

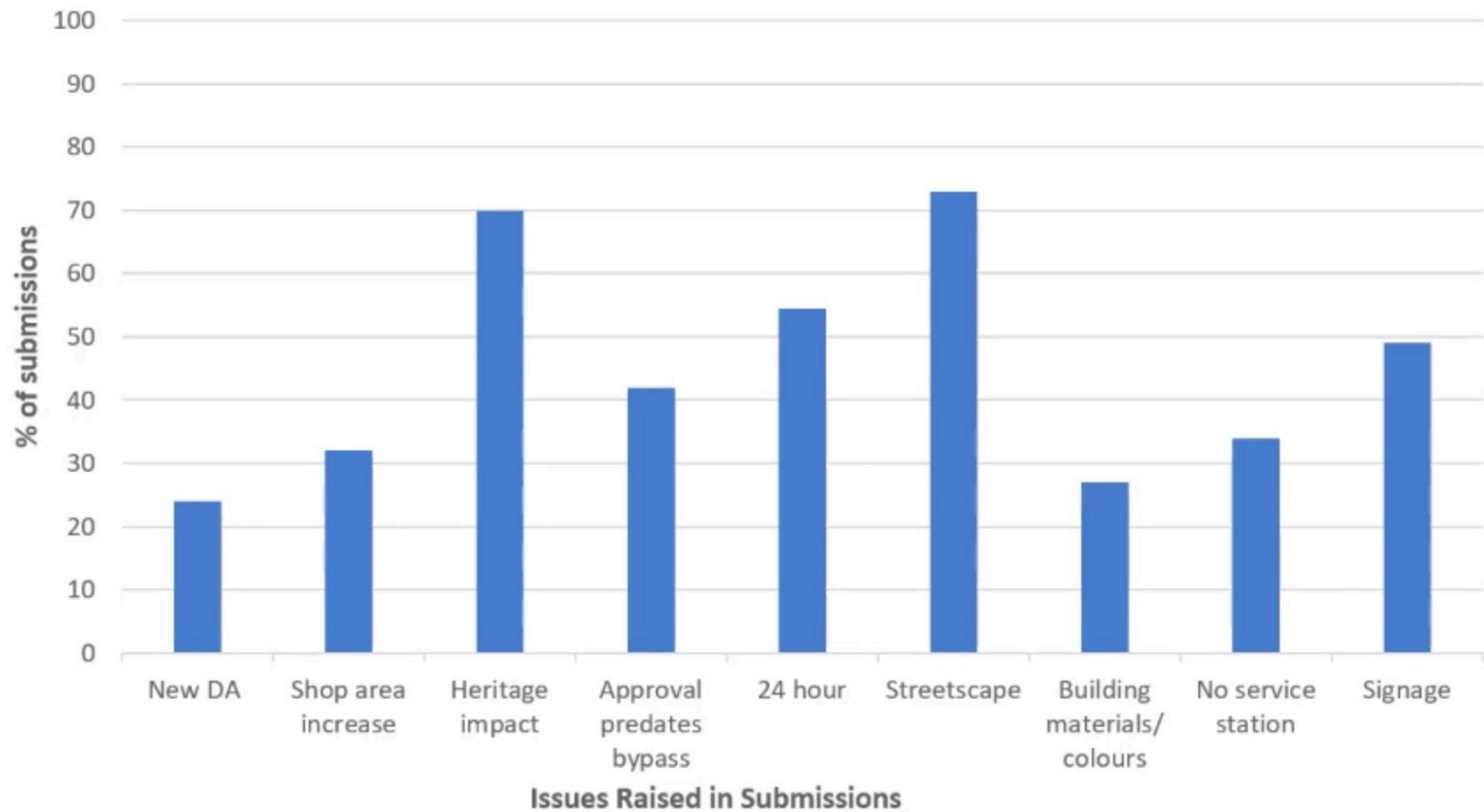


Submissions

Main concerns include: (but are not limited to)

- Legality of modification
- Permissibility and characterisation
 - Principal use / ancillary use / mixed use
- Incompatibility with the Village/Heritage character of the surrounding area
 - height, bulk and scale
- Impact of additional traffic
- Hours of operation

Indicative Submission Analysis



Other issues raised:

- Fence – height / material / location / noise
- Car wash – location / hours of operation
- Applicant's response to submissions
- Contrary to SLEP – (height / heritage)
- Contrary to DCP Chpt N2 – Berry CBD
- Inadequate information
 - Lack of photomontage or 3d projections / Heritage Impact Statement / Shadow Diagrams / streetscape analysis etc.
- Signage
 - Height, location, Illumination, content, SDCP / SEPP (Industry & Employment) 2021 Schedule 5

Other issues cont.

- Loss of palm trees
- Effects of property values
- Concern re: potential for future liquor license
- Relocation of bus stop, loss of parking
- No EV charging
- Impact on Donut van entrance
- Economic Impact
- Stormwater

How is this modification to be assessed?

In summary:

Section 4.55(2)

- Consent authority needs to be satisfied the development is substantially the same.
- Consent authority must take into account the submissions resulting from the notification.
- Consent authority must take into consideration relevant section 4.15 matters.

Berry Forum Questions

Where is Council's legal opinion on the issues raised by PBC and The Forum i.e. that the existing DA has lapsed and therefore the OTR proposed "modifications" are invalid?

Council is in the process of exploring the issue and is seeking independent advice.

Does Council have a vision for a development on the site other than a service station? i.e. a series of single storey shop fronts or commercial with offices above or shop top housing.

The strategic vision is embedded in Council's LEP and DCP.

Numerous questions about the renders. Their accuracy. Why were they submitted? Was a written explanation provided? What happens when an applicant makes alleged incorrect statements and the like?

Council met with the applicant, upon request as the applicant was in NSW at the time. During that meeting the provision of additional drawings was discussed.

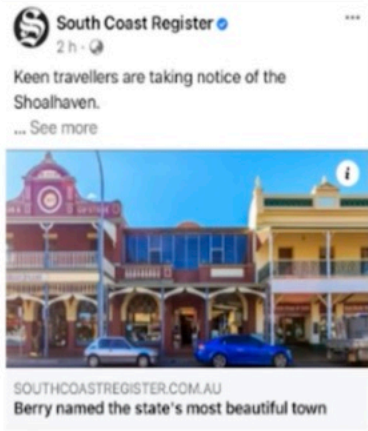
Staff queried in response to the meeting if drawings were to be submitted. If not, staff advised the assessment would continue.

The photomontages were submitted with a covering email. There was no formal letter. In summary, the applicant's (covering) email concluded that the modification "is a much better design and planning outcome, and is infinitely more pleasant and amenable than the current DA approved proposal".

It is Council's role to review, assess and check information. If an applicant enhances drawings, includes additional embellishments and the like, these are noted. Council does not assume or accept these as fact.

The Forum has stated the community is passionate about the matter and future development of the site noting the visual amenity and character of the township and has questioned how Council will apply s4.15, the provisions of the LEP, relevant DCP chapters and the like relating to the unique character of Berry.

Council is legally obliged to take into account the matters identified by the Forum. The assessment will be detailed in an assessment report, put to Council for consideration.



Where to from here?

- Pursue legal opinion / complete assessment.
- Council resolved on 8 August 2022: *That Council call in DS22/1239 – Modification to DA11/1386 - 75-79 Queen Street, Berry due to the interest in the proposed development.*
- This means that the matter will be put to Council for consideration and determination. Submitters will be notified of meeting details in due course.