

2. Applicant Response - Report to Southern Region Planning Panel Meeting 11 May 2023.

RE: PPSSTH – 172 Snowy Valleys Council – DA2021/0257 – Concept Development Application (DA) at Lot 35 DP 878862 Miles Franklin Drive, Talbingo.

Description of Development: The statement in the Report that there are a “11 residential flat buildings” is incorrect. There are no residential flat buildings shown in updated Masterplan documents provided to Council 23 March 2023 (specified deadline). The DA assessment addresses superseded plans

Note 1: *The current “Planning Hub” DA assessment and recommendations to the Panel are predicated on an earlier scheme superseded by the currently revised design. Council planners have unreasonably rejected/not adequately assessed the architectural drawings lodged on the Planning Portal on 23/3/23 (Council deadline). These amended plans are not considered in the assessment report. The documents published to the SRPP are also significantly out of date. The current assessment process is premature and should have been paused to allow completion of expert reports and re-exhibition of amended plans together with the previously uploaded Draft Site Specific DCP.*

Planning Pathway: The assertion that a “Masterplan” Planning Pathway is inappropriate is wrong – the applicant was encouraged by Councils planning consultant to pursue a Masterplan DA process provided a site-specific DCP was prepared with supporting data.

Note: the applicant is currently in the process of supplying/expediting all necessary supporting data – see separate “Notes” document Table.

Assessment is Premature – Applicant denied procedural Fairness: There is no mention in the Report re. **the 11-month delay** which occurred post da lodgement which then delayed timely submission of expert reports. This lengthy delay was **not** caused by the Applicant. The first the applicant heard from Council was some 11 months after DA lodgement was in November 2022 from a planning consultant who we understand has been specifically engaged to expedite determination of outstanding Snowy Valleys DA's Prior to that the applicant had heard nothing from Council staff apart from a request to update a Bushfire Report. This caused **significant delays** bearing in mind that the development application was lodged in early 2021. Many of the reports listed in the report stated as being “outstanding” have now been completed - refer to current status of reports in separate “Notes” document.

The applicant does not understand why Council did not accept additional information pursuant to Clause 55 EP&A regulation (we were not made aware of this) given that key plans were lodged within the deadline set by Council's consultant and the over **11 month delay** occurred following lodgement of the application through no fault of the applicant. It is agreed the amended development application requires additional referrals and that expert reporting needs to be finalised expeditiously to allow re-exhibition. However, the application was delayed for over 11 months by Council and deadlines imposed by Council's planning consultant extended over Christmas, New Year and January holiday periods when no consultants were available. Given this context the applicant considers deferral of the DA is justified.

The applicant has been denied procedural fairness.

Assessment: The current DA assessment is based on superseded data due to a refusal by Council to accept updated data. The DA assessment refers to superseded plans. Assessment should have been paused to allow completion of expert reports and re-

exhibition of current plans together with a Draft Site Specific DCP. The applicant does not agree with the comment in the Report that the proposal will cause adverse effects to the surrounding area and will prejudice the attractive landscape quality of Talbingo. This assertion is made without any supporting evidence and is contradicted in our completed Heritage report. It is also not agreed that the proposal is “contrary to the public interest” given the significant economic and social benefits which will be created.

Planning Pathway: Council’s Planning Consultant specifically recommended at a meeting held with the applicant and his consultants on 14th of December 2022 that it was acceptable to proceed with a Masterplan approach provided a site-specific DCP was prepared complemented by necessary expert reports. The applicant therefore does not understand why it is now suggested in the Report that a Planning Proposal is the “preferred pathway” for the Proposals given the firm advice received at the meeting and given that all proposed uses are permitted within the zone and no development standards are breached. The applicant has expended considerable sums pursuing the Masterplan DA pathway including commissioning a number of expert reports.

Development Description: This description is “dated”. The current assessment process is premature and should have been paused to allow completion of expert reports and permit re-exhibition of amended plans together with a submitted Draft Site Specific DCP. Note that no physical works are proposed. It is a Concept DA supported by a Masterplan. Future DA’s will be lodged for individual and/or groups of buildings. However, it has been (negatively) assessed in somewhat excessive detail as if it were a finally resolved proposal.

DA Fees: We do not understand why the estimated cost of development quoted in the reports is stated as being over \$427 million dollars (an error) when what is proposed are conceptual built forms together with indicative subdivision and infrastructure only. We have explained this to Council previously and in this context are perplexed as to why an assertion is made in the Report that the applicant has “refused” to pay additional fees. The value of the development is approximately \$35 million dollars (for subdivision, infrastructure and for assessment of indicative built forms). Note also that as this is a Concept DA (no approval for works is sought additional (fee supported) development applications will be required for future buildings if the Concept DA application were approved .

Bushfire Report: Our understanding is that the Bushfire Report was accepted by Council We have not received any prior information to the contrary.

Reports: The comments in the report referring to available reports refer to a previous point in time and are now dated. There is no recognition in the Council report of the substantial delays incurred by the applicant given that Council did not respond for over 11 months post DA lodgement. Many reports listed as being outstanding have now be completed, notwithstanding impossible deadlines imposed by Council’s consultant extending over holiday periods and which took no account of the substantial 11-month delay post DA lodgement when no response was received from Council.

Built Form: We do not agree the form and scale of development currently shown in the amended plans is “inappropriate” for Talbingo. The amended proposal is consistent with the objectives of the Tumut LEP and the more detailed objectives of Councils Local Strategic Planning Statement. It will not adversely impact the landscape or scenic quality of Talbingo Village. Proposed buildings have been carefully placed so that low rise detached dwellings are located closer to the village with taller buildings positioned further away. The proposal aligns with all strategic planning documents which recommend increased housing diversity and tourist development in Talbingo Village. Therefore, we strongly disagree that the amended proposal will adversely impact on the landscape quality of Talbingo. Detached dwellings are proposed closer to the village and the shop top housing component complies

with maximum height controls + terrace homes have a steeply sloping “room in the roof” with a sub-alpine character.

The proposed hotel is a maximum of 4 storeys and will not “break” the skyline as it will be viewed against a backdrop of rising topography. It does not obstruct views of the lake or adversely impact on the landscape quality of the village bearing in mind that a “buffering” caravan park immediately adjoins the property to the north. The Hotel will merge unobtrusively into the surrounding landscape. We do not agree single story housing + three-level shop top housing and Terrace homes with a “room in the roof” will adversely affect landscape quality of Talbingo or result in a significant increase in bulk and scale. These comments are not supported by a rigorous visual impact assessment relevant to this site and surrounds.

See “Note 1” above

Talbingo Building Height Control: The 7.2 m height control applicable to all structures in Talbingo is inconsistent with other height controls/guidelines quoted in the DCP for shop top housing and for multi - unit dwellings. This control does not prevail prevailing over all other DCP height controls and if applied would undermine the objectives of Tumut LEP and Council’s LSPS which identify this site as suitable for residential development and tourist accommodation.

Site Services: A report has been prepared which demonstrates that adequate essential services can be provided to service future development.

SEPP65: A Preliminary SEPP 65 assessment has been prepared which demonstrates that the development complies with the provisions of the Apartment Design Guide in relation to those apartments provided as part of shop top housing and noting also that no individual residential flat buildings are proposed.

CPTED - Concept DA only : A “Safer-by-Design” Report will be provided with all future development applications. Communal open space and deep soil zones data will be provided and detailed with these future development applications. Issues such as a visual privacy and building separation will be addressed in future detailed development applications for individual and/or groups of buildings. A preliminary ADG assessment indicates that compliance can be achieved for both multi-unit dwellings i.e. terraces, and for apartments within proposed shop top housing development.

Zoning: The RU5 zone is intended to be flexible in terms of permitted land uses. Examination of this zone as used by other rural Councils and with the same land use objectives as Talbingo confirms that the RU5 zone may accommodate a wide variety of land uses. There is no need for a Planning Proposal as is alluded to in the report without justification. The RU5 zoning is appropriate. Council recently reduced the minimum lot size for detached dwellings within the RU5 Zone in order to incentivise development. The proposed Hotel also directly responds to mapped tourist accommodation recommendations illustrated in Councils LSPS for this site. The Council Report acknowledges that the site is suitable for Urban Development. It lies within the “Urban Footprint” of Talbingo and is suitable for residential and tourist development. The development aligns with the specific objectives of the Tumut LEP and Council’s LSPS to provide housing diversity and tourist accommodation in Talbingo.

Scenic/Landscape Quality: Multiple Statements in the Council Report refer to non-compliance with a “desired future character” and are not based on an objective study of views and vistas or an informed analysis of the landscape character of Talbingo. However, the applicant has commissioned a visual impact assessment that indicates the proposals will have minimal impact on the landscape quality of Talbingo and will in fact *enhance* the setting

of the Village within this attractive sub-alpine location. Statements made in relation to “adverse bulk and character” are also made without reference to any definitive study of viewsheds or critical visual impacts – these comments are without foundation.

See “**Note 1**” above

Residential (Detached Dwelling) Lots: The proposed residential lots for detached dwellings exceed the minimum Lot size required by Council.

Assessment Process has Denied the Applicant Procedural Fairness

The report to Council relies on superseded plans. Amended plans were not accepted even though the amended Masterplan drawings were lodged in time to meet Council’s deadline. **The applicant was delayed by Council for over 11 months.** Council’s assessment also chooses to ignore expert reports which are now substantially complete or have been completed. The Panel is therefore presented with a Report which does not provide an accurate “real time” representation of the current Proposal. The assessment process should have been paused to allow completion of expert reports and re-exhibition of current plans together with a Draft Site Specific DCP.

Planning Proposal Option: The comment in the report recommending that a Planning Proposal should be prepared is repeated and directly contradicts verbal advice given at a meeting with Council’s consultants on 14th December 2022 when the consultant categorically advised the applicant and his representatives that a Masterplan DA approach was acceptable provided Site-Specific DCP documentation and supporting data was prepared. We do not understand therefore, why Council’s planning consultant continues to pursue the issue of a Planning Proposal in circumstances where advice was given to the contrary and given that no development standards are breached and all land uses are permissible.

Heritage: An Aboriginal Heritage report has been prepared and confirms that there are no issues with the DA that will adversely impact on this heritage consideration.

“Adverse” social/economic Impacts: We do not understand why unsupported statements are made saying development will adversely affect Talbingo in social/economic terms given that it will create additional employment, more diverse housing and augmented tourist accommodation providing a significant economic boost to the area worth many millions of dollars (Refer to expert HillPDA report). The proposal will assist in addressing population decline.

Desired Future Character: There are (repetitive) comments in the report stating that the development is “not in character” with the desired future character of Talbingo. This comment relates to superseded plans. Amended plans were not accepted even though the amended Masterplan drawings were lodged in time to meet Council’s deadline and expert reports are now nearing completion.. As indicated previously, there is no study quantifying exactly how this nebulous “desired future character” has been defined. The site is located some distance away from the existing Village. The applicant’s Heritage report indicates that there will be no adverse visual impacts.

See “**Note 1**” above

Conclusion: The site is eminently suitable for the proposed development. It is a disturbed landform located some distance from the existing Village. The proposal shown in the amended drawings (which were unreasonably “not accepted” by officers) will impart significant aesthetic social and economic benefits to the Talbingo locality. Talbingo has experienced significant population decline and there is a severe shortage of tourist

accommodation. This can only be addressed if reasonable development potential is possible.

Recommendation: It is recommended that the application be **deferred** because of the extensive delays in assessment attributable to Council and that the amended plans together with a site-specific DCP and supporting expert reports* (*nearing completion) be publicly exhibited for public feedback and referral prior to a further assessment report being submitted to the Panel.

May 2023.