

#### 4. Applicant Response - Reasons for Refusal – Report to Southern Region Planning Panel Meeting 11 May 2023.

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

1. Insufficient information has been submitted to demonstrate the site is suitable for its intended use in accordance with clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021. No Preliminary Site Investigation or Detailed Site Investigation has been submitted to demonstrate the site is suitable for its intended use.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(i)].

*The site is suitable for the proposed uses. See separate “Notes” document listing site investigation reports completed/currently being finalised*

2. The proposed development does not satisfy the objective of the RU5 Rural Village zone under the provisions of the Tumut Local Environmental Plan 2012 as the bulk, scale and density of the development proposed is inconsistent with the existing rural village character of the area.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(i)].

*Not agreed in relation to both the original (assessed) and currently amended plans. Similar Rural Councils with RU5 Zones and with exactly the same RU5 land use objective allow a wide range of uses in their RU5 Zones including residential flat buildings business uses/tourist accommodation etc. The (amended) scale of development is appropriate. Shop top housing is 3 levels and aligns with guidelines in SVCDCP relevant to this type of development. The terrace homes are relatively modest in scale (max height 11. — 11.5m depending on topography) and have a “room in the roof” configuration/steeply pitched roof to create a “sub-alpine” character. The Hotel building will not “break” the skyline and is set against a backdrop of rising topography. Taller structures are located further away from the existing village. A visual impact study is underway and will substantiate these comments*

**Note:** The current “Planning Hub” DA assessment and recommendations to the Panel are predicated on an earlier scheme superseded by the currently revised design.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 completed Draft Site Specific DCP.

3. The proposed development does not comply with Clause 6.11 of the Tumut Local Environmental Plan 2012 as insufficient information has been submitted to demonstrate how essential services are to be provided to facilitate the future development of the site.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(i)].

See separate “Notes” document listing site investigation reports completed/currently being finalised. This will include an “essential services” report

4.The proposed development is inconsistent with Clause 28 of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development as the proposed development is inconsistent with the Design Quality Principles relating to Context and neighbourhood character, Built form and scale, Density, Landscape, Amenity and Safety and insufficient information has been submitted to demonstrate compliance with and the Apartment Design Guide.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(i)].

A Preliminary SEPP65 assessment has been undertaken for amended plans (Note: Concept Masterplan DA only) demonstrating that all SEPP65 Requirements can be achieved. Refer to **current** Masterplan documentation. More detailed SEPP65 assessments can be undertaken with future DA's for individual buildings.

See **"Note"** above

5.The proposed development does not comply with Section 8.4.2.2 of the Snowy Valleys Development Control Plan 2019 as it exceeds the maximum building height of 7.2m for Talbingo.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(iii)].

The 7.2m height control (to ceiling ?) is inconsistent with other height controls/guidelines for multi-unit dwellings and shop top housing specified in SVCDP2019. There is no "qualifying" Clause in the current DCP (which applies to the whole of the Snowy Valleys Council area ) stating that this modest height control prevails in all circumstances and supersedes all other nominated height controls. If strictly applied without qualification, this highly restrictive control would consistently undermine the land use objectives of the Tumut LEP and Council's LSPS which are to foster economic development, promote housing diversity and arrest population decline. These documents specifically identify this site as suitable for diverse housing and tourist accommodation. The (amended) proposals will **not** block views or adversely impact on the landscape quality of Talbingo (the stated DCP reasons for applying a Talbingo 7.2m height control). Irrespective of any statutory considerations, it is considered that this "problematic" 7.2m DCP height control is in any case not relevant to the proposed development.

6.The proposed development does not satisfy the requirements of Section 3.2.3 of the Snowy Valleys Development Control Plan 2019 relating to car parking as insufficient information was submitted in support of the application to justify the development in terms of access, provision of car parking or impact on the local road network.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(iii)].

A Traffic Study is being prepared; Additional traffic volumes as a consequence of the development will be relatively low. The hotel will access Miles Franklin Drive with other parts of the proposal providing an extension of the existing local street network.

7.The proposed development does not satisfy the requirements of Section 3.2.12 of the Snowy Valleys Development Control Plan 2019 relating to landscaping as insufficient information was submitted in support of the application to demonstrate that future landscaping would enhance the visual character of the development and complement the design/use of spaces within and adjacent to the site.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(iii)].

*Detailed (landscaping) plans are premature for a Concept DA. Comprehensive landscape plans will be submitted with future DA's when more precise built form and building layouts are finalised. This can be a condition of approval.*

8.The proposed development does not satisfy the requirements of Section 3.2.17 of the Snowy Valleys Development Control Plan 2019 relating to stormwater management as insufficient information was submitted in support of the application to demonstrate how stormwater for future development is to be managed and integrated into existing infrastructure.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(iii)].

*A Stormwater Management Concept Strategy is being prepared This will clearly demonstrate how stormwater for future development is to be managed and integrated into existing infrastructure.*

9.The proposed development does not satisfy the requirements of Section 4 of the Snowy Valleys Development Control Plan 2019 relating to residential development as insufficient information was submitted in support of the application to demonstrate compliance with key controls for dwelling houses and multi dwelling housing.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(iii)].

See “**Note**” above

*This is a Concept DA. The level of detail currently provided in the Masterplan is considered appropriate. More detailed development data will be submitted with future development applications for individual, and/or groups of buildings.*

10.The proposed development does not satisfy the requirements of Section 5 of the Snowy Valleys Development Control Plan 2019 relating to shop top housing as insufficient information was submitted in support of the application to demonstrate compliance with the maximum floor space ratio control for the shop top housing component of the development.

[Environmental Planning and Assessment Act 1979 s4.15(1)(a)(iii)].

Incorrect- The DCP FSR + height controls for shop top housing are complied with – refer to Masterplan. Additional detail can be supplied to substantiate this if required. It is further noted that this FSR control is not a development standard and that the EPA Act expressly provides that DCP controls are to be applied flexibly.

See “**Note**” above

11.The following agencies have not provided General Terms of Approval in accordance with Section 4.46 of the Environmental Planning and Assessment Act 1979 as insufficient information was submitted to allow for a proper assessment of the application:

[Environmental Planning and Assessment Act 1979 s4.46].

NSW Rural Fire Service

*A Bushfire report was updated and accepted after a request was received from Council many months after DA lodgement.*

NSW Office of Environment and Heritage

*The decision not to notify the Office was undertaken solely by Council's Planning Consultant after unrealistic deadlines were imposed for submission of the necessary reports which included Xmas, New Year and January periods. These deadlines were unreasonably imposed and followed an 11-month delay by Council post lodgement in assessing the DA.*

Natural Resources Access Regulator

*A decision not to notify was undertaken by Council's Planning Consultant after unrealistic deadlines were imposed for submission of the necessary reports which included Xmas, New Year and January periods. These deadlines were unreasonably imposed and followed an 11-month delay by Council post - lodgement in assessing the DA.*

12. The proposed development will have an adverse impact on the built environment in the locality as the proposed development does not appropriately recognise the desirable elements of the location's current character or contribute to the quality and identity of the area by providing a built form, scale and density that is compatible with existing development in the area or the desired future character of the rural village area.

[Environmental Planning and Assessment Act 1979 s4.15(1)(b)].

*Incorrect: The (amended) proposal carefully responds to the character of Talbingo with low rise detached dwellings located closer to the adjoining caravan park. Modestly proportioned higher structures are positioned well away from the existing Village. Shop top housing is compliant with Council DCP guidelines (3 levels) and terrace ("room in the roof") dwellings are specifically designed to align with Talbingo's sub-alpine character. The proposed hotel will have a low profile viewed from the lake and from other important vantage points. There is no definitive study available (e.g. a proper views/vista/landscape analysis) which substantiates the Council consultant's identification of either the existing or a "desired future character" for Talbingo. As such, this is an unsubstantiated statement. In contrast, the applicant has commissioned a Visual Impact Assessment which will assess the impact of the proposal on the landscape qualities of Talbingo relative to the site's position and location.*

See "Note" above

13. Insufficient information has been submitted to demonstrate that the proposed development will not result in adverse impacts on the natural environment.

[Environmental Planning and Assessment Act 1979 s4.15(1)(b)].

*This statement is "dated". It predates/ignores/pre-emptes the findings of expert reports completed or currently underway. (see also separate "Notes" document).*

14. The subject site is not considered to be suitable for the scale and density of development proposed.

[Environmental Planning and Assessment Act 1979 s4.15(1)(c)].

*Incorrect. See comments above. the site is identified in Council's LSPS as within the "urban footprint" of Talbingo suitable for housing and tourist development.*

See "Note" above

15. Insufficient information has been submitted with the development application to address the issues raised in the public submissions received during public notification of the application.

[Environmental Planning and Assessment Act 1979 s4.15(1)(d)].

*The expert reports commissioned contradict this statement which chooses to ignore amended documentation already provided and/or currently being completed. The amended proposal has been significantly reduced in scale to align with Council officer instructions. Note: 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.*

16. The proposed development is not in the public interest.

[Environmental Planning and Assessment Act 1979 s4.15(1)(e)].

*Incorrect: - The amended proposal (not addressed in the assessment report) will:*

- *Complement and enhance the scenic qualities of Talbingo Village.*
- *Significantly Increase economic activity.*
- *Increase employment and assist in arresting population decline.*
- *Provide housing diversity and augment tourist accommodation – these are key objectives stated in the Tumut LEP and Council's adopted Local strategic Planning Statement.*