development, the consent authority must take into consideration the relevant environmental planning instruments. This section details and responds to the relevant planning framework applicable to the proposal.

4.1. Applicable Environmental Planning Policies, Instruments and Controls

- Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy No. 55 (Remediation of Land)
- State Environmental Planning Policy (Koala Habitat Protection) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Tumut Local Environmental Plan 2012
- Snowy Valleys Development Control Plan 2019

Compliance with the applicable legislation and policies is discussed below.

4.2. Environmental Planning and Assessment Act 1979

The Environmental Planning and Assessment Act 1979 ("the EP&A Act") is the principal piece of legislation governing the use and development of land in NSW. The objects of the Act are:

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

The objects of the EP&A Act are intended to guide land planning and management. Section 4.15 (discussed below) of the Act lists matters for consideration when assessing and determining a development application.

4.2.1. Section 4.15 – Evaluation

Section 4.15 of the EP&A Act 1979 sets out the statutory matters for consideration against which the proposed development is to be evaluated. The matters for consideration under Section 4.15 are as follows:

(1) *Matters for consideration—general*

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

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
 - (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest."

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

4.3. State Environmental Planning Policy No. 55 - Remediation of Land

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

In the context of this application, clause 7 of SEPP 55 generally requires that consideration be given to whether or not land proposed for development is contaminated and fit for use for its intended purpose.

The subject land is rural and there is no physical evidence to suggest the dwelling site is potentially contaminated. Consequently, the land is considered fit for use for its intended purposes and the relevant considerations of SEPP55 are satisfied by the proposal. Consequently, the land is considered fit for use for its intended purposes (light industrial) and therefore the relevant considerations of SEPP 55 are satisfied by the current proposal.

4.4. State Environmental Planning Policy (Koala Habitat Protection) 2021

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

The provisions of this SEPP apply as the Snowy River Local Government Area is listed within Schedule 1 of the Koala SEPP as a relevant local government area. The proposed development complies with the requirements of the Koala SEPP as it does not seek to remove any trees or vegetation on-site as part of the proposed works. Similarly, no previous recordings of sightings of koalas have occurred on-site and therefore the development will not affect the ongoing viability of koala populations.

4.5. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

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

As the development involves the erection of a residential dwelling, then a BASIX Certificate is required. A copy of the BASIX Certificate is attached to this application.

4.6. Tumut Local Environmental Plan 2012

Tumut Local Environmental Plan 2012 ("the LEP") is the principal planning instrument that guides development within the LGA. The below provides an overview of consistency and compliance of the proposal against the relevant provisions.

4.6.1. Land Use and Permissibility

The subject land is zoned RU1 Primary Production under the LEP.

Clause 2.3(2) requires that the "consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone."

The objectives of the RU1 zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural landscape character of the land.

Although the proposed development seeks a residential use in a rural area, it remains generally consistent with these objectives because:

- The occupation of the land by the owner will result in its more efficient use for agricultural purposes.
- The construction of a new dwelling will not fragment or alienate any resources or productive agricultural land as it takes up a very small proportion of the lot.
- The construction of a new dwelling is not expected to create any land use conflicts with adjoining lands or land within any adjoining zones given the location and position of the dwelling.
- The building will appear more as a farm shed than a dwelling, which is more consistent with the rural setting; and
- The view of the dwelling from Bombowlee Avenue will be screened by existing mature Poplar trees and thus protect the rural landscape.

4.6.2. Clause 4.2B – Erection of dwelling houses or secondary dwellings on land in certain rural and residential zones.

The provisions of clause 4.2B apply as the subject land is within a rural zone and the development is for a dwelling house.

Subclause (3) requires that Council must not issue development consent for the erection of a dwelling house on land to which this clause applies, and on which no dwelling house has been erected, unless it:

- (a) is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or
- (b) is a lot created before this Plan commenced and on which the erection of a dwelling house or secondary dwelling was permissible immediately before that commencement, or

- (c) *is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house or secondary dwelling would have been permissible if the plan of subdivision had been registered before that commencement, or*
- (ca) *is a lot created by a boundary adjustment in accordance with clause 4.2C and on which a dwelling house would have been permissible before the adjustment of the boundary, or*
- (d) *is an existing holding, or*
- (e) *is a lot with an area of at least 15 hectares on land identified as "Horticultural Land" on the Horticultural Land Map, with at least 10 hectares of horticulture or viticulture established on that lot, or*
- (f) *would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by—*
 - (i) *a minor realignment of its boundaries that did not create an additional lot, or*
 - (ii) *a subdivision creating or widening a public road or public reserve or for another public purpose.*

It is not necessary to contemplate which of these pre-requisites the subject land meets in order for a dwelling to be possible as Council have confirmed in writing that it has a dwelling 'entitlement' and has been attached as part of the application.

4.6.3. Clause 5.10 – Heritage Conservation

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

The subject land is not identified as a heritage item nor is it located within a heritage conservation area following a review of Schedule 5 and the Heritage Map of the LEP.

Similarly, matters regarding Aboriginal Cultural Heritage have also been investigated. A review of the Aboriginal Heritage Information Management System (AHIMS) database was undertaken and it is confirmed that there are no recorded items of Aboriginal cultural significance within 200 metres of the subject site.

Further details regarding environmental impacts are discussed in Section 5 of this report.

4.6.4. Clause 5.16 – Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones

The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or environment protection zones concerned (particularly between residential land uses and other rural land uses). The subject clause applies as the land is located in the RU1 Primary Production zone. Subclause (3) states that a consent authority must take into account the matters specified in subclause (4) in determining whether to grant development consent to development on land to which this clause applies for the purposes of '(b) erection of a dwelling'

Subclause (4) The following matters are to be taken into account—

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

The area surrounding the subject land is already fragmented with up to 25 dwellings in the RU1 zone north of the Tumut River located within a kilometre of the site for the proposed dwelling. The Tumut township is also located 500 metres to

the south on the opposite side of the river. It is also just 1600 metres from an area zoned R5 Large Lot Residential to the east.

By area, the predominant land use is agriculture in the vicinity of the subject land. Most of this is extensive agriculture as the flood prone nature of the land prevents any intensive agricultural activities. Extensive agriculture (cropping and grazing) is relatively benign in terms of impacts and hence is the most compatible of agricultural activities with residential.

The dwelling is proposed to be sited in the south of the subject land close to the Tumut River and Bombowlee Avenue (see attached plans). This location minimises the amount of land removed from agriculture as a result of the dwelling. The loss will be approximately 500m² or less than 1 percent of the area of the subject land.

4.6.5. Clause 5.21 – Flood planning

As a result of the 'flood prone land package' being introduced on 14 July 2021, new flood planning considerations resulting in the repeal of LEP flood mapping and Clause 6.2 (in the instance of Tumut) in Local Environmental Plans. The new package will ensure both existing and future community are more resilient to flooding through addressing flood risk appropriately, as not all flood risk is the same for the same probability flood event and this needs to be taken into consideration when undertaking land-use planning.

Clause 5.21 of the Tumut LEP relates to the new flood planning considerations. The objectives of this clause are to;

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

Subclause (2) states that development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development;

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

In deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters;

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

The subject site is identified as being in a 'flood planning area' (FPA) and subject to a 'flood planning level' (FPL) however as per the new guideline's ('Considering Flooding in Land Use Planning') Council's need to define the extent of their FPA's and FPL's as required by the guidelines in their Development Control Plans and outline if there are multiple FPA's/FPL's and where they apply. At this current time, it is understood that Snowy Valleys have not amended their DCP to reflect this change or include any flood studies or flood plain risk management studies and plans to their DCP. The guideline does state however, that in areas where mapping is not available, risk-based flood controls can still apply to other flood-prone land, in accordance with the manual.

The new guideline supports the principles of the manual and provides advice to councils on land use planning on flood-prone land. It provides councils with greater flexibility in defining the areas to which flood-related development controls apply, with consideration of defined flood events, freeboards, low-probability/high consequence flooding and emergency management considerations.

The manual (Floodplain Development Manual, 2005) states that a defined flood event (DFE) of 1% AEP, or a historic flood of similar scale, plus a freeboard should generally be used as the minimum level for setting residential flood planning levels (FPL). Choosing different DFEs and freeboards requires justification based on a merit assessment that is consistent with the FRM process and principles of the Floodplain Development Manual. The Development Application is supported by a Flood Risk Assessment prepared by WMA Water. The Flood Risk Assessment confirms that the proposed development is compatible with the flood function and behaviour on the land, will not adversely affect flood behaviour in any way that would result in a detrimental increase in the potential affectation of other development or properties and will not adversely affect the safe occupation and efficient evacuation of people in the event of a flood. The development will incorporate appropriate measures to manage risk to life in the event of a flood and will not adversely affect the environment or cause avoidable environmental impacts.

The development will not create any discernible changes to flood behaviour as a result of climate change and is designed to ensure that the buildings resulting from the development will be appropriate and will incorporate measures to minimise the risk to life and ensure the safe evaluation of people in the event of a flood.

In addition to the commentary above and the attached Flood Risk Assessment prepared by WMA Water, the development is considered to meet the requirements of this clause.

4.6.6. Clause 6.4 – Ground Water Vulnerability

The subject land is identified on the Groundwater Vulnerability Map of the TLEP as being within an area of 'groundwater vulnerability'. Consequently, Clause 6.4 applies to the application.

The clause requires that before determining a development application, Council must consider:

- (a) *the likelihood of groundwater contamination from the development (including from any on-site storage or disposal of solid or liquid waste and chemicals),*
- (b) *any adverse impacts the development may have on groundwater dependent ecosystems,*
- (c) *the cumulative impact the development may have on groundwater (including impacts on nearby groundwater extraction for a potable water supply or stock water supply),*
- (d) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

In considering these matters, it is concluded that:

- the only potential source of groundwater contamination will be from the domestic wastewater system associated with the dwelling and the Land Capability Assessment (LCA) attached demonstrates that this will satisfy the relevant standards;
- there will be no storage of chemicals and the like other than those typical of a dwelling and small rural holding;
- there are no known ecosystems in the area that are dependent on groundwater;
- there are no known groundwater extraction points in the area; and
- no extraordinary measures are necessary to mitigate any impacts on groundwater.

In addition, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact,*
or
- (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

For the reasons outlined above, the proposal is not considered to have any detrimental impact on groundwater in the area.

4.6.7. Clause 6.5 – Riparian Lands & Watercourses

The site for the dwelling is identified on the Riparian land and watercourses Map of the TLEP as being within an area of 'watercourse'. Consequently, Clause 6.5 applies to the application.

The clause requires that before determining a development application, Council must consider:

- (a) *whether or not the development is likely to have any adverse impact on the following—*
 - i. *the water quality and flows within the watercourse,*
 - ii. *aquatic and riparian species, habitats and ecosystems of the watercourse,*
 - iii. *the stability of the bed and banks of the watercourse,*
 - iv. *the free passage of fish and other aquatic organisms within or along the watercourse,*
 - v. *any future rehabilitation of the watercourse and riparian areas, and*
- (b) *whether or not the development is likely to increase water extraction from the watercourse, and*
- (c) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

In considering these matters, it is concluded that:

- the development is not within the watercourse;
- wastewater will be disposed of away from the river to prevent any contamination of river water;
- no remnant vegetation is required to be removed;
- the bank of the river is stable in this location;
- the movement of fish won't be affected;
- bank rehabilitation works are not required as a result of the dwelling;
- the current water entitlements applicable to the subject land will not be increased; and
- all necessary measures to avoid impacts on the Tumut River have been incorporated in the design of the development.

In addition, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact,*
or
- (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

For the reasons outlined above, the proposal is not considered to have any detrimental impact on groundwater in the area.

4.6.8. Clause 6.11 – Essential Services

Clause 6.11 of the TLEP refers to essential services and requires that consent must not be granted to development, unless the consent authority is satisfied that services essential for the proposed development are available or that adequate arrangements have been made to make them available when required.

The proposal satisfies the requirement of clause 6.11 because:

- the subject land has legal and practical access to a sealed road (Bombowlee Avenue).
- reticulated electricity is available;

- potable water will be sourced from roof collection and tank storage; and
- effluent will be disposed of satisfactorily on-site via a proposed septic disposal system (see attached LCA).

4.7. Snowy Valleys Development Control Plan 2019

The Snowy Valleys Development Control Plan 2019 ("the DCP") provides specific requirements for development within the LGA, including the subject site.

The following chapters of the DCP are applicable to the proposed works:

- Chapter 1 – Introduction to the DCP.
- Chapter 3 – Requirements Applying to all Types of Development.
- Chapter 4 – Residential Development.

These matters are addressed in the following sections below.

4.7.1. Chapter 1 – Introduction to the DCP

Chapter 1 of the DCP provides an introduction of the controls contained within the DCP. Section 1.7 of the DCP provides Council's notification requirements. The proposed development is not a type of development that will not be notified. Therefore, it is expected that the Development Application will be publicly notified in accordance with the requirements of this Section or Council's Community Participation Plan.

4.7.2. Chapter 3 – Requirements Applying to all Types of Development

Chapter 3 of the DCP stipulates the requirements that apply to all types of development and addresses matters such as natural hazards, car parking, landscaping, stormwater management and the provision of services.

Specifically, Section 3.2.10 of this Chapter relates to Flooding. As outlined above, the subject land is identified as being flood prone land. Therefore, the provisions of this Section apply.

Section 3.2.10 stipulates the following:

Development must not occur on land that is affected by the 1 in 100-year ARI event unless the development is consistent with, and meets the requirements, of the NSW Floodplain Development Manual. This includes development on land affected by stormwater flow from a main stream, local creek or overland flow.

On land affected by flooding Council will require an assessment of the impact of new development on changes in flood behaviour (flow, flow-paths, velocity, etc.) by defining the floodway and flood storage areas and determine whether works and/or management measures are required.

Building, other than minor works to existing buildings, is prohibited within identified high hazard flood areas.

As outlined above, the subject land is identified on the flood planning map, which applies to land affected by the 1 in 100 year ARI event.

It is acknowledged that the DCP does discourage the development of land that is within the 1 in 100 year ARI event as a default control. However, Section 3.2.10 also includes a clear discretionary consideration for variation of this control on the basis that the applicant provides an assessment of the flooding impacts to the property.

In this case of this application, the applicant has engaged a specialist flood engineer (WMA Water) to prepare a flood risk assessment. This assessment confirms the following matters:

"The Flood level affecting the developed area (Buildings and driveway) ranges from approximately 263.7 m AHD to 263.42 m AHD as reported in the 2d-hydraulic model (TUFLOW) using LiDAR data as the base topographic information. It is recommended that these levels be used to update the previous 1984 estimate of 264.0 m AHD.

Assessment of the existing Tumut River flood behaviour during the 1% AEP event, in relation to the proposed single-dwelling residential development at 12 Bombowlee Avenue, Tumut; shows that flood risks are present and will prevent safe access to the site.

However, a development design can be engineered to mitigate the flood risk associated with site access and provide an effective level of flood protection to proposed buildings."

Having regard to the above, the Flood Assessment submitted with the application identifies that the site for the proposed dwelling is most accurately defined as "low hazard", based on the NSW Floodplain Development Manual, meaning that it is appropriate for consideration of development under the DCP. With regard to consideration of impacts (as per the DCP) the proposal also demonstrates that there will be minimal site works necessary for establishment, which will have no significant alteration to flood flows or storages.

See response to **Section 4.5.4** and **Section 5** for further details regarding flooding.

4.7.3. Chapter 4 – Residential Development

Chapter 4 of the DCP relates to residential development. Section 4.7 of this Chapter applies to dwelling houses in rural zones and is therefore applicable to the proposal. Some additional controls apply through cross-referencing to those in Section 3.

An assessment of the controls in this section are attached.

In summary, the proposed development is generally consistent with the provisions of this Section, or where there is non-compliance have been suitably justified.

5. Assessment of Environmental Impacts

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

Table 1 – Assessment of impacts Summary

Impact	Response
Context & setting	<p>The subject land is zoned RU1 Primary Production and located within a rural fringe area characterised by small scale agricultural and hobby farming activities containing rural dwellings.</p> <p>The location of the proposed dwelling has been carefully considered to integrate appropriately with the existing conditions and rural character of the land. Specifically, the dwelling will be located and positioned to be more than 200 metres from the nearest neighbour, so as to maintain residential amenity.</p> <p>The proposal has been carefully considered to integrate appropriately with the existing conditions and rural character of the land.</p> <p>The subject land is located within a rural setting that features other rural dwellings.</p> <p>The dwelling will be more than 180 metres from the nearest neighbour across the river, which is more than enough to maintain residential amenity.</p> <p>The dwelling has been designed to be consistent with the characteristics of rural buildings (including dwellings).</p> <p>As a result, the proposed dwelling is generally consistent with the established rural character of the area</p>
Access & Traffic	<p>The proposed development will not adversely affect the function of Bombowlee Avenue or other local roads in the area. The entrance proposed in Bombowlee Avenue is within a section that is closed to through traffic and thus has a very low level of vehicle movement.</p> <p>The amount of traffic to be generated will not accelerate the deterioration of the road surface.</p> <p>The entry point to the lot has excellent sight lines in both directions.</p>

Impact	Response
Infrastructure	<p>The subject land is rurally zoned and developed and therefore does not have access to reticulated water, sewerage, gas or stormwater. Water supply is provided via water tanks, whilst stormwater runoff is via existing rural drainage lines. Gas is via a bottled supply.</p> <p>Wastewater will be treated and disposed in accordance with the attached Land Capability Assessment (see attached) . The size of the lot will enable such a septic disposal system to function without any off-site impacts. The wastewater disposal area is a sufficient distance from the Tumut River so as not to impact on water quality.</p> <p>Potable water will be sourced from roof collection and storage in two tanks with a total capacity of 50,000 litres.</p> <p>The dwelling will be connected to an overhead power supply. This network has the capacity to accommodate the demands of the dwelling.</p>
Heritage	<p>There are no heritage items or heritage conservation areas in the immediate surrounds that would be impacted by the subject development</p>
Cultural Heritage	<p>Consistent with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW, Department of Environment, Climate Change and Water NSW, 2010, a search of NSW AHIMS database has been undertaken in relation to the existence of any registered cultural heritage items within the land or immediately surrounding area. There are no items identified within the site or immediately adjoining area.</p> <p>The likelihood of Aboriginal objects being present at the dwelling site is considered to be low having regard for the long-term use of the land for agriculture.</p> <p>In the event Aboriginal items of cultural heritage are unearthed during site preparation, works will cease, and authorities notified.</p>
Soils	<p>The proposed works will involve minor disturbance of the existing site as part of the construction phase of the project. All future works will have regard to Council's requirements for managing construction sites, including Managing Urban Stormwater: Soil and Construction Volume 1 (Landcom, 2004) ('the Blue Book') (particularly Section 2.2) and Managing Urban Stormwater: Soil and Construction Volume 2A – Installation of Services (DECC, 2008).</p> <p>All appropriate Soil and Water Management techniques will be implemented during construction works, in accordance with Council's guidelines. Erosion impacts will be mitigated by use of sediment control and stabilisation techniques, if required, both before and after construction.</p> <p>The subject site has previously been used for rural purposes and is not known to be contaminated.</p>

Impact	Response
Flora & Fauna	<p>The subject land contains a number of both remnant and planted trees scattered across the site.</p> <p>It is confirmed that no trees are proposed to be removed as part of the subject works and the groundcover on-site comprises non-native paddock grasses.</p> <p>No impact has been identified, the proposed location of the dwelling and outbuildings is not mapped as having Biodiversity Value or containing Terrestrial Biodiversity, is not within a riparian corridor or requiring the removal of any vegetation. As such impacts on flora and fauna are considered minimal. The development has been designed to consider the flood impacts, but also to avoid removal of vegetation, impacts on the riparian corridor and ensuring no adverse impact as a result of the development.</p>
Waste	<p>Construction works will include provision of on-site waste receptacles, including separate collection points for waste bricks/tiles/concrete, plaster and general rubbish. This waste will be removed and disposed of off-site or reused within the development wherever possible.</p> <p>All waste generated during construction will be collected and stored in appropriate locations on-site for removal and disposal in off-site locations.</p> <p>Construction works will include provision of on-site waste receptacles, including separate collection points for waste bricks/tiles/concrete, plaster and general rubbish. This waste will be removed and disposed of off-site or reused within the development wherever possible.</p> <p>Council's existing waste collection service has ample capacity to accommodate the construction of one additional dwelling.</p>
Noise	<p>The closest residence to the dwelling site is more than 180 metres away to the south east, which is more than an ample buffer for any noise impacts.</p> <p>The impacts of construction noise will be only for a short period of time and will be limited to appropriate hours. It is considered that some level of construction noise is acceptable given that it will only occur for a finite period and will be controlled by relevant conditions of development consent.</p> <p>The anticipated noise generated from the proposed dwelling, when occupied, is considered appropriate given the rural character of the area.</p>

Natural Hazards

The subject land is not formally identified as being bushfire prone. However, a Bushfire Risk Assessment has been completed due to its location. The subject site is not expected to be contaminated following the completion of a SEPP 55 assessment.

The subject site is impacted by Clause 5.21 'Flood Planning' and the new Flood Planning Framework implemented by the State Government on the 14 of July 2021. The new framework repealed Clause 6.2 of the Tumut LEP and implemented a new state wide clause.

It is noted however that the subject land is identified as a 'Flood Planning Area'

A flood risk assessment carried out by WMA Water concluded the following;

"The flood study used gauged data records from the Tumut River stream gauge to calibrate the estimated 1% AEP flood event affecting the site at 12 Bombowlee Avenue. The flood study provided an existing 1% AEP flood level across the site.

The Flood level across the site varies due to the hydraulic grade of the flood flow. The Flood level affecting the developed area (Buildings and driveway) ranges from approximately 263.7 m AHD to 263.42 m AHD as reported in the 2d-hydraulic model (TUFLOW) using LiDAR data as the base topographic information. It is recommended that these levels be used to update the previous 1984 estimate of 264.0 m AHD.

Assessment of the existing Tumut River flood behaviour during the 1% AEP event, in relation to the proposed single-dwelling residential development at 12 Bombowlee Avenue, Tumut; shows that flood risks are present and will prevent safe access to the site.

However, a development design can be engineered to mitigate the flood risk associated with site access and provide an effective level of flood protection to proposed buildings. It is expected that a flood impact assessment be undertaken on the final design, as part of the FRMS, to ensure flood risks are suitably mitigated and adverse flood impacts have not been created."

Finished Floor Level

The main building footprint has a natural ground surface level (GL) of 263.6 m AHD, however, the proposed development plans (APPENDIX D) indicate that the finished ground surface level will be cut to 263.20 m AHD. The Tumut River flood level affecting the building footprint, and the required minimum finished floor levels (FFL) (for a 0.5 m freeboard) are detailed in Table 7.

Table 7: Main Building - Finished Floor Level (0.5 m freeboard)

Topography	Existing GL (m AHD)	Developed GL (m AHD)	Scenario 1		Scenario 2	
			1% AEP Flood Level (m AHD)	Min. FFL (m AHD)	1% AEP Flood Level (m AHD)	Min. FFL (m AHD)
LiDAR	263.60	263.20	263.58	264.08	263.64	264.14
Survey*	263.46	263.20	263.44	263.94	263.50	264.00

* Note: Levels adjusted using ground truthed levels at reporting location L26

The proposed dwelling is a high-set 'Queenslander' style structure that, from the plans, will have the first floor around 1-metre above the finished ground level. Under the conservative Scenario 2 calibration model, the minimum FFL would need to be 0.94 metres above the finished GL. It would be expected the design would easily achieve the minimum FFL.

Impact	Response
	<p>Freeboard</p> <p>New buildings being developed in areas affected by riverine flooding require a flood planning level (FPL) to be applied to the finished floor levels. The FPL is the 1% AEP flood level plus a freeboard. Freeboard is the difference between the flood event upon which the FPL is based and the FPL itself. The purpose of freeboard is to provide reasonable certainty that the reduced risk exposure provided by selection of a particular FPL is actually provided.</p> <p>In the majority of circumstances, a freeboard of 0.5 metres is acceptable for new residential development controls. Although the flood affecting the site is mainstream flooding from the Tumut River, it does not flow parallel to the river alignment. Rather, once flood waters break-out from the main Tumut River channel it continues in a direction perpendicular to the main flow, as overland flow in a north-west direction. Break-out flood water does not re-enter the Tumut River main channel, thus risks are not increased. Therefore, it would be considered reasonable to adopt a 0.5 metre freeboard for the FPL within this site.</p> <p>Driveway</p> <p>Considerations of the proposed driveway have been recommended in the WMA Water Report. The driveway is subject to future design (on approval of a DA) and detailed drawings would be prepared to comply with the recommendations and requirements of this report.</p> <p>It is considered that the Flooding Impact has been suitably justified and that;</p> <ul style="list-style-type: none"> Flooding in the Tumut River is largely predictable as it is determined by the rate of water release from Blowering Reservoir (i.e. residents will be forewarned of a pending major flood and can take the appropriate action). The floor of the dwelling is above the above the 1 in 100 year flood level. The dwelling site is in proximity of Bombowlee Avenue, which would allow a safe evacuation of the premises (away from the Tumut River) in the event of a major flood. The distance from the dwelling site to flood free land is relatively short. The dwelling will be engineered to tolerate inundation by keeping clear sub-floor areas and using appropriately designed footings. The shed will be engineered to withstand the effects of any flooding. The effluent disposal system will be capable of sealing ahead of a major flood event.
Social & Economic Impact	<p>The proposed development is not expected to have any adverse economic and social impacts given the rural and remote location of the site. As outlined above, the subject land is already operating for the purposes of an animal boarding and training establishment, which has not resulted in any adverse amenity impacts.</p>

6. Conclusion

The Development Application seeks consent for a dwelling and ancillary shed at Lot 12 DP1252902 and addressed as Bombowlee Ave, Bombowlee near Tumut.

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

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

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

- it is consistent with the relevant environmental planning instruments;
- it is consistent with the relevant development control plan;
- is consistent with the requirements of the NSW Flood Planning Development Manual (2005) and NSW Guidelines for 'Considering Flooding in Land Use Planning' (April 2021);
- it proposes an orderly and well-considered new dwelling;
- the siting minimises the loss of land for agriculture;
- it will not adversely impact upon the long-term agricultural viability of the land or surrounding lands due to the location of the proposed new dwelling;
- it will not have any adverse environmental or social impacts; and
- it can be provided with essential services (for a rural location).

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

Appendix A: Planning Compliance Tables

20096 Construction of a Dwelling & Ancillary Shed

26

habitat — Statement of Environmental Effects

Development control	Assessment	Comment
4.7.1 Access		
Internal access roads are to be graded and gravelled to a standard where wet weather does not impede access by two wheel drive vehicles.	Complies	The access road to the dwelling will be constructed to this minimum standard.
All internal access roads should have an unobstructed width of at least 3.0 metres.	Complies	The access road exceeds 4.0 metres in width.
Additional controls from Section 3:		
Vehicle access to all development is to be designed to be safe.	Complies	The dwelling features a wide access road and extensive manoeuvring area to ensure the movement of vehicle can be undertaken safely.
Adequate sight distance, in each direction, is to be provided for any internal site/property access road.	Complies	The access road has good sight distances along its length. It is also wide enough to allow for the passing of passenger vehicles.
Internal access roads will join any public road at 90 degrees (where practical or within plus or minus 15 degrees) and entrances are to be located so vehicles do not queue onto the public road.	Complies	The access road intersects at 90 degrees to Bombowlee Avenue. At this location there is sufficient room within the road reserve to ensure queues of vehicle or large vehicles are not required to prop in Bombowlee Avenue.
The type of access for a particular development will be determined by Council and will take into consideration factors such as fall, drainage, traffic vision and specific site conditions.	Noted	This is not a development control.

habitat — Statement of Environmental Effects

Development control	Assessment	Comment
4.7.2 Building siting, height & scale		
The height of all buildings, including dwelling houses and ancillary buildings, is not to exceed 8.5m from natural ground level.	Complies	The maximum height of the dwelling is 8 metres.
Dwellings and associated outbuildings are to be sited to maintain the rural character of the area. This includes the separation of buildings and minimisation of long lengths of access roads or other works that substantially disturb natural landforms and vegetation or have potential to increase soil erosion risk.	Complies	The building is clad in brick and colourbond material that is not inconsistent with those used in rural dwellings. The shed is separated from the dwelling. The access road to the dwelling from Bombowlee Avenue is 170 metres in length but will have minimal visual impact when viewed from Bombowlee Avenue.
New buildings shall be sited to blend with the natural topography and avoid ridgetops in order to reduce visual impact.	Complies	The site is relatively flat and on a ridge line or visually prominent position.
4.7.3 Building setbacks		
The setback of all buildings including the dwelling house and ancillary buildings from the primary street frontage is to be a minimum of 10 metres.	Complies	The buildings are setback more than 60 metres.
The building lines of side and rear boundary is to be a minimum of 6 metres. This should be increased wherever possible to avoid land use conflicts.	Complies	The building is setback 6 metres from the southern side boundary

habitat — Statement of Environmental Effects

Development control	Assessment	Comment
Greater setbacks are encouraged to avoid impacts from roads, access ways and agriculture.	Noted	This is not a development control.
4.7.4 Impacts of agriculture	Not applicable	The controls in this section relate to potential impacts on and from nearby horticultural industries. As this is not the case in relation to the proposed dwelling, these controls are not relevant to the application.
4.7.5 Farm sheds & outbuildings		
Farm sheds and outbuildings (including roofs) are not to be constructed of highly-reflective material. Zinalume finish is prohibited.	Complies	The shed is not constructed of reflective materials.
4.7.6 Fencing		
Rural type boundary fencing is preferred, and fencing should be of an open style or transparent that is rural in character.	Complies	Existing post and wire fencing will be retained.
Solid masonry or solid panel fences are not encouraged.	Complies	No solid fencing is proposed.
Front fences may be constructed from any material other than prefabricated metal sheeting.	Complies	No metal sheet fencing is proposed.
The maximum height of a front fence, including any columns, is to be 1.5m.	Complies	The fence in Bombowlee Avenue is a standard post and wire rural fence that does not exceed 1.5 metres in height.

habitat — Statement of Environmental Effects

Development control	Assessment	Comment
4.7.7 Number of buildings		
Council does not set an upper limit on the number of buildings that may be built on a Lot of land, however, it will consider the cumulative impacts of large numbers of buildings on a single block of land having regard to the visual and landscape amenity of the area.	Noted	The proposed dwelling will be the only one on the subject land.
4.7.8 On-site wastewater management		
Where a site is not serviced by a reticulated sewerage system an approved wastewater management system is to be installed.	Complies	An on-site wastewater system is proposed to service the dwelling. The attached Land Capability Statement demonstrates that this can be undertaken without environmental impact.
Additional controls from Section 3:		
Where available, development must be connected to Council's reticulated sewerage system.	Not applicable	Connection to reticulated sewerage is not possible due to the distance from the nearest connection point (Tumut township).
Where a site is not serviced by a reticulated sewerage system an approved wastewater management system is to be installed.	Noted	An on-site wastewater system is proposed to service the dwelling. The attached Land Capability Statement demonstrates that this can be undertaken without environmental impact.

habitat — Statement of Environmental Effects

Development control	Assessment	Comment
The type of wastewater management system will be determined having regard to lot size and slope, soil classification and proximity to water courses.	Noted	See attached Land Capability Statement.
All applications for onsite wastewater management systems will require a site specific wastewater report for all proposed wastewater facilities located on the site. The report must be prepared by a suitably qualified person/company specialising in wastewater management systems.	Complies	See attached Land Capability Assessment. This report confirms the site is suitable for the disposal of treated wastewater.
All wastewater management systems must observe the following minimum buffer distances: <ul style="list-style-type: none"> • 100 metres to permanent surface waters; • 250 metres to domestic groundwater well, and • 40 metres to other waters 		This control would appear to relate to a conventional septic-based wastewater treatment system. In this case, a higher-level treatment system is proposed that effectively results in no soil or water contamination and setback distances specified in this control are not relevant. Approval is sought for the system as proposed in the attached Land Capability Assessment attached.
4.7.9 Stormwater management		
Roof water is to be collected and managed onsite in suitable rainwater tanks.	Complies	All roof water will be directed to storage tanks for consumption by the dwelling.
Additional controls from Section 3:		

habitat — Statement of Environmental Effects

Development control	Assessment	Comment
Stormwater, roof water and rainwater tank overflow must be collected and disposed of (under gravity) directly to a road or street, to another Council drainage system/ device or where Lot size is of sufficient size (i.e. rural areas) managed and retained within the site.	Noted	Any water storage overflow will be directed to a point of discharge within the subject land and dispersed from there.
Where stormwater cannot be discharged directly to a road or other Council drainage facility, a drainage easement of a suitable width is to be created over a downstream property(s) allowing for the provision of a drainage pipe of suitable size to adequately drain the proposed development to a Council drainage facility. This does not apply to single residential developments.	Not applicable	
The stormwater system design and construction should minimise the environmental impact of urban run-off on other aspects of the natural environment (creeks and vegetation) by employing techniques which are appropriate and effective in reducing run-off and pollution.	Complies	A discharge point for overflow stormwater will be designed and constructed so as to have no detrimental impact on the bank of the Tumut River.
The stormwater system design must identify the locations, layouts and sizes of stormwater pipes and pits, the minimum grades and capacity of stormwater pipes, and existing and proposed stormwater easements, site contours and overland flow path/s.	Not applicable	This is a control relating to urban locations.

habitat — Statement of Environmental Effects

Development control	Assessment	Comment
All stormwater systems must be sized to accommodate the 1 in 100-year ARI event or relevant specifications regarding stormwater included in the National Construction Code.	Noted	This will be undertaken in preparing the building specifications for the dwelling construction.
4.7.10 Temporary accommodation	Not applicable	The proposal is not for temporary accommodation.
4.7.11 Water supply		
Where no reticulated water supply is available water supply with a minimum of 45,000 litres of potable water is to be provided onsite.	Noted	The plans for construction will include two tanks that in combination will have a 45,000 litre capacity.
Bush fire prone land would need additional water for firefighting purposes in accordance with clause 3.2.2.	Not applicable	The dwelling site is not mapped as a bush fire risk.
Additional controls from Section 3	Not applicable	There are no controls in Section 3 relating to water supply.
4.7.12 Waste management		
No on-site domestic solid waste disposal is permitted. Domestic solid waste must be, either collected by a waste collection	Noted	All solid wastes will be removed from the site to an appropriate depository.

habitat — Statement of Environmental Effects

Development control	Assessment	Comment
transportation disposal service or is disposed of to a Council waste or resource management facility		