

habitat — Statement of Environmental Effects

Lot 11 Bombowlee Avenue, Bombowlee

JULY 2021

Rural Dwelling  
Lot 11 DP1123419

**Prepared for**

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# 1. Introduction

## 1.1. Overview

This Statement of Environmental Effects (SEE) has been prepared by Habitat Planning on behalf of Todd and Alexandra Arentz and is submitted to Snowy Valley Council in support of a Development Application (DA) for a rural dwelling at Lot 11 DP1123419 and addressed as Bombowlee Avenue, Bombowlee.

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.

This application is accompanied by:

- Building Plans
- BASIX Certificate
- Planning Compliance Tables.
- Confirmation of Dwelling Entitlement
- Flood Investigation Report
- Land Capability Assessment

## 2. Site Analysis

### 2.1. Site Location and Context

The subject land to which this application relates is described Lot 11 DP1123419 and addressed as Bombowlee Avenue, Bombowlee. The subject land is located approximately 600 metres north east of the main street of Tumut.

The location of the site is shown at **Figure 1**.



**Figure 1 Context or Site Map**

### 2.2. Site Description & Existing Conditions

The land upon which the development is proposed is described as Lot 11 in DP1123419 and addressed as Lot 11 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 rectangular in shape with an area of approximately 9.5 hectares. It has frontage of 200 metres to the sealed Bombowlee Road on the eastern side and 90 metres to the Tumut River on the south west side. The western boundary abuts a ‘battle-axe handle’ access to the river from the adjoining lot to the north. The Wee Jasper Road is on the opposite side of this access handle. The lot extends around 500 metres from the east to the west.

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

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

20097 Lot 11 Bombowlee Avenue, Bombowlee





Figure 2 Aerial view of the subject land



Figure 3 View from Bombowlee Avenue of the subject land and site for the dwelling



Figure 4 View of the southern portion of the subject land from the closed section of Bombowlee Avenue

**2.3. Surrounding Development**

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 close to the southern boundary

The nearest dwellings to the boundaries of the subject land are one 100 metres diagonally opposite the intersection of Bomboleee Avenue and Lacmalac Road and another some 250 metres to the north on the opposite side of Dowells Lane.

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.

Photographs of the surrounding context are provided below.



**Figure 5** View looking north along Bomboleee Avenue with subject on the left (Source: Google Maps).



**Figure 6** Adjoining industrial development located to the west (rear) of the site



## 3. Description of Proposal

### 3.1. Overview

The application seeks approval to construct a rural dwelling and associated works at Lot 11 Bombowlee Avenue, Bombowlee.

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

A detailed description of the proposal is provided in the following sections.

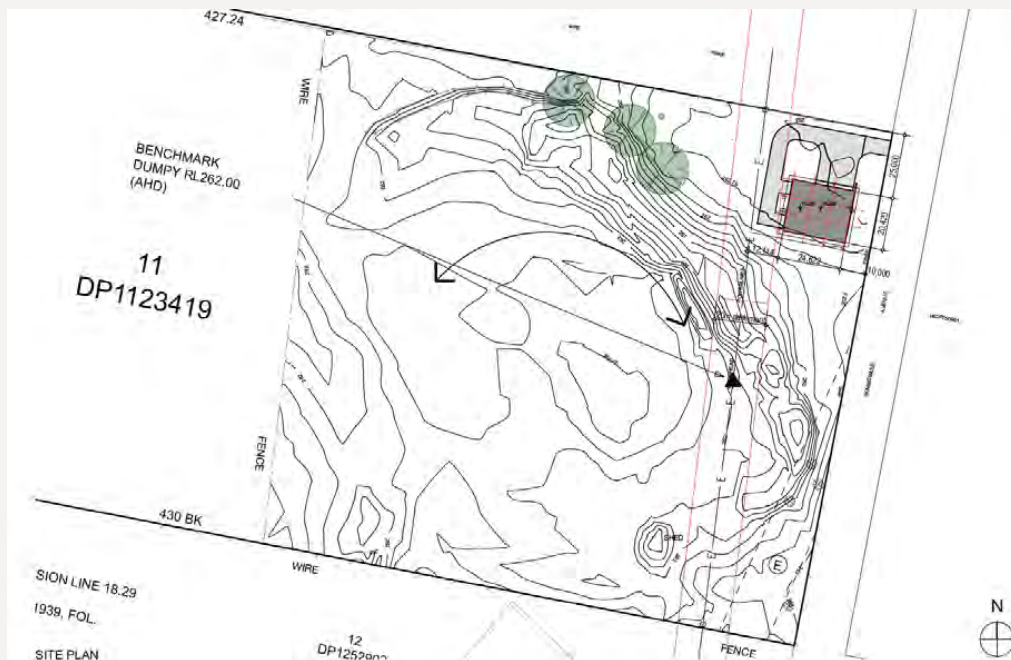


Figure 7 Proposed site plan

### 3.2. Rural Dwelling

The application seeks approval to construct a new two storey rural dwelling on-site.

The location of the new dwelling will be in the north east corner of the subject land located adjacent to Bombowlee Avenue and a 20 metre wide overhead electricity line.

The proposed dwelling will be setback 10 metres from the adjoining Bombowlee Avenue to the east and 25 metres from the northern property boundary.

Internally, the ground floor area of the building will comprise a shed and car parking areas contained on the first floor. A set on internal and external stairs are also proposed to gain access to this first floor area. The first floor will contain all the habitable rooms associated with the dwelling and will comprise three (3) bedrooms, laundry, bathroom and open plan kitchen, dining and living area. A partly enclosed balcony will extend outwards from the main dining and kitchen area.

The proposed floor plans are included in Appendix A and are reproduced below:

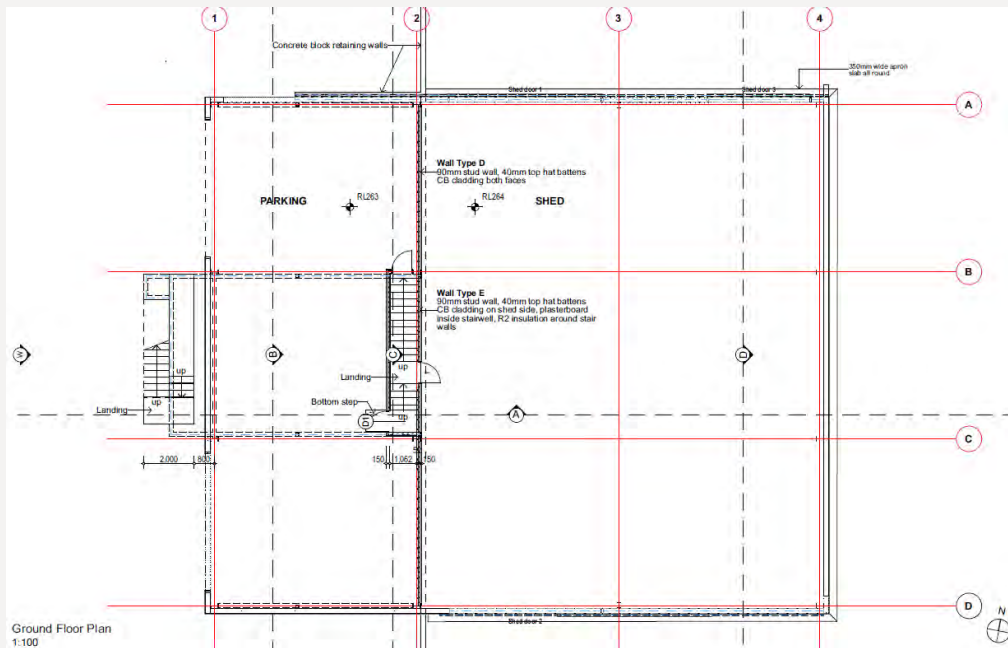


Figure 8 Proposed ground floor plan

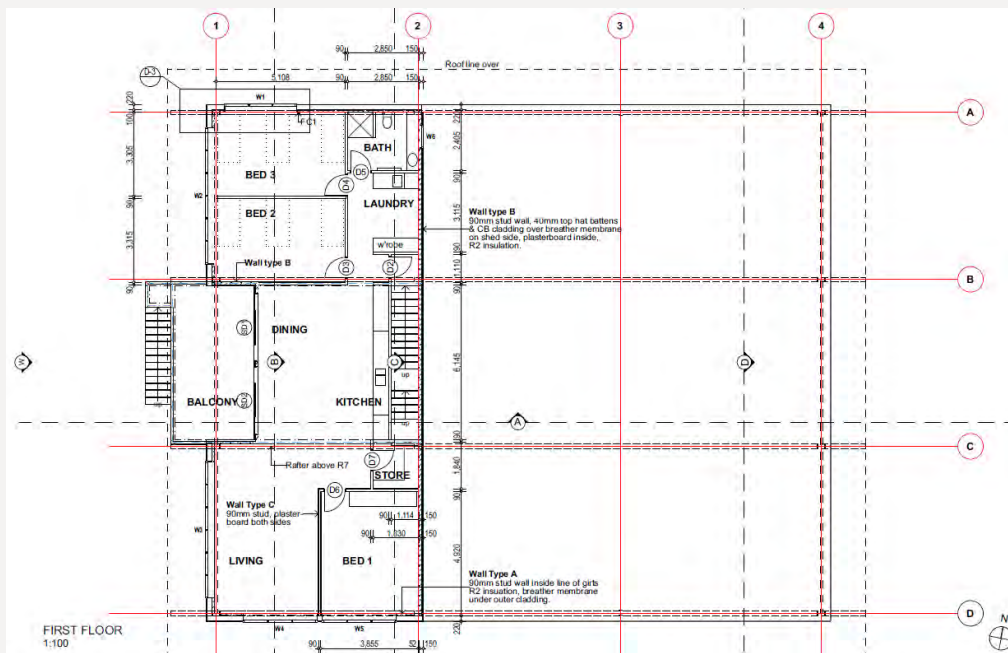


Figure 9 Proposed first floor plan

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Externally, the dwelling and combined shed will be two storeys in height and will be clad in low-reflective Colorbond both walls and roof. To provide visual interest and articulation, the building will comprise Colorbond walls in colours 'Monument' and 'Surfmist' whilst the roof will have a matching 'surfmist' colour. A number of windows and doors are also proposed to break up the appearance of the building.

The proposed building elevations are included in Appendix A and are reproduced below:

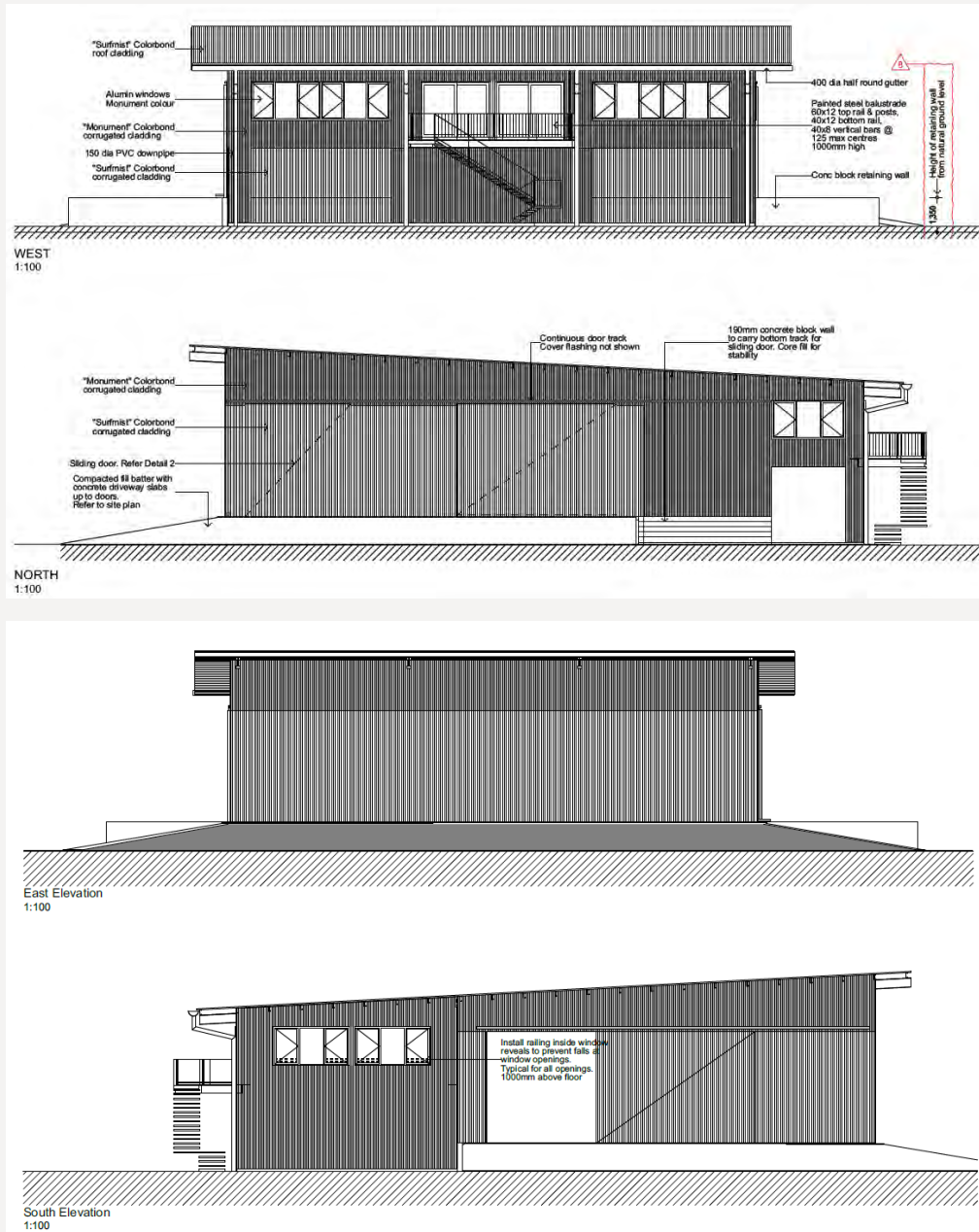


Figure 10 Proposed building elevations

### 3.3. Utilities and Infrastructure

The subject site is rurally zones and therefore does not have access to a reticulated water supply, sewerage or gas. In response, water supply will be sourced from roof collection and tank storage, whilst gas will be via a bottled system. Similarly, matters regarding sewerage will be appropriately addressed as the development will incorporate an on-site effluent disposal system located to the south and south west of the proposed dwelling in accordance with the recommendations of the enclosed Land Capability Assessment.

The subject land has legal and practical access to the sealed Bombowlee Avenue located to the east and is also connected to a reticulated electrical supply. Stormwater drainage will also occur via existing rural drainage arrangements.

## 4. Planning Assessment

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

### 4.1. Environmental Planning and Assessment Act 1979

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 SEE.

The proposal is not identified as "designated development", pursuant to section 4.10 of the EP&A Act. or "integrated development", pursuant to section 4.46 of the EP&A Act.

## 4.2. State Environmental Planning Policies

### 4.2.1 State Environmental Planning Policy No. 55 - Remediation of Land

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

In the context of this application, clause 7 of 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.

### 4.2.2 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.

No other State Environmental Planning Policies are relevant to the proposed development.

## 4.3. Tumut Local Environmental Plan 2012

The *Tumut Local Environmental Plan 2012* (“the LEP”) is the principal planning instrument that guides development within the former Tumut Shire LGA.

The applicable provisions of the LEP are:

- Clause 2.3 – Zone objectives and Land Use Table
- Clause 4.2B – Erection of dwelling houses or secondary dwellings in certain rural and residential zones
- Clause 5.10 – Heritage Conservation
- Clause 5.16 – Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones
- Clause 6.1 – Earthworks
- Clause 6.2 – Flood planning
- Clause 6.4 – Groundwater vulnerability
- Clause 6.5 – Riparian land and watercourses
- Clause 6.11 – Essential services

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



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

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.

#### 4.3.2 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' (see Appendix D).

#### **4.3.3 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.

#### **4.3.4 Clause 5.16 – Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones**

The purpose of Clause 5.16 is to prevent conflicts between rural and residential land use. Under this clause, in determining a development application Council is required to take 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 north east corner of the subject land close to Bombowlee Avenue (see Appendix A). This location minimises the amount of land removed from agriculture as a result of the dwelling. The loss will be approximately 1600m<sup>2</sup> or less than 2 percent of the area of the subject land.

#### 4.3.5 Clause 6.1 – Earthworks

Clause 6.1 of the LEP relates to earthworks and applies in this instance as the excavation works are not classified as exempt development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Consequently, consent is required for the earthworks and the provisions of this clause require consideration.

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

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the proposed development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area;*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

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

- It will not adversely affect existing drainage conditions or soil stability in the area as it does not involve works to an existing drainage line.
- The purpose of the works is to allow for the construction of a new rural dwelling and shed.
- The soil to be excavated represents clean virgin fill.
- The proposed earthworks are not expected to adversely affect any adjoining properties and are largely limited to site scrape only.
- Any surplus excavated material will be removed off site and where possible used in other local construction projects.
- As outlined in response to Clause 5.10, the subject land has been disturbed and is not expected to contain any relics.
- The subject land is well setback from nearby watercourses (including the Tumut River) and is not expected to reduce water quality in the area.
- The development will incorporate appropriate sediment and erosion control measures during construction works.

#### 4.3.6 Clause 6.2 – Flood planning

The subject land is identified on the Flood Planning Map of the LEP as being within the 'flood planning area'. Consequently, Clause 6.2 of the LEP applies to the application.

This clause prevents Council from granting consent for development on land to unless it is satisfied that the development:

- (a) *is compatible with the flood hazard of the land, and*
- (b) *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *incorporates appropriate measures to manage risk to life from flood, and*

- (d) *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

A Flood Investigation Report has been prepared by SLR Consulting (see Appendix E) in accordance with the requirements of the NSW Floodplain Development Manual 2005. The purpose of this report was to determine the level of flooding and therefore risk associated with the development of the land for the purposes of a rural dwelling.

The determination of flood hazard categorisation is made with reference to the NSW Floodplain Development Manual 2005.

The flood assessment confirmed that the relevant 1 in 100 year flood level for the property is 264.0m AHD, based on the flood mapping included with the 1984 Flood Study prepared by the Department of Water Resources. The location of the proposed dwelling has a height of 263.00 metres AHD, which is 1.0 metre below the calculated 1 in 100 year flood level.

Based on the hydraulic hazard categories of the NSW Floodplain Development Manual, a depth of 1.0 metre and average flood velocity of 0.9m/s equates to a “high hazard” area.

However, the Flood Assessment prepared by SLR demonstrates that the site of the proposed building is actually located on the edge of the floodplain and that the actual flood velocities would only be 0.5m/s. At this reduced velocity, the categorisation is moved to “low hazard” under the NSW Floodplain Development Manual 2005.

Whilst it is acknowledged that the subject land is identified on the Flood Planning Map of the LEP as being within a ‘flood planning area’, the purpose of the Flood Planning Map is to indicate whether a site is subject to flood risk rather than designate the actual risk or hazard. The purpose of this clause is to require consideration of the other factors of risk set out in the various assessments and studies relating to the flooding of the immediate area.

The provisions of Clause 6.2 also go on to state that the Council must not grant approval unless satisfied that the development (emphasis added):

- (a) *is compatible with the flood hazard of the land, and*
- (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *incorporates appropriate measures to manage risk to life from flood, and*
- (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Following completion of the flood study, it is contended that the proposal does not contravene the provisions of Clause 6.2 of the LEP as the site specific flooding assessment has determined that the location of the proposed dwelling has been identified within the “low hazard” portion of the property at the edge of the floodway.

Based on the technical flood investigations carried out for the subject site, the actual flood hazard rating for the development will be “low hazard” rather than “high hazard”. This assessment demonstrates that the proposal has properly considered flood risk, seeking to place the development on the edge of the floodway where it can avoid significant impacts and be located with the lowest possible flood hazard area.

When considered against the range of other mitigation measures presented for consideration in this flooding assessment, the proposal is considered to be compatible with the flood hazard of the land and is acceptable in that it is designed to occupy the lower risk portions of the site.

Consideration of the wider impacts of the development on flood behaviours has also been undertaken. Specifically, the flooding assessment concludes that the proposal will have very little impact on flood flows or behaviour as there will be little change to the existing conditions. Minor filling is proposed to achieve the minimum floor levels, however as detailed within the Flood Assessment, it will have insignificant changes to flood flows or flood storage as it located on the fringe of the flood affected land.

In terms of social impacts from the development, and particularly the risk to human life, the proposal is being undertaken on land, which is best represented as low hazard, rather than other areas within the property which would meet the characteristics of 'high hazard' flood areas. This siting consideration minimises the potential exposure of occupiers to high risk flooding.

The design of the proposed dwelling is such that it has been placed at the far end of the subject site in order to be as far as possible from the high risk locations. It also enables convenient access from the dwelling to public roads that can be used to evacuate the property in flood events.

The design of the proposed dwelling incorporates a number of components that are intended to offer safe occupation of the dwelling in times of flood, in the unlikely event that evacuation is not possible, as detailed below:

- The building has two floor levels, in which the habitable areas of the dwelling are elevated above the nominated 1 in 100 year flood level. The proposed habitable space will have a floor level of 266.24m AHD, which is well above the nominated 1 in 100 flood level.
- The building frame is proposed to be constructed and stabilised to be structurally sound and able to withstand loads of extreme flooding, above the likely limits that are predicted for the site.
- The lower levels of the building are to be designed to allow for floodwaters to move through the structure (i.e. by having open walls at ground level) and therefore not cause any substantial changes to surrounding flood flows, storage or behaviours that may otherwise impact on safety of the occupants of the subject land or surrounding properties.

The ability to provide safe access and egress from the property is also noted. The proposed access driveway is located on the elevated north eastern corner of the property, which requires only a short access distance from the dwelling to Bombowlee Avenue and then Wee Jasper Road. This roadway is flood free, meaning that the occupiers of the dwelling would only have to travel a short distance within the property to access the road reserve and obtain access to a safe evacuation location away from the property.

Of most significance in the consideration of risk is also the significant warning time in the event of a flood event. In significant flood events that may result in high levels of impact or damage, there is more than sufficient flood warning for evacuation in accordance with the SES Local Flood Plan. Further, the applicant proposes to implement a Flood Risk Management Plan for the property that would detail instances where the landowners would evacuate the property in events of high flood risk. It should also be noted that flooding from upstream locations is able to forecast with significant lead times, given the limits on discharges in certain locations upstream of the site.

In summary, the proposed nature of the flood risk to the property is such that the risk to occupants of the land is low. The siting of the dwelling has been proposed in the far north eastern corner of the land where it will be located on the edge of the floodplain and within an area that has been assessed to be 'low hazard' based on the best practice methodology set out within the NSW Floodplain Manual. Despite the fact that there is sufficient warning time, the applicant also proposes to implement additional site specific Flood Risk Management Plan is proposed to be implemented by the applicant to set out a clear framework of evacuation in response to flood risk.

Further details regarding flooding are discussed in response to the DCP and Section 5 below.

#### 4.3.7 Clause 6.4 – Groundwater 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) at Appendix H 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.

#### 4.3.8 Clause 6.5 – Riparian land and watercourses

Part of the subject land adjoining the Tumut River is mapped as 'watercourse' on the Riparian Lands and Watercourses Map in the TLEP. However, the site for the proposed dwelling is not within the mapped area (by more than 400 metres) and therefore the provisions of clause 6.5(2) don't apply.

#### 4.3.9 Clause 7.4 – Flooding

Clause 7.4 of the LEP refers to flood planning and applies to land shown on the 'Flood Planning Map' or other land at or below the flood planning level, which means the level of a 1:100 Average Recurrent Interval (ARI) flood event plus 0.5 metres freeboard.

Whilst it is acknowledged that the subject land is not identified as being within a 'Flood Planning Area' in either the LEP or DCP, it is noted that the subject land previously represented a 'flood referral area'. In recognition of the sites' proximity to the Murray River and previous flood classification. Consultation has been undertaken with Council's development engineer, who has recommended that the building be constructed with a minimum floor level of AHD RL154.920, being 500mm above the 1 in 100 year flood event. It is confirmed that the proposed building will be built to this level.

#### 4.3.10 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 Appendix H).

#### 4.4. Snowy Valley Development Control Plan 2019

The *Snowy Valley Development Control Plan 2019* (“the DCP”) provides specific a guideline for development within the Snowy Valley Local Government Area. The following chapters of the DCP apply to the proposed development:

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

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

##### 4.4.1 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.

##### 4.4.1 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 on the Flood Planning Map of the LEP. 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 (SLR Consulting) to prepare a flood risk assessment. This assessment confirms the following matters:

- The area proposed to contain the proposed dwelling is not high hazard flood area. It is shown in the assessment that the proposed building area is at the fringe of the floodway which has been assessed to have a flood velocity of 0.5m/s which is representative of a "low hazard" categorisation. The hazard identification in this instance has been undertaken on a site specific basis, rather than the broader scale catchment area under previous studies, enabling a more accurate and specific assessment to be made. On this basis, the proposal can be supported pursuant to the DCP control at Section 3.2.10 subject to the considerations and recommendations of the flood assessment report.
- The proposal will have very little impact on flood flows or behaviour as there will be little change to the existing conditions. Minor filling is proposed to achieve the minimum floor levels, however as detailed within the Flood Assessment, it will have insignificant changes to flood flows or flood storage as it located on the fringe of the flood affected land.
- The flood flow path through the property is not a watercourse but is an overland flow path which only exists during times of major flood events. The risk of this flood flow being observed on the property is therefore low and contained to major events.

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 5 for further details regarding flooding.

#### 4.4.2 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 addressed in Table 1 at Appendix C.

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 Impacts

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

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

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

### 5.1. Context & Setting

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.

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.

In addition, the proposed dwelling has been located and designed to give the appearance of a rural farm building, rather than a dwelling. The building will comprise both a traditional farm storage and parking area at ground level with a residential located above this on the first floor. The dwelling component of the building is located at the rear of the property and will not be seen from Bombowlee Avenue. Furthermore, the building will be clad in Colorbond (walls and roof) to further enforce the rural appearance of this building.

As a result, the proposed dwelling is generally consistent with the established rural character of the area.

### 5.2. Traffic, Access & Parking

Vehicular access to the new dwelling will be via an existing driveway crossover that connects with Bombowlee Avenue to the east. This existing entry point to the lot has excellent sight lines in both directions and all vehicles will be able to enter and exit the site in a forward direction.

Due to the low scale nature of the works, the proposed development is not expected to adversely affect the function of Bombowlee Avenue or other local roads in the area.

The amount of traffic to be generated will not accelerate the deterioration of the road surface.

### 5.3. Infrastructure

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.

The property is connected to electricity and telecommunications and the property has road access.

Wastewater will be treated and disposed in accordance with Council requirements. The size of the lot will enable such a septic disposal system to function without any off-site impacts. The dwelling site is a sufficient distance from the Tumut River (400 metres) so as not to impact on water quality.

#### 5.4. Heritage

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.

The closest identified heritage items are located over 500 metres away to the south west in the main centre of town. Therefore, development of the subject land as proposed will not impact these heritage items.

#### 5.5. Cultural Heritage

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.

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 and distance from the Tumut River (400 metres).

There are no recorded items of Aboriginal archaeology on the subject land.

In the event Aboriginal items of cultural heritage are unearthed during site preparation, works will cease, and authorities notified.

#### 5.6. Soils

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).

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.

The subject site has previously been used for rural purposes and is not known to be contaminated.

#### 5.7. Flora & Fauna

The subject land contains a number of both remnant and planted trees scattered across the site.

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.

The subject site is also not identified on Council's Terrestrial Biodiversity Map or the NSW Biodiversity Values Map.

#### 5.8. Waste

The proposal will generate waste during the construction phase. This will include excavated soil, off-cuts and excess construction material, concrete; and domestic and putrescible waste (including food waste, bottles, cans and paper). The waste generation is expected to be typical of residential development.

All waste generated during construction will be collected and stored in appropriate locations on-site for removal and disposal in off-site locations.

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.

Council's existing waste collection service has ample capacity to accommodate the construction of one additional dwelling.

**5.9. Noise**

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.

The closest residence to the dwelling site is more than 200 metres away, which is more than an ample buffer for any noise impacts.

The anticipated noise generated from the proposed dwelling, when occupied, is considered appropriate given the rural character of the area.

**5.10. Natural Hazards**

The subject land is not identified as being bushfire prone, nor is it expected to be contaminated following the completion of a SEPP 55 assessment.

It is noted however that the subject land is identified as a 'Flood Planning Area' on the Flood Planning Map (Figure 11).



**Figure 11 Extract of Flood Planning Area Map**

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An assessment of the proposed development against the relevant requirements of Clause 6.2 of the LEP and Section 3.2.10 of the DCP above with further consideration of flooding provided below.

As outlined above, a Flood Investigation Report has been prepared by SLR Consulting (see Appendix E) in accordance with the requirements of the NSW Floodplain Development Manual 2005. The purpose of this report was to determine the level of flooding and therefore risk associated with the development of the land for the purposes of a rural dwelling.

As demonstrated above, the development complies with the flood related provisions of both the LEP and DCP. To help further alleviate the impacts of flooding, the flood report recommends the adoption of a number of mitigation measures as outlined below. These recommendations should be imposed as conditions on the development consent, with appropriate triggers for preparation and consideration.

- *A site specific Flood Risk Management Plan be developed which documents appropriate responses to flood warnings, including evacuation*
- *Floor levels of the proposal be amended as follows:*
  - *carpark raised from RL263.0 to RL263.5.*
- *Building plans specify (or confirm) the use of flood resilient building materials within the farm shed and car park areas up to RL 264.5m.*
- *A structural engineer be engaged to provide recommendations for alterations to the building frame and/or certify that the building frame and mezzanine floor is structurally capable of withstanding loads associated with extreme flooding including hydraulic load and debris impact(velocity 1.5m/s and level 265.5m would be reasonable limits).*
- *To minimise loss of flood storage the carpark cladding not be waterproof, and allow the ingress of floodwaters.*
- *To minimise any affect of flood levels associated with constricting the floodway, that fill for the site preparation works be sourced from within the lot, on the area located immediately west of the proposed building (as shown below).*
- *Recommended area for sourcing fill to raise building floor levels – to mitigate any minor loss of floodway conveyance.*



**Figure 12 Fill source location**

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### 5.11. Economic & Social Impacts

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.

## 6. Conclusion

The Development Application seeks consent for the construction of a rural dwelling and associated works at Lot 11 DP1123419 and addressed as Bombowlee Avenue, Bombowlee.

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 generally consistent with the relevant environmental planning instruments and development control plan.
- 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 appropriately addresses and responds to matters regarding flooding following the preparation of a flooding impact assessment, which confirms that the development is located within a “low hazard” area and will not adversely affect the wider flooding behaviours in the area.
- it will not have any adverse environmental or social impacts; and
- it can be provided with essential services.

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

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## Appendix A: Building Plans

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## Appendix B: BASIX Certificate

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## Appendix C: Planning Compliance Tables

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**Table 1** Compliance Table for Section 4.7 Dwelling Houses in Large Lot Residential, Rural and Environmental Management Zones (adapted from DCP 2019)

Development control	Assessment	Comment
<b>4.7.1 Access</b>		
Internal access roads are to be graded and gravelled to a standard where wet weather does not impede access by two wheel drive vehicles.	<b>Complies</b>	The very short access road to the dwelling will be constructed to this standard.
All internal access roads should have an unobstructed width of at least 3.0 metres.	<b>Complies</b>	The access road exceeds 3.0 metres in width.
<b>Additional controls from Section 3:</b>		
Vehicle access to all development is to be designed to be safe.	<b>Complies</b>	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.	<b>Complies</b>	The access road is just 10 metres long and wide enough to allow for the passing of 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.	<b>Complies</b>	The access road intersects at 90 degrees to Bombowlee Avenue. The gate to the property will be setback a distance from the road pavement to ensure queues of vehicles 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.	<b>Noted</b>	This is not a development control.



<b>4.7.2 Building Siting, Height and Scale</b>		
The height of all buildings, including dwelling houses and ancillary buildings, is not to exceed 8.5m from natural ground level.	<b>Complies</b>	The building does not exceed 8.5 metres in height.
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 land forms and vegetation or have potential to increase soil erosion risk.	<b>Complies</b>	The building is clad in Colorbond material (roof and walls) that is consistent with that used in most farm buildings. The large ground floor storage area negates the need for ancillary buildings. The access road to the dwelling is just 10 metres in length.
New buildings shall be sited to blend with the natural topography and avoid ridgetops in order to reduce visual impact.	<b>Complies</b>	The site is relatively flat and not on a ridge line or visually prominent position.
<b>4.7.3 Building Setbacks</b>		
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.	<b>Complies</b>	The building is setback 10 metres from the primary road frontage.
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.	<b>Complies</b>	The building is setback a minimum of 25 metres from the side and rear boundaries.
Greater setbacks are encouraged to avoid impacts from roads, access ways and agriculture.	<b>Noted</b>	This is not a development control.

<b>4.7.4 Impacts of Agriculture</b>	<b>Not applicable</b>	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 rural dwelling, these controls are not relevant to the application. Similarly, the subject land does not adjoin any horticultural activities.
<b>4.7.5 Farm Sheds and Outbuildings</b>	<b>Not applicable</b>	No farm sheds or outbuildings are proposed. Nonetheless, the building will not be constructed of a highly reflective material.
<b>4.7.6 Fencing</b>		
Rural type boundary fencing is preferred, and fencing should be of an open style or transparent that is rural in character.	<b>Complies</b>	Existing post and wire fencing will be retained.
Solid masonry or solid panel fences are not encouraged.	<b>Complies</b>	No solid fencing is proposed.
Front fences may be constructed from any material other than prefabricated metal sheeting.	<b>Complies</b>	No metal sheet fencing is proposed.
The maximum height of a front fence, including any columns, is to be 1.5m.	<b>Complies</b>	The fence in Bombowlee Avenue is a standard post and wire rural fence that does not exceed 1.5 metres in height.
<b>4.7.7 Number of Buildings</b>		
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.	<b>Noted</b>	The proposed dwelling will be the only one on the subject land.

<b>4.7.8 On-site Wastewater Management</b>		
Where a site is not serviced by a reticulated sewerage system an approved wastewater management system is to be installed.	<b>Complies</b>	An on-site wastewater system is proposed to service the dwelling. This will be of a type approved by Council. An LCA has also been prepared in support of the proposed dwelling and is included in Appendix F.
<b>Additional controls from Section 3:</b>		
Where available, development must be connected to Council's reticulated sewerage system.	<b>Not applicable</b>	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.	<b>Noted</b>	An on-site wastewater system is proposed to service the dwelling. This will be of a type approved by Council.
The type of wastewater management system will be determined having regard to lot size and slope, soil classification and proximity to water courses.	<b>Noted</b>	The system will meet Council's requirements.
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.	<b>Complies</b>	See <b>Appendix F</b> for a 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"> <li>• 100 metres to permanent surface waters;</li> <li>• 250 metres to domestic groundwater well, and</li> <li>• 40 metres to other waters</li> </ul>		The site for the treatment of wastewater and disposal exceeds these setback distances. The nearest permanent watercourse is the Tumut River some 400 metres away from the dwelling site.

<b>4.7.9 Stormwater Management</b>		
Roof water is to be collected and managed onsite in suitable rainwater tanks.	<b>Complies</b>	All roof water will be directed to storage tanks for consumption by the dwelling.
<b>Additional controls from Section 3:</b>		
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.	<b>Noted</b>	Any water storage overflow will be directed to a point of discharge within the subject land and appropriately disposed of via existing natural drainage lines.
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.	<b>Not applicable</b>	N/A
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.	<b>Complies</b>	The discharge point for overflow stormwater will be more than 400 metres from the Tumut River being the nearest watercourse to the dwelling site. Consequently, there will be no impact on any natural environment.
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	<b>Not applicable</b>	This control relates to urban locations.

proposed stormwater easements, site contours and overland flow path/s.		
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.	<b>Noted</b>	This will be undertaken in preparing the building specifications for the dwelling.
<b>4.7.10 Temporary accommodation</b>	<b>Not applicable</b>	The proposal is not for temporary accommodation.
<b>4.7.11 Water Supply</b>		
Where no reticulated water supply is available water supply with a minimum of 45,000 litres of potable water is to be provided onsite.	<b>Noted</b>	The plans for construction will include a water tank of at least 45,000 litres capacity.
Bush fire prone land would need additional water for firefighting purposes in accordance with clause 3.2.2.	<b>Not applicable</b>	The site is not mapped as a bush fire risk.
<b>Additional controls from Section 3</b>	<b>Not applicable</b>	There are no controls in Section 3 relating to water supply.
<b>4.7.12 Waste Management</b>		
No on-site domestic solid waste disposal is permitted. Domestic solid waste must be, either collected by a waste collection transportation disposal service or is disposed of to a Council waste or resource management facility	<b>Noted</b>	All solid wastes will be removed from the site to an appropriate depository.

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## Appendix D: Confirmation of Dwelling Entitlement

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## Appendix E: Flood Investigation Report

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## Appendix F: Land Capability Assessment

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