

SOUTHERN REGIONAL PLANNING PANEL

SUPPLEMENTARY COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-172
DA Number	DA/2021/0257
LGA	Snowy Valley Council
Proposed Development	Concept development application (DA) consisting of a Spa Hotel (tourist a visitor accommodation), 82 residential lots for detached dwellings, shop top housing, multi dwelling housing (terraces) development, subdivision and associated site works at Lot 35 DP878862 Miles Franklin Drive, Talbingo.
Street Address	Miles Franklin Drive, Talbingo (Lot 35 DP 878862)
Applicant/Owner	Saile No 2 PTY LTD
Date of DA lodgement	11/11/2021
Number of Submissions	<p>Initial Public Notification – 1 December 2021 to the 10 January 2022 - 37 submissions objecting and 7 submissions in support of the application were received during the notification period.</p> <p>The amended application was re-notified between 23 August 2023 and 20 September 2023. 11 submissions were received of which 1 was in support and 10 objected to the application during the re-notification period.</p>
Recommendation	Refusal for reasons outlined in this report.
Regional Development Criteria (Schedule 6 of State Environmental Planning Policy (Planning systems) 2021)	Capital Investment Value (CIV) exceeds \$30 million for general development (\$427,465,743.00)
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979</i> • <i>Environmental Planning and Assessment Regulation 2000</i> • <i>Rural Fires Act 1997</i> • <i>Water Management Act 2000</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>State Environmental Planning Policy (Resilience and Hazard) 2021</i> • <i>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</i> • <i>State Environmental Planning Policy (Koala Habitat Protection) 2021</i> • <i>Tumut Local Environmental Plan 2012</i> • <i>Snowy Valleys Development Control Plan 2019</i>
List all documents submitted with this	<ol style="list-style-type: none"> 1. Record of Deferral 24 May 2023 2. Request to Amend under Clause 55, EP & A Regulation 2000 3. Amended Architectural's

report for the Panel's consideration	4. Photomontages 5. Survey Plan 6. Statement of Environmental Effects 7. Site Specific Development Control Plan 8. Biodiversity Report 9. Bushfire Assessment Report 10. Water Cycle Management Study 11. Aboriginal & Historic Heritage Report 12. Geotechnical Report 13. Preliminary Site Investigation 14. Capital Investment Value Report 15. Essential Services Report 16. Economic Impact Assessment 17. Traffic and Parking Impact Assessment. 18. Visual Character Assessment 19. Snowy Valley DCP 2019 Assessment 20. Recommended Reasons for Refusal 21. Transport for NSW Referral Response – 19 October 2023 22. NSW Rural Fire Service Referral Response – 20 November 2023. 23. Previous Panel Report – 24 April 2023
Report prepared by	Lachlan Rodgers & Jeremy Swan - The Planning Hub – Independent Town Planning Consultant on behalf of Council
Report date	21 November 2023

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarized in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **No**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report.

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Attachments

1. Record of Deferral – 24 May 2023
2. Request to Amend under CI 55, EP & A Regulation 2000
3. Amended Architectural's
4. Photomontages
5. Survey Plan
6. Statement of Environmental Effects
7. Site Specific Development Control Plan
8. Biodiversity Report
9. Bushfire Assessment Report
10. Water Cycle Management Study
11. Aboriginal & Historic Heritage Report
12. Geotechnical Report
13. Preliminary Site Investigation
14. Capital Investment Value Report
15. Essential Services Report
16. Economic Impact Assessment
17. Traffic and Parking Impact Assessment.
18. Visual Character Assessment
19. Snowy Valley DCP 2019 Assessment
20. Recommended Reasons for Refusal
21. Transport for NSW Referral Response – 19 October 2023
22. NSW Rural Fire Service Referral Response – 20 November 2023
23. Previous Panel Report – 24 April 2023

1. PURPOSE OF SUPPLEMENTARY REPORT

The purpose of this supplementary report is to seek the Southern Regional Planning Panel (the Panel) determination of a Concept Development Application (DA) consisting of a Spa Hotel (tourist a visitor accommodation), 82 residential lots for detached dwellings, shop top housing, multi dwelling housing (terraces) development, subdivision and associated site works at Lot 35 DP878862, Miles Franklin Drive, Talbingo.

The Panel is the determining authority for this DA as, pursuant to Schedule 6 of State Environmental Planning Policy (Planning System) 2021, the capital investment value (CIV) of the proposed development is \$427,465,743.00 which exceeds the CIV threshold of \$30 million for General Development.

On 11 May 2023 the application was considered by the Panel with a recommendation of refusal by Council. The application was deferred by the Panel on 24 May 2023.

The panel noted that one of the reasons for refusal in Council's assessment report related to the inadequacy of the information lodged in support of the application, including information critical to the assessment of the application.

The Panel also noted the concern of the Applicant that recently provided information had not been considered in the council assessment report, that further information was being prepared to address the outstanding issues raised by council, and that it would be denied procedural fairness if the Panel proceeded to determine the application on the basis of the current assessment report.

To ensure the application is progressed in a timely manner the Panel directed that:

1. *The applicant must have all relevant information supporting the development application uploaded to the portal by 28th July 2023.*
2. *Noting the application lodged on 11 November 2021 is likely to be amended, a formal written request to amend the application is required to be uploaded to the portal by 28th July 2023 outlining;*
 - a. *Particulars sufficient to indicate the nature of the change of the development, as required under clause 55 of the Environmental Planning and Assessment Regulation (2000); and*
 - b. *updated technical reports relied on in the amended application.*
3. *The Panel expects that the revised information, as referred to above, to be uploaded by the applicant to the Planning Portal by 28th July 2023 responding to the material and the matters raised above.*
4. *Council is required to re-exhibit the application commencing 31st July 2023.*
5. *The Council is requested to provide an updated assessment report.*
6. *When the updated assessment report is received, the Panel will hold a Final Public Determination Meeting.*

This supplementary report addresses the deferral issues/matters raised by the Panel at the determination meeting of 24 May 2023 along with the amended documentation lodged under Clause 55 and is now re-referred to the Panel for determination.

2. SUMMARY OF RECOMMENDATION

That the Panel determine DA2021/0257 consisting of a Concept Development Application consisting of a Spa Hotel (tourist a visitor accommodation), 82 residential lots for detached dwellings, shop top housing, multi dwelling housing (terraces) development, subdivision and associated site works at Lot 35 DP878862, Miles Franklin Drive, Talbingo by way of refusal pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

3. DEFERRAL MATTERS

At the determination meeting on 11 May 2023 the Panel deferred consideration of that DA to provide the applicant an opportunity to resolve the key issues identified in the Council officer's assessment report. In granting this deferral, the Panel identified a number of matters that would need to be addressed by any amended plans / additional material. The following discussion provides an assessment of how the issues identified / raised by the Panel in the Record of Deferral from the determination meeting have been addressed:

1. *The applicant must have all relevant information supporting the development application uploaded to the portal by 28th July 2023.*

Officer Comment

Between the Panel Meeting in May 2023 and 28 July 2023 the applicant uploaded additional information following information to the Planning Portal:

No formal written request to amend the application under clause 55 of the Environmental Planning and Assessment Regulation was received by 28 July 2023.

A further briefing was held with the Panel on 2 August 2023 to discuss the progress of the proposal. The Panel noted that further documentation in support of the application had been uploaded to the Planning Portal although not all the documentation set out in the deferral by the Panel has been provided.

The Panel requested Council obtain confirmation from the applicant that:

- (a) the applicant is seeking to formally amend the application under clause 55 of the Environmental Planning and Assessment Regulation (2000).
- (b) clarification as to which amended plans and supporting documentation the applicants are relying on in relation to the amended application.
- (c) all documentation relied on in support of the application had been provided.

On 18 August 2023 a formal letter was submitted by the applicant outlining that they sought to formally amend the application under clause 55 of the Environmental Planning and Assessment Regulation which was supported by the following supporting documents that the application relied upon for the amended application (provided as **Attachments 2-18**):

- Amended Architectural's

- Photomontages
- Survey Plan
- Statement of Environmental Effects
- Site Specific Development Control Plan
- Biodiversity Report
- Bushfire Assessment Report
- Water Cycle Management Study
- Aboriginal & Historic Heritage Report
- Geotechnical Report
- Preliminary Site Investigation
- Capital Investment Value Report
- Essential Services Report
- Economic Impact Assessment
- Traffic and Parking Impact Assessment
- Visual Character Assessment

2. Noting the application lodged on 11 November 2021 is likely to be amended, a formal written request to amend the application is required to be uploaded to the portal by 28th July 2023 outlining;

- a. Particulars sufficient to indicate the nature of the change of the development, as required under clause 55 of the Environmental Planning and Assessment Regulation (2000); and*
- b. updated technical reports relied on in the amended application.*

Officer Comment

On 18 August 2023 a formal letter was submitted by the applicant outlining that they sought to formally amend the application under clause 55 of the Environmental Planning and Assessment Regulation which was supported by the following supporting documents as detailed above.

3. The Panel expects that the revised information, as referred to above, to be uploaded by the applicant to the Planning Portal by 28th July 2023 responding to the material and the matters raised above.

Officer Comment

As above the applicant submitted the formal letter and revised information to be relied on for the amended application on 18 August 2023.

4. Council is required to the re-exhibit the application commencing 31st July 2023.

Officer Comment

The application was re-exhibited in error in July prior to the formal amendment of the application by the applicant. The amended application was formally re-exhibited between 23 August 2023 and 20 September 2023.

11 submissions were received of which 1 was in support and 10 objected to the application during the re-notification period. A summary and response to the submissions is provided in section 7 of this report.

5. The Council is requested to provide an updated assessment report.

Officer Comment

This supplementary report addresses the deferral issues/matters raised by the Panel at the determination meeting of 24 May 2023 and is now re-referred to the Panel for determination.

An assessment of the amended development has been undertaken against the following Acts and environmental planning instruments:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Rural Fires Act 1997*
- *Water Management Act 2000*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Resilience and Hazard) 2021*
- *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Koala Habitat Protection) 2021*
- *Tumut Local Environmental Plan 2012*
- *Snowy Valleys Development Control Plan 2019*

The proposed development has been assessed against the relevant matters for consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act, 1979*, including likely impacts, the suitability of the site for the development, and the public interest. The proposed development is considered to be inappropriate as it will result in adverse impacts on the surrounding area, is not suitable for the site and is contrary to the public interest.

Considering the above, it is recommended that the Southern Regional Planning Panel determine the Development Application pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act 1979* by way of refusal subject to the reasons provided in this report.

4. THE PROPOSAL

The proposal as amended seeks Concept development application (DA) consisting of a Spa Hotel (tourist a visitor accommodation), 82 residential lots for detached dwellings, shop top housing, multi dwelling housing (terraces) development, subdivision and associated site works at Lot 35 DP878862, Miles Franklin Drive, Talbingo. Specifically, the concept approval includes the following:

- A Proposed Spa Hotel (tourist a visitor accommodation) development.

- A Mixed-Use retail and residential precinct containing shop top housing developments and multi dwelling housing (terraces) development.
- Detached dwellings (82 Lots);
- Public Open Space and through site links with associated landscaping and outdoor furniture.
- Carparking and/or service areas for boat trailers, tourist and visitor accommodation and residential properties.
- New access roads and pedestrian paths; and
- Private open space associated with residents and visitors of the Spa Hotel and Mixed use precinct.
- Concept subdivision plan showing the indicative lot configuration for lots proposed to be developed.

Proposed Staging

The concept approval is proposed to be staged as follows:

- **Stage 1 -**
 - Torrens title subdivision to create 82 residential lots for the construction of dwellings houses and 2 residue lots for future stages.
 - The construction of roads and pedestrian paths servicing the residential lots.
 - Provisions of open spaces adjoining an existing watercourse.
- **Stage 2 –**
 - Torrens title subdivision to create 12 lots forming a mixed-use precinct and 1 residue lot.
 - The construction of shop top housing developments and multi dwelling housing (terraces) development on the proposed lots.
 - The construction of roads and pedestrian paths servicing the mixed-use precinct and future Spa hotel.
 - Provisions of public open space.
- **Stage 3 –**
 - Construction of a Spa Hotel (Tourist and visitor accommodation) and associated works.

Note - No physical work is proposed under this application. Future development applications for each stage are to be lodged following Concept DA approval.

These are shown on the following precinct/Master Plan map.

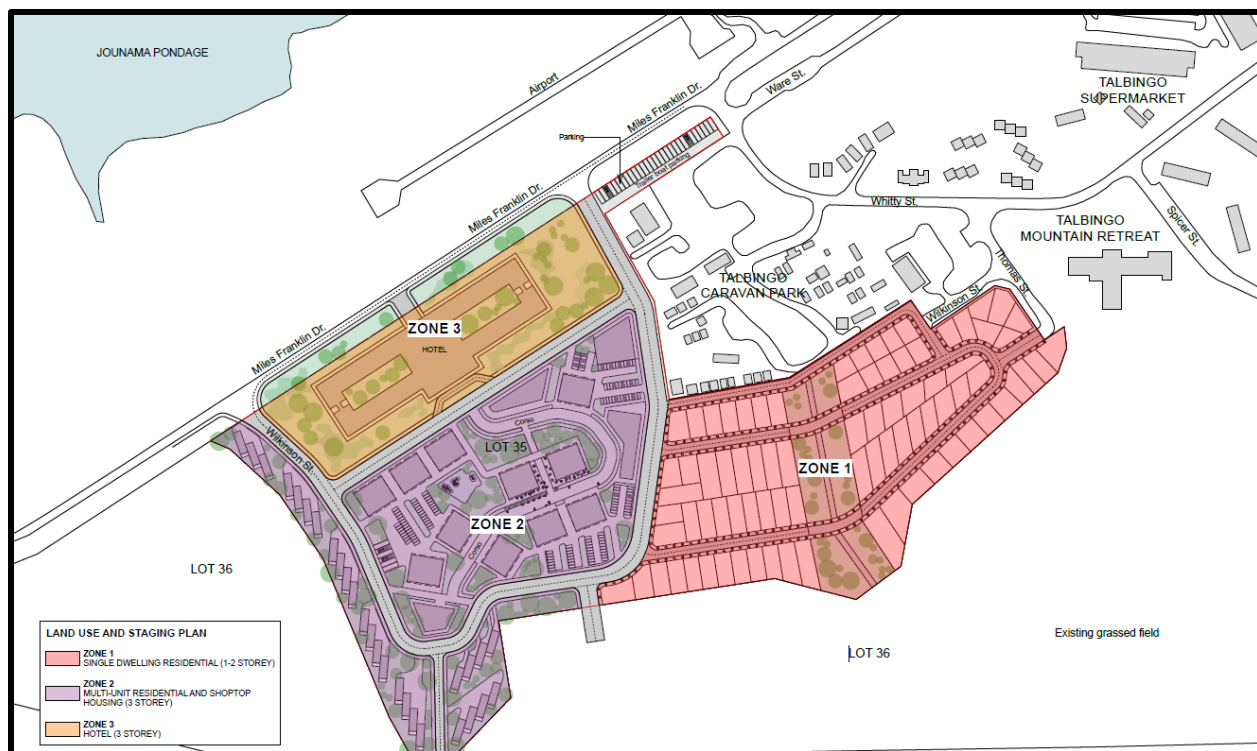


Figure 1: Staged Precinct Masterplan (Source: West Talbingo Village Masterplan – Robert Harwood Architects)

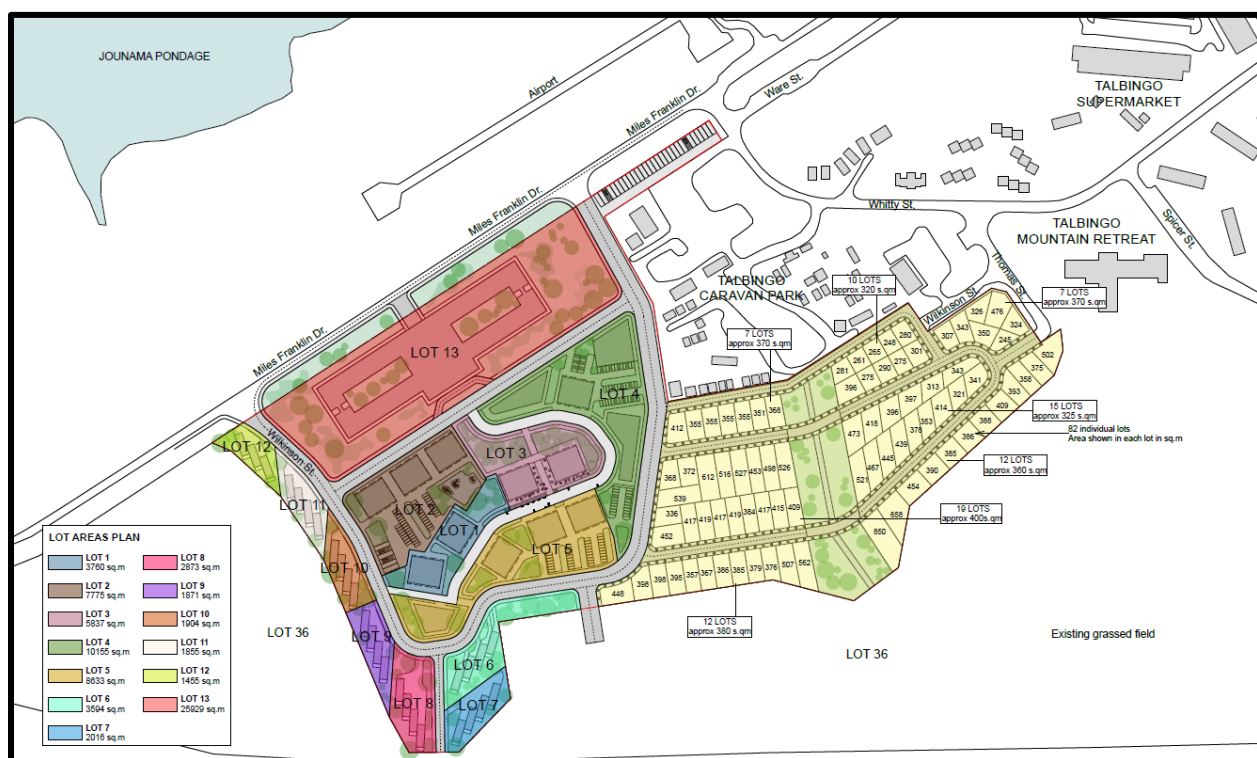


Figure 2: Indicative Subdivision Plan (Source: West Talbingo Village Masterplan – Robert Harwood Architects)



Figure 3: Typical Shop Top Housing Elevations (Source: Robert Harwood Architects)



Figure 4: Typical Shop Top Housing Ground Floor (Source: Robert Harwood Architects)

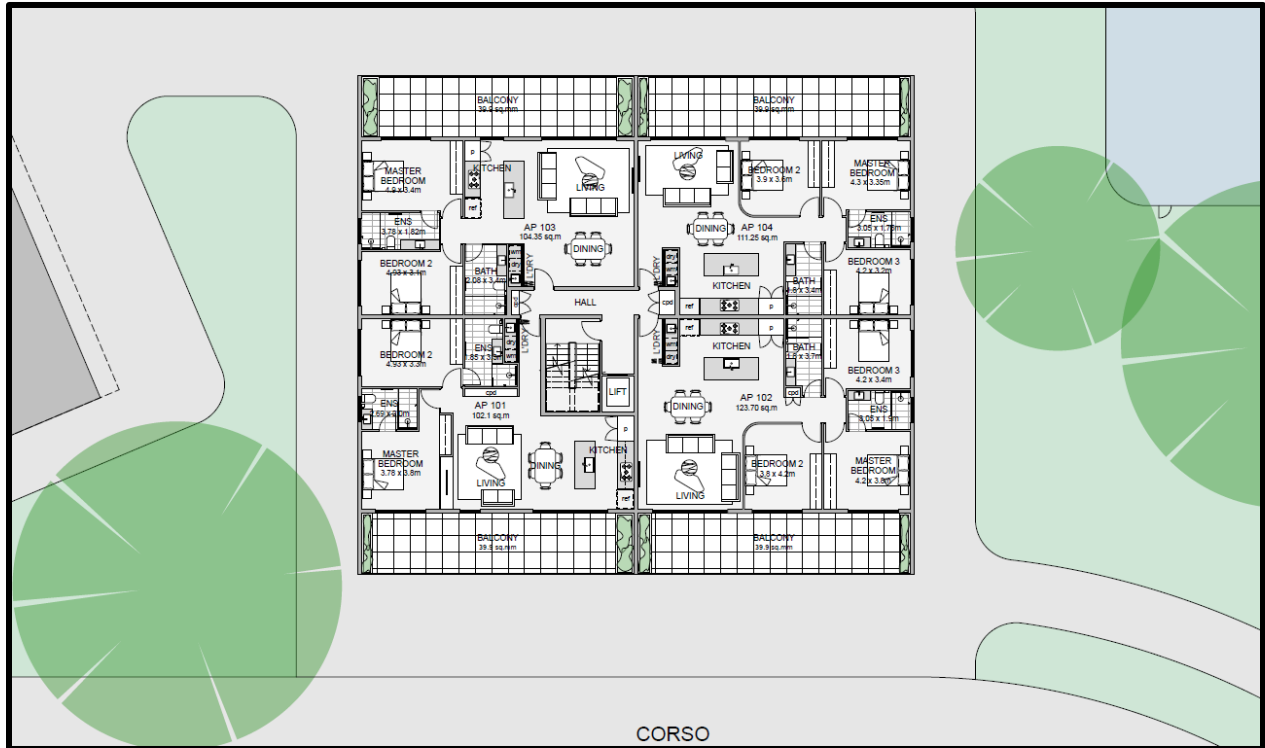


Figure 5: Typical Shop Top Housing First Floor (Source: Robert Harwood Architects)

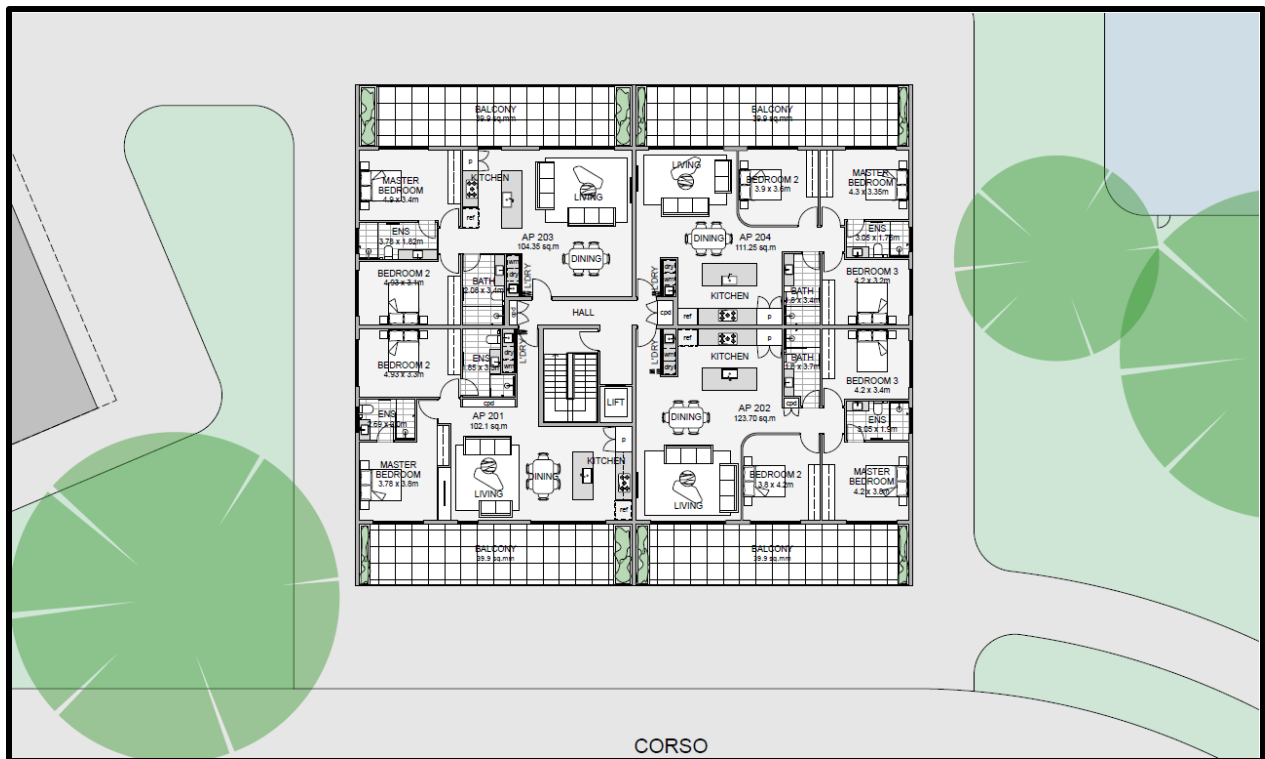


Figure 6: Typical Shop Top Housing Second Floor (Source: Robert Harwood Architects)



Figure 7: Typical Multi Dwelling Housing Elevations (Source: Robert Harwood Architects)

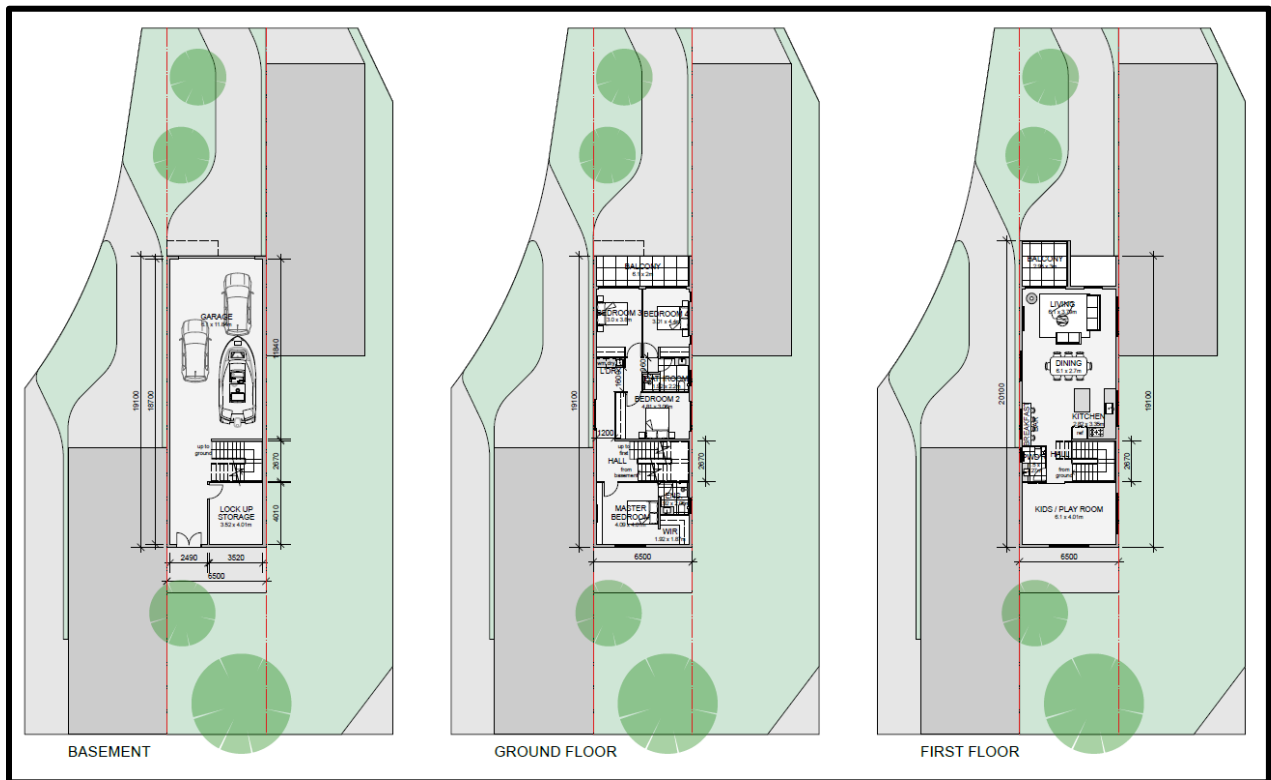


Figure 8: Typical Multi Dwelling Housing Floor Plans (Source: Robert Harwood Architects)

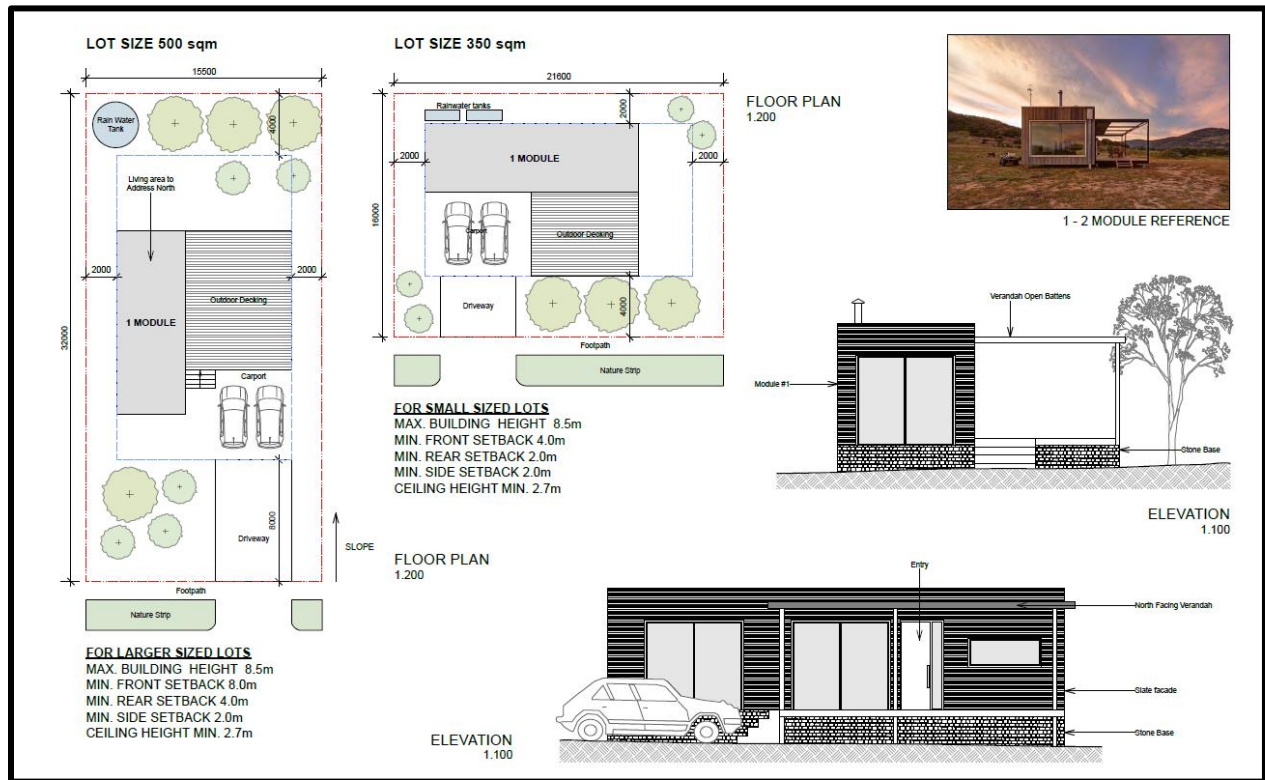


Figure 9: Typical Detached Dwelling (Source: Robert Harwood Architects)

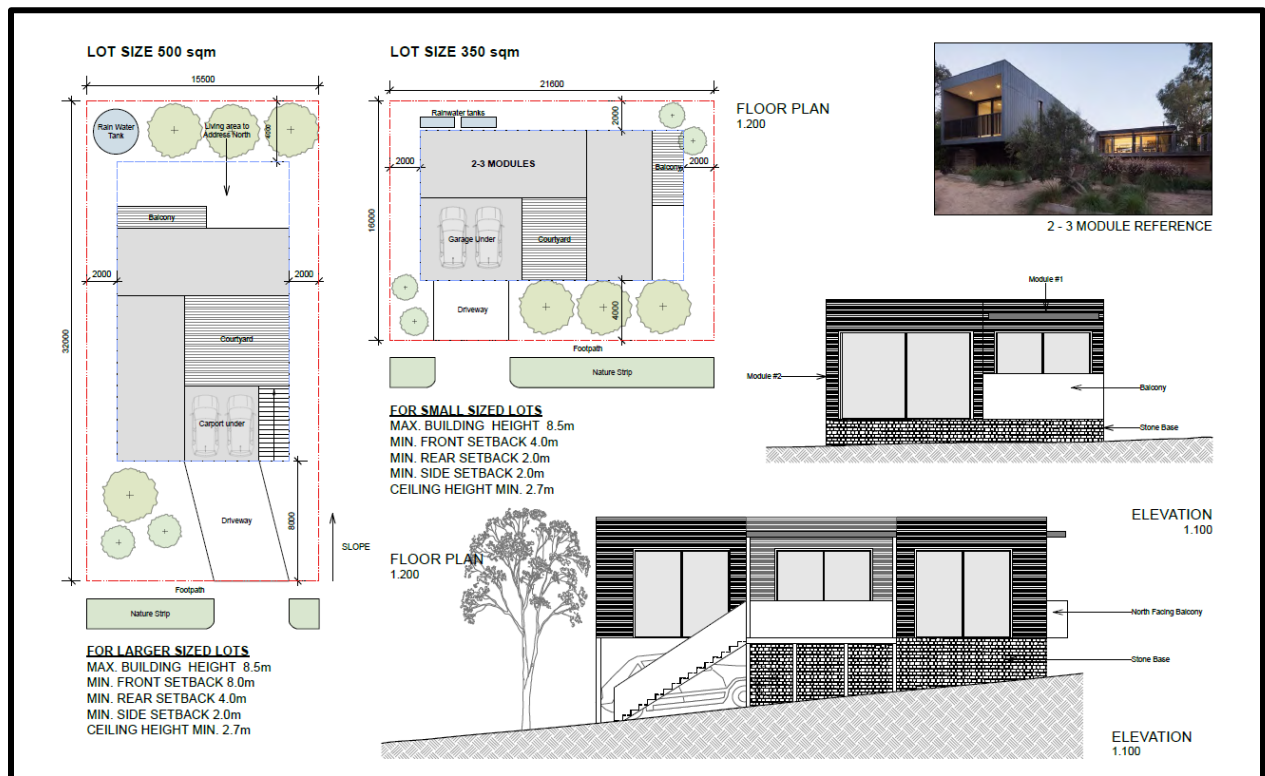


Figure 10: Typical Detached Dwelling (Source: Robert Harwood Architects)

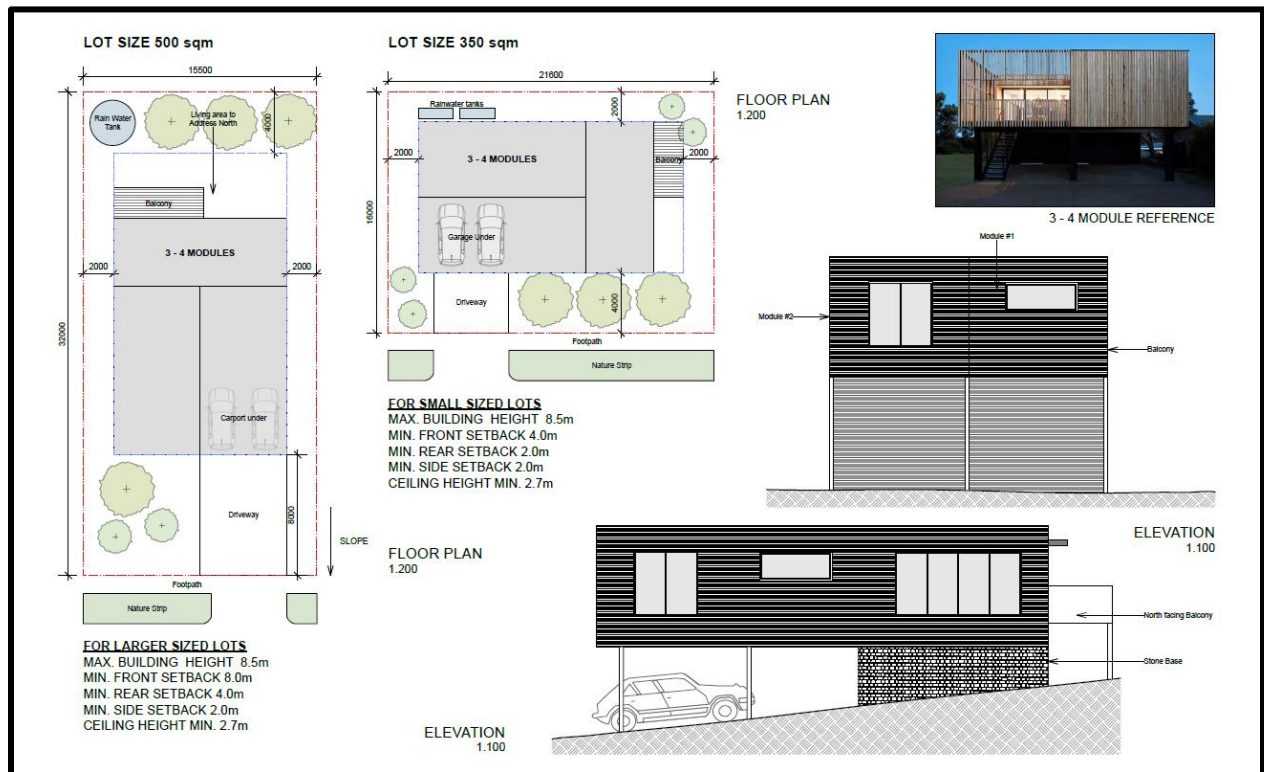


Figure 11: Typical Detached Dwelling (Source: Robert Harwood Architects)

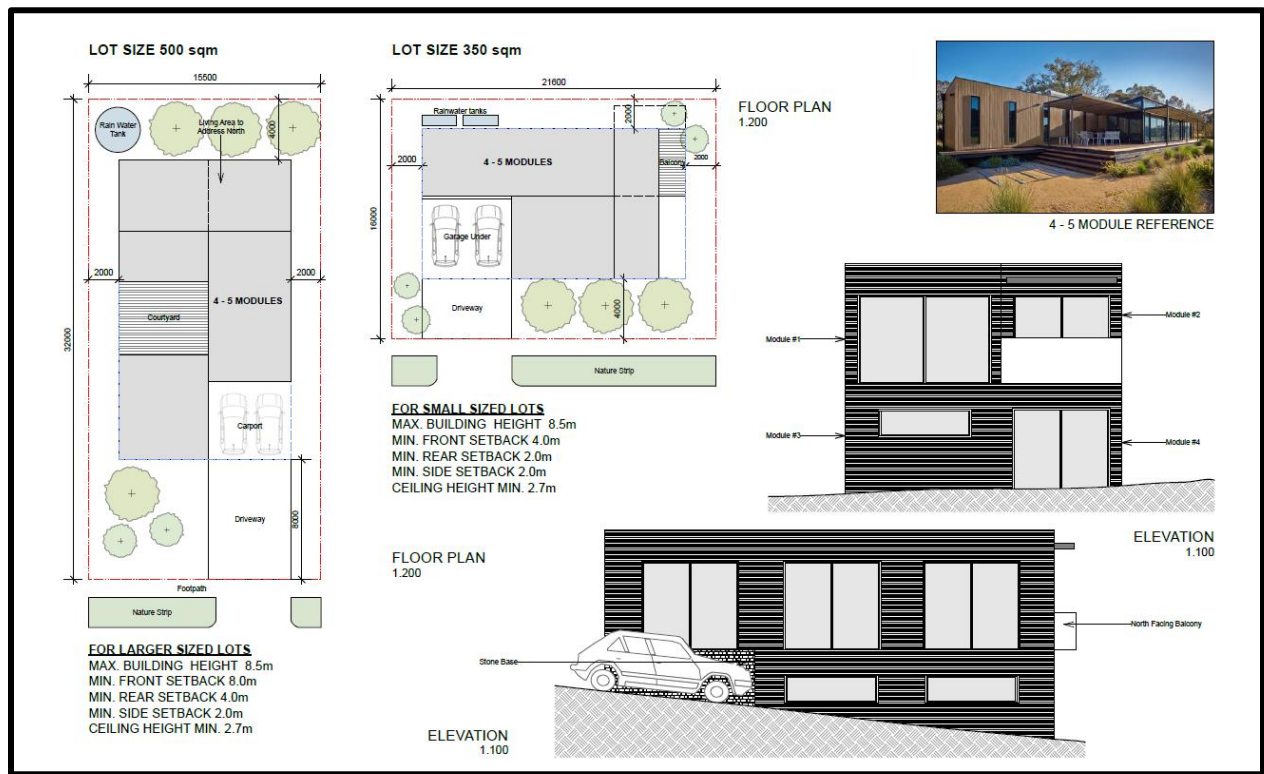


Figure 12: Typical Detached Dwelling (Source: Robert Harwood Architects)

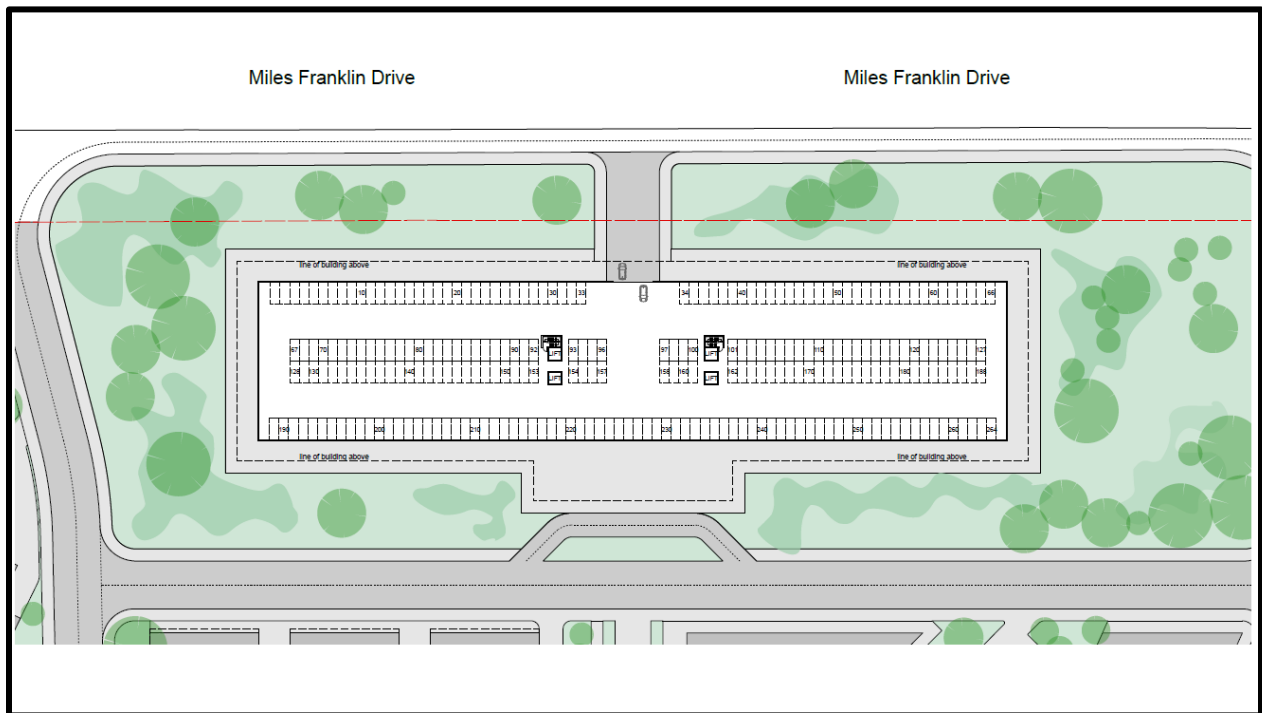


Figure 13 – Spa Hotel Basement Plan (Source: Robert Harwood Architects)

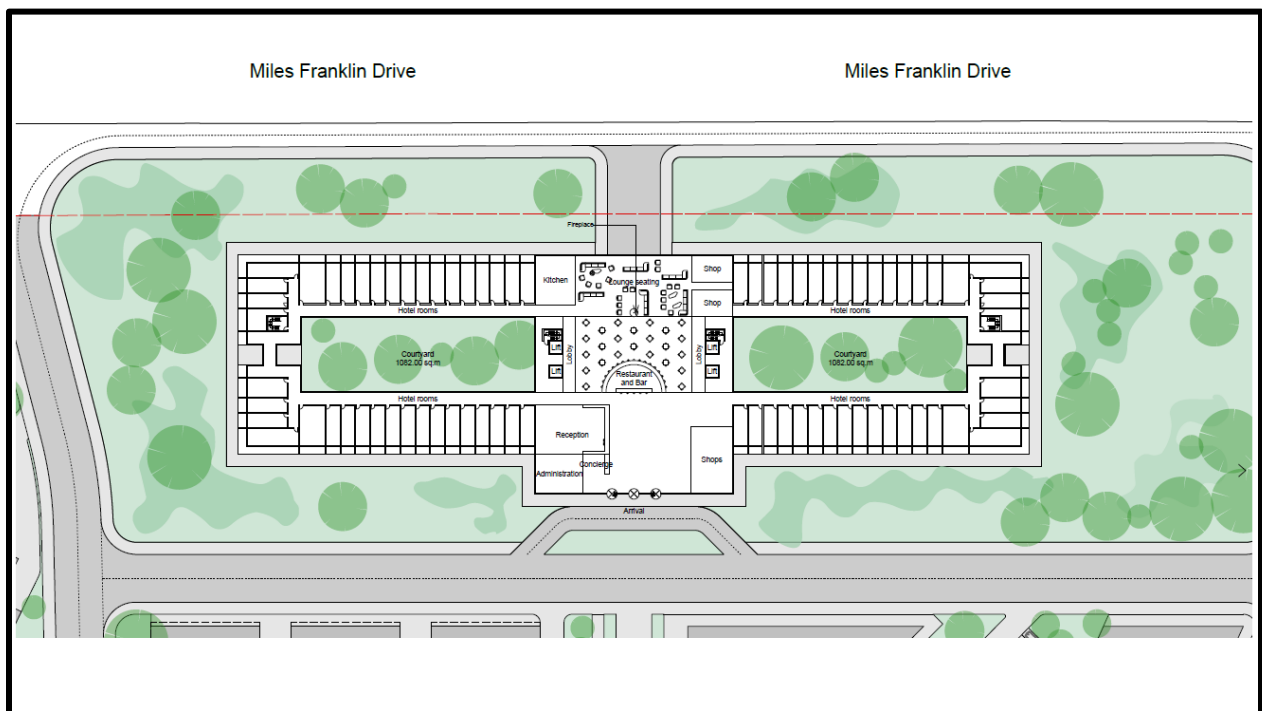


Figure 14 – Spa Hotel Ground Floor Plan (Source: Robert Harwood Architects)

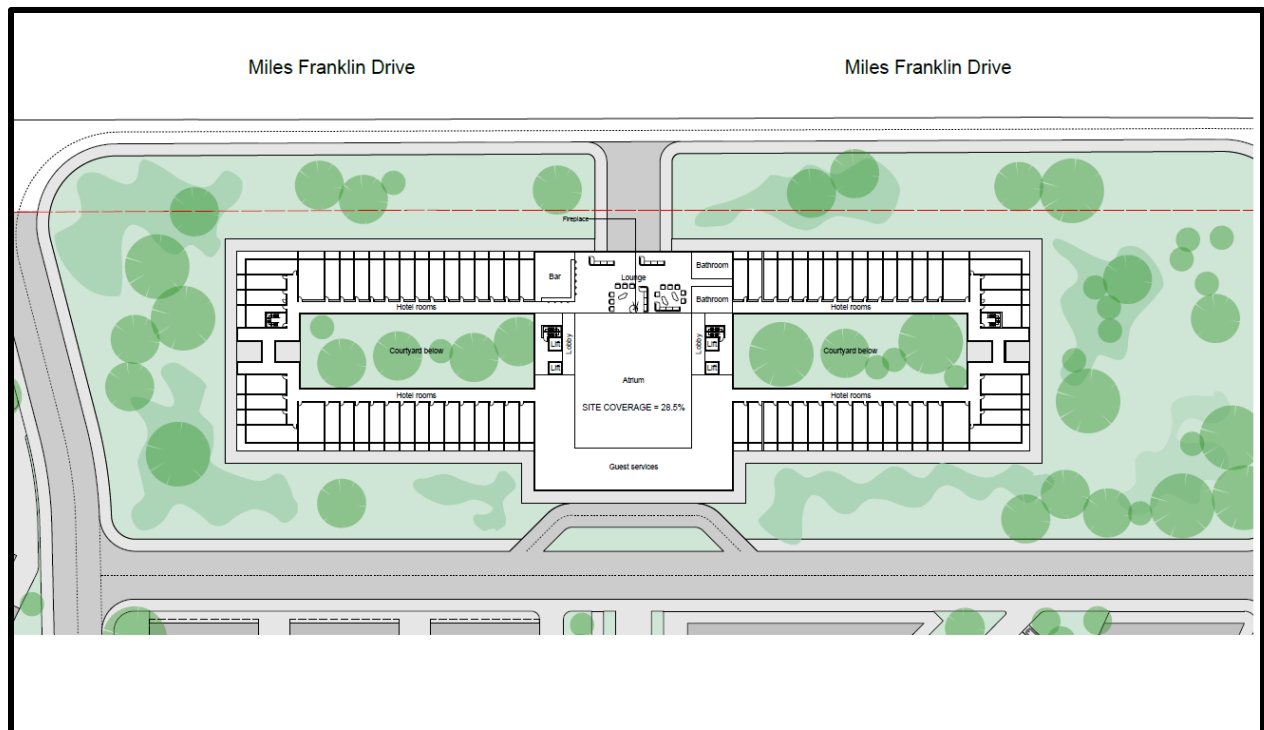


Figure 15 – Spa Hotel First and Second Floor Plans (Source: Robert Harwood Architects)

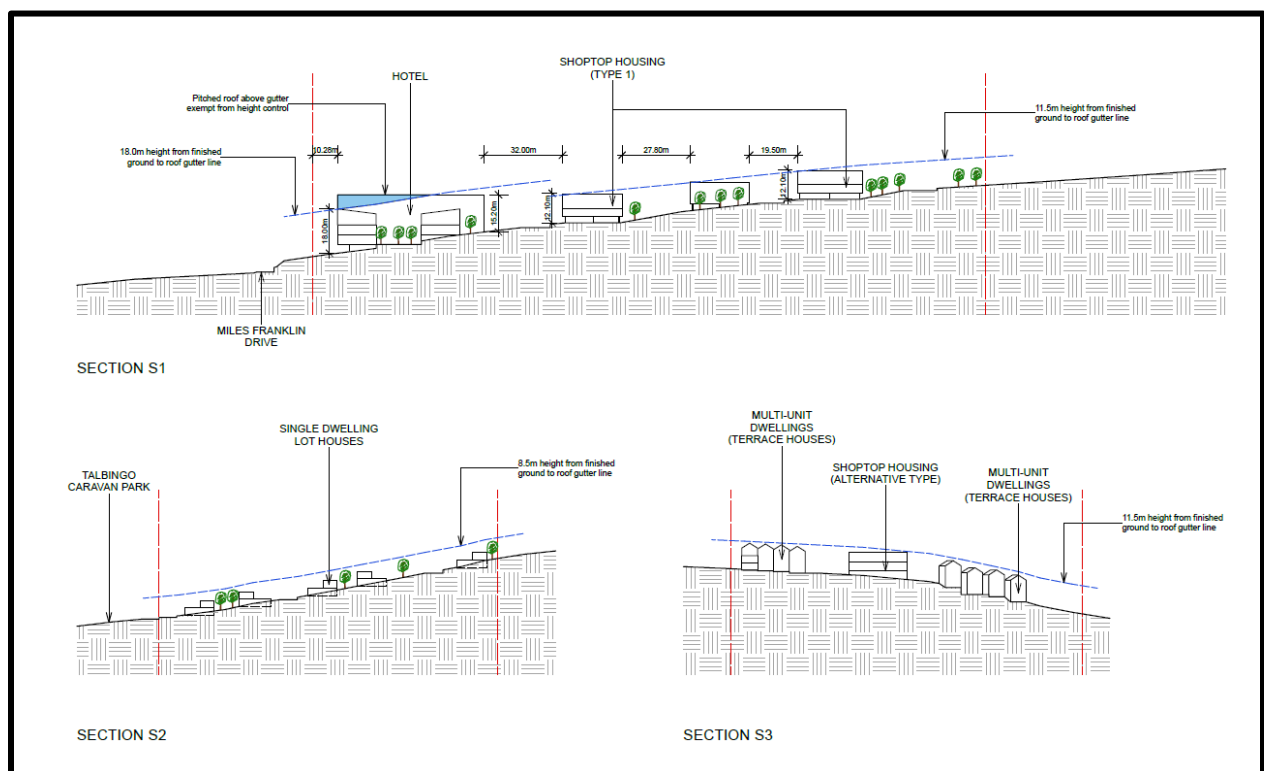


Figure 16 – Site Sections (Source: Robert Harwood Architects)



Figure 17: Site Perspective (Source: Robert Harwood Architects)



Figure 18: Site Perspective (Source: Robert Harwood Architects)



Figure 19: Hotel Perspective (Source: Robert Harwood Architects)

5. REVISED ASSESSMENT

An assessment against 4.15 of the Environmental Planning and Assessment Act 1979 is provided below.

Environmental Planning and Assessment Act 1979 – Section 4.15

In determining a DA, the consent authority is to take into consideration the following matter as are of relevance in the assessment of the DA on the subject property.

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Rural Fires Act 1997*
- *Water Management Act 2000*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Resilience and Hazard) 2021*
- *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development*
- *State Environmental Planning Policy (Koala Habitat Protection) 2021*
- *Tumut Local Environmental Plan 2012*
- *Snowy Valleys Development Control Plan 2019*

An assessment of the proposed DA against the above instruments is detailed below.

Environmental Planning and Assessment Act 1979 (EP&A Act)

Section 4.22 of the EP&A Act states the following in relation to concept development applications:

- (1) For the purposes of this Act, a concept development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*
- (2) In the case of a staged development, the application may set out detailed proposals for the first stage of development.*
- (3) A development application is not to be treated as a concept development application unless the applicant requests it to be treated as a concept development application.*
- (4) If consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless—*
 - (a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*
 - (b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent.*

The terms of a consent granted on the determination of a concept development application are to reflect the operation of this subsection.

- (5) The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.*

It is noted that the applicant has requested the subject application be assessed as a concept development application and no physical works are proposed. This assessment has therefore been undertaken in accordance with Section 4.22 of the EP&A Act.

Section 4.46 of the EP&A Act defines integrated development as development that requires development consent and one or more approvals under other State Government Acts. The subject application is classed as Integrated Development under Clause 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:

- Natural Resource Access Regulator (NRAR) - A controlled activity at a specified location in, on or under waterfront land (within 40m) (*Water Management Act 2000*).

- Rural Fire Service (RFS) - Subdivision of Bushfire Prone land for residential purposes (*Rural Fires Act 1997*)

Rural Fires Act 1997

In accordance with Section 100B of the *Rural Fires Act 1997*, an application to subdivide bush fire prone land that could be used for residential or rural residential purposes is to be made to the NSW RFS. The subject site is mapped as being bushfire prone.

The amended application was referred to NSW RFS who provided a referral response on 20 November 2023 (**Attachment 22**).

RFS have advised the following:

The RFS is not in a position to issues General Terms of Approval as the RFS could not verify the Proposed Masterplan concept site plan prepared by Robert Harwood Architects dated 4/4/23 Drawing No PL03 & the supporting Bush Fire Assessment Report prepared by Bushfire Planning & Design dated 17/8/23 Ref: BR-524422-B.

- *The Bush Fire Report states that a 10m APZ will be provided around the perimeter of the subdivision on adjoining lot 36. However no evidence is provided to demonstrate that consent has been received from the lot owner to allow for the APZ.*

Therefore, the development does not satisfy the relevant requirements of Planning for Bushfire Protection 2019 and concurrence has not been provided by NSW RFS.

Clause 4.47(1) - (4) of the EP & A Act 1979 states:

(1) This section applies to the determination of a development application for development that is integrated development.

(2) Before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development. Nothing in this section requires the consent authority to obtain the general terms of any such approval if the consent authority determines to refuse to grant development consent.

(3) A consent granted by the consent authority must be consistent with the general terms of any approval proposed to be granted by the approval body in relation to the development and of which the consent authority is informed. For the purposes of this Part, the consent authority is taken to have power under this Act to impose any condition that the approval body could impose as a condition of its approval.

(4) If the approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application.

Therefore, there is no ability for this Development Application to be approved and the consent authority must refuse the application.

Water Management Act 2000

In accordance with Section 91 of the *Water Management Act 2000*, an application for controlled activity approval at a specified location in, on or under waterfront Land (within 40m) is to be made to DPE - Water. The site contains natural drainage lines.

At the time of writing this report no referral response has been received from DPE Water.

State Environmental Planning Policy (Planning Systems) 2021

In accordance with Schedule 6 Regionally Significant Development of the SEPP, the proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of over \$30 million threshold for general development. Determination of the Application will therefore be made by the Southern Regional Planning Panel.

The application was lodged with an estimated cost of works of \$35 million however no Quantity Surveyors Report was submitted with the application. On 25 August 2022 Council requested a formal Quantity Surveyors Report be provided to confirm the Capital Investment Value of the project.

A Capital Investment Value (CIV) Report was submitted by the applicant in October 2022 which detailed the total development cost as being \$427,465,743.00.

In accordance with Clause 256B of the Environmental Planning and Assessment Regulation 2000 the fee payable for a Concept DA is the fee that would be payable as if a single development application only was required for all the development on the site.

Following the lodgement of the CIV Report, Council have requested the applicant pay the additional DA fees commensurate with the accurate CIV value for the development. The applicant at the time of writing this report had not paid the required fees.

It is noted that the applicant has formally amended the application under Clause 55 of the EP&A Regulations and the additional DA fees have still not been paid. This is considered to warrant a reason for refusal under the subject application as the relevant fees required for assessment have not been paid.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposed development is considered to be traffic generating development in accordance with Schedule 3 of State Environmental Planning Policy (Transport and Infrastructure) 2021 as it would facilitate the future development of the site for over 300 dwellings.

A Traffic Impact Assessment was submitted in support of the development. The application was referred to Transport for NSW (TfNSW).

TfNSW advised they did not support the proposed development on 19 October 2023 (**Attachment 21**) and noted the following:

TfNSW's reasons for not supporting the proposed development are detailed below:

- *The provided Traffic and Parking Impact Assessment does not adequately address the impact of the proposed concept development on the broader road network, particularly the intersection of Miles Franklin Drive and the Snowy Mountains Highway. Additional assessment of the traffic associated with the full development on this intersection is required, which must include as a minimum:*
 - *A turn warrant assessment per Section 3.3.6 of the Austroads Guide to Traffic Management Part 6. The assessment must include both light and heavy vehicles;*
 - *A safe system assessment;*
 - *An analysis of the crash history.*
- *TfNSW believes that the above analyses may indicate that an upgrade of the intersection will be required as part of the proposal, most likely a higher order of right turn treatment on the Snowy Mountains Highway. Strategic designs must be required for any identified upgrades within the road reserve of the Snowy Mountains Highway.*
- *Some of the trip generation rates used in the traffic assessment have not been adequately justified e.g. the inclusion of three-bedroom units in the rate applied for motel rooms (0.4 trips/peak hour). The trip generation rates adopted for each of the land uses needs to be consistent with the current guidelines adopted by TfNSW (Technical Direction TDT 2013/04a).*
- *An additional sensitivity analysis is required using the maximum trip generation rates identified in the TfNSW Technical Direction TDT 2013/04 a i.e. 0.85 trips/dwelling in the AM peak and 0.90 trips/dwelling in the PM peak.*
- *The provided documentation assumes that the majority of the traffic will travel to/from the south of the site (Section 5.2.1). However, the documentation does not give consideration to seasonal factors. An updated assessment needs to consider that the primary tourism activities in each season are located in opposite directions from the subject site i.e. to/from the south during winter vs to/from the north during summer.*
- *The base case of the SIDRA modelling referenced in the provided documentation does not appear to have been calibrated. This needs to be done by comparing current observations of the intersection with the model output.*
- *A copy of the electronic SIDRA modelling undertaken for the development must be provided for TfNSW to review.*

Insufficient information has therefore been submitted with the application to satisfy TfNSW that the development will not result in an adverse impact on the existing and future road network in accordance with Clause 2.122 of the SEPP.

State Environmental Planning Policy (Resilience and Hazard) 2021

Chapter 4 Remediation of Land

The SEPP requires Council to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent.

In particular, *Chapter 4 Remediation of Land* contains a number of objectives that aim to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health and the environment:

- a) *By specifying when consent is required, and when it is not required, for a remediation work; and*
- b) *By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular; and*
- c) *By requiring that a remediation work meet certain standards and notification requirements*

Subject to Section 4.6 of the SEPP, a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated.

A Preliminary Site Investigation has been submitted which makes the following conclusions:

It is considered that there is a low to moderate likelihood of substantial widespread contamination at the site, although, where present contamination levels may pose a moderate risk. Accordingly, there is potential for localised contamination to exist that would require intrusive investigation to assess whether the site is compatible with its proposed land use.

Prior to site development intrusive soil investigation is recommended across the following main potential areas of environmental concern identified in the CSM:

- *The stockpiles of various composition located on and adjacent to the hardstand area in the north-eastern section of the site;*
- *the firefighting training area / structure in the eastern section of the site;*
- *the central portion of the site comprising concrete hardstands associated with historical structures / storage; and*
- *the vegetated linear gully and depression in the central portion of the site associated with the former creek line.*

Intrusive investigation is also recommended across the remainder of the site to assess the potential for any other contamination to be present. It is recommended that a sampling, analysis and quality plan (SAQP) be prepared for any further investigation at the site which would include the following:

- *Establish the applicable assessment criteria;*
- *Develop the site investigation sampling plan;*
- *State the soil and/or groundwater investigation methodology;*
- *Establish the minimum field and laboratory quality procedures; and*
- *Establish the likely limitations of the site investigation with regards to informing potential remediation costs.*

It is further recommended that an occupational hygienist be engaged to undertake a pre-demolition hazardous building materials survey prior to any demolition of the remaining building structures present on site.

It is considered that the site could be rendered suitable for the proposed development from a contaminated land perspective subject to the implementation of the above recommendations.

The investigation concludes that further investigation is required to determine if localised contamination exists on site. Based on the above findings it is considered that insufficient information has been submitted with the application to adequately demonstrate that the site is considered suitable for the intended use as required under Clause 4.6 of SEPP (Resilience and Hazards) 2021.

State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

SEPP 65 applies to development for the purpose of a residential flat building, shop top housing or mixed-use development with residential accommodation if development consists of the erection of a new building, is at least 3 or more storeys and contains at least 4 or more dwellings.

The proposed concept development involves the future development of the site for the purposes of shop top housing development each incorporating 3 or more storeys and at least 4 or more dwellings.

In accordance with Clause 28 of SEPP 65 a consent authority must take into consideration the design quality of the development when evaluated in accordance with the design quality principles and the provisions of the Apartment Design Guide (ADG).

Whilst the concept development does not seek approval for the construction of the shop top housing development it seeks approval for the location and massing of the future built form. An assessment has therefore been undertaken against the relevant design quality principles and provisions of the Apartment Design Guide (ADG) to confirm the suitability of the indicative built form.

As assessment against the design quality principles and relevant provisions of the ADG is provided below.

SEPP 65 - Design Quality Principles			
Design Principle	Quality	Requirement	Comment
Principle 1: Context and neighbourhood character		<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future</p>	<p>The proposed development is inconsistent with the design quality principle as it provides a built form that is inconsistent with the existing and desired future character of the surrounding rural village area. The 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</p>

	<p>character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>development in the area or the RU5 zoning of the site and surrounding area.</p> <p>Talbingo is a small village with a population of around 239 residents characterised by a predominantly single storey-built form character and is subject to a maximum building height control of 7.2m under the Snowy Valleys DCP. The proposed development seeks concept approval for a tourist and visitor accommodation, shop top housing, terrace housing and dwelling houses with a height of 2-4 storeys. The concept approval would result in a significant increase in the density, bulk and scale of development within the locality.</p>
Principle 2: Built form and scale	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The proposed development is inconsistent with the design quality principle as it 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 RU5 zoning of the site and surrounding area.</p> <p>Talbingo is a small village with a population of around 239 residents characterised by a predominantly single storey-built form character and is subject to a maximum building height control of 7.2m under the Snowy Valleys DCP. The proposed development seeks concept approval for a tourist and visitor accommodation, shop top housing, terrace housing and dwelling houses with a height of 2-4 storeys. The concept approval would result in a significant increase in the density, bulk and</p>

		scale of development within the locality.
Principle 3: Density	<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposed development is inconsistent with the design quality principle as it will result in a significant increase in the density, bulk and scale of development within the locality. Furthermore, Insufficient information has been submitted to demonstrate that the proposed development can be provided with the relevant essential services without resulting in adverse impacts on existing infrastructure or the surrounding area.</p>
Principle Sustainability 4:	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>Insufficient information has been submitted to demonstrate that the future shop top housing is sited and designed to maximise solar access and natural cross ventilation.</p>
Principle Landscape 5:	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape</p>	<p>Insufficient information was submitted with 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.</p>

	<p>character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours amenity and provides for practical establishment and long term management.</p>	
Principle 6: Amenity	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>Insufficient information has been submitted to demonstrate that the future shop top housing is sited and design to maximise solar access, natural cross ventilation or visual privacy in accordance with the provisions of the ADG.</p>
Principle 7: Safety	<p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive</p>	<p>Insufficient information has been submitted in support of the application to demonstrate the consistency of the proposal with the principles of Crime Prevention Through Environmental Design. A Safer by Design Report was requested from the applicant. A</p>

	<p>surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>Safer by Design Report was not provided by the applicant.</p>
<p>Principle 8: Housing diversity and social interaction</p>	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>Not applicable, housing diversity and choice will be subject to future detailed development applications.</p>
<p>Principle 9: Aesthetics</p>	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>Not applicable, aesthetics will be subject to future detailed development applications.</p>

Apartment Design Guide			
Control	Requirement	Comment	Compliance
3D – Communal and Public Open space	<p>Communal open space has a minimum area equal to 25% of the site.</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).</p>	<p>Insufficient information has been submitted to demonstrate compliance for the indicative shop top housing development.</p> <p>No indicative locations of future communal open space areas have been detailed in the plans and therefore compliance cannot be determined.</p>	Insufficient Information.
3E – Deep Soil Zones	7% of site area and a minimum dimension of 6m.	<p>Insufficient information has been submitted to demonstrate compliance for the indicative shop top housing development.</p> <p>No indicative locations of future deep soil areas have been detailed in the plans.</p>	Insufficient Information.
3F – Visual Privacy	<p>Up to 12m (4 storeys)</p> <ul style="list-style-type: none"> 6 metres between habitable rooms/balconies and boundary 3 metres between non-habitable rooms and boundary 	<p>Insufficient information has been submitted to demonstrate compliance for the indicative shop top housing development. No dimensions indicating building separation has been provided.</p>	Insufficient Information.
4A - Solar and daylight access	<p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter.</p> <p>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</p>	<p>Insufficient information has been submitted to demonstrate compliance for the indicative shop top housing development.</p>	Insufficient Information.

4B – Natural ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.	Insufficient information has been submitted to demonstrate compliance for the indicative shop top housing development.	Insufficient Information.
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Insufficient information has been submitted with the application to demonstrate compliance with the relevant provisions of the ADG for the indicative shop top housing development.

State Environmental Planning Policy (Koala Habitat Protection) 2021

State Environmental Planning Policy (Koala Habitat Protection) 2021 aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas.

The site has an area of over 1ha and therefore the SEPP applies. As no Koala Plans of Management are currently provided for the site or the LGA the development is subject to Clause 11 of the SEPP.

Clause 11 of the SEPP states:

(2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.

(3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.

(4) If the council is satisfied that the development is likely to have a higher level of impact on koalas or koala habitat, the council must, in deciding whether to grant consent to the development application, take into account a koala assessment report for the development.

(5) However, despite subsections (3) and (4), the council may grant development consent if the applicant provides to the council—

(a) information, prepared by a suitably qualified and experienced person, the council is satisfied demonstrates that the land subject of the development application—

(i) does not include any trees belonging to the koala use tree species listed in Schedule 2 for the relevant koala management area, or

(ii) is not core koala habitat, or

(b) information the council is satisfied demonstrates that the land subject of the development application—

(i) does not include any trees with a diameter at breast height over bark of more than 10 centimetres, or

(ii) includes only horticultural or agricultural plantations.

(6) In this section—

koala assessment report, for development, means a report prepared by a suitably qualified and experienced person about the likely and potential impacts of the development on koalas or koala habitat and the proposed management of those impacts.

The Biodiversity Report submitted in support of the application does not adequately assess the potential impacts of the development on potential koala habitat.

Therefore, insufficient information has been submitted with the application to demonstrate that the proposed development will not impact on koalas or potential koala habitat. As such, the consent authority cannot be satisfied that the development is consistent with the relevant objectives and provisions of the SEPP.

Tumut Local Environmental Plan 2012

The Tumut Local Environmental Plan (LEP) 2012 applies to the site and proposed development.

Permissibility

The site is zoned RU5 Village pursuant to the Tumut Local Environmental Plan (LEP) 2012. Residential accommodation, shop top housing, tourist and visitor accommodation and subdivision are permitted with consent.

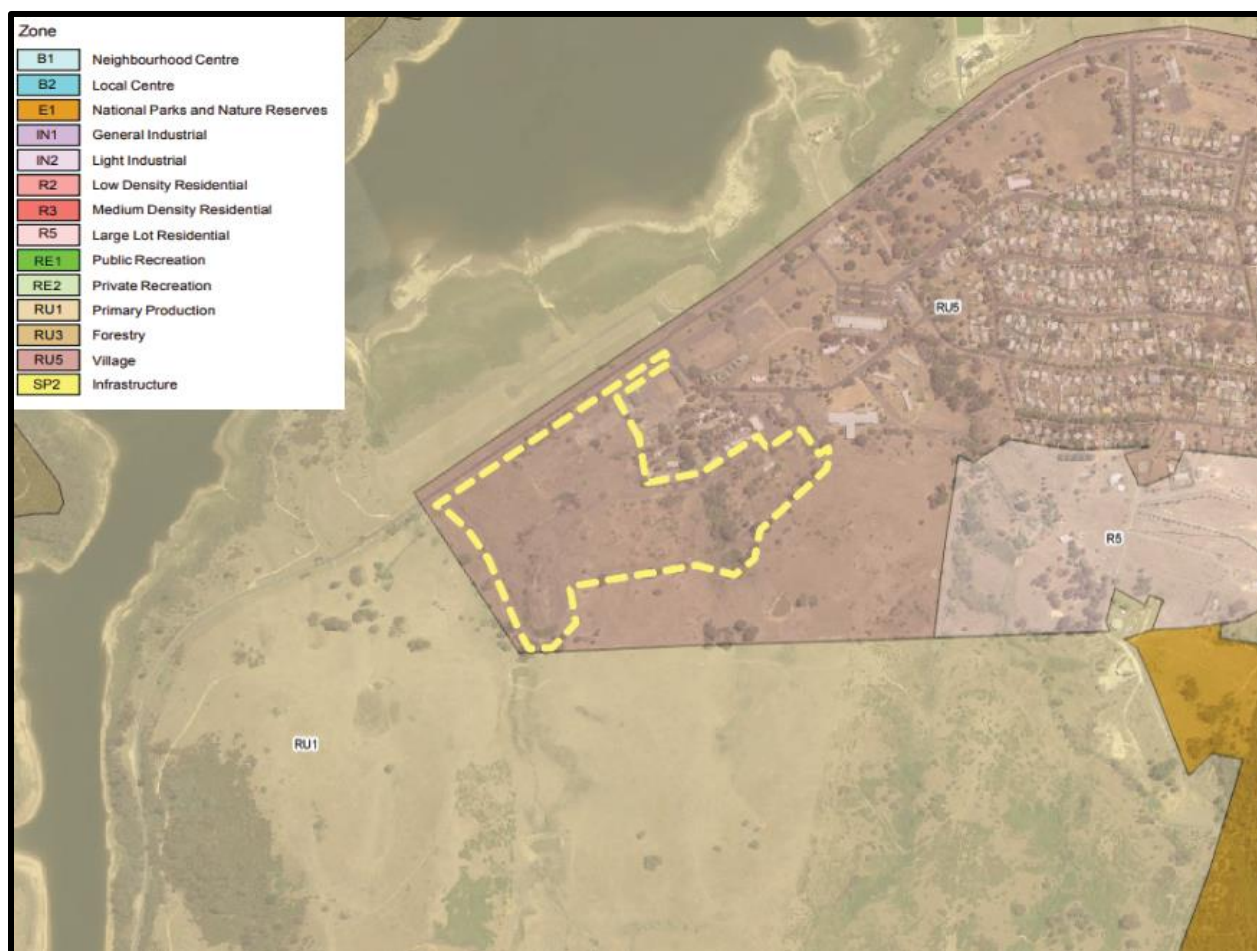


Figure 20 – Zoning Map (Source: NSW Legislation)

Zone Objectives

The objectives of the RU5 Rural Village zone are as follows:

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*

Officer Comment:

The proposed development is considered to be inconsistent with the objective of the RU5 Rural Village zone as it proposes a significant intensification of development within Talbingo that will provide development of a bulk, scale and character that is inconsistent with the existing rural village character of the area.

Whilst the development will provide for a range of land uses, services and facilities the bulk, scale, density and character of development is incompatible with the existing and desired future character of the rural village.

Relevant Clauses

The DA was assessed against the following relevant clauses of the Tumut LEP 2012.

Clause	Requirement	Provided	Compliance
4.1 – Minimum Lot size	225m ²	<p>All proposed lots set out in the concept subdivision plan comply with the minimum lot size of 225m².</p> <p>Whilst the development complies with the minimum lot size requirement it is not considered to satisfy the objectives of Clause 4.1 as the subdivision layout is not considered to ensure the efficient use of land resources through appropriate subdivision patterns. The design will result in a poor subdivision layout which will result in future amenity impacts once the lots are developed.</p>	Yes
6.11 Essential Services	<p>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p> <ul style="list-style-type: none"> (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access. 	<p>An Essential Services Report was submitted in support of the application. The report concludes that servicing upgrades to electricity and water and sewer would be required to service the development.</p> <p>No commitment has been made by the applicant on when the required infrastructure to support the development would be provided. No agreement is in place to ensure adequate arrangements for essential services are made when required.</p> <p>The consent authority cannot therefore be satisfied that adequate arrangements have been made to make the required services available when required.</p>	No

Concurrence from the Director-General.

The proposal does not require concurrence from the Director-General.

Matters of State/Regional Significance

In accordance with *Schedule 6 Regionally Significant Development of the State Environmental Planning Policy (Planning Systems) 2021*, the proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) that exceeds the \$30 million threshold for general development. Determination of the Application will therefore be made by the Southern Regional Planning Panel.

(a)(ii) The Provision of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There is no draft Environmental Planning Instrument applicable to the proposed development.

(a)(iii) The Provisions of any Development Control Plan

Snowy Valleys Development Control Plan 2019

The Snowy Valley Development Control Plan (DCP) 2019 provides detailed provisions to supplement the Tumut LEP 2012. An assessment of the concept proposal and Site Specific DCP against the relevant development controls is provided in **Attachment 19**.

The proposed development results in a number of inconsistencies and non-compliances with the key objectives and controls of the DCP.

(a)(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.

Not Applicable.

(a)(iv) The Regulations

The Regulations do not prescribe any additional matters that are relevant to the proposed Concept DA.

(1)(b) The likely impacts of the proposed development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Key matters for consideration when considering the development's potential impact on the natural and built environment are deemed to be as follows:

Natural and Built Environment Impacts

Built Environment Impacts

The proposed development is inconsistent with the existing and desired future character of the surrounding rural village area. The 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 RU5 zoning of the site and surrounding area.

Talbingo is a small village with a population of around 239 residents characterised by a predominantly single storey-built form character and is subject to a maximum building height control of 7.2m under the Snowy Valleys DCP. The proposed development seeks concept approval for a tourist and visitor accommodation, shop top housing, terrace housing and dwelling houses with a height of 2-4 storeys. The concept approval would result in a significant increase in the density, bulk and scale of development within the locality as demonstrated in Figures 21-23 below.



Figure 21: Site Perspective (Source: Robert Harwood Architects)



Figure 22: Site Perspective (Source: Robert Harwood Architects)



Figure 23: Hotel Perspective (Source: Robert Harwood Architects)

The following additional information was requested from the applicant to demonstrate the suitability of the proposal:

- Urban Design Study / Analysis
- Solar Access Assessment
- Safer by Design Report

- Social Impact Assessment
- Needs Analysis

The above information was not submitted by the applicant and therefore insufficient information has been submitted with the application to demonstrate the suitability of the site for the form, scale and density of the development proposed as well as the need for and compatibility of the development proposed.

As the development application seeks concept approval for the future uses, built form, scale and density outlined in the documentation submitted, the impacts of the conceptual built form, scale and density have been considered in the assessment.

The form, scale and density of the proposed concept development is not considered to be compatible with the existing and future desired character of Talbingo and will result in adverse built environment and social impacts on the locality and the site is therefore not considered suitable for the development (Section 4.15(1)(b) and (c)).

The proposed development is considered to be inconsistent with the objective of the RU5 Rural Village zone as it proposes a significant intensification of development within Talbingo that will provide development of a bulk, scale and character that is inconsistent with the existing rural village character of the area.

Whilst the development will provide for a range of land uses, services and facilities the bulk, scale, density and character of development is incompatible with the existing and desired future character of the rural village.

The indicative subdivision layout results in a poor subdivision layout for the future detached dwellings that would result in adverse amenity impacts once developed.

The lot layout results in a number of irregular lots with multiple boundaries, frontages that are not of a sufficient layout or configuration to facilitate future detached dwellings with an adequate level of privacy or amenity.

The application identifies that upgrades to electricity, water and sewer would be required to service the development. No commitment has been made by the applicant on when the required infrastructure to support the development would be provided. No agreement is in place to ensure adequate arrangements for essential services are made when required.

Furthermore, the application was referred to TfNSW who did not support the application as insufficient information was submitted to demonstrate that the development will not result in an adverse impact on the existing and future road network.

Given the adverse built form impacts and inconsistencies and non-compliances with the key objectives and controls of the Tumut LEP 2012 and Snowy Valleys DCP It is considered that a concept development application is the incorrect pathway to achieve the desired outcome for the site by the applicant.

If the proposal is to be pursued by the applicant, the proper process for consideration of the proposal would be a planning proposal that seeks to amend the Tumut Local Environmental Plan 2012 to provide suitable planning controls to facilitate future development.

Natural Environment Impacts

The proposed development is considered to result in adverse impacts on the natural environment as follows:

- Insufficient information has been submitted with the application to adequately demonstrate that the site is considered suitable for the intended use from a contamination perspective.
- Insufficient information has been submitted with the application to demonstrate that the proposed development will not have an adverse impact on the biodiversity values of the site and surrounding area.

A Biodiversity Assessment was submitted in support of the application. The assessment concludes that Based on the Plant Community Types and region, the Biodiversity Assessment Method (BAM) calculator identifies sixteen candidate threatened species which would require field survey or further assessment prior to lodgement of a development application.

Development of the site would exceed the area threshold of the Biodiversity Offset Scheme (BOS). This means a Biodiversity Development Assessment Report (BDAR) would be required to be lodged with a development application. The BDAR must be prepared by an Accredited Assessor in accordance with the Biodiversity Assessment Method (BAM).

No BDAR was submitted in support of the application. Furthermore, the Biodiversity Report submitted in support of the application does not adequately assess the potential impacts of the development on potential koala habitat.

- Insufficient information has been submitted with the application to demonstrate that the proposed development will not impact on koalas or potential koala habitat.
- Insufficient information was submitted with 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.
- The applicant is reliant in Asset Protection Zones on adjoining land that was not included as part of the DA and no owners consent was provided. The development therefore does not comply with the requirements of Planning for Bushfire Protection 2019.

Social and Economic Impacts

The proposed development is considered to result in adverse social and economic impacts on the surrounding as the development in its current form will result in a built form that is inconsistent with the existing and desired future character of the area and the objectives of the RU5 Rural Village zone.

Furthermore, the application was lodged with an estimated cost of works of \$35 million however no Quantity Surveyors Report was submitted with the application. On 25 August 2022 Council

requested a formal Quantity Surveyors Report be provided to confirm the Capital Investment Value of the project.

A Capital Investment Value (CIV) Report was submitted by the applicant in October 2022 which detailed the total development cost as being \$427,465,743.00. The relevant Development Application fees were calculated and paid based on the \$35 million value and the applicant has refused to pay the additional application fees for the updated cost of development.

(1)(c) The suitability of the site

The site is not considered to be suitable for the proposed development in its current form for the following reasons:

- The proposed development will result in a built form that is inconsistent with the existing and desired future character of the area.
- The proposed development is inconsistent with the objective of the RU5 Rural Village zone.
- Insufficient information has been submitted with the application to adequately demonstrate that the site is considered suitable for the intended use from a contamination perspective.
- Insufficient information has been submitted with the application to demonstrate that the proposed development will not have an adverse impact on the biodiversity values of the site and surrounding area.
- Insufficient information has been submitted with the application to demonstrate that the proposed development will not impact on koalas or potential koala habitat.
- No commitment has been made by the applicant on when the required infrastructure to support the development would be provided. No agreement is in place to ensure adequate arrangements for essential services are made when required.
- Insufficient information was submitted with 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.
- Insufficient information has been submitted with the application to demonstrate that the proposed development will not have an adverse impact on the existing and future road network.

The site is therefore not considered to be suitable for the development.

(1)(d) Any submissions made in accordance with this Act or the Regulations.

The Development Application was advertised for a period of 28 days 1 December 2021 and 10 January 2022. **44** submissions were received during the notification period of which **7** were in support and **37** objected to the application.

The 7 submissions in support of the application raised the following comments:

- Provides infrastructure that supports increase tourism.

- Positive outcomes for existing business and new business.
- Positive outcomes for the region.
- Supports in attracting new people in the town.
- Supports in providing viability and vitality of the town.
- Provides for a future for next generations.
- Local and regional benefits as a result of increased population and tourism.

The 37 objections from the initial notification period raised issues relating to:

- Services impacts
- Built form Impacts
- Landscape Impacts
- Overcrowding and over development Impacts
- Flora and Fauna impacts and Biodiversity Impacts
- Traffic Impacts
- Heritage Impacts
- Visual impacts
- Noise impacts
- Social Impacts
- lack of consultation
- Amenity impacts
- Block size compliance
- Character
- Staging of the development
- Bushfire Impacts

The objections raised in the initial notification period were addressed in the original Assessment Report considered by the Panel at the determination meeting held on 11 May 2023.

The amended application was re-notified between 23 August 2023 and 20 September 2023. **11** submissions were received of which **1** was in support and **10** objected to the application during the re-notification period.

The submissions in support of the application stated that the development will revitalise Talbingo and benefit the wider tourism in the area.

A review of the submission received objecting to the development as amended has been undertaken and a response to each key issue raised is provided below.

Objection	Response
Services impacts	<p>An Essential Services Report was submitted in support of the application. The report concludes that servicing upgrades to electricity and water and sewer would be required to service the development.</p> <p>No commitment has been made by the applicant on when the required infrastructure to support the development would be provided. No agreement is in place to ensure adequate arrangements for essential services are made when required.</p>

	<p>The consent authority cannot therefore be satisfied that adequate arrangements have been made to make the required services available when required.</p>
Built form Impacts	<p>The proposed development is inconsistent with the existing and desired future character of the surrounding rural village area. The 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 RU5 zoning of the site and surrounding area.</p> <p>Talbingo is a small village with a population of around 239 residents characterised by a predominantly single storey-built form character and is subject to a maximum building height control of 7.2m under the Snowy Valleys DCP. The proposed development seeks concept approval for a tourist and visitor accommodation, shop top housing, terrace housing and dwelling houses with a height of 2-4 storeys. The concept approval would result in a significant increase in the density, bulk and scale of development within the locality.</p>
Landscape Impacts	<p>Insufficient information was submitted with 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.</p>
Overcrowding and over development Impacts	<p>The proposed development seeks concept approval for a tourist and visitor accommodation, shop top housing, terrace housing and dwelling houses with a height of 2-4 storeys. The concept approval would result in a significant increase in the density, bulk and scale of development within the locality.</p> <p>The following additional information was requested from the applicant to demonstrate the suitability of the proposal:</p> <ul style="list-style-type: none"> • Urban Design Study / Analysis • Solar Access Assessment • Safer by Design Report • Social Impact Assessment • Needs Analysis <p>The above information was not submitted by the applicant and therefore insufficient information has been submitted with the application to demonstrate the suitability of the site for the form, scale and density of the development proposed as well as the need for and compatibility of the development proposed.</p>
Traffic Impacts	<p>A Traffic Impact Assessment was submitted in support of the development. The application was referred to TfNSW who do not support the application as insufficient information was submitted to demonstrate that the development will not result in an adverse impact on the existing and future road network.</p>

Heritage Impacts	<p>A Preliminary Aboriginal and Historic Heritage Assessment was submitted in support of the application. A search of the Aboriginal Heritage Information Management System (AHIMS) returned no records of previously recorded Aboriginal sites located within or near the study area. A field inspection was conducted by OzArk Senior Archaeologist, Stephanie Rusden, on 6 March 2023 to verify the modelling predictions and to ground-truth levels of disturbance.</p> <p>No Aboriginal objects or landforms with potential to contain subsurface Aboriginal archaeological deposits were identified within the study area. It is considered unlikely that significant Aboriginal objects will be present across the study area.</p> <p>The report provides further recommendations for historic heritage in the area to be implemented as part of the future detailed development applications.</p>
Visual impacts	<p>A Visual Impact Assessment has been submitted with the application. The assessment concludes the development will have a moderate visual impact on the surrounding area.</p> <p>The development is, however, not considered to be of a compatible scale or character with the existing village. Based on the inconsistent scale and character the development is considered to result in adverse impacts on the existing visual character of Talbingo.</p>
Noise impacts	<p>Potential noise impacts will be addressed under future detailed development applications.</p>
Social Impacts	<p>The proposed development is considered to result in adverse social and economic impacts on the surrounding as the development in its current form will result in a built form that is inconsistent with the existing and desired future character of the area and the objectives of the RU5 Rural Village zone.</p> <p>Insufficient information has been submitted to demonstrate that the proposed development will not result in adverse impacts on existing social and service infrastructure within the area.</p>
Amenity impacts	<p>Insufficient information was submitted with the application to demonstrate that adequate amenity would be provided for future residents. Furthermore, the indicative subdivision layout results in a poor subdivision layout for the future detached dwellings that would result in adverse amenity impacts once developed.</p> <p>The lot layout results in a number of irregular lots with multiple boundaries, frontages that are not of a sufficient layout or configuration to facilitate future detached dwellings with an adequate level of privacy or amenity.</p>
Character	<p>The proposed development is inconsistent with the existing and desired future character of the surrounding rural village area. The development does not appropriately recognise the desirable elements of the location's current</p>

	<p>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 RU5 zoning of the site and surrounding area.</p> <p>The form, scale and density of the proposed concept development is not considered to be compatible with the existing and future desired character of Talbingo and will result in adverse built environment and social impacts on the locality and the site.</p>
Demonstrated need for the proposal	<p>The following additional information was requested from the applicant to demonstrate the suitability of the proposal:</p> <ul style="list-style-type: none"> • Urban Design Study / Analysis • Social Impact Assessment • Needs Analysis <p>The above information was not submitted by the applicant and therefore insufficient information has been submitted with the application to demonstrate the suitability of the site for the form, scale and density of the development proposed as well as the need for and compatibility of the development proposed.</p> <p>As the development application seeks concept approval for the future uses, built form, scale and density outlined in the documentation submitted, the impacts of the conceptual built form, scale and density have been considered in the assessment.</p> <p>The form, scale and density of the proposed concept development is not considered to be compatible with the existing and future desired character of Talbingo and will result in adverse built environment and social impacts on the locality and the site is therefore not considered suitable for the scale of development proposed.</p>

(1)(e) The public Interest

The public interest is served through the detailed assessment of this DA under *the Environmental Planning and Assessment Act 1979*, the *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments, Development Control Plan and policies.

That assessment has demonstrated that the proposed development is not in the public interest.

6. OTHER MATTERS

External Referrals

The subject application is classed as Integrated Development under Clause 4.46 of the Environmental Planning and Assessment Act 1979 (EP&A Act) as follows:

- Natural Resource Access Regulator (NRAR) - A controlled activity at a specified location in, on or under waterfront land (within 40m) (*Water Management Act 2000*).
- Rural Fire Service (RFS) - Subdivision of Bushfire Prone land for residential purposes (*Rural Fires Act 1997*)

The amended application was referred to NSW RFS who provided a referral response on 20 November 2023 (**Attachment 22**).

RFS have advised the following:

The RFS is not in a position to issue General Terms of Approval as the RFS could not verify the Proposed Masterplan concept site plan prepared by Robert Harwood Architects dated 4/4/23 Drawing No PL03 & the supporting Bush Fire Assessment Report prepared by Bushfire Planning & Design dated 17/8/23 Ref: BR-524422-B.

- *The Bush Fire Report states that a 10m APZ will be provided around the perimeter of the subdivision on adjoining lot 36. However no evidence is provided to demonstrate that consent has been received from the lot owner to allow for the APZ.*

Therefore, the development does not satisfy the relevant requirements of Planning for Bushfire Protection 2019 and concurrence has not been provided by NSW RFS.

As previously noted, Under Clause 4.47(4) of the EP & A Act 1979, there is no ability for this Development Application to be approved and the consent authority must refuse the application.

At the time of writing this report no referral response has been received from DPE Water.

7. CONCLUSION

Council is receipt of a Concept Development Application consisting of a Spa Hotel (tourist accommodation), 82 residential lots for detached dwellings, shop top housing, multi dwelling housing (terraces) development, subdivision and associated site works at Lot 35 DP878862, Miles Franklin Drive, Talbingo.

The proposed development is considered unsatisfactory with respect to the relevant provisions of:

- Tumut Local Environmental Plan 2012
- Snowy Valleys Development Control Plan 2019.

The proposed development is also considered likely to have various significant negative environmental and social impacts in the locality, and the land is considered unsuitable for the proposed development. Advertisement and notification attracted significant objection with valid grounds, and there is not considered to be any overriding public interest in favor of the proposed development.

Furthermore, there are jurisdictional issues that have not been appropriately addressed restricting the ability to approve the development which are as follows:

- Insufficient information has been submitted with the application to adequately demonstrate that the site is considered suitable for the intended use as required under Clause 4.6 of SEPP (Resilience and Hazards) 2021.
- Insufficient information has been submitted to demonstrate compliance with Clause 6.11 of the Tumut LEP 2012 relating to arrangements for essential services for the development.
- The RFS have refused to provide their general terms of approval, therefore under Clause 4.47(4) of the EP & A Act 1979 the consent authority must refuse consent to the application.

Given the above, the proposed development is considered unsatisfactory with respect to the matters for consideration specified by section 4.15 (1) (a) (i) & (iii), (b), (c), (d) and (e) of the Environmental Planning and Assessment Act 1979.

8. RECOMMENDATION

That the Panel determine DA2021/0257 consisting of a Concept Development Application consisting of a Spa Hotel (tourist a visitor accommodation), 82 residential lots for detached dwellings, shop top housing, multi dwelling housing (terraces) development, subdivision and associated site works at Lot 35 DP878862 Miles Franklin Drive, Talbingo by way of refusal pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* in line with the recommended reasons for refusal outlined in **Attachment 20** to this report.