

# THE PLANNINGHUB

*by Hawes & Swan*

9 September 2021

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Attn: Panel Chair and Panel Members  
Sydney Western City Planning Panel  
Locked Bag 5022  
PARRAMATTA NSW 2124

Dear Panel Chair & Panel Members,

**RE: DA - PPS-2017SSW042 – Campbelltown City Council – 389/2017/DA-RA – Raith, 74 Fern Ave, Bradbury**

This letter is written on behalf of the applicant, KYS Properties Pty Ltd in respect of the determination of **389/2017/DA-RA** at 74 Fern Avenue, Bradbury at the Sydney Western City Planning Panel Meeting on Monday 13 September 2021.

**389/2017/DA-RA** seeks consent for the Refurbishment of the existing heritage residence (Raith), construction of 72 dwellings in the form of attached dwelling and residential flat buildings, conversion of two existing outbuildings into dwellings, and subdivision of the site by way of Community, Torrens and Strata Subdivision at 74 Fern Avenue, Bradbury.

We have had the opportunity of reading Council's assessment report and note the recommendation of approval, which we support however there are a number of conditions that our client would like changed as part of your determination.

The following conditions we seek consideration to be changed, with ~~striketrough~~ where we would request deletion, **bold** where we have added words, and we have provided a comment below each condition with our reasoning why we seek the change.

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## GENERAL CONDITIONS

### 4. Timing of Conservation Works

In accordance with the Conservation Works Schedule, the November 2018 base cost shall be undertaken (in conservation and maintenance) in the financial year 2021/22.

The conservation works to the house shall commence in conjunction with the development of the site except for items with time frame 'immediate', regular and cyclical. These are to be implemented within three months of the date of **obtaining a construction certificate** ~~this development consent~~. A record of all inspections and maintenance, as per the Conservation Works Schedule, shall be logged and submitted to Council.

If development of the site is delayed beyond the 2021/22 financial year, then a comprehensive inspection shall be arranged by a suitably qualified heritage consultant to update the Conservation Works Schedule in the 2021/22 financial year.

#### Comment

The Council have requested that conservation works are to commence within 3 months of the date of this consent, however it is likely that it will take 6 - 12 months to work through the construction certificate details, therefore we would request that the condition be changed to refer to the date of obtaining a construction certificate.

## PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

### 30. Dilapidation Report

Prior to Council or appointed Principal certifier issuing a construction certificate, the applicant shall submit a dilapidation report for all **Council** assets **adjoining the subject works** and buildings **at 17 Poplar Crescent, Bradbury that directly adjoining** ~~on lands that adjoin~~ the subject works.

#### Comment

The condition as drafted would require a dilapidation report for all properties that adjoin the subject works which would include properties on the other side of Appin Road, and on the other side of Fern Ave which will not be affected by the works and a dilapidation report is considered unnecessary. We have proposed some minor rewording to clarify which properties including Council assets.

**31. ~~Security Bond for Heritage Conservation Work~~**

~~Prior to the issue of any construction certificate, a security bond shall be lodged with Council for the full value of the required conservation work identified in the approved Conservation Works Schedule. The value of these works currently identified is \$407,053.18, however the exact amount will be adjusted when the Conservation Works Schedule is updated in accordance with Schedule A of this consent and adjusted for indexation.~~

~~The security bond will be released when all heritage conservation works identified in the Conservation Works Schedule have been completed to the written satisfaction of the heritage consultant and Council's Executive Manager Urban Centres.~~

Comment

We believe this condition is not required. Condition 66 of the consent requires all conservation works to Raith house to be fully completed prior to the issue of any occupation certificate or subdivision certificate.

This condition simply makes the project financially unsustainable and put in jeopardy the long term sustainability of Raith. We therefore request condition 31 be deleted.

**40. REMEDIATION OF LAND**

- a) The part of the site within Stage 3 that has been identified as contaminated is to be remediated to be suitable for 'residential with minimal opportunity for soil access' prior to the release of any construction certificate for that stage. The remediation is to be generally in accordance with the remediation action plan prepared by Raw Earth Environmental and dated April 2021 (report number RAP-BRAD-01).
- ~~b) A Site Auditor shall be appointed for the project. The site auditor must be a person accredited under the Contaminated Land Management Act, 1997. Council shall be notified of the appointment of the site auditor at least 2 business days prior to the commencement of any remediation works. This notification requirement is in addition to the requirements of SEPP 55.~~
- c) The heritage listed buildings, vegetation and/or other features of the site are to be suitably protected throughout the remediation works. All contractors engaged in undertaking remediation works are to be briefed on the located and sensitivities of the site from a heritage perspective to reduce the risk of accidental damage.
- ~~d) Development authorised by this consent shall not commence prior to the Site Auditor issuing a category "A1" site audit statement for the whole of Stage 3 specifying that it is suitable for 'residential with minimal opportunity for soil access'.~~
- ~~e) Any person having benefit of this consent may not replace a site auditor appointed under a condition of this consent without the approval of Council. The power for Council to approve the appointment of a new site auditor is a power created by this condition and is not a reference to a~~

~~need for further development consent under the EP&A Act. Council may withhold approval under this condition unless it is satisfied that the previously appointed site auditor is unwilling or unable to continue servicing the project.~~

Comment

A site auditor is not required and will add significant cost to the development of the land when it is not necessary. The condition requires that the RAP, which specifies the details of the remediation and requires a final Site Validation Report detailing the successful methodology of remediation and validation works to make the site suitable for its intended use. We simply request that the requirement for a site auditor be deleted.

**PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

**~~67. — Security Bond for Perpetual Maintenance of Heritage Item~~**

~~Prior to the issue of any occupation certificate or any subdivision certificate for any stage of the development, a security bond shall be lodged with Council for a sum representing 20 years of indexed cyclical costs associated with the perpetual maintenance of Raith house. The exact sum shall reflect the cyclical costs identified in the amended Conservation Works Schedule required under Schedule A of this consent.~~

~~The security bond will be released when all allotments associated with the approved development have been created. The staged release of the security bond may be negotiated as stages of the development are completed.~~

Comment

We believe this condition is not required. Condition 68 of the consent requires a restriction for perpetual maintenance of Raith House, yet this condition seeks to also impose a security bond which in effect results in a doubling of costs

This will make the site financially unsustainable and put in jeopardy the long term sustainability of Raith. We do not believe the security bond is required in addition to the restriction on the land included in condition 68. We therefore request condition 67 be deleted.

Yours sincerely,



JEREMY SWAN  
DIRECTOR | THE PLANNING HUB