

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-97
DA Number	2021.358
LGA	Bega Valley Shire Council
Proposed Development	Demolition of existing building and construction of a new commercial building (comprising supermarket, drive through bottle shop and licenced café) and associated on-site carparking, landscaping, new culvert crossing, site services, waste management arrangements, access arrangements, off-site works and other works as documented in the development application
Street Address	35-37 Quondola Street, Pambula
Applicant/Owner	Applicant – EAS Investments (ACT) Pty Ltd T/A PLANNED Town Planning Solutions Owner – Kel and Jeanette Stolzenhein (Lot 19 and 20 Section 33 DP 758825 and Lot 15 DP 1204078) and Bega Valley Shire Council (Lot 16 DP1204078)
Date of DA lodgement	19 July 2021
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> • 115 • 2 Petitions
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	<p>The proposal has been referred to the Southern Regional Planning Panel as the consent authority under Clause 4.5(b) of the Environmental Planning and Assessment Act 1979 as the development comprises the following in accordance with Clause 20 and Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011:</p> <p>“Council related development over \$5 million</p> <p>Development that has a capital investment value of more than \$5 million if—</p> <p>(b) the council is the owner of any land on which the development is to be carried out, or</p> <p>(d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).”</p>
List of all relevant s4.15(1)(a) matters	<p>Environmental Planning and Assessment Regulations 2000</p> <ul style="list-style-type: none"> • Regulation 92(b) – demolition of building <p>Relevant Environmental Planning Instruments</p> <p>State Environmental Planning Policies (SEPPs)</p> <ul style="list-style-type: none"> • State Environmental Planning Policy 55 (Remediation of Land). • State Environmental Planning Policy (State and Regional Development) 2011. • State Environmental Planning Policy (Infrastructure) 2017. <p>Local Environmental Plan</p> <ul style="list-style-type: none"> • Bega Valley Local Environmental Plan 2013. <p>Draft Environmental Planning Instruments</p> <ul style="list-style-type: none"> • State Environmental Planning Policy 55 (Remediation of Land) • Draft SEPP reviews (Various) <p>Planning Agreements (existing/draft)</p> <ul style="list-style-type: none"> • Nil <p>Relevant Council Policy</p> <ul style="list-style-type: none"> • Bega Valley Development Control Plan 2013. • Bega Valley Section 94 and 94A Contributions Plan 2014.
List all documents submitted with this report for the Panel's consideration	<p>Attachment 1: Recommended conditions of consent</p> <p>Attachment 2: State agencies comments</p> <p>Attachment 3: Revised development and site plans</p> <p>Attachment 4: Response by applicant to TfNSW</p> <p>Attachment 5: Council report of 22/9/21 regarding Heritage listing</p> <p>Attachment 6: Heritage response from applicant and 3D Visualisation and renders</p> <p>Attachment 7: Flood assessment</p> <p>Attachment 8: Applicants response to submissions</p>

Clause 4.6 requests	Nil
Summary of key submissions	<ul style="list-style-type: none"> • Heritage • Traffic and parking concerns • Flooding • Socio-economic impacts • Environmental concerns
Report prepared by	Mark Fowler – Senior Town Planner
Report date	16 August 2022

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised 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

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

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?

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

No

Conditions

Have draft conditions been provided to the applicant for comment?

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

No

EXECUTIVE SUMMARY

This report considers a Development Application (DA) for the Demolition of the Royal Willows Hotel and ancillary buildings (including bottle shop and accommodation suites) and the construction of a new commercial building comprising a supermarket, drive through bottle shop, licenced café and associated carparking and infrastructure.

The DA will be determined by the Southern Regional Planning Panel as the proposal is classified as 'regional development' pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011. In accordance with the SEPP, the development is Council related development over \$5 million as the Council is the owner of Lot 16 DP1204078 on which part of the development is to be carried out, and Council is a party to an agreement or arrangement relating to the development over Lot 16 DP1204078.

The proposed development is Integrated Development with NSW Roads and Maritime Service as the site fronts the Princes Highway being a Classified Road.

The application has been publicly advertised in accordance with Council's Engagement Strategy with a total of 115 public submissions and two petitions being received during that period.

Section 4.15 of the Environmental Planning and Assessment Act 1979 (EPAA) requires a consent authority to take into consideration various matters when assessing a development application, including the provisions of any relevant environmental planning instruments that apply to the land, the likely impacts of the proposed development on the natural and built environments and the public interest.

This report provides an assessment of the DA, including those issues the Panel raised in their record of briefing dated 7 December 2021. This assessment makes a recommendation for the Southern

Regional Planning Panel to approve the development subject to the imposition of conditions and advisory notes detailed in Attachment 1 of this Assessment Report.

Based on the detailed assessment of the proposal against Section 4.15, it is considered that the development is appropriate, would be of benefit to the local community and is worthy of support.

1.0 Introduction

1.1 Overview

The purpose of this report is to provide a detailed assessment to assist the Southern Regional Planning Panel in its deliberations and determination of a DA for the Demolition of the existing Royal Willows Hotel, adjoining bottle shop and accommodation units and construction of a new building incorporating a supermarket, drive through bottle shop, licenced café and associated carparking and infrastructure.



Image: 3D Visualization of Quondola Street frontage

1.2 Scope of the Report

This Report details the scope of the proposed development, describes the location and physical characteristics of the site on which the development is proposed, identify and comment on the prescriptions of relevant environmental planning instruments and Council adopted Policies applying to the land, and identify any potential environmental impacts and required mitigation measures for the purpose of addressing those impacts.

1.3 The Proponent and Land Tenure

The applicant for the proposed development is Elizabeth Slapp of PLANNED Town Planning Solutions on behalf of the owners Kel and Jeanette Stolzenhein. All land is held under the ownership of Kel and Jeanette Stolzenhein, except Lot 16 DP1204078 which is owned by Bega Valley Shire Council.

1.4 Background

Pre-lodgement meetings with Council's Development Advisory Panel were sought by the applicant and held on the 16 March 2017, 21 June 2018 and 30 January 2020. An overview of the comments discussed at those meetings are detailed in the applicants Statement of Environmental Effects.

These meetings provided an opportunity for the applicant and Council officers to informally discuss key issues relevant to the redevelopment of the site prior to the lodging of the DA. The points raised during the meetings assisted the applicant in determining various issues that should be considered and addressed. Those points contributed to an evolution of the design to which was submitted with the DA.

The DA was registered by Council on 19 July 2021 and seeks approval to redevelop the land for the purposes of a commercial premise including a supermarket, drive through bottle shop, café and associated carparking and infrastructure. It is categorised as regional development under the State Environmental Planning Policy (State and Regional Development) 2011 as the capital investment value exceeds \$5 million and Council is the owner of land on which part of the development is to be carried out. The DA is consequently captured by Schedule 7 of the Policy and constitutes one which the Southern Regional Planning Panel is authorised to exercise the consent authority function of Council.

The DA was originally notified pursuant to Bega Valley Engagement Strategy from 30 July 2021 to 27 August 2021 inclusive. The DA exhibition was extended for a further period of 30 days ending on the 26 September 2021.

A total of 115 submissions and two petitions were received during the entire exhibition period.

Referrals were made to the Transport of NSW (TfNSW) and Essential Energy under the provisions of State Environmental Planning Policy (Infrastructure) 2007 and NSW Police having regard to Crime Prevention through Environmental Design (CPTED). The DA was also reviewed by various Council officers to address matters relevant to their expertise including; Development Engineering, Strategic Planning, Building and Regulation, Water and Sewer Services and Economic Development. The application was also reviewed by Council's former Heritage Advisor (a Council appointed contractor) Mr Trevor King of Trevor King Conservation Planning and Design and more recently by Council's current Heritage Advisor, Dr Peter Kabaila of Black Mountain Projects Pty Ltd.

Copies of responses from TfNSW, Essential Energy and NSW Police are included as Attachment 2 to this report.

Several requests for additional information were made to the Applicant during the course of assessment. All additional information provided by the applicant are included as Attachments 3, 4, 6, 7 and 8 to this report.

2. Site Description and Local Context

2.1 Site Description

The site comprises four allotments described as Lots 19 and 20 Section 33 DP758825, Lot 15 DP 1204078 and Part Lot 16 DP 1204078 and encompasses an area of approximately 6,150m². The site fronts two streets, with primary frontage being 35-37 Quondola Street and secondary street frontage being 36 Merimbola Street (See Image 1 below).



Image 1 – Aerial image showing all allotments obtained from Council ESRI system.

Lots 19 and 20 Section 33 DP758825 currently retains what is described as the Royal Willows Hotel, a separate Drive through Bottle shop, advertising signage both affixed to buildings and free standing and several attached accommodation units. All structures gain pedestrian and vehicular access from Quondola Street. At the rear of the Hotel and accommodation units is an informal garden area comprising established trees.

The site described as Lot 15 DP 1204078 retains a single storey green colorbond shed that is surrounded by gravel surface and enclosed by cyclone fencing. Access to the shed is obtained from an existing crossover from Merimbola Street.

A drainage line traverses the site and is located within Part Lot 16 DP 1204078. The land generally falls away from Quondola Street to the east towards the drainage line.



Photo – Image showing drainage line from Council's carpark traversing the site.

The site is currently connected to all essential services including water, sewer, telecommunications and electricity.

2.2 Local Context

The frontage of the site is located within the main commercial precinct of Pambula (See Images 2, 3 & 4 below). The commercial precinct along Quondola Street is described in Bega Valley Development

Control Plan (BVDCP) 2013 as having a strong historical character with a high degree of harmony with the form and scale of buildings housing retailing, office space, and other commercial enterprises which service local, regional and tourism needs.



Image 2: View looking north along Quondola Street. Image obtained from Google Streetview



Image 3: View looking south along Quondola Street. Image obtained from Google Streetview

The site fronting Quondola Street is immediately adjoined by a timber heritage listed building to the north (Mrs Macs building), United service station to the south, and heritage listed buildings setback from the street to the west including a Place of Public Worship and Covingtons House restaurant.

The rear of the site is immediately bound to the north by a community garden and council carpark that incorporates sealed and unsealed parking areas, a bus stop and public toilets. Commercial land uses comprising electrical supplies and windscreen repairs are located to the south of the site and a large vacant allotment is located to the east.



Image 4: View looking north along Merimbola Street. Image obtained from Google Streetview

The surrounding area also contains a mix of other land uses including commercial uses comprising small retail and food establishments, low scale residential (including over 55's living), service repair station, a Mitre 10 hardware/trade store, Robert Smith Homemakers and Idlewilde Town & Country Motor Inn (See Image 5 below).



Image 5 – Aerial image of Pambula obtained from Google Earth Pro.

3. The Proposed Development

3.1 Demolition and vegetation removal

The application seeks approval for the demolition of all structures on site including the Royal Willows Hotel, bottle shop, several accommodation units and colorbond sheds. The plans include proposed landscaping detailing the extent of vegetation to be retained and removed.



Photo: Royal Willows Hotel and Bottle Shop to be demolished



Photo: Units at rear to be demolished and extent of vegetation.



Photo: Rear of Hotel detailing shed to be removed and extent of vegetation



Photo: Existing shed facing Merimbola Street to be used for temporary bottle shop and then be demolished.

3.2 Temporary Use of Existing Shed

Subsequent to the demolition of the existing drive-through bottle shop structure, it is proposed that the bottle-shop use be temporarily re-located to the existing shed on Lot 15 DP1204078. This would enable the continuation of the bottle shop services whilst the new commercial building is being constructed. Following the completion of the construction works for the new building, the shed would be removed to enable the completion and formalisation of the rear at-grade car parking area.

3.3 Design and layout

Construction of commercial building (circa 2,354m² GFA) comprising:

- 1,409m² GFA supermarket,
- 316m² GFA drive-through bottle shop,
- 173m² GFA licensed café,
- Pedestrian entrance/arcade from Quondola Street,
- Two (2) loading/unloading docks.

The application detailed the following design measures for the Quondola street treatments;

- 150 x 150mm dressed timber posts, chamfered edges, painted terracotta to match the existing 1982 hotel posts.
- Awning fascia of smooth painted metal sheet c. 400-500mm deep with modest signage in a sympathetic font. This has a similar appearance to adjacent fascias and painted terracotta to match trim details on the existing 1982 hotel façade.
- Awning soffit lining to be powder coated 'mini-orb' sheeting painted a soft green.
- Wall areas between and above windows to be a modern interpretation of typical 1920s-30s shopfront tiling – teal coloured tiles in a subway pattern. This will also be used to clad the lower walls in the loggia and the planter box in the bottleshop driveway.
- Window & door frames to be slender with black powder coat finish.
- A polished concrete floor finish to Loggia and Arcade in a warm grey colour with warm toned aggregate.

- The main parapet walls will be stepped as shown. Finish to be soft textured render and paint over lightweight sheet with taped and set joints. The cream colour is similar to the wall colour on the existing 1982 hotel building.
- Parapet trims including Art Deco decorative motifs to be dressed treated timber, painted terracotta to match the trim colour on the existing 1982 hotel building.

Other facades treatments:

- Walls to the south side of the bottle shop will be smooth rendered masonry, painted cream.
- Base walls to supermarket to be painted a neutral Khaki colour.
- Upper walls of supermarket to comprise concrete tilt up panels with an off form finish in 'mini-orb' profile, painted cream. The length of this will be relieved by two large panels of planted 'Green Wall'.
- The highlight walls of the supermarket (not highly visible to the street) will be horizontal fibre cement weatherboards, painted cream.

Since the lodgement of the DA the frontage of the building to Quondola Street has been amended with the revised plans detailed in Attachment 3 of this Report. Image 6 below provides a visualization of the building.



Image 6 – visualization of the building.

The DA also seeks approval for the construction of a culvert crossing over the existing earthen drainage channel within Lot 16 DP1204078 to allow all weather access for all vehicles to the subject land. This access is required to service the proposed development and is a requirement of the Deed of Agreement, which was entered into by the Proponent in securing the formal Easement for Access with Council over part of Lot 16 DP1204078.

3.4 Operating Hours

The supermarket is proposed to operate Monday to Sunday – 7am to 7pm throughout the year – except for during the summer season whereby the trading hours would be extended to 9pm. For the supermarket loading dock, the application details that it would operate between 6am – 8am under a Plan of Management (PoM).

The proposed bottle shop is proposed to operate Monday to Sunday as follows:

- Monday to Friday – 8am to 9pm.
- Saturday – 9am to 8pm.
- Sunday 10am to 7pm.

For the bottle shop loading dock, the application details that it would operate between 7am – 8am under a PoM – prior to the bottle shop opening.

No proposed hours of operation have been specified for the licensed café tenancy.

4 Statutory Planning Framework

4.1 Other Acts of Legislation

Protection of the Environmental Operations Act 1997

The proposal does not include any scheduled activities outlined in Schedule 1 of the Protection of the Environment Operations Act 1997 (POEO Act) and therefore an Environmental Protection Licence (EPL) is not required.

Coastal Management Act 2016

The Coastal Management Act 2016 (CM Act) establishes a framework to manage the coastal environment of New South Wales in a manner consistent with the principles of ecologically sustainable development. The Act defines the coastal zone and includes coastal wetlands. The site is not located within the Coastal Zone.

Biodiversity Conservation Act 2016

The Application is not supported by a detailed biodiversity assessment on the basis that the development proposed is located within the boundaries of a highly modified, long-standing commercial site. A review of the Biodiversity Values Map detailed that the site is not mapped and site inspections identified that the site is extensively modified retaining minimal biodiversity value. It is considered that the development would have no impact on biodiversity values.

4.2 Integrated development

Section 138 of the Roads Act 1993 requires an approval from the Roads Authority (either Council, RMS or TfNSW) for certain works in, on or over a public road, or to connect to a classified road.

Quondola Street forms part of the Princes Highway which is a classified road. The application requires work within Quondola Street and as such was referred to TfNSW under Clause 4.47 of the Environmental Planning & Assessment (EP&A) Act 1979. Their comments and recommended conditions of approval are included as Attachment 2 to this Report.

4.3 Section 4.15(1)(a)(i) Any Environmental Planning Instrument

State Environmental Planning Policy (SEPP) State and Regional Development 2011 – (now described as Planning Systems 2021)

(SEPP) State and Regional Development 2011 provides the legislative planning framework for State and Regionally significant development.

It has been necessary to refer the current application to the Southern Regional Planning Panel pursuant to Part 4 of the SEPP for determination as it is listed under Schedule 7 on the basis that the proposed development comprises a Council land and for which there is an agreement between the owner and Council over that land with a capital investment value of the development more than \$5 million. The proposed development would have a capital investment value of \$8.022 million.

Therefore, the Southern Regional Planning Panel is the determining authority in accordance with Section 4.5(b) of the EP&A Act 1979.

State Environmental Planning Policy No.55 – Remediation of Land (now described as SEPP Resilience and Hazards 2021)

The Panel at their Briefing on the 7th December 2021 sought the following information in the assessment of the application;

- Potential site contamination and requirements of SEPP 55 – whether a preliminary site investigation is required.

Clause 7 of the SEPP states that a consent authority must not consent to the carrying out of development unless it has considered, among other things, whether the land is contaminated. In this instance, the subject land is not listed in Council's records as being contaminated or listed as a contaminated site with the Environment Protection Authority (EPA).

During the exhibition period, it was detailed through a number of submissions that the site previously contained a fuel dispenser from an underground fuel tank.

Further information was requested from the applicant to address the possibility of an underground fuel tank still on-site and consideration of SEPP 55 in addressing this issue. The applicant has confirmed that an underground fuel tank exists on-site and details that it is accepted by the Proponent that Council would impose a suitably worded consent condition requiring the completion of a detailed site investigation prior to the commencement of construction works. This investigation would include a review of the site history, site inspection and soil sampling, laboratory testing and analysis program and if site contamination is confirmed, make recommendations for the appropriate management of the underground tank (i.e., removal) and any contaminated soils.

In accordance with the provisions of Clause 7 of the SEPP, it has been confirmed that the site has been utilised for fuel storage and dispensing. It is recommended that conditions be applied requiring the provision of a Preliminary Site Investigation be undertaken prior to a Construction Certificate being issued and if required, that a Remediation Action Plan (RAP) also be included if soil contaminates are identified, to ensure appropriate remediation of the site for the proposed design. The provisions of these investigations and Plans would ensure protection to the surrounding environment and land uses.

State Environmental Planning Policy (Coastal Management) 2018 (now described as SEPP Resilience and Hazards 2021)

The Policy does not apply as the site is located outside the Coastal Zone.

State Environmental Planning Policy Infrastructure 2007 (now described as SEPP Transport and Infrastructure 2021)

The proposed development has a frontage to a classified road, being the Princes Highway (Quondola Street) and as such, must satisfy Clause 101, being:

2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The applicant provided an assessment by McLaren Traffic Engineering on the impact of traffic including service vehicles on the existing road network.

The assessment confirmed that the development proposed would not compromise the effective and ongoing operation and function of the classified road and is of a type that would not be sensitive to traffic noise or vehicle emissions arising from the adjoining classified road.

In accordance with Schedule 3 of the SEPP, the application was referred to Traffic NSW as 'traffic-generating' for comment.

TfNSW reviewed the original traffic assessment and submitted plans and identified issues associated with the proposed servicing of the development, including impact on traffic entering and exiting the site onto Quondola Street, functioning of delivery vehicles through and within the site and safety issues and requested additional information on mitigating these impacts (See Attachment 2: TfNSW letter dated 24 September 2021).

The applicant submitted additional information including a response by McLaren Traffic Engineering (See attachment 4 – Response by applicant to TfNSW), that responded to matters raised by TfNSW including Swept paths for delivery vehicles into and within the site, traffic control measures from the site including left turn exit only onto Quondola Street for all vehicles, and a draft Traffic Control Plan for the functioning of the delivery vehicles within the site to mitigate truck and pedestrian safety issues.

TfNSW reviewed the additional information and advised the following;

TfNSW notes:

- *Council is seeking advice to assist in its assessment under Section 101 of State Environmental Planning Policy (Infrastructure) 2007;*
- *the additional information has sought to address comments that TfNSW has previously provided in its correspondence dated 24 September 2021;*
- *the servicing arrangements have been amended so that all service vehicles now enter via Merimbola Street/the local road. The supermarket service vehicles to exit via Merimbola Street, the bottle shop service vehicle to exit via Quondola Street with all servicing to occur within restricted times.*
- *a 1.2m wide isolated median will be provided within Quondola Street to prevent right turns into and out of the site (refer to Attachment 1); and*
- *concurrence under Section 138 of the Roads Act 1993 will be required from TfNSW for the works within the Quondola Street road reserve.*

On the basis that Council is of the view that the development satisfies the provisions of Section 101 of State Environmental Planning Policy (Infrastructure) 2007, TfNSW will not object to the DA subject to the conditions outlined in Attachment 2 being included in any development consent issued. To assist Council in its assessment and determination of the DA TfNSW also provides some advisory comments in Attachment 3. As these comments relate to manoeuvring within the site they are only provided as advice.

The application has been appropriately considered under Clause 101 of the SEPP and it is recommended that the conditions proposed by TfNSW be included as draft conditions of consent.

Those additional comments detailed in Attachment 3 in the TfNSW response are further considered below in this Assessment Report.

Clause 45 of the SEPP (Infrastructure) also requires before determining a development application (or an application for modification of a consent) for development, the consent authority must—

- (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

The application was referred to Essential Energy for comment in accordance with this Clause as there are existing electricity power services located within both Quondola and Merimbola Streets.



Photo: Existing powerlines and street light within Quondola Street.

Essential Energy detailed that they had safety concerns in relation to the proximity of the development to Essential Energy's powerline (namely within Quondola Street). They detailed that the development does not comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

The applicant reviewed the comments and has agreed that the powerline in front of the development be placed underground. This was issued to Essential Energy who subsequently advised (See Attachment 2: Essential Energy email dated 19 April 2022) that they supported the provision of placing underground subject to the following;

- *The development should be made conditional upon the overhead powerlines being relocated underground to a location approved by Essential Energy and in accordance with Essential Energy's contestable works process.*

Essential Energy also made the following general comments:

- *If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;*
- *Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with; and*
- *In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance*

with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

- *Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).*
- *Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.*

It is recommended that the above recommendation and comments by Essential Energy be included as conditions and notations as detailed in Attachment 1 of this Report.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (now described as SEPP Resources and Energy 2021)

Clauses 12 and 13 of the policy requires the determining authority to consider the compatibility of proposed development with mining, petroleum production or extractive industries and the suitability of mining, petroleum production or extractive industries with other development. A review of government databases indicates that there are no Mining, Petroleum Production or Extractive Industries located in the vicinity of the site and therefore this development would not impact any mining, petroleum production or extractive industries.

State Environmental Planning Policy Primary Production and Rural Development 2019 (now described as SEPP Primary Production 2021)

Clause 29 of the SEPP includes provisions for sustainable aquaculture and requires the determining authority to consider whether, because of its nature and location, whether the development may have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area, and if it suspects that the development may have that effect, must give notice of the application to the Secretary of the Department of Industry.

Pambula Lake is located downstream from Pambula and includes areas identified as priority aquaculture areas.

The application was not considered to be required to be referred to the NSW DPI Aquaculture in accordance with clause 29(1)(b) of the SEPP. The site is located within the central business area of Pambula Village, approximately 1.4 kilometres to the north of Pambula Lake. The site is already connected to the towns stormwater and reticulated sewer systems and the redevelopment of the site would not change the existing arrangements.

The redevelopment of the site would seal all carparking areas and it is considered that the sealing of these areas would reduce current gravel sediments from unsealed areas leaving the site. As detailed earlier in this report, it is acknowledged that there is an underground fuel tank on-site. Conditions requiring management of its decommissioning and removal would ensure suitable mitigation of any downstream impacts, to maintain the integrity of the Pambula wetlands and ultimately the Pambula Lake.

In accordance with clause 31 of the Policy, the assessment has considered the NSW Oyster Industry Sustainable Aquaculture Strategy.

State Environmental Planning Policy 64 Advertising and Signage (now described as SEPP Industry and Employment 2021)

The Policy provides a State-wide approach to the regulation of advertising and signage. Conceptual signage has been shown on the elevation plans and perspective imagery to demonstrate the future advertising intent. This conceptual signage is consistent with the design and location of advertisements on adjoining and nearby heritage listed buildings.

As the design of the signage has not yet been finalised, it is expected that a future DA will be submitted for the design and installation of signage. A draft condition of consent has been applied detailing the requirement for any future DA for signage unless it is exempt.

Bega Valley Local Environmental Plan 2013

The following Clauses of BVLEP 2013 are addressed as they either apply to the proposed development or the subject site.

Clause 1.2(2) Aims of the Plan

The Aims of the Plan:

- “(a) to protect and improve the economic, natural and social resources of Bega Valley through the principles of ecologically sustainable development, including conservation of biodiversity, energy efficiency and taking into account projected changes as a result of climate change,*
- (b) to provide employment opportunities and strengthen the local economic base by encouraging a range of enterprises, including tourism, that respond to lifestyle choices, emerging markets and changes in technology,*
- (c) to conserve and enhance environmental assets, including estuaries, rivers, wetlands, remnant native vegetation, soils and wildlife corridors,*
- (d) to encourage compact and efficient urban settlement,*
- (e) to ensure that development contributes to the natural landscape and built form environments that make up the character of Bega Valley,*
- (f) to provide opportunities for a range of housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities,*
- (g) to protect agricultural lands by preventing land fragmentation and adverse impacts from non-agricultural land uses,*
- (h) to identify and conserve the Aboriginal and European cultural heritage of Bega Valley,*
- (i) to restrict development on land that is subject to natural hazards,*
- (j) to ensure that development has minimal impact on water quality and environmental flows of receiving waters.”*

In assessing the DA, including all accompanying reports, plans and advice from agencies and internal staff, it is considered that the development is not contrary to the Aims of the Plan as addressed and detailed throughout this assessment report.

Clause 2.3 Zone Objectives and Land Use Table

Under the provisions of the Bega Valley Local Environmental Plan 2013 the subject land is zoned B2 Local Centre Zone (See Image 7 below).

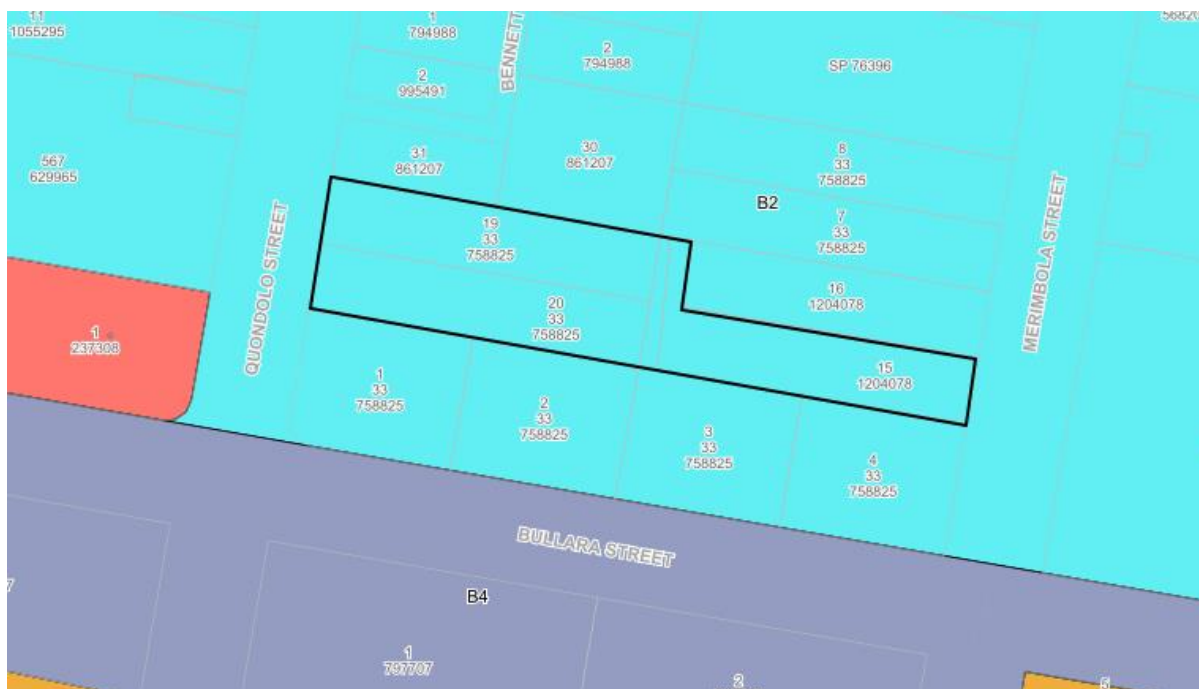


Image 7: Plan extract Bega Valley Local Environmental Plan 2013

The provisions of the BVLEP 2013, commercial premises are permissible within the B2 Local Centre Zone subject to the consent of the Bega Valley Shire Council.

Commercial premises means any of the following—

- (a) Business premises,
- (b) Office premises,
- (c) Retail premises.

Retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) specialised retail premises,
- (n) timber yards,
- (o) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

food and drink premises means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.

All land uses applied for in this DA are clearly characterised as commercial premises which are permissible in the zone with development consent.

The Objectives of the B2 Zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To enable other land uses that are complementary to, and do not detract from, the viability of commercial uses within the zone.*
- *To minimise conflict between land uses on land in the zone and land uses on land in adjoining zones.*
- *To strengthen the viability of existing business centres as places for investment, employment and cultural activity.*

It is considered that the development is consistent with the B2 zone objectives by providing a supermarket and other retail uses that would service the people who live, work and visit the area. Although the development would demolish and remove existing commercial uses currently operating from the site, it is considered that it will provide opportunity to encourage employment opportunities with its location close to public transport links, namely bus services and suitable pedestrian pathways.

As detailed throughout this assessment report, the proposal minimises impact to the surrounding land uses by consolidating commercial uses within the core business area of Pambula.

The design and siting of the development has taken into consideration the built and natural landscape by keeping the building predominantly single storey with appropriately proportioned façade height and form fronting Quondola Street, excavating into the site to minimise the buildings height and bulk to the rear and through appropriate use of building materials and colours.

Clause 2.7 Demolition requires development consent

The DA proposes demolition works, and accordingly has sought consent for these demolition works as part of its approval.

The application seeks the demolition of all structures as detailed in the submitted Demolition Plan (See Attachment 3 - Revised development and site plans).

It is recommended that a detailed Construction Management Plan nominating method of demolition of all structures be included as a condition of Consent to ensure that demolition works comply with Australian Standards and where possible materials are recycled to minimise waste.

Conditions are recommended to ensure appropriate disconnection of all existing services, including water and sewer, to occur prior to demolition works commencing to ensure their protection.

Clause 4.3 Height of Building

The development site is subject to a maximum building height of 10 metres. The maximum building height proposed measures 8.5 metres and is therefore consistent with this Clause.

Clause 5.10 Heritage Conservation

The Objectives of the Clause are:

- (a) to conserve the environmental heritage of Bega Valley,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The requirements of Clause 5.10(2)(a) require the granting of development consent for any of the following:

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)*
 - (i) a heritage item,*
 - (ii) an Aboriginal object,*
 - (iii) a building, work, relic or tree within a heritage conservation area,*

The subject land is not listed as a heritage item under Schedule 5 of the Bega Valley Local Environmental Plan 2013, however, the front portion of the site fronting Quondola Street is located within the Pambula Heritage Conservation Area and the site is located immediately within the vicinity of numerous heritage items listed under Schedule 5 (See Image 8 below).



Image 8: Plan extract detailing site in relation to listed heritage sites in the vicinity of the site and Pambula heritage conservation area.

The application is supported by a Statement of Heritage Impact prepared by Phillip Leeson Architects that provides a detailed assessment of the past history of the site, including the sites visual changes over the years, consideration of the streetscape having regard to heritage listed sites within Quondola Street, development of the proposals design and assessment of Heritage Impact.

The Statement of Heritage Impact also includes an assessment of the design treatments for the proposed development. In assessing the design and considering the existing built form on-site, the impact assessment concluded that;

- *The development proposal is extensive and will result in substantial change to the existing conditions both on the Quondola Street frontage and to the rear.*
- *While the existing reproduction hotel façade is sympathetic to the streetscape character and valued by some, it is not original or authentic and has no intrinsic heritage value.*
- *The proposal has been guided by an experienced heritage management professional in close consultation with Council.*
- *The proposed design is for a high quality building which makes a modern yet sympathetic contribution to the streetscape in terms of form, amenity, finishes and colours.*
- *The visual impact of the building and carpark proposals at the rear will be mitigated by retention of mature trees and by new tree plantings.*
- *In our opinion the proposed design strikes a reasonable balance between respecting the recognised heritage significance and general design character of Quondola Street and accommodating the complex functional requirements of a supermarket and bottle shop.*

The application was considered by Council's former Heritage Advisor who advised that the proposal is considered to be acceptable on heritage grounds.

The Panel at their Briefing on 7th December 2021 sought the following information to help inform the assessment of the application;

- *Justification for demolition of historic hotel and feasibility of part retention and re-use in new proposal. Need for external independent review of Heritage Impact Statement.*

- *Appropriateness of building design in the context of heritage streetscape and conservation area controls. Need for external expert urban design advice.*
- *Need for further information/analysis on appropriate scale, bulk and form of proposed building to demonstrate the appearance of the building and relative height is appropriate and contributes positively, in the context of the existing streetscape and as a key entry into Pambula town centre (particularly from the south) – for example through photomontages*

In considering the justification for demolition of the Royal Willows Hotel, it is noted that the premises has previously been inspected by Council's former Heritage Advisor who also considered its condition and integrity.

The inspection was in response to several community members request to Council to have the premises listed under Schedule 5 of the Bega Valley Local Environmental Plan 2013. The nomination included detailed information about the building's historical and social values, aesthetic appeal and contribution to character and outlined the building's past and present cultural associations with the town, however, it did not include an assessment of the physical condition of the building.

The request to heritage list the Royal Willows Hotel was considered at the Council meeting on 22 September 2021 whereby Council resolved not to support the nomination for listing the Royal Willows Hotel as a Local Heritage Item in Schedule 5 of Bega Valley Local Environmental Plan 2013, as recommended by the staff report. A copy of that Council report and minutes are included as Attachment 5 to this report.

The Council report includes consideration by Council's former Heritage Advisor who conducted an extensive inspection of the hotel building having consideration of its historical, aesthetic and social values, financial considerations as well as the condition and integrity of the building.

The former Heritage Advisor found that:

- *the condition of much of the hotel is poor*
- *only a small section of the original façade remains, and a substantial proportion of the existing structure is composed of later additions of medium to poor quality*
- *much of the original fabric of the building has been lost due to successive adaptations over time*
- *the major components of the original structure that still exist are found in the sections of external wall (north, south and corner returns located along the eastern wall), some internal loadbearing wall remnants and the hipped roof structure*
- *it is unlikely that the existing roof cladding is original*
- *floors in the original hotel section are subsiding and there is some cracking in the wall surfaces and sagging of ceiling lining*
- *the building displays a tired ambience and the overall amenity of the internal spaces is poor*
- *the integrity of the hotel is mixed with some remnant original form and fabric elements while most of the front wall is made of new material and the main façade is a faux reproduction that loosely incorporates former façade elements.*

Based on the review by Council's former Heritage Advisor inspection, it was considered that there is reasonable justification for the demolition of the Royal Willows Hotel building.

It is noted that a subsequent request for heritage listing has been submitted to Council for consideration.

In response to the Panels request for assessment of the appropriateness of building design in the context of heritage streetscape and conservation area controls, a further review of the development was undertaken by Council's current Heritage Advisor who reviewed the design and provided the following comments;

Basic heritage recommendation: Due to an unacceptable negative impact of the current design on the heritage significance of Pambula's main street, I recommend refusal of this DA.

Alternative: An alternative (to refusal) could be to advise the proponent how to "repair" the proposal to try to lift it to an acceptable level.

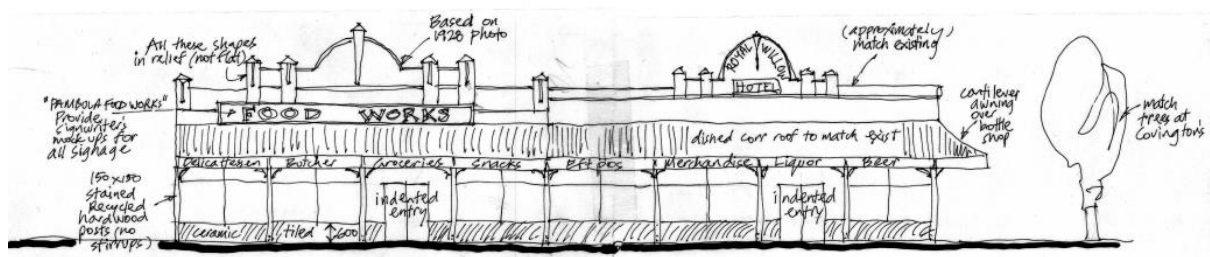
It is clear from historical photos that the Hotel has been through numerous (actually 5) architectural style phases. Yet I consider the current proposed (6th) tilt slab style to be the worst.

During inspection I recommended a more conservative design for the street frontage and roofs, recreating more of the existing building forms and details that make the current building visually interesting and attractive to the public.

Heritage infill design recommendations

- *Reproduce a slightly reduced height version of the current parapet and frontage as two bays, rather than trying to "stretch" the current frontage. The circular peak of the parapet can be reduced to a more compact half-circle.*
- *The two parapets may differ in design and in colours, to more accurately match the rhythm of parapet lengths in the street.*
- *Try to retain the attractive verandah corner detail by replacing the carport with a return verandah or side awning. Refer attached photo showing the corner.*
- *Include pitched roof forms, preferably with symmetry.*
- *Replace the planting box with a tree or two trees (heritage evergreen species to match Covington's House "park" on opposite side of the road).*
- *Ceramic tile walls to 600mm height (glazing above OK).*
- *If at all possible, relocate the alcohol shop driveway entry from the main street to the rear.*
- *Provide robust timber verandah posts (refer sketch).*
- *Indent entry doors.*
- *Use traditional hand painted signs designed with shadow casting to create interest.*
- *Submit a signwriter's photomontage mockup of all signage.*
- *Delete green walls at the side. These are not going to happen unless they are irrigated and convincingly detailed by a landscape specialist.*
- *Shapes on parapets to be 3D, not "tilt slab flat" and to be detailed on the drawings as such.*
- *Provide details of landscaping and of all external materials, profiles, finishes and colours.*

The following sketch was provided by the current Heritage Advisor that incorporated the above advice.



The additional comments by the current Heritage Advisor were provided to the applicant for consideration and response.

Additional information was submitted by the applicant including further response from Phillip Leeson Architects, the provision of 3D Visualizations of the development detailing the appearance of the building and relative height in the context of the existing streetscape and amended plans incorporating design changes (See Attachment 5 – Heritage response from applicant and 3D Visualisation and renders). The additional information also addresses the request from the Panel that further information/analysis on appropriate scale, bulk and form of the proposed building and context of the existing streetscape be provided, including photomontages.

The additional information provided by Phillip Leeson Architects provides a response to the design suggested by Council's current Heritage Advisor and includes the rationale for the design. Key aspects of the design are detailed in the response as follows;

"For the reasons below, it is considered that both the Design Recommendations and the Sketch would result in a design that is an assemblage of a various periods and influences, including the extant 1980s parapet and verandah of the Royal Willows Hotel, which are an approximate reproduction and amalgamation of earlier forms and details. The eclectic selection of influences in the Sketch would result in a building where it would be difficult to interpret the origin/period of construction. Instead of selectively reproducing various elements from the former hotel and broader streetscape, the forms and detailing to the front of the Proposed Development would be influenced by a single period (the Interwar period).

Both the design recommended by the Heritage Advisor and the existing frontage alter the scale/proportions of the original building and the 1910s frontage, introducing reproduction details in a way that is inconsistent with their historic use. Rather than reproducing a version of the Royal Willows Hotel which is not heritage listed, the Proposed Development references the design of the nearby, Interwar period shops which are heritage listed."

The response provided by Phillip Leeson Architects responded to each design recommendation of Council's current Heritage Advisor's comments and where possible, the design of the proposed development incorporated some of the design recommendations and where that is not possible, or where the design recommendations do not reflect the character of listed heritage places within the Pambula Main Street Conservation Area, they were not incorporated.

The design changes submitted by the applicant included;

- the parapet design of the proposed development being amended to better reflect the scale/rhythm of parapet lengths in the street and the amended design omits the carport to the side of the bottle shop and instead includes a lower and narrower awning that would form a return to the proposed verandah to Quondola Street.
- The amended design includes Prunus species trees in the planter box adjacent to the driveway to match the street plantings on the opposite site of Quondola Street.
- The design has been amended to include hardwood verandah posts with no stirrups. These posts would be 150 x 150mm dressed timber with chamfered edges.
- The design of the Proposed Development has been amended to include recessed entry doors to the arcade.

The additional information including the response from Phillip Leeson Architects was also referred to Council's current Heritage Advisor, who provided the following comments;

"I acknowledge that some of the council heritage adviser's simpler suggestions have been taken up by the applicant (timber verandah posts, indented entry, inclusion of a tree in the landscaping, etc). Also, that these changes have been endorsed by the applicant's heritage consultant.

The resulting proposal, however, is largely unsympathetic to the streetscape. I consider the proposal a missed opportunity to replace a much-loved local landmark, by a creative and visually stimulating addition to the streetscape. The core issue is that irrespective of any numerical compliance with a local DCP, the resulting aspect of that of a generic commercial supermarket that demonstrates no local character. In other words, this could be a supermarket in any town on the continent. There is nothing in the building design to indicate that this is Pambula's local supermarket.

If the council wishes to support this development and approve it, then some minor amendments to it could be framed in consent conditions, as follows.

- *Shopfront glazing sills to be no lower than 600mm above the footpath, with ceramic tiling to the wall below the sills.*
- *Verandah posts to be 150 x 150 with concealed fixings at the base in a clear stained finish matching the timber colour.*
- *External colours to be Y55 Deep Stone for walls, upper parapets and sign lettering; Y64 Deep Indian Red for external metal framing and parapet projecting detailing.*
- *Plant two trees matching two trees (heritage evergreen species to match Covington's House 'park' on opposite side of road) in deep soil. Note that a miniature tree such as a prunus placed in a planter box does not match the bulk and scale of the development and would not reduce the visual impact of the development on the streetscape.*
- *Provide a physical sample board of all external colours (especially samples of any tiles, paving finishes and the like) to council for comment.*
- *Provide full details of the "green wall" proposal.*
- *Provide signwriter's mockup of all proposed font styles and sizes used in external signage.*
- *Provide typical detail of the shopfront glazing section and parapet projecting detailing.*

As in so many applications a successful outcome in this case relies on the detail. The cost of these conditions is likely to be minimal."

The desired future character for Pambula, especially within the Quondola commercial precinct is detailed in Section 2 Commercial provisions of BVDCP 2013 and provides that development in the vicinity of buildings with historical importance is compatible with the form and scale of those buildings and that the management of the town's streetscapes is consistent with the town's historic character, and the management of the town's perimeter and setting is consistent with its historic and aesthetic values.

The Precinct Specific Requirements for the Main Street Commercial area of Pambula that includes the Heritage Conservation Area details the following relevant requirements;

- *New development will:*
 - *not be visually dominant in the streetscape*
 - *not obscure significant views of adjacent buildings*
 - *be no higher than the maximum height of the adjacent building*
 - *have a maximum height (top of ridge) of 7.5m above natural ground level, unless it can be demonstrated that a second storey is well set back from the main street and will have little or no adverse visual impact on the historic streetscape. In the latter case the maximum height from natural ground to top of ridge will not exceed 10m*
 - *be sympathetic to and consistent with the historic built form evident in the main street.*
- *New or restored shopfronts must adopt an historic form and palette of materials that is evident elsewhere in the main street. A useful set of built forms is illustrated in the "Pambula Urban Design Guidelines".*

The design is consistent with the precinct specific requirements when viewing the site from both the northern and southern approaches to the site along Quondola Street. The design will reposition the front façade back onto the front boundary and would maintain the existing views of the adjacent heritage listed building, be consistent with the maximum façade height of 7.5 metres, with the rear two storey component set well back from the street and not be visually dominant in the streetscape.

The development has been assessed in accordance with the above requirements, including the Pambula Urban Design Guidelines published in November 1994. In considering the Pambula Urban Design Guidelines, it was noted that the guidelines reviewed the Royal Willows Hotel and provided the following recommendations for the site,

The exterior of the Royal Willows Hotel is currently in excellent condition and it is understood that work is also being undertaken on the interior. At an appropriate time the liquor outlet

could be altered to compliment the hotel and it is suggested that a weatherboard façade with street verandah similar to the traditional Pambula buildings would be suitable, sympathising with its neighbour and reinstating it in the streetscape.

The Pambula Urban Design Guidelines provides general recommendations for specific design elements of restoring existing buildings and design of new buildings.

For verandahs, the Guidelines recommends that future building of street verandahs be guided by old photographs but create designs which are modern and compatible with the streetscape. Straight skillions are recommended, supported by timber posts with appropriate spacing considering architectural balance and fussy details should be avoided. The long term objective for the eastern side of Quondola Street should be to create a colonnaded street.

The design of the verandah is considered to be consistent for a new building within this section of Quondola Street. The design provides a verandah frontage that is consistent with form, is appropriately sized for the building utilising similar spaced timber posts that would add to the colonnaded effect for the eastern side of Quondola Street.

For walls and shop fronts, the guideline provides the variations in shop front designs considering the various eras when buildings were built. The guideline noted that shop fronts built circa 1937, are examples of the first real break with traditional style with the use of metal frames and glazing bars, large areas of glass with diffused panes at the top and walls tiled in adventurous colour schemes.

The application has included elements detailed in the Guidelines including the use of recessed doorways, use of tiling and appropriately proportioned windows.

For roofs, gables and parapets, the Pambula Urban Design Guidelines details that for parapets to be successful, they need to be in scale with the rest of the building and probably have some restrained decoration in the way of mouldings otherwise they can appear bland and uninteresting. The rhythm of gables and parapets in the street scape is a significant element contributing to the character of a place and care should be taken that new buildings adhere to similar heights and styles to retain conformity. In essence, mixing architectural eras should generally be avoided, although this not always possible.

The DA, Heritage Impact Assessment and supplementary heritage information details the extent of impact from the proposed redevelopment of the site in respect to its impact on the Pambula Main Street Heritage Conservation Precinct and Heritage Items in the vicinity of the site.

The applicant has detailed that the façade treatments for the new building are influenced by a single period (the Interwar period) which is evident in other heritage listed buildings along Quondola Street. The design of the development provides a supermarket at the rear of the building and proposes two smaller retail businesses to front Quondola Street, similar to the smaller retail premises located in existing heritage listed buildings along the street.

The design when viewed from along Quondola Street (see Images 9 and 10 below), is considered to be consistent with the size, form and function of existing heritage listed buildings along the eastern side of Quondola Street and consistent with the Pambula Urban Design Guidelines for new buildings.



Images 9 and 10: 3D Visualization detailing proposed elevation details including verandah, roof, and parapets viewed north and south of the site.

For colour scheme and paint, the Pambula Urban Design Guidelines details that the exterior of the Royal Willows Hotel in 1993 is in excellent condition. A review of photographs of that time would indicate that the colours of the building today are generally consistent from that time. The DA proposes to utilise similar colours of the existing Royal Willows Hotel which is considered to be consistent with the recommended paint schemes for buildings detailed in the Guidelines.

It is clearly articulated in the Statement of Heritage Impact by Phillip Leeson Architects that the development will result in a substantial change to the existing conditions both on the Quondola Street frontage and to the rear. The substantial change would be the removal of a building that has provided a community connection both socially and aesthetically.

The amended design provided by the applicant is considered to be consistent with the design requirements specified in Council's BVDCP 2013 and therefore is considered appropriate having regard to the demolition of the existing Royal Willows Hotel and the design of the new building.

Aboriginal heritage and Culture

The application is supported by an Aboriginal Culture and Heritage Due Diligence Report. The report identified that a visual site inspection was conducted by Eden LALC Senior Sites Officer on 10th September 2020. An extensive search of AHIMS on Lot 19 and 20 DP 758825 and Lot 15 DP 1204078

was carried out. A 200m and 50m buffer was applied to these searches. The 50m and 200m buffer returned no registered or known sites of Aboriginal culture and heritage significance.

The assessment did not identify any items that would require further assessment on Aboriginal archaeology, however, did recommend the following;

- a) If an Aboriginal object is found while undertaking the activity the proponent must stop work and notify OEH (formally DECCW); an AHIP may need to be sought.*
- b) If human skeletal remains are found the proponent must stop work immediately, secure the area to prevent unauthorized access and contact the NSW Police and OEH.*
- c) During earthworks being conducted in preparation for construction of the proposed structure an Aboriginal sites officer from Eden Local Aboriginal Land Council should be present to observe. This is to ensure that if, whilst unlikely, any Aboriginal objects are uncovered during this phase of works they can be accurately identified, and immediate advice can be provided on how to proceed.*

It is considered that the application has suitably addressed matters regarding Aboriginal Heritage and Culture and the above recommendations of the report are to be included as conditions of consent.

Clause 5.21 Flood planning (previously referred to as Clause 6.3 under BVLEP)

The Panel at their Briefing on the 7th December 2021 sought the following information in the assessment of the application;

- *Flood affectation in the context of recent Council flood study.*

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

The BVDCP 2013 outlines the requirements for developments within the Bega Local Government Area (LGA). Section 5.8.1 relates to flood planning considerations and specifically applies to development on flood prone land within the LGA.

The site is identified in the 'Pambula River, Pambula Lake and Yowaka River Flood Study' (Catchment Simulation Solutions, 2021) that shows that there is potential for inundation across the site during significant rainfall in both the local catchment, as well as the wider Pambula River catchment.

The application details that the finished floor level is above Council's adopted 4.5m flood planning level for Pambula with the exceptions of the basement/under-croft level and at-grade car parking areas. The application considers that the design is an appropriate outcome to meet the provisions of this Clause.

Further information was requested detailing the impact of the development, including cut and fill, would have for the site and adjoining properties.

The applicant provided a flood assessment for the proposed works on-site which is included as Attachment 7 to this report.

The assessment aimed to:

- *confirm the potential for inundation of the existing property from mainstream and local overland flooding;*

- *confirm the development controls that would need to be implemented to ensure the flood risk is appropriately managed across the site (in accordance with the Bega Valley Development Control Plan, 2013); and,*
- *ensure the development does not increase the flood risk across neighbouring properties.*

The findings of the report highlighted that the development;

- *the works do not impede any floodway areas or produce any impact on 1%AEP flood storage area*
- *the proposed development will not adversely affect flood behaviour across other developments or properties*
- *the velocity-depth product across inundated portions of the site does not exceed 0.2m²/s at the peak of the 1%AEP flood event, and large portions of the overall development are not predicted to become inundated. The supermarket, café and bottle shop are all located above the Flood Planning Level. As such, the need for evacuation is not considered likely during most floods in the catchment (although can be safely undertaken via pedestrian or vehicular access to Quondola St), and therefore there is unlikely to be additional burden on existing evacuation routes.*
- *that the proposed development will not adversely affect flood behaviour across any riparian corridors, riverbanks or watercourses.*
- *An assessment of flooding under climate change conditions has been undertaken as part of Section 4.2 of the current study and indicates similar outcomes to existing climatic conditions (negligible impact under climate change conditions)*
- *The proposed development adheres to the allowable design and scale set out in the Bega Valley DCP, and the works are intended to be sympathetic to the locality*
- *The flood behaviour on the site has been defined for the 1% AEP event and appropriate controls applied as per Councils DCP2013. This includes habitable floor areas being located above the Flood Planning Level. No allowance to modify, relocate or remove buildings as a result of flooding or coastal erosion is considered necessary.*

The assessment also details that no evacuation is considered necessary from the site in flood events up to and including the 1%AEP event. However, appropriate management of staff and customers is required to ensure the risk to life is managed (including avoiding Merimbola Street during times of flooding).

The assessment also examines that there is also the potential for floods larger than the 1% AEP event to occur. This includes the probable maximum flood (PMF), which is the largest flood that could occur. Figure 25.4 from the 'Pambula River, Pambula Lake and Yowaka River Flood Study' (CSS, 2021) indicates that in the PMF, the development site is completely inundated, together with Merimbola and Quondola St adjacent to the site.

The assessment provides that in recognition of the potential for the site to be impacted by flooding during particularly large floods, and the flood liability of Merimbola St adjacent to the site, a Flood Management Plan has been prepared and is enclosed in Appendix D of the Flood Assessment. The plan summarises key flooding information (e.g. flood levels) and the preferred emergency response strategy to employ during future floods.

Engineering documentation was also prepared by Van Leeuwen and Associates Pty Ltd accompanying the application that details that the proposed culvert crossing has been designed for an appropriate storm event, having regard to the immediate topography and runoff generated by the sub-catchment and has sufficient capacity to match the existing outflow of the channel without causing choking, resulting in upstream flooding.

The application and flood report were reviewed by Council's Development Engineer who raised no concerns with the findings of the report. It is recommended that a condition of consent be applied to ensure compliance with the Flood Assessment and the provisions of a Flood Management Plan.

It is considered that the applicant has adequately addressed the provisions of this Clause.

Clause 6.8 Airspace Operations

The proposed development will not penetrate the Limitation or Operations Surface, and no consultation with the relevant Commonwealth body about the application was required.

Clause 7.2 Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal requires excavation of the lower level of the proposed commercial building to provide an undercroft for carparking and the filling of land for other carpark areas within the site. As detailed earlier, the applicant has provided a flood assessment report detailing that the extent of works would not impact adjoining properties having regard to finished ground levels for the development.

The excavations would be located in proximity to a Heritage listed building located along its northern boundary. It is recommended as a condition of consent that dilapidation reports be undertaken on adjoining premises prior to any works commencing on-site to ensure appropriate recording of existing condition of buildings and include mechanisms to review and mitigate impacts associated with earthworks.

Section 4.15 (1) (a) (ii) the provisions of any draft EPI

Draft Remediation of Land SEPP55 (now State Environmental Planning Policy (Resilience and Hazards) 2021)

The explanation of intended effects has been reviewed and considered. No impacts are envisaged as a result of the proposal.

Draft SEPP reviews (Various)

It is noted various SEPPs have been consolidated and are now in force as of 1 March 2022. Changes to SEPPs are of an administrative nature only and no impacts are envisaged by the proposal with adoption of the new SEPPs where relevant to the site. The new SEPPs have been noted in the assessment of relevant SEPPs above.

4.4 Section 4.15(1)(a)(iii) Development Control Plans

Bega Valley Development Control Plan (BVDCP) 2013

The following sections of BVDCP 2013 are considered relevant to the assessment of this application.

Section 2 Commercial Development

This chapter of BVLEP 2013 describes the desired future character and specific requirements for development in four town centres of the Bega Valley, which includes Pambula. Following the towns desired character and requirements, the chapter then sets out the general requirements for all commercial development in the Shire (including the above town centres) as well as specific requirements for commercial development.

Subsection 2.5 details the development controls specific to the Pambula Town Centre. The following statement is provided in relation to the Existing Character for Pambula:

Pambula is one of the oldest villages in the Bega Valley Shire and has retained some of its early heritage buildings as well as a village atmosphere. This is reflected in the low scale residential and retail development and small size of the village. Pambula is a neighbourhood service centre with a strong heritage and tourist theme.

Many of the buildings in and around Pambula have interesting architectural and historical associations that contribute to the town's heritage, aesthetic and social values. Members of the community and Council are keen to foster the areas heritage buildings, streetscapes and visual character to ensure that Pambula remains a living, working community.

The site is located within Precincts 1 and 2 (see Image 11 below). Precinct 1 comprises the Main Street Commercial. The precinct is described as having a strong historical character with a high degree of harmony with the form and scale of buildings housing retailing, office space, and other commercial enterprises which service local, regional and tourism needs. Precinct 2 comprises Mixed Residential / Commercial and is located to the east of the main street commercial precinct and is an area containing a mix of low scale residential and commercial land uses. There is growing interest in redevelopment for seniors living and retail development in this precinct.

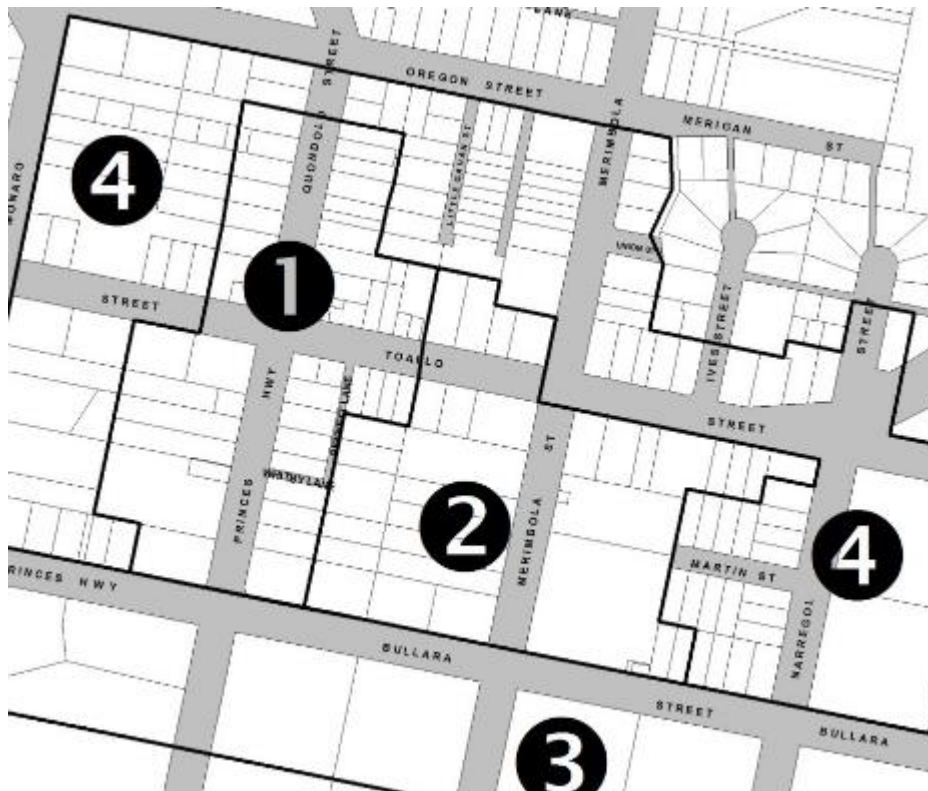


Image 11 – Commercial precincts of Pambula. Extract from BVDCP 2013

The BVDCP 2013 states that the desired future character of Pambula is;

Pambula's local heritage significance is conserved by protecting heritage items and ensuring that future development does not detract from the heritage character of the town.

Development in the vicinity of buildings with historical importance is compatible with the form and scale of those buildings.

The management of the town's streetscapes is consistent with the town's historic character, and the management of the town's perimeter and setting is consistent with its historic and aesthetic values.

Future residential development enhances the existing built environment with boundary setbacks and building heights that will maintain residential amenity and heritage values while allowing design flexibility.

Future business development is in keeping with the heritage character of Pambula, in particular, development in the commercial area of Quondolo and parts of Toallo Street will strongly reflect the existing distinctive heritage character in the streets. Commercial development outside the identified precincts is limited, especially on the approach roads (other than on the link road to Merimbula).

The application has been adequately supported with design details to satisfy the requirements of this Subsection and how it has sought to comply with the desired future character of Pambula, especially having regard to the requirements for development of non-heritage listed places in the Main Street Heritage Conservation Area.

An assessment of the Heritage design requirement considering the heritage character under this Subsection has been detailed above under Clause 5.10 of BVLEP 2013 considerations. It is considered that the development of the site is in keeping with the heritage character of Pambula, in particular, providing a design that reflects the existing distinctive heritage form and character of heritage items located along the eastern side of Quondola street representing the Interwar period.

As detailed earlier in this Assessment Report, conditions of consent are recommended confirming Heritage treatments that are considered appropriate to further enhance the design.

The development has been considered and assessed having regard to the general and specific requirements for commercial and retail development under subsection 2.6 and 2.7 of the BVDCP 2013. These subsections apply to B2 Local Centre zoned land. It notes that specific requirements for development involving heritage items, within Heritage Conservation Areas and within the proximity of heritage items are detailed in Section 5.2 of BVDCP2013.

Relevant requirements under this subsection are discussed in turn.

Design

The design of the development proposes building exteriors that reinforce the character and continuity of the existing town centre streetscape through the use of colours already representative of the Royal Willows Hotel. Overt (strong) non-complimentary colours are not proposed to be used.

The design achieves a scale that provides a built form that is consistent with the scale of existing buildings located on the eastern side of Quondola Street, with smaller retail/cafe uses fronting the street providing pedestrians a sense of space, safety and openness in the public domain.

The proposed front façade provides continuity with the Quondola streetscape and surrounding buildings through the use of an awning and similar façade heights. The main roofline would be largely concealed behind the parapet that would comprise a low-pitched form with two (2) roof skillions with highlight windows to admit natural light into the building.

The large expanse of the southern elevation has been broken up with the establishment of a green wall. Although the detailed design of the green wall has not been provided, it is considered that the inclusion, with two appropriately planted trees beside the drive-through bottle shop and plantings at the rear will reduce the overall bulk and scale of the development when viewed from pedestrian and roadways when travelling north along Quondola Street from Bullara Street.

Safety for pedestrians utilising Quondola Street will also improve with the removal of one of the existing street crossovers and making that remaining crossover as an exit and left turn out only. The design ensures that access to parking and loading facilities will be provided from a secondary street (Merimbola Street) to protect and extend the amenity of the Quondola Street public domain and reduce conflicts with the Prince Highway (Quondola Street).

The development does incorporate the principles of Crime Prevention through Environmental Design. The DA was referred to NSW Police for comment regarding this design requirement. They provided further design options to further improve patron safety and these are included as draft conditions of consent.

The development has been designed so as to achieve compliance with the Disability Discrimination Act 1992, Disability Access to Premises Standards 2010, applicable Australian Standards AS1428.1:2009, AS1428.4.1:2009 and AS2890.6:2009 and the Building Code of Australia. Conditions requiring compliance with the provisions of the Building Code of Australia are recommended.

Conceptual details are provided detailing proposed lighting of carparking areas and it would be requirement for all public areas including subfloor parking, walkways, lifts and the like to be appropriate illuminated. The DA includes that exterior lighting systems servicing the development would be installed and operated to ensure compliance with the relevant Australian Standards (i.e., AS1158.3.1 Pedestrian Lighting and AS4282 Control of the Obtrusive Effects of Outdoor Lighting). Conditions requiring compliance with relevant lighting standards are recommended.

The design requirements for Commercial sites details that large expanse of continuous masonry or timber fencing having frontage to a street, public reserve or other public place is not permitted. Bonded sheet metal fencing is not permitted at any location other than alongside and rear boundaries shared with other private property, and that fencing to rear and side boundaries (behind the building alignment) will be a maximum 1.8m in height.

A landscape concept plan has been prepared for the prepared by Place Logic. The proposed landscape concept satisfies the relevant provisions of Section 2.6.3.2 with the retention of several trees and the addition of further planting throughout the carpark area.

The application details that the waste storage area is proposed to be contained within a dedicated area in the loading/unloading dock so as to ensure convenient servicing by waste collection vehicles. The designated area would be designed so as to minimise odour, deter vermin, protect surrounding areas and to ensure that it is a user-friendly and safe area. Appropriate signage would also be installed so as to clearly identify the waste/recycling stream and what can and cannot be disposed of in the relevant receptacle. Further detail is required for the servicing of wastes generated by the café and bottle shop as they do not have access to the proposed supermarket loading/unloading dock.

It is recommended that an Operational Waste Management Plan be prepared at the detailed design phase and lodged with Council for approval prior to the issue of a Construction Certificate.

The site is bound by Council's Bennett Lane carpark to its north which includes a children's Playground and a community garden. The total boundary fronting the adjoining public land is approximately 170 metres in length. The boundaries currently retain a mixture of low height timber rail fencing and 1.8 metre high cyclone fencing.

New fencing is proposed to be provided to the rear and side boundaries behind the building alignment to secure the site from un-authorised access after-hours. The Architectural Plans included with the DA submission provide for 1.8m high fencing provided to the majority of the rear and side boundaries.

The height and construction of the fencing along the northern boundary adjacent to the carparking areas and the exit driveway is provided as an acoustic mitigation measure as recommended in the Environmental Noise Assessment prepared by Day Design Pty Ltd. The DA submission detailed that this fence may be constructed of colourbond, although alternative materials such as three-rail 'solid capped and lapped' timber or masonry are also acceptable. The construction would need to be free of visible air gaps to provide an impervious sound barrier.

The proposed fencing is contrary to the requirements detailed under this subsection. In reviewing the suitability of the proposed fencing, consideration was given to the existing built environment.

Currently, the northern boundary of the site adjoins the community garden and children's playground comprises cyclone wire fencing at and greater than 1.8 metres in height with the addition of barbed wire and shade cloth material.



Photo: Image along northern boundary detailing existing fencing with playground and community garden.

The southern boundary of the site backs onto several business with those sites retaining a range of buildings and fencing comprising masonry and metal construction greater than 1.8 metres in height. These buildings and fencing are currently visible from Council's public land.



Photo: Image detailing southern boundary detailing existing structures and fencing.

The land currently surrounding the Council carpark to the north also comprises buildings and fencing comprising masonry and metal construction greater than 1.6 metres in height.



Photo: Image detailing northern boundary of Bennett Lane Council carpark.

The provision of a 1.8 metre high fence around the site with Council land would be contrary to the provisions of BVDCP2013. However, the design is appropriate considering the land uses and existing boundary treatments already located along its boundaries. The fencing would screen the extensive carparking area, including some screening of buildings and fences along its southern boundary. The fencing would provide visual relief when viewed from the community garden and playground and mitigate noise that would be generated by the development for the residents north of the Council carpark.

A condition has been applied requiring the fencing along the northern boundary as detailed in the Noise assessment report, to be constructed to a lapped and capped timber fence to provide a textural element to the development and be consistent with the use of timber fencing located along Bennett Lane and the pedestrian laneway between Bennett Lane and Quondola Street.

Amenity

Objectives of amenity within commercial areas are to include the scenic quality of town centres' natural and built environments and embellished through appropriate tree planting, landscaping and the like and for views along public streets to the distant surrounding landscape or seascape to be retained.

The site has been viewed from all public vantage points surrounding the site, including pedestrian and vehicular paths of travel along Quondola, Bullara and Merimbola Streets, and within Bennett Lane and adjoining Council carpark.

The design is considered to respond to important views and vistas from public vantage points, in particular along Quondola Street. Views currently afforded down Quondola Street to the south encompasses a historical streetscape with forested areas as a backdrop. The design of the development when viewed down Quondola Street would be maintained and not diminish as the roofline would not be higher than existing facades or rooflines of buildings located upslope of the site and larger rooflines of buildings located off Bullara Street.

The rear of the site comprising the two storey component of the building will be most visible from Bennett Lane and the Bennett Lane Council Carpark. The two storey component would be most noticeable when viewed from Bennett Lane (See Image below). The laneway is one-way only and services several commercial businesses that front Quondola Street.

Views afforded from this laneway comprise a range of fencing, smaller single storey garage structures, several established trees and the large expanse of the Robert Smith Homemakers

building beyond. The placement of a two storey building within this view corridor would add a bulky structure to the existing streetscape and its bulkiness would increase the further you travel along the laneway. The change in streetscape of Bennett Laneway with the addition of the two storey building is considered appropriate given that it is only a service laneway and the structure would site within the existing built environment that already comprises the large Homemakers building beyond.



Photo: Taken from Bennett Lane looking south towards the site.

The two storey component of the building when viewed from the Council carpark and Merimbola Street is considered appropriate given that the land where the building will be erected slopes upward to Quondola Street. The bulk and scale of the two storey component of the building will be softened by the retention of existing mature trees as part of the landscape design and existing vegetation located between the bus stop and the site (see Image 12 below).



Image 12: Bennett Lane from Bus Stop detailing row of trees along Bus Stop and height of Oak tree to be retained. Source Google Streetview.

All development will have a floor area greater than 1,000m² with the applicant detailing that there are suitable areas to provide a distinctive public art work in accordance with Council's Public Art Policy. A condition has been applied requiring this provision.

Section 5 General Development

Aboriginal Heritage

As detailed earlier in this assessment, the application is supported by an Aboriginal Culture and Heritage Due Diligence Report. It is considered that the application has adequately addressed Aboriginal Heritage for the site as required by this Clause and recommendations detailed in the Report are proposed as a condition of consent.

Non Aboriginal Heritage

The Clause provides that in accordance with Clause 5.10 of the BVLEP 2013, Council will not grant consent to a development application unless it has made an assessment of the impact of the proposal on the heritage significance of the place, including historic, architectural, aesthetic, cultural, social, technological, landscape, archaeological or other features of the place, including its setting and where a development may have significant impact on a heritage item or Heritage Conservation Area, Council may request the applicant to provide a full Heritage Impact Assessment prepared by an appropriately qualified person.

A detailed assessment under Clause 5.10 of BVLEP 2013 is detailed above earlier in this report. The application has been adequately supported with design details to satisfy the requirements of this Clause, especially having regard to the requirements for development of non-heritage listed places in Heritage Conservation Areas.

As detailed earlier in this Assessment Report, conditions of consent are recommended detailing Heritage treatments that are considered appropriate having regard to the Pambula main street heritage conservation precinct and heritage items located in the vicinity of the site.

Access and Mobility

The objective of this Clause is to improve physical access to the built environment which includes all public access buildings, paths of travel, streetscapes, accessible parking, amenities and Council facilities. A review of the plans detail that the design of the building provides suitable access to each commercial premise within the building from both the Quondola Street frontage and from the on-site carparking areas. The design provides for accessible parking spaces to be located adjacent and near both the lift and travelator from the carpark.

It is considered that the design has adequately addressed the provisions of this Clause.

Social and Economic Impacts

The application was supported by a Social and Economic Impact Assessment prepared by DFP Planning Consultants. The purpose of the report was to assess the potential social and economic impacts of the proposed development, in particular the proposed supermarket and the bottle shop, by considering the following:

- The locational and strategic planning context of the site and the Pambula local centre.
- The centres network of the Bega Valley Shire.
- Identification of a notional catchment area for the proposed retail facilities and the influence other centres might have on the distribution of retail expenditure of the catchment population.
- The characteristics of the population of the notional catchment area including population projections.
- Retail expenditure characteristics and trends in the catchment area.

The assessment concluded that;

The development of a new, larger supermarket facility with integrated loading dock areas, together with a larger bottle shop and café, will revitalise this part of the Pambula local centre and result in more expenditure from the local community being retained within the town centre. The provision of an 'anchor' facility such as a supermarket within a local centre will have significant and positive 'knock on' impacts for other businesses within the centre as a result of more activity and retained expenditure.

This assessment has demonstrated that there is sufficient expenditure available from the local community and other sources, such as tourists and passing trade, to support the facilities proposed within the development.

The proposed development is consistent with the relevant Actions and Directions of the South East and Tablelands Regional Strategy 2036 in that it:

- Responds to retail supply and demand needs of the Pambula community and the extended community (tourism).*
- Responds to the changing nature of supermarket retailing by providing a facility which will be able to offer more choice to shoppers.*
- Maximises the use of a site within the town centre which is currently underutilised.*
- Will make a positive contribution to the town centre streetscape and the Pambula local centre.*

Overall, it is considered that the redevelopment of the site for the purposes of a supermarket, bottle shop and café, will have a positive social and economic influence within the Pambula local centre and the surrounding community.

The Panel at their Briefing on the 7th December 2021 sought the following information in the assessment of the application;

- Socio-economic impact and consistency with commercial land strategy including level of market demand, potential impact on other businesses in Quondola Street and appropriateness in particular the quantum of proposed retail floor space. Internal peer review of socio-economic impact assessment needed.*

A review of Council's Commercial Strategy 2040 adopted in 2020 details that Pambula on a similar hierarchy as other small towns in the Bega Valley, including Bermagui, Eden, Tathra and Cobargo (See images 13 and 14 below). These centres are described as small centres that rely on tourism and service a residential catchment comprising the immediate surrounding area plus rural localities. They provide day to day needs and limited retail, health & hospitality services, reliant on higher order centres for shopping and employment.

Development in local centres should be limited to current low order functions and be oriented to servicing the immediate surrounding area and providing a destination experience for visitors. New out-of-centre development, particularly large floorplate supermarkets, homemakers stores, shopping centres containing specialty shops, and bulky goods premises should be avoided as the impacts on existing centres is adverse without exception.

Population and Commercial Development

Centre	Population (2016)	Median age (2016)	Median household income (2016)	Labour force participation rate (2016)	Vacancy rate (Oct 2019)	Commercial development approvals 2009-2019*
Bega	5,203	44	\$989	53.8%	12.5%	49
Bermagui	2,374	58	\$864	40.5%	14.6%	15
Tathra	3,247	49	\$1,135	53.1%	5.0%	10
Tura Beach	3,680	56	\$1,100	43.8%	5.9%	12
Merimbula	4,916	56	\$902	45.5%	22.0%	20
Pambula	2,941	46	\$1,121	52.4%	2.6%	17
Eden	3,798	50	\$865	46.2%	21.8%	14
Bega Valley LGA	33,253	51	\$987	49.7%	12.1% average	163

Image 13: Extract from Council's Commercial Strategy 2040

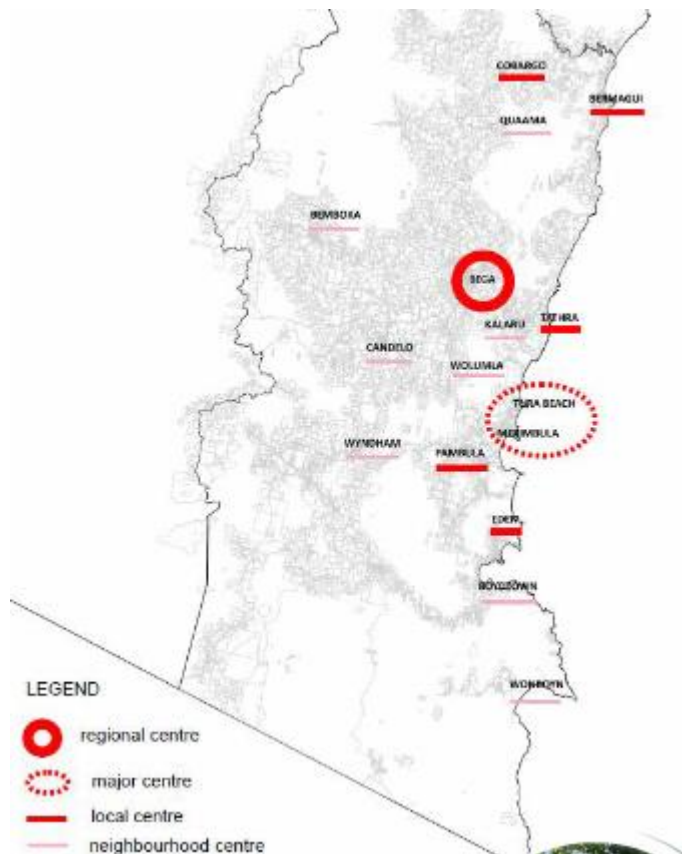


Image 14: Extract from Council's Commercial Strategy 2040

It is important to consider the existing commercial services that Pambula provides and located in the vicinity of the site. Pambula already comprises a number of large commercial complexes providing services to its residents including a large Homemakers store off Bullara Street (Robert Smith) and Mitre 10 Hardware Store off Merimbola Street. There is a further 1633.08 m² three tenancy retail complex approved adjacent to the large Homemakers Store.

The following Pambula character statement is detailed in the Council's Commercial Strategy 2040 to guide the location, style and design of development and reinforce the role of Pambula in the commercial centres hierarchy.

- *Encourage the development of Pambula as a vibrant and active local centre.*
- *Build upon the historic atmosphere of the town ensuring development is sympathetic with the existing streetscapes of Quondolo Street and Toalla Street.*
- *Protect key elements within the town including street trees, items of heritage significance and connectivity to the Panboola Wetlands Promote signage and awnings that are well articulated and proportioned.*
- *New development will make a positive contribution towards the built form of Pambula through appropriate scale, design and colours and materials.*

- *Encourage developments that make a positive contribution to the sense of place by enhancing pedestrian linkages to and within the town centre and by creating active street frontages.*
- *Promote boutique shopping, alfresco dining and seating within a compact and clearly defined town centre that is easy to navigate where opportunities for festivals and events are encouraged.*

It is considered that the design and size of the development is consistent with the above character statement of Council's Commercial Strategy 2040.

The Social and Economic Impact Assessment was reviewed by Council's Economic Manager who detailed that what had been assessed in terms of the social and economic impact is reasonable, if only slightly higher estimates on revenue than what Council data suggests.

The review included discussions with a Spendmapp analyst who has carried out extensive work on analysing supermarkets and suggests that the main impact comes from proximity and availability of products. Given the floor space is similar to a country town supermarket (similar to one in Eden), it would be reasonable to assume that this proposed development will keep the locals shopping local and this is the consultant's report biggest assumption (that the increase revenue will come from 75% of the local market). As the floor space is comparable to a supermarket in Eden, it may be large but it is not considered to be oversized for its corresponding retail catchment.

A review of the proposed floor area of the supermarket (1,409m²) in relation to supermarkets located in both Eden (Coles) 2015.8m² and Bermagui (Woolworths) 1542m² is comparable in floor area, with those supermarkets suitably meeting the requirements of those respective local centres with similar population sizes.

The findings of the Social and Economic Impact Assessment are therefore supported by Council, with the use consistent with the commercial precinct in which it is proposed to be located and the services it would provide to the residents of Pambula and surrounding area. The review detailed that it is likely that there's a net benefit to the town as locals and tourists are more likely to remain in the town rather than heading to Merimbula for their 'big shop'.

Sustainable Design Principles

The applicant provided a Sustainable Design Management Plan included as Appendix 1 to the Statement of Environmental Effects. The Plan identifies a number of measures that addresses the relevant matters of Energy, Water Resources, Ecology, Stormwater, Transport, Waste Management and Indoor Environmental quality and Innovation. The Management Plan identified the following measures and commitments in the building and site design of the development;

- Investigation into the possible inclusion of renewable energy in the form of PV cells to generate energy for the proposed commercial building.
- Best practice lighting and the broad application of LED technology and advanced lighting control systems.
- Investigation into the installation of energy efficient fixtures and equipment.
- Investigation into reduced water consumption and the offset of non-potable water demands through the application of rainwater harvesting and re-use systems.
- Installation of high water efficiency fixtures and fittings to reduce water usage/demand.
- Use of native and endemic plantings as part of the overall landscape concept.
- The plans and plant species are key aspects of the landscape design and will reinvigorate the site with biodiversity considerations in mind – i.e., providing habitat for native birds and fauna and inviting native pollinators back into the landscape.
- A stormwater management plan has been prepared and accompanies the DA submission to demonstrate best practice stormwater management and quality outcomes.

- Proximity to the Pambula Town Centre, which will promote walking and cycling and the use of available public transport. This will help to minimise car dependency. Inclusion of bicycle parking spaces.
- Investigation into the inclusion of an electric car changing station/s.
- Investigation of the possible participation in Council's commercial FOGO (Food Organics Garden Organics) scheme.
- Investigation into the provision of a recyclables collection facility (i.e., NSW Government 'Return and Earn' scheme and relevant infrastructure).
- The lifecycle of the proposed commercial building has also been a major consideration as the Proponent is likely to retain ownership of the building and provide the premises to a supermarket operator (i.e., 'Foodworks') under a management licence. This ownership interest is driving additional expenditure in the building fabric and fittings that are commensurate with a long-hold asset to minimise operational and maintenance expenses during the life of the building.
- Commitment to the use of low VOC finishes and products (i.e., paints and floor coverings) where possible.
- Energy recovery to HVAC systems and outside air rates to provide better indoor air quality.
- Commitment to the provision of indoor planters/plants within appropriate locations.
- Provision of a new and modern commercial building that is accessible and that integrates positively with the Pambula Town Centre.
- Integration of public artwork and community facilities such as a centrally located community notices board, first aid defibrillator machine, and a portable visitor and tourist information kiosk.

A review of the matters addressed in the Sustainable Design Management Plan detail that the applicant has adequately addressed the identified Sustainable Design Principles for this development and would achieve the following efficiencies and benefits:

- Compliance with building requirements through passive design
- Detailed commitments and future identification to the reduction in the life cycle of building costs
- Improved built amenity for the area integrating landscaping and water saving measures
- A suitably designed ecologically sustainable built form

Planning for Hazards

As detailed earlier in this assessment, the site is identified in the 'Pambula River, Pambula Lake and Yowaka River Flood Study' (Catchment Simulation Solutions, 2021) that shows that there is potential for inundation across the site during significant rainfall in both the local catchment, as well as the wider Pambula River catchment.

The application has provided a flood assessment that addresses flood hazard for the development and potential impacts on adjoining lands. It is considered that the design of the development responds to the potential impacts of flood hazard for the site, ensuring that the development does not alter the existing flood impacts for adjoining and adjacent properties.

Site contamination considerations have been addressed earlier in this assessment report.

Conditions of consent addressing both flooding and contamination are recommended and detailed in Attachment 1.

Off-street car and Bicycle Parking

A Traffic Impact and Parking Assessment (TIPA) was prepared by McLaren Traffic Engineering and is included with the DA submission to demonstrate due consideration on car and bicycle parking

requirements. That assessment detailed that adequate carparking and bicycle parking can be achieved and be available.

The Assessment also noted that the subject site has access to the existing bus stop (ID: 254918) located to the north of site at the end of Bennett Lane. The bus stop services existing bus route 890 (Bega to Eden via Wolumla & Merimbula), 891 (Bega to Eden via Kalaru & Tura Beach) and 892 (Merimbula to Pambula Beach via Pambula) provided by Sapphire Coast Buslines.

Under the provisions of BVDCP 2013, Commercial premises require the following parking requirements – Car spaces: 1 parking space per 25m² gross floor area and Bicycle parking: 1 space per 200 sqm of gross floor area for development. The DCP also provides that in medium and larger sized developments a minimum of 2 per 50 car parking spaces are to be designated for people using wheelchairs, 3 in 50 car spaces are to be designated for Seniors, and 2 in 50 car parking spaces are for parents with prams.

The proposed total gross floor area of the combined supermarket, drive through bottle shop and cafe as 1913m². To accommodate the three commercial uses, a minimum of 77 car parking spaces and provision of space for 9 bicycles are required.

The modified plans (See Attachment 3) provide a total of 90 car parking spaces which exceeds Council's requirements, and 4 bicycle parking spaces and 1 motorcycle parking space. The required 9 bicycle spaces have not been achieved, however there is sufficient room available on-site to provide for additional bicycle parking space.

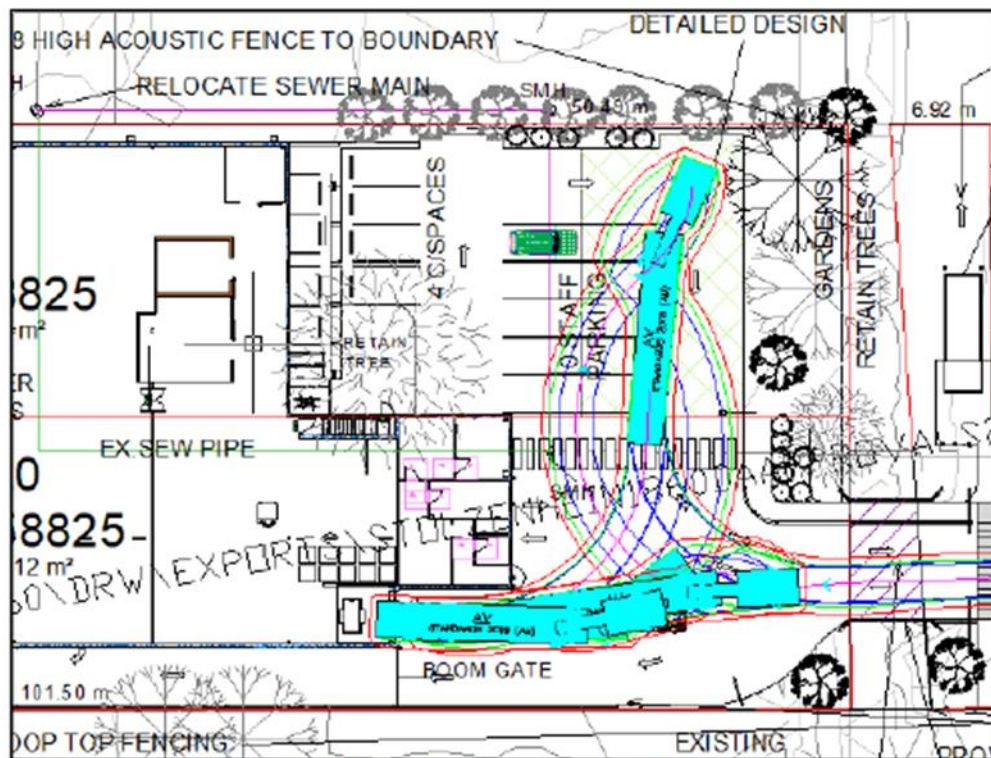
The proposed development plans detail only 2 disabled parking spaces and no seniors or parents with prams parking spaces. The TIPA detailed that the addition and allocation of accessible, seniors and parent parking spaces can be easily achieved within the car park considering the excess parking provided if required by council. It is recommended that the provision of the required number of dedicated parking spaces for accessible, seniors and parents with prams in accordance with BVDCP 2013 be provided.

TfNSW as part of their response back to Council provided advice on two matters for Council consideration regarding to the on-site operation of servicing the development. Those matters were;

1. The turning paths for the 19.0m semi-trailer show the vehicle can manoeuvre into the loading dock but it will take more than one reversing movement. The manoeuvre to get into the loading dock requires the full width of the parking area and relies on traffic control to ensure the space was available and could be carried out safely. TfNSW suggests that any traffic control that is required to be undertaken should be undertaken by a suitably qualified person.

2. Australian Standard (AS) 2890.2, Section 5.3(b) (iii) requires the entire prime mover and semi-trailer to be parallel to and aligned with the service bay. TfNSW notes that if the semi-trailer in the supermarket loading dock was in this position the 12.5m large rigid vehicle would be unable to manoeuvre around it.

For the development to provide suitable internal safety for pedestrians and vehicles, the Traffic Report and additional information detailed the extent of on-site management required to mitigate potential conflict from the on-site manoeuvring of the 20m length delivery vehicle servicing the Supermarkets loading dock. The extent of the swept paths for the vehicle to access the supermarkets service dock, which would require the manoeuvring over designated parking spaces and reversing of the vehicle back into the dock (See Image 15 below).



20m length AV into loading bay from Merimbola Street

Tested @ 5km/h

Successful – subject to access operated under an Operational Management Plan

Blue – Vehicle Tyres

Green – Vehicle Body

Red – 500mm Clearance

It should be noted that it is likely the AV can enter the loading dock within 1 reverse movement. But due to the limitation of the swept path testing program it is not possible to show it as such.

Image 15: Extract from Response by applicant to TfNSW detailing swept path movements of 20m length delivery.

To mitigate potential safety issues associated with this manoeuvre, the additional traffic assessment detailed the area designated to be managed for delivery vehicles utilising the supermarket loading dock (See Image 16 below)



Image 16: Extract from Response by applicant to TfNSW - Draft Traffic Control Plan

To reduce potential vehicle conflict on-site associated with the swept path of the largest delivery vehicle servicing the supermarket, it is recommended that the 10 staff carparking spaces within and adjacent to the swept path of the delivery vehicle be removed (See Image 17 below). The removal of the 10 spaces would still provide a total of 80 carparking spaces on-site which exceeds Council's DCP carparking requirements. The remaining 4 car parking spaces shall be suitable signposted as employee parking only.

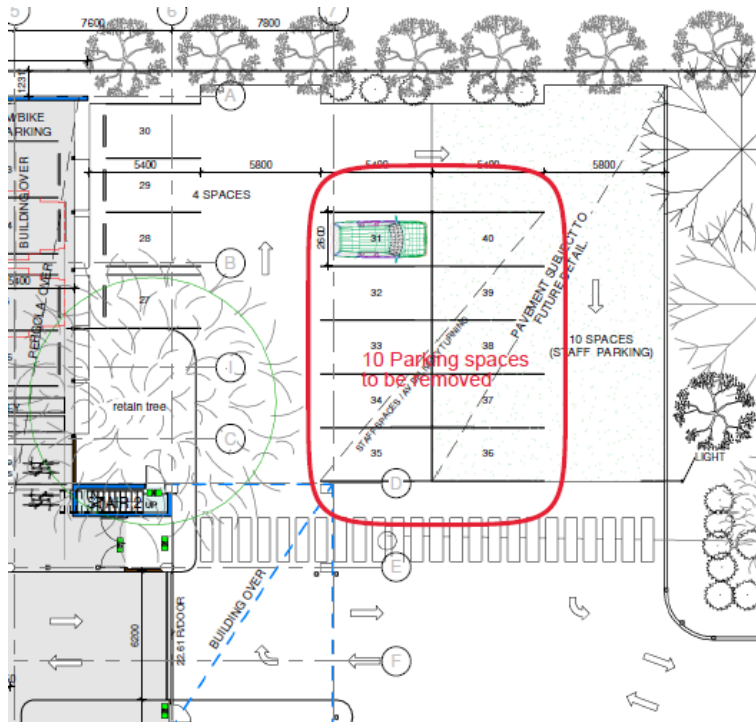


Image 17: location of the 10 car spaces recommended to be removed.

The removal of these 10 additional parking spaces will ensure that the area will be free of vehicles at all times when delivery vehicles enter the site. This would also provide flexibility for the delivery vehicle accessing the site during daylight and evening periods detailed in the noise assessment report.

It is recommended that conditions be applied for the provision of an additional 5 bicycle spaces, the provision of four (4) accessible car parking spaces, six (6) seniors car parking spaces and four (4) car parking spaces for parents with prams being provided to be compliant with BVDCP2013 carparking requirements, and for the removal of 10 spaces for the truck swept paths, as there is an excess of parking spaces.

Tree and Vegetation Preservation

The applicant has provided relevant details for the removal and retention of trees and vegetation from the site and outlined the proposed landscaping of the site.



Photo: Existing established trees located at the rear of Royal Willows Hotel.

A Preliminary Arboricultural Assessment prepared by Canopy Tree Experts was undertaken to assess the trees that would be affected by the development and consider the health and retention possibilities of those trees. The assessment assessed 37 trees (See Image 18 below) on and adjacent the site of which:

- 4 were listed weeds species;
- 11 were “Not Protected” by Bega Valley Shire Councils tree management policy (under 5 meters in height);
- 22 were Protected by BVSC ‘s Tree Management Policy;

noting that there are 12 High quality trees and 1 Exceptional (Tree 37).

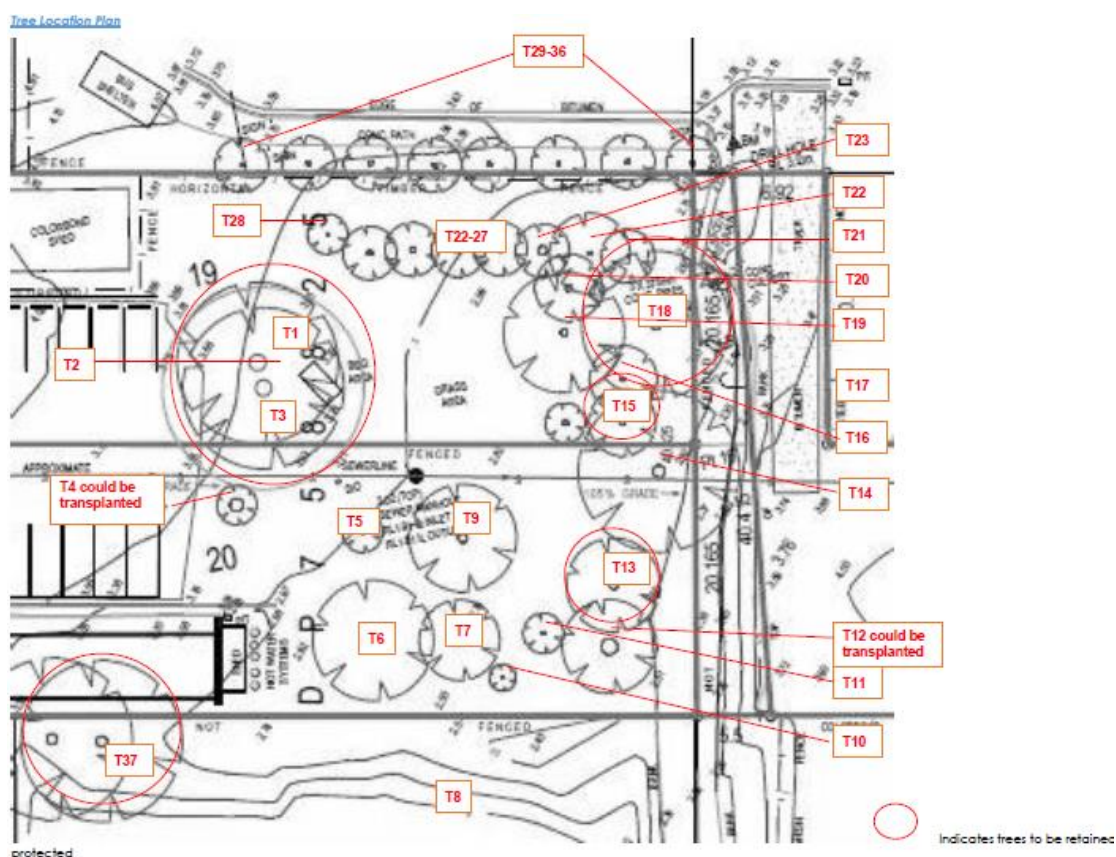


Image 18: Extract from Preliminary Arboricultural Assessment detailing trees assessed

The assessment concluded that the DA design would allow for those trees not affected by the development to be retained, with the retention of the following trees numbered provided a Tree Management Plan (TMP) is put in place with tree protection measures;

- 1&3 Quercus palustris - Pin Oak,
- 13 - Quercus palustris - Pin Oak,
- 15- Araucaria heterophylla- Norfolk Pine
- 18- Eucalyptus baueriana -Blue Box
- 37- Eucalyptus mannifera - Red Spotted Gum

The TMP is to comply with AS 4970 Protection of Trees on Development Sites and is to be done by an AQF Level 5 Arborist.

The assessment also noted that Tree 4- Livistona australis (Cabbage Tree Palm) and Tree 12 Phoenix canariensis (Date Palm) could be transplanted if required.

As the application proposes to retain those identified trees in the Arboricultural Assessment, it is recommended that it be approved and that a condition be applied requiring the provision of a Tree Management Plan prior to any construction works commencing.

It is further recommended that conditions be included regarding the undertaking and establishment of all landscaping for the development as a whole. The DA has suitably addressed and considered vegetation at the site and retention and protection of identified trees consistent with this Section.

Signage and Advertising

The application has provided indicative signage for the proposal, though no approval has been sought as part of this application. The developments design and the site have appropriate areas for signage to be located that would be consistent with the existing Pambula commercial precinct. A condition requiring the lodgement of a development application for any future signage has been included in the draft conditions of consent.

Engineering Requirements

Parking and Driveways

The application proposes the construction upgrade of both street cross overs from Quondola and Merimbola Streets (See Image 19 below). The development application has suitably addressed both vehicular and pedestrian access points to service the development.

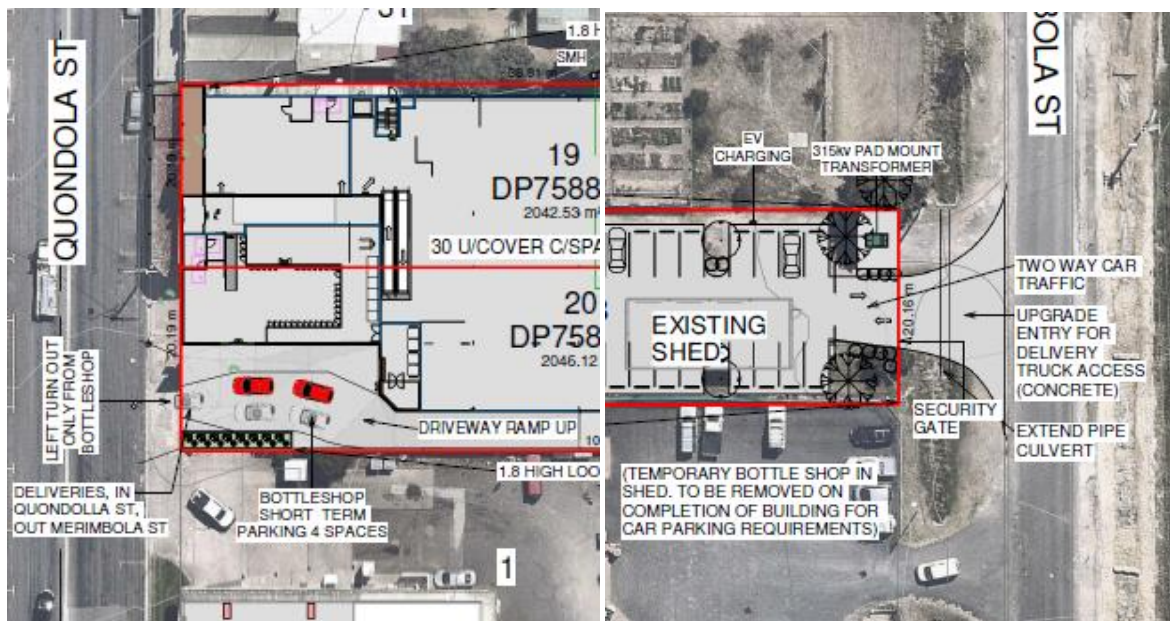


Image 19: Location of proposed ingress/egress locations.

The location and general design of both accesses have been assessed by TfNSW and Council's Development Engineer.

All conditions recommended by TfNSW and specific engineering conditions by Council's Development Engineer will ensure that the development complies TfNSW and Councils engineering requirements and specifications.

Swept path testing for delivery vehicles were undertaken by the applicant and demonstrate appropriate manoeuvrability on-site, however, this would need to be undertaken by a Plan of Management.

As detailed earlier in this assessment report, it is recommended that a further 10 carparking spaces be removed to ensure that there would be no service impediments for delivery vehicles when they arrive at the site.

Soil and stormwater management

The application provides a Stormwater Drainage Concept prepared by Andrew Marshman & Associates Pty Ltd and is included with the DA submission to detail the water sensitive urban design (WSUD) approach that is proposed to be adopted as part of the development strategy. Stormwater has been considered by Council's Development Engineer and there are recommended conditions of consent to ensure that the development is designed to manage soil erosion and stormwater.

Section 4.15(1)(a)(iiia) The provisions of 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

There is no draft planning agreement associated with the subject Development Application.

Section 4.15(1)(a)(iv) The Regulations (to the extent that they prescribe matters for the purpose of this paragraph).

Regulation 92 Additional matters that consent authority must consider.

The Regulation prescribes matters which are to be taken into consideration by the consent authority in determining a development application.

Regulation 92(1)(b) states:

- *"in the case of a development application for the demolition of a building, the provisions of AS 2601,"*

The current application involves the demolition of an existing poorly maintained Royal Willow Hotel, a drive through bottle shop and a row of accommodation units.

Accordingly, the demolition process would need to comply with AS 2601. It is recommended that suitable condition(s) be applied to control impacts associated with demolition works and these are detailed in the draft consent conditions attached as Attachment 1.

There are no other Regulations relevant to the assessment of this application.

Section 4.15(b) Likely impacts of development

The likely impacts of the proposed development have been considered and discussed in detail under the provisions of BVLEP 2013 and the BVDCP 2013 provision above. The key issues considered in the assessment of the application are further detailed;

Heritage

Heritage is the key issue raised in submissions. Matters raised include, loss of the Royal Willows Hotel, impact of the development on the Heritage Conservation Area of Quondola Street, impact on

the Heritage items throughout construction and consistency of the design having regard to the Heritage design requirements in BVDCP 2013.

A detailed assessment on these impacts have been discussed above in this assessment report.

Traffic and car parking

The Panel at their Briefing on the 7th December 2021 sought the following information in the assessment of the application;

- Traffic impact – need for assessment to be updated to reflect revised plans developed in response to TfNSW requirements and to use representative baseline measures.
- Appropriateness of proposed servicing arrangements, in terms of adequate on-site manoeuvring, client safety and feasibility of proposed management approaches including hours of operation.
- Implications of revised traffic strategy for Merimbola St and its users.

The assessment of the application has detailed the potential traffic impacts associated with this development having consideration of the revised plans and additional traffic response by the applicant addressing TfNSW concerns with the original traffic assessment and car parking design.

The servicing of the development has been amended so all delivery vehicles except that for the bottle shop, will enter and exit the site via Merimbola Street.

Detailed consideration of the appropriateness of proposed servicing arrangements, in terms of adequate on-site manoeuvring, client safety and feasibility of proposed management approaches including hours of operation have been considered. As part of that assessment, Council considered the proposed PoM to operate when delivery vehicles would access the rear supermarket loading dock to be an acceptable design and management solution. The assessment detailed that during daylight and evening hours where service vehicles would be permitted to access the site, there would be approximately 10 car spaces that would be impacted by the largest delivery vehicle.

To reduce potential vehicle conflict on-site associated with the swept path of the largest delivery vehicle traversing over designated parking spaces, it is recommended that the identified 10 staff carparking spaces within and adjacent to the swept path of the delivery vehicle be removed (See Image 17 above). The removal of the 10 spaces would still provide a total of 80 carparking spaces on-site which exceeds Council's carparking requirements for the development. The remaining 4 car parking spaces shall be suitably signposted as employee parking only.

The application has been reviewed by both Council Development Engineers and TfNSW who have reviewed all information submitted by the applicant and specific engineering conditions are recommended to ensure the development complies with both TfNSW and Councils engineering requirements and specifications.

Environmental

The Panel at their Briefing on the 7th December 2021 sought the following information in the assessment of the application;

- Potential impact on nearby Panboola Wetlands, including from noise, light spill and pollutants (i.e., stormwater runoff), flooding

The site is located approximately 75 metres from Panboola Wetlands. There is intervening retail, light industrial and a large homemakers store (Robert Smith) located between the site and the Wetlands. It is considered that the development would provide an increase in traffic along Merimbola Street via Bullara Street, with Bullara Street fronting the Panboola Wetlands.

The site is located within the existing Pambula built environment, with the site currently retaining areas of managed and unmanaged stormwater. The sealing of all service areas including car parking

area, with the implementation of stormwater drainage systems would improve existing site conditions, especially the large unsealed areas of the lot facing Merimbola Street.

As detailed earlier in this assessment report, the application has provided a Stormwater Drainage Concept that details the water sensitive urban design (WSUD) approach that is proposed to be adopted as part of the development strategy. The implementation of WUSD would ensure that sediments and gross pollutants generated by the development would be removed from stormwater before it enters Council's existing stormwater systems located through the site and onto Merimbola and Bullara Streets and onto Panboola Wetlands.

It is not considered that the development would impact on Panboola Wetlands in terms of noise or light spill. Conditions of consent are recommended to ensure uniform lighting is provided to comply with Australian Standards, but to also inhibit light spill from the site and not affect Panboola Wetland.

The Stormwater Drainage Concept and matters relating to Flooding have been reviewed by Council's Development Engineer who has raised no concerns with the submitted information. Specific engineering conditions are recommended to ensure the development complies with Council's engineering requirements and specifications and also implement the recommendation in the Flood Assessment provided by the applicant.

It is considered that the DA has appropriately addressed potential impacts of this development on the surrounding environment, including Panboola Wetlands. Further, draft conditions of consent would enforce mitigation of these potential impacts.

Noise

The Panel at their Briefing on the 7th December 2021 sought the following information in the assessment of the application;

- Potential noise impacts for sensitive receivers (in particular the retirement village along Bennet Lane), from construction impacts, the proposed bottle recycling dispensary and truck deliveries associated with the proposal. Potential conflict between proposed management plans for truck movements (hours of operation) and noise mitigation options.

The application includes an Environmental Noise Assessment prepared by Day Design Pty Ltd. The scope of the assessment was to;

- Establish acceptable noise level criteria
- Quantify noise emission from the shopping centre,
- Calculate the level of noise emission, taking into account building envelope transmission loss, screen walls and distance attenuation
- Prepare a site plan identifying the development and nearby noise sensitive locations,
- Provide recommendations for noise control (if necessary)

The noise assessment included a diagram of the proposed development layout, including the overall building design incorporating carparking areas, entrances to streets, loading docks, bottle recycling dispensary and included the traffic generation calculations detailed by the Traffic and Carparking Impact Assessment prepared by McLaren Traffic Engineering.

The report took a conservative approach to noise limits for the area and noted the potential impact of noise on sleep disturbance.

The assessment concluded that the measurements and calculations show that if the recommendations in Section 6 are satisfactorily implemented, the level of noise emitted from the proposed Shopping Centre will be able to meet the noise requirements of the NSW Noise Policy for Industry and not impact adjoining land uses.

The recommendations proposed in the Noise Assessment Report include the provision of a 1.8 metre high sound barrier fence along the northern boundary of the carparking area to the driveway entrance, a restriction on the use of the loading dock to daytime and evening hours of 7am to 10pm and noise mitigation measure for the subsequent detailed design for all mechanical plant.

There is one potential conflict noted between proposed management plans for truck movements (hours of operation) stated in the Statement of Environmental Effects and the noise mitigation options in the Noise assessment report.

One of the recommendations of the Noise assessment report details that the access to the loading dock be restricted to daytime and evening hours of 7am to 10pm and notes that if it is proposed to allow trucks to use the loading dock from 6am, a detailed noise assessment including background noise monitoring should be carried out to determine the noise impact from trucks arriving before 7am, including the impact on sleep disturbance.

The Statement of Environmental Effects has requested that the operation of the supermarket rear dock be from 6am to 8am under a PoM. The restricted hours of operation for the supermarket loading dock provided by the applicant is based on existing deliveries to the owners current operations located at their existing premises in Quondola Street. The application does not include any further noise assessment in relation to background noise monitoring, including sleep disturbance, for the hours between 6am and 7am.

Given that there is no further noise assessment in relation to background noise monitoring, including sleep disturbance prior to 7am, it is recommended that the hours of delivery for the site be prohibited prior to 7am. The noise assessment detailed no concerns with the delivery of vehicles between daylight and evening hour from 7am to 10pm.

It is considered that the reduction in one hour would not affect the operations of deliveries for the site and a condition restricting the hours of truck movements to the site from 7am to 10pm be applied.

The noise assessment did not include an assessment on noise generated with the demolition and construction of the development. Any demolition and construction works would be restricted to standard hours of operation being 7am to 6pm Mondays to Fridays and 8am to 1pm Saturdays and with no works on Sundays or Public Holidays which is consistent with the general hours of operations for any construction works located within commercial and residential areas. A condition of consent is recommended to ensure compliance with this.

In reviewing the noise assessment, it has considered that all potential noise sources associated with the operation of the proposed development including traffic and mechanical noises have been identified and considered potentially impacted landuses in the immediate area including the over 55's village off Merimbola Street.

It is recommended that all recommendations in the Noise Assessment report be included in the draft conditions of consent. Further, to ensure that noise limits are complied with, a further condition requiring a validation report of noise limits detailed in the report be submitted with Council within 3 months from commencement of operations.

4.9 Section 4.15(c) Suitability of the site for development

It is considered that the proposed development fits with the locality. The development would replace existing commercial uses, including a Hotel, drive through bottle shop and units. The development proposes a form of development that is consistent with the adjoining land uses in the B2 zone and is considered to provide a good design outcome for the Pambula town centre.

The subject site and adjoining lands are known to be affected by flooding. The design of the development has been provided to ensure that critical services are located above the 1 in 100 year

flood level, while non critical operational items like carparking located within areas affected by flood waters.

The site has been identified as containing an abandoned fuel storage tank and appropriate conditions have been recommended to ensure appropriate level of reporting and monitoring to ensure the surrounding environment is protected prior to works commencing and through the demolition and construction process.

Accordingly, it is considered that the development is suitable in the context of the site being commercially zoned land located within the Pambula Heritage Conservation Area.

4.10 Section 4.15(d) Submissions.

The application was subject to public consultation that initially took place for 28 days between 30 July 2021 to 27 August 2021.

During the initial assessment of the application, it was noted that the application did not include landowners consent and that the advertising did not identify Lot 16 DP1204078 as part of the application. The applicant corrected the above and the application was advertised for a further 28 days until 26 September 2021.

In response to the exhibition period, a total of 115 submissions and two petitions were received. Submissions comprised the:

- 106 submissions objecting to the development proposed.
- A petition was received comprising 30 – 50 signatures who were not in support of the development.
- 9 of the submissions received supported the development.
- A petition was received comprising 197 signatures who were in support of the development.

There were a number of the submissions that objected to the development in its current form but were generally supportive of the site being re-developed as a supermarket. These submissions were counted as objections for the purpose of this assessment.

The applicant provided a Response to Public Submissions, which is included as Attachment 8.

The following issues were raised in submissions;

Heritage

Impact to heritage was the predominant reason raised in objections to the DA. Those concerns detailed the following Heritage impacts;

- Loss of the Royal Willow Hotel being an important element in the existing streetscape of Quondola Street being located within the Pambula Main Street Heritage Conservation Area;
- That the Royal Willows Hotel should be Heritage Listed and retained;
- That the design of the development is not consistent with the streetscape of Quondola Street being located within the Pambula Main Street Heritage Conservation Zone

The assessment of impact on Heritage in regard to the demolition of the existing Royal Willows Hotel, impact to the streetscape of Heritage Conservation Area that the site falls within and impacts to heritage items in the vicinity of the site has been considered above in this assessment report.

As detailed previously, the Statement of Heritage Impact by Phillip Leeson Architects provides that the development will result in a substantial change to the existing conditions both on the Quondola Street frontage and to the rear. The substantial change would be the removal of a building that has provided a community connection both socially and aesthetically.

The amended design provided by the applicant is considered to be consistent with the design requirements specified in Council's BVDCP 2013 that extensively details heritage provisions applying to the Pambula township. It is considered appropriate having regard to the demolition of the existing Royal Willows Hotel and the design of the new building.

Bulk and Scale of the Supermarket Building

Numerous submissions raised concerns with the overall bulk and scale of the development, raising concerns that it is too big for Pambula, the size and extent contravenes all of the objectives of the adopted Bega Valley Shire Council Commercial Land Strategy, the height of the façade fronting Quondolo Street is higher than the adjoining heritage listed buildings and the proposed development will dwarf the surrounding developments in relation to its height and floor area.

The size of the supermarket and its suitability having consideration to the Bega Valley Shire Council Commercial Land Strategy has been appropriately considered earlier in this assessment report. The floor area of the proposed supermarket would be similar to other similar sized supermarkets approved in Bermagui and Eden that have comparable populations catchments as Pambula.

The height of the building facing Quondola Street is considered appropriate and consistent with the façade heights on existing buildings along this street. The plans detail that the height of the parapet would be below the existing maximum height of the Royal Willow Hotel.

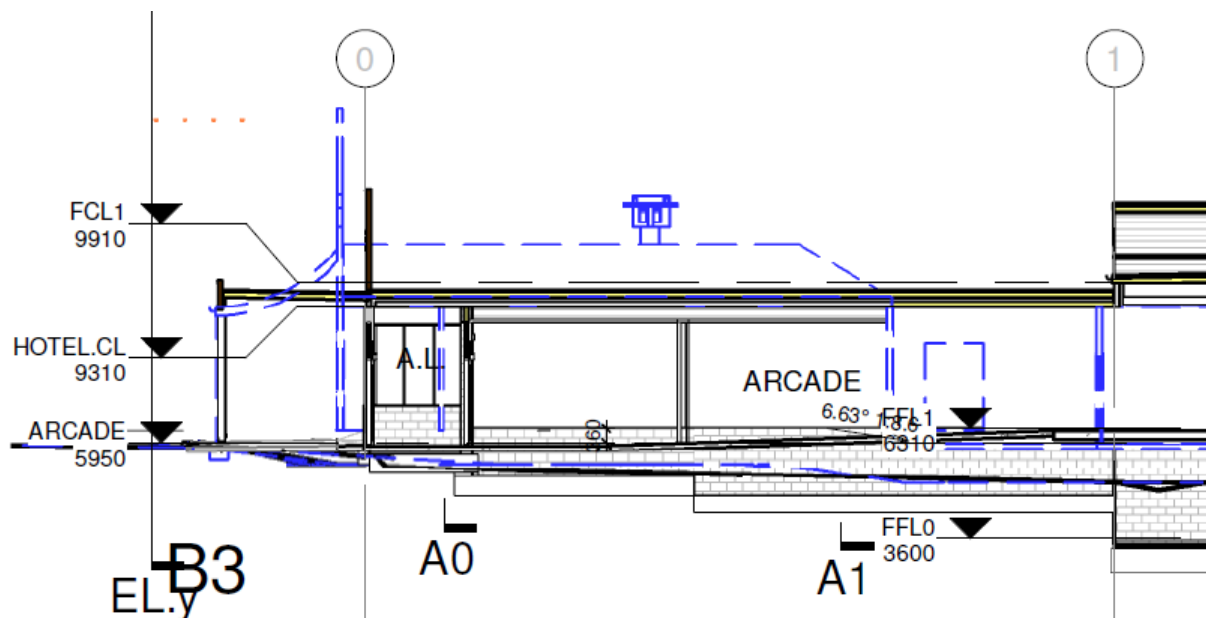


Image: Extract from submitted plans detailing existing Royal Willows Hotel marked blue in relation to proposed building marked black.

Traffic Impact

Numerous submissions identified traffic impacts associated with the development including increased traffic generation, impacts on existing intersections including that of Quondola and Bullara Streets, and the suitability of existing streets like Merimbola Street to support increase in traffic.

The impact of traffic and carparking has been appropriately considered and assessed earlier in this assessment report and addresses the concern raised in submissions. The traffic assessment report and additional response by the applicant have been considered by both TfNSW and Council's Development Engineers. It has been identified that the expected impacts of the development including, traffic generation impacts on the surrounding road network, road safety and internal traffic management have been adequately addressed and mitigated through design.

Acoustic Impacts

Numerous submissions raised concerns on the potential noise impacts associated with the development to adjoining landuses. As detailed above in this assessment report, the application has provided a Noise Assessment Report that has suitably addressed potential noise impacts generated by the development including noise generated by traffic and mechanical operations.

The assessment has appropriately considered all surrounding land uses, including the over 55's village along Bennett Lane.

The noise assessment considered the impacts associated from mechanical plant and equipment and traffic utilising the site, including truck movements utilising loading docks, and calculated the noise limits to be achieved for the range of land uses surrounding the site. The report took a conservative approach to noise limits for the area and considered the potential impacts of noise on sleep disturbance.

The recommendations in the Noise Assessment Report are considered appropriate for maintaining the existing acoustical environment for residential and commercial uses adjoining and surrounding the site.

A further submission raised concerns with noise impacts associated with construction noise on the Grey Headed Flying Fox Camp that seasonally inhabits the Pambula Wetlands.

There are no noise criteria in the assessment of construction noise impacts on bats, however, a review of state government literature has considered the impacts on bats from noise during times of when bats are under heat stress. The main concern is that construction noise can potentially impact Grey Headed Flying Foxes when they are under stress, namely during times of excessive heat. The concern is that when bats are startled by loud noises, they take flight when they are already being stressed by temperatures above 38° Celsius.

Although the site is located approximately 75 metres from the Pambula Wetland and approximately 200 metres from where the camp generally reside within the wetland, it is recommended that the following condition be applied to minimise any potential noise impacts generated by construction noise, "To minimise the risk of significant impact to the Grey-headed Flying-foxes from heat-related stress and potential mortality, construction activities of the development must not occur on days above 38° Celsius."

Flooding Impacts

Numerous submissions identified that the site is impacted by flood water and detailed that the development would be impacted by flood water.

Flood impacts have been appropriately considered earlier in this assessment report and addresses the concern raised in submissions. The flood assessment report submitted by the applicant suitably addresses all flooding impacts for the site and details how the development responds to those impacts in accordance with BVLEP 2013 and BVDCP2013.

Site Contamination

Submissions provided historical photographs that the site previously contained a fuel dispenser from an underground fuel tank and raised concerns that the site is potentially contaminated.

The issue of contamination at the site has been addressed under the provisions of State Environmental Planning Policy No.55 – Remediation of Land. As detailed earlier in this assessment report, the applicant has confirmed that an underground fuel tank exists on-site and detailed that it is accepted by the Proponent that Council would impose a suitably worded consent condition requiring the completion of a detailed site investigation prior to the commencement of construction works.

In accordance with the provisions of Clause 4.6 of the State Environmental Planning Policy No.55 – Remediation of Land, it has been confirmed that the site has been utilised for fuel storage and dispensing.

It is recommended that conditions be applied requiring the provision of a Preliminary Site Investigation be undertaken prior to any Construction Certificate being issued and if required, that a Remediation Action Plan (RAP) also be included if soil contaminants are identified to ensure appropriate remediation of the site for the proposed design. The provisions of these investigations and Plans would ensure protection to the surrounding environment and land uses.

Impact to the Adjacent Panboola Wetlands

It was noted in the submissions that potential noise, traffic, light spill and stormwater runoff generated by the development would have a detrimental impact on the Panboola Wetlands.

Throughout the above assessment report, it has identified that all potential impacts associated with the development on the surrounding environment including noise, traffic, light spill and stormwater have been identified and addressed.

Sustainability in Design

The DA details the proponent's commitment to achieving best practice in sustainable design and construction, to ensure the long-term sustainability of the building. This has been addressed earlier in this assessment report and a requirement of demonstration under BVDCP2013 commercial provisions.

Safety and Security After Hours

Submissions identified that the development presents a number of safety and security risks, detailing that the carparking area will become a playground after dark, encouraging antisocial behaviour, that the larger bottle shop will increase crime and suitability of the carpark adjoining the playground.

The application was reviewed by the NSW Police Force having consideration of Crime Prevention through Environmental Design (CPTED). CPTED is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. It reduces opportunities for crime by using design and place management principles that reduce the likelihood of essential crime ingredients from intersecting in time and space.

They NSW Police provided several recommendations to mitigate impacts associated with the development and these are recommended as conditions of consent.

It is considered that the concerns relating to Safety and Security issues with the design have been suitably addressed.

Construction Impacts

Numerous submissions identified potential construction impacts by the development including, potential to impact the structural integrity of the adjoining heritage listed building, disruption to residences and shops in the Town Centre due to construction hours, noise and air pollution from trucks and machinery, dust, and asbestos and potential pollution of stormwater runoff.

Throughout the above assessment report, potential impacts associated with the construction of the development on the surrounding environment have been identified including impacts associated with demolition, construction of the development and building within proximity to other structures.

All identified impacts have either been addressed in the supplementary reports submitted with the DA or included as conditions of consent detailed in Attachment 1 of this Report. It is considered that all construction related impacts associated with the development can be suitably mitigated.

Landscaping

Submissions detailed concerns with the lack of landscaping for the proposed development and the removal of existing trees within the site.

The DA included a Preliminary Arboricultural Assessment of the existing trees on and adjacent the site and a landscape concept by a qualified landscape architect which is considered appropriate for the proposed development within the commercial centre of Pambula.

The Preliminary Arboricultural Assessment details the extent of trees to be removed and those to be retained which is considered appropriate having regard to the development layout. The landscaping plan identifies those trees to be retained and utilises local endemic and robust, drought tolerant species to ensure low maintenance landscaping within a commercial environment. The landscaping proposed including the retention of several established trees is considered appropriate and consistent with the relevant requirements of the BVDCP 2013.

Public Artwork

Submissions identified that the development proposal include options for the provision of public artwork. As detailed earlier in this assessment the provision of this artwork for this size development is a requirement detailed under the provisions of BVLEP 2013. The applicant detailed in the Statement of environmental effects and again in their response to submissions noted that Council can impose a suitably worded condition in any development consent granted.

This is consistent to other developments considered elsewhere within the Bega Valley Shire, including the Southern Regional Planning Panels consideration of the Aldi supermarket DA in Merimbula. A condition requiring the provision of public art is included in the draft conditions of consent is recommended.

Need for the Licensed Café

Questions were raised in regard to the need and likely use of the proposed licenced café/restaurant. The proposed use is consistent with other businesses located along Quondola Street. The size of the premises and its access to the street is considered appropriate and consistent with the commercial provisions under BVDCP 2013.

Agency Submissions

The application was formally referred to Transport for NSW, Essential Energy and NSW Police. An assessment of their comments and recommendations have been detailed throughout the assessment of this report. Copies of all submissions received are included as Attachment 2 to this Report.

There are no recommendations from State Agencies that would preclude a determination of this application.

4.11 Section 4.15(e) Public interest

The proposed development has received considerable public interest as detailed in the submissions received to the development including both submissions and petition objecting to the development, and letters and petition in support as detailed above.

In assessing the DA, the proposed development would be in the wider public interest as it would be consistent with relevant planning instruments and provide additional investment and employment opportunities within Pambula that would service the community and tourists that it services. The development would not compromise the existing retail hierarchy or viability within Pambula, or impact the services provided within the larger town of Merimbula.

Any other relevant legislation/Matters

Bega Valley Section 94 and 94A Contributions Plan 2014.

The development proposed requires the payment of contributions in accordance with the Bega Valley Section 94 and 94A (now described as Section 7.11 and 7.12) Contributions Plan 2014.

The proposed development has an estimated cost of work value of \$8,022,000.00.

In accordance with the plan, 1% of the estimated cost of work would attract a Contribution of \$80,022.00. Accordingly, a condition of consent is recommended in the draft consent.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

5.0 Conclusion

A detailed assessment has been undertaken of the development application being for the demolition of Royal Willows Hotel and ancillary structures and the construction of a Supermarket, café and drive through bottle shop with associated car parking, loading dock and the construction of a new service road.

In considering the development application, an assessment of the development has determined that the proposal is consistent with the provisions of BVLEP 2013, DCP2013 and relevant state legislation.

The key issues that have been raised in public submissions and detailed through public addresses to the Regional Planning Panel have been assessed and it is considered that those impacts have been suitably addressed by the applicant or can be managed by conditions of consent.

It is recommended Development Application No. 2021.358 be approved subject to the conditions of consent as detailed in Appendix 1.