

# COUNCIL ASSESSMENT SUPPLEMENTARY 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"> <li>• 115</li> <li>• 2 Petitions</li> </ul>
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"> <li>• Regulation 92(b) – demolition of building</li> </ul> <p>Relevant Environmental Planning Instruments</p> <p>State Environmental Planning Policies (SEPPs)</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy 55 (Remediation of Land).</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011.</li> <li>• State Environmental Planning Policy (Infrastructure) 2017.</li> </ul> <p>Local Environmental Plan</p> <ul style="list-style-type: none"> <li>• Bega Valley Local Environmental Plan 2013.</li> </ul> <p>Draft Environmental Planning Instruments</p> <ul style="list-style-type: none"> <li>• State Environmental Planning Policy 55 (Remediation of Land)</li> <li>• Draft SEPP reviews (Various)</li> </ul> <p>Planning Agreements (existing/draft)</p> <ul style="list-style-type: none"> <li>• Nil</li> </ul> <p>Relevant Council Policy</p> <ul style="list-style-type: none"> <li>• Bega Valley Development Control Plan 2013.</li> <li>• Bega Valley Section 94 and 94A Contributions Plan 2014.</li> </ul>
List all documents submitted with this report for the Panel's consideration	<p>Attachment 1: Recommended revised conditions of consent</p> <p>Attachment 2: Planning Panel's independent heritage adviser comments</p> <p>Attachment 3: Revised development and site plans</p> <p>Attachment 4: Revised Statement of Heritage Impact</p> <p>Attachment 5: Detailed Site Assessment</p> <p>Attachment 6: Draft Operational Traffic Management Plan</p> <p>Attachment 7: Revised Traffic and Parking Assessment</p>

<b>Clause 4.6 requests</b>	Nil
<b>Summary of key submissions</b>	<ul style="list-style-type: none"> <li>• Heritage</li> <li>• Contamination</li> <li>• Traffic and parking concerns</li> <li>• Flooding</li> <li>• Socio-economic impacts</li> <li>• Environmental concerns</li> </ul>
<b>Report prepared by</b>	<b>Mark Fowler – Senior Town Planner</b>
<b>Report date</b>	12 December 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 supplementary report details the additional information requested by Southern Region Planning Panel at its Determination Meeting on 28<sup>th</sup> September 2022 for Development Application (DA) 2021.358 comprising 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.

This supplementary report provides an assessment of the additional information, including reference to the recommendations provided by the Planning Panel's independent heritage adviser. This report makes a recommendation for the Southern Regional Planning Panel to approve the development subject to the imposition of the modified draft conditions of consent and advisory notes detailed in Attachment 1.

Based on the previous detailed assessment of the proposal against Section 4.15 of the Environmental Planning and Assessment Act 1979 and the additional information submitted by the applicant, it is considered that the development is appropriate, would be of benefit to the local community and is worthy of support.

## 1.0 Introduction

The purpose of this supplementary report is to respond to the Southern Regional Planning Panel's deferral to the determination of the development application at its meeting on 28<sup>th</sup> September 2022. The deferral recommended the following information to be provided by the applicant and for the completion of a supplementary assessment by Council as follows;

1. The Panel's independent heritage adviser to undertake a review of relevant documents provided by the applicant and heritage advisors to Council and provide advice to the Panel on:

- a. The veracity and completeness of the assessments of heritage conservation matters in the context of the requirements of Clause 5.10 (1), (2), (4), (5) and (6) of the Bega Valley Local Environmental Plan 2013
- b. The appropriateness of the proposed bulk, scale, form and finishes of the proposed development, in the context of the Quondolo Street Conservation Area, relevant planning controls, history of the building and issues raised by the members of the public in public meetings and submissions.
- c. The potential for alternative building forms and finishes which would be more compatible and appropriate to the relevant historical context and existing built form character of the village.

2. The applicant to provide Council within 6 weeks of the date of publication of this record of deferral:

- a. A preliminary site investigation by an appropriately qualified person into the potential for contamination of the site including consideration of whether the site can be made suitable for the proposed use.
- b. Details of the proposed use of the existing shed as a temporary bottle shop including access, servicing (deliveries and waste disposal) and parking arrangements and how this temporary use is proposed to be managed concurrently with other physical works on site.
- c. Details of numbers of articulated and large rigid service vehicles which will be required to service (deliveries and waste disposal) the proposed supermarket and bottle shop on a daily and weekly basis, including management approaches to co-ordinating truck movements within the 7.00am – 8.00am morning peak.

This Report details each item requested by the Planning Panel, identifies and comments on relevant environmental planning instruments based on the additional information provided and identifies any potential environmental impacts and required mitigation measures for the purpose of addressing the additional information submitted.

The applicant has taken further steps to respond to the Planning Panel's independent heritage adviser comments (See Attachment 2) and has submitted revised development and site plans included as Attachment 3 and Revised Statement of Heritage Impact included as Attachment 4 to this Report.

## **2. Additional information submitted by the applicant**

### **2.1 Revised Plans and Revised Statement of Heritage Impact**

A copy of the Panel's independent heritage adviser comments (See Attachment 2) was provided to the applicant for consideration.

The independent heritage advisor comments recommended that a revised Heritage Impact Statement be prepared, incorporating the various sources of information already prepared by the expert parties and local residents. It also recommended changes to the design of the proposed development.

Following receipt of advice from the Panels independent heritage advisor, the design has been further amended by the applicant. Part of the front of the new building façade now references the format of the early 20th century frontage of the Royal Willows Hotel and the length of the parapet has been broken into two parts to reflect the scale of neighbouring buildings (See Image 1 below).

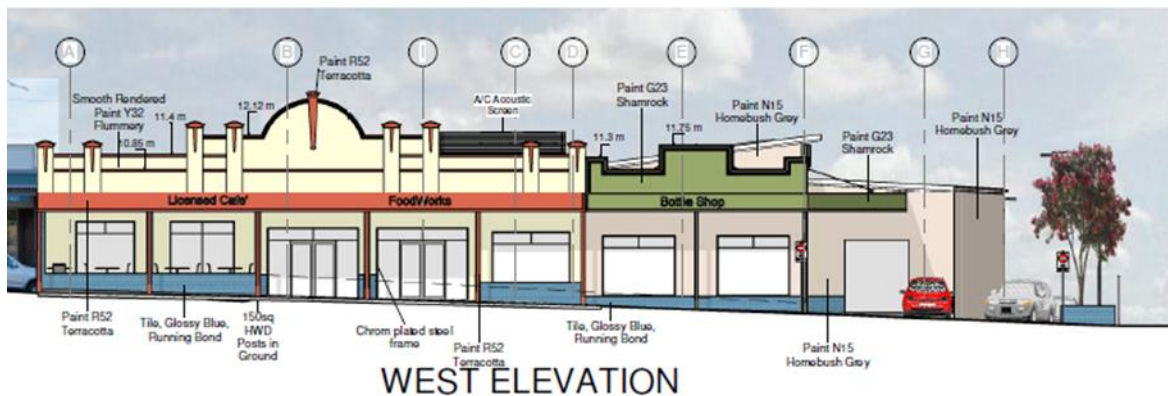


Image 1 – Amended Quodola Street façade treatments

Other design changes include the following and are depicted in Image 2 below:

- The south and west elevations of the bottle shop, which references Interwar period shops, have been adjusted. This has included changes to the parapet and changes to the colour scheme to differentiate it from the northern part of the proposed façade;
- Four gable roofs have been introduced to the front of the building, in the location of the Royal Willows Hotel;
- Amendments to the windows to the west façade and south elevation to increase the solid to void ratio and better reflect the format of the adjacent heritage listed shops;
- Recessed panels of vertical metal sheeting introduced to the south elevation to provide greater articulation and break up the length of the wall;
- The awning (a chamfered corner is now proposed) has been clipped at south end to allow for the planting of a tree within the footpath, similar to the opposite footpath/nature strip.



Image 2– Visualization of the development from the south along Quodola Street detailing façade treatments

The amended architectural elements to the Quondola Street frontage are considered appropriate. The design reflects issues raised in several submissions that sought consideration of opportunities to the retention of the existing Royal Willows façade.

The Revised Statement of Heritage Impact has assessed the heritage impact of the revised design and has been prepared in response to the recommendations of the Panels independent heritage advisor comments.

The revised Statement includes an assessment of the heritage significance of the subject site against the NSW assessment criteria and an assessment of the relevant provisions of the Bega Valley Local Environment Plan and Development Control Plan.

The amended plans are considered appropriate and are supported.

## **2.2 Contamination – Preliminary site investigation**

The Panel at their determination meeting on 28<sup>th</sup> September 2022 sought a preliminary site investigation be provided by an appropriately qualified person into the potential for contamination of the site including consideration of whether the site can be made suitable for the proposed use.

The applicant has submitted a Detailed Site Investigation Report by EI Australia (See Attachment 5) that has investigated the degree of potential for contamination through intrusive sampling and laboratory analysis for relevant contaminants and makes recommendations for the appropriate management of any potential contaminated soils and/or ground water.

The investigated identified that the potential for site contamination at the site is low. The assessment reviewed site history, undertook soil testing and noted the potential for an underground storage tank to be present on site and that this item will require management.

The conclusion of the report detailed that the site can be made suitable for the proposed commercial development, subject to the implementation of recommendations summarised below as provided in Section 10 of the Report.

Those recommendations are;

- Conduct a Hazardous Materials Survey (HMS) of the current site Prior to site demolition;
  - The HMS will guide demolition of existing buildings and ensure appropriate management of hazardous building materials if encountered.
- Prepare a Remedial Action Plan (RAP) that details methodology and procedures required for site remediation, including:
  - Removal of the UST and validation of resulting excavation according EPA Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019;
  - Investigation of soil within the footprints of the hotel building and motel building to verify consistency with site wide soil and to aid waste classification if required;
  - Waste classification of surplus site soils to be excavated and disposed off-site during remediation works and materials imported to the site, in accordance with the NSW EPA (2014) Waste Classification Guidelines;
  - Work health and safety consideration; and,
  - An unexpected finds protocol, for implementation if unusual or unexpected materials are encountered during excavation and construction activities.
- Prepare a validation report describing removal of the UST and associated materials if encountered.

The report detailed that the above recommendations can be implemented within the framework of the application process under State Environmental Planning Policy (Hazards and Resilience) 2021.

A review of the Report detailed that there is satisfactory information to inform the Planning Panel under Clause 4.6 of State Environmental Planning Policy (Hazards and Resilience) 2021 on whether the land is contaminated and details the appropriate steps to ensure the safe development and use of the site for its proposed use.

Based on the submitted Detailed Site Investigation submitted by the applicant, the draft revised development consent conditions included as Attachment 1 have been amended to reflect the Recommendations in the Detailed Site Investigation Report.

### **2.3 Proposed use of the existing shed as a temporary bottle shop**

The Panel at their determination meeting on 28<sup>th</sup> September 2022 sought details of the proposed use of the existing shed as a temporary bottle shop including access, servicing (deliveries and waste disposal) and parking arrangements and how this temporary use is proposed to be managed concurrently with other physical works on site.

The applicant as part of the additional information submitted, has clarified that the proposed temporary bottle shop use within the existing shed on Lot 15 DP1204078 has been removed from the development application. The draft revised development consent included as Attachment 1 has been amended to reflect no approval to the temporary use of the rear shed as a bottle shop.

### **2.4 Details of numbers of articulated and large rigid service vehicles**

The Panel at their determination meeting on 28<sup>th</sup> September 2022 sought details on the numbers of articulated and large rigid service vehicles which will be required to service (deliveries and waste disposal) the proposed supermarket and bottle shop on a daily and weekly basis, including management approaches to co-ordinating truck movements within the 7.00am – 8.00am morning peak.

The applicant has provided a draft Operational Traffic Management Plan and a Revised Traffic and Parking Assessment in response (See Attachments 6 and 7).

The response provides detailed consideration of existing delivery operations currently undertaken at the smaller supermarket in Pambula to assist in considering the type of delivery vehicles that would be utilised and provides proposed delivery operations and loading dock management for the site. The key operations of the proposed supermarket loading dock;

- *The Loading and Unloading at the supermarket loading dock would occur between 7am and 8am by 20 metre length articulated vehicle and 12.5 metre length Heavy Rigid Vehicles.*
- *Outside of 7am to 8am, the loading dock will be restricted to a maximum of 8.8 metre length medium rigid vehicles.*

The draft Operational Traffic Management Plan details that deliveries to the supermarket are expected to occur between Monday to Friday and comprise up to 6 deliveries per day. This would include one delivery from a 20 metre long AV between 7am and 8am on a Tuesday (likely maximum of three deliveries per week, with the initial demand upon opening one per week). The other deliveries would be via a mixture of Heavy Rigid Vehicle (HRV), Small Rigid Vehicle (SRV) or small van. The HRV would also only be able to deliver between 7am and 8am (with an occurrence of less than one per day) and the SRV and vans delivering at any time during the supermarket trading hours.

For Saturday trading, it is expected up to three deliveries per day via HRV or SRV or van. Any deliveries via a HRV would be restricted to between 7am and 8am. All other vehicles would deliver at any time during the supermarket trading hours.

For Sundays, up to two deliveries (bread only) via a SRV and would deliver at any time during the Supermarket trading hours, typically during the morning.

A typical delivery from the largest delivery vehicle takes a maximum of 30 minutes while smaller delivery vehicles typically take between anywhere between 5 to 20 minutes.

Deliveries for the Bottle Shop would be via HRV and would be once a week on a Thursday between 7am and 8am prior to the Bottle Shop trading hours.

The draft Operational Traffic Management Plan also details the expected operation of waste vehicles for the site and details the extent of waste collection and likelihood of conflict with delivery vehicles and management procedures to mitigate impacts.

It is considered that the additional information submitted by the applicant has suitably addressed the additional information request from the Panel. Revised conditions of consent detailed in Attachment A includes details of the removal of car parking spaces 31-40 to ensure that the area is available for truck and service vehicles turning on-site to access the supermarket loading dock and the provisions of a Operational Traffic Management Plan.

The amended development plans were also referred to Transport for NSW for comment who had no objections to the DA subject to previously provided advice being included.

## **4 Statutory Planning Framework**

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

In accordance with the provisions of Clause 7 of the SEPP, it is considered that the applicant has suitably addressed whether the land is contaminated and details appropriate steps to ensure the safe development and use of the site for its intended use.

### **4.2 Bega Valley Local Environmental Plan 2013**

#### **Clause 4.3 Height of Building**

A review of the modified plans confirms that the maximum building height is still below the 10 metre height limit for the site and is therefore still consistent with this Clause.

#### **Clause 5.10 Heritage Conservation**

The revised plans are supported by a Revised Statement of Heritage Impact prepared by Phillip Leeson Architects that provides a detailed assessment and addresses the comments from the Planning Panels independent Heritage advice.

The revised design when viewed from along Quondola Street (see Images 2 above), 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.

### **4.3 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 the additional information.

#### **Section 5 General Development**

##### **Non Aboriginal Heritage**

As detailed earlier in this Report, it is considered that the revised heritage treatments provided in the modified plans are considered appropriate having regard to the Pambula main street heritage conservation precinct and heritage items located in the vicinity of the site.

#### **Likely impacts of modified development plans**

The likely impacts of the proposed amended development plans are minor and are considered to be consistent with the relevant provisions of Bega Valley LEP 2013 and the Bega Valley DCP 2013.

## **Suitability of the site for development**

As previously reported to the Planning Panel at its meeting on the 28<sup>th</sup> September 2022, it is considered that the proposed development fits with the locality. The modified development plans retain the form and resemblance of the existing Royal Willows Hotel place within the Quondola Street streetscape, with the addition of a bottle shop that is still consistent with the Pambula Design Guidelines.

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

## **Conclusion**

The applicant has responded to the deferred matters detailed in the Notice of deferral from the Planning Panels Determination Meeting on the 28<sup>th</sup> September 2022. It is considered that the additional information addresses each matter and includes revised plans addressing comments received from the Panel's independent heritage adviser.

In considering the additional information, consideration of the relevant provisions of BVLEP 2013, BVDCP2013 and relevant state legislation to the additional information has been undertaken.

It is recommended Development Application No. 2021.358 be approved subject to the revised draft conditions of consent as detailed in Attachment 1 and revised development Plans as detailed in Attachment 3.