

TO: Hunter Central Coast Regional Planning Panel

FROM: William Toose, Principal Development Officer (Planning)

DATE: 20 June 2022

SUBJECT: 2019HCC012 – 11-17 Mosbri Crescent, The Hill - DA 2019/00061

The purpose of this memo is to provide further clarification in relation to a number of conditions of consent that the applicant for DA2019 HCC012– 11-17 Mosbri Crescent, The Hill - DA 2019/00061 has requested to be amended.

A summary of the conditions requested to be amended is presented below:

Condition	Applicant's comment	Council's response
<i>Land description – Lot 1 DP204077</i>	<p>Due to a title update, the land is now identified as Lot 1 in DP1281357. Although the formal title reference to the land has changed, for the purposes of the assessment and approval of the development application, please note that this is an administrative change only. The boundaries of the land remain exactly the same as previously defined, with the only difference being that the land now includes the mines and minerals directly beneath the surface of the land which is now all in Crescent Newcastle's ownership.</p> <p>For completeness, owner's consent is also updated and attached.</p>	<p>Accepted.</p> <p>The land description is to be amended to reflect the updated title.</p>
6. Required mine grouting works are to be approved, completed and accepted by Subsidence Advisory NSW prior to the issue of any other Construction Certificate for the proposed development.	<p>DA condition 6, as currently worded, assumes a CC will be issued for the mine grouting work. Typically, the site would be grouted prior to the issue of any CC for building or civil works. The requested change will give effect to the usual process allowing mine grouting work to proceed without a CC.</p> <p>Requested change –</p> <p><i>6. Required mine grouting works are to be approved, completed and accepted by Subsidence Advisory NSW prior to the issue of a Construction Certificate for the proposed development.</i></p>	<p>Not accepted.</p> <p>CN's position remains that grouting works constitutes building work (that is connected to the proposed development) and will need to be the subject of a Construction Certificate application.</p>
40. Prior to any ground disturbance works occurring on the site, the Applicant is to engage a suitably qualified historical archaeologist to undertake a detailed Historical Archaeological Assessment of the site. The Assessment shall comply with Heritage Council of NSW guidelines including but not limited to Assessing Significance for	<p>It is noted that the General Terms of Approval (GTAs) of Heritage NSW will need to be addressed. The GTAs have approved the grouting works subject to a S60 application submission/approval prior to commencing grouting works.</p> <p>Given the above suggest we request that condition 40 is deleted or made prior to demolition.</p>	<p>Not accepted.</p> <p>The site of the proposed development is associated with the mine activities of the c. 1842 Australian Agricultural Company C Pit (Dirty Seam) workings, which includes an incline coal railway and housing for mine managers and workers ('Pit Row').</p> <p>The site may contain historical archaeological relics within the meaning of the <i>Heritage Act, 1977</i> which may require management.</p>

<p>Historical Archaeological Sites and Relics 2009 and Archaeological Assessments 1996.</p> <p><i>This assessment should identify what relics, if any, are likely to be present, assess their significance and consider the impacts from the proposal on this potential resource.</i></p>		<p>The proposed development involves substantial subsurface works. Section 139 of the <i>Heritage Act 1977</i> requires that where historical archaeological 'relics' within the meaning of the Act may be disturbed or excavated (discovered, exposed, moved, damaged, destroyed), an approval from the Heritage Council of NSW is first necessary prior to these activities occurring.</p>
<p>41. An Aboriginal Heritage Impact Permit (AHIP) is required to be obtained from Heritage NSW under Part 6 of the National Parks and Wildlife Act 1974 prior to the commencement of any ground disturbance works. The AHIP is to include provision for the completion of Aboriginal archaeological investigations in the form of test excavations and further salvage activities. During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object must cease and Heritage NSW is to be contacted so that appropriate management strategies can be identified. In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact local police and Heritage NSW to determine an appropriate course of action.</p>	<p>It is requested that the condition be updated to be consistent with the recommendations of the submitted Aboriginal Cultural Heritage Assessment (ACHA), which only identifies the need for an AHIP on a portion of the site.</p> <p>Requested change –</p> <p>41. An Aboriginal Heritage Impact Permit (AHIP) is required to be obtained from Heritage NSW under Part 6 of the National Parks and Wildlife Act 1974 prior to the commencement of any ground disturbance works <u>within the AHIP Curtilage identified with the Draft Aboriginal Cultural Heritage Assessment prepared by Umwelt (Australia) Pty Ltd dated December 2021</u>. The AHIP is to include provision for the completion of Aboriginal archaeological investigations in the form of test excavations and further salvage activities.</p> <p>During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object must cease and Heritage NSW is to be contacted so that appropriate management strategies can be identified. In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact local police and Heritage NSW to determine an appropriate course of action.</p>	<p>Accepted.</p> <p>Section 11.2 of the ACHA – Archaeological Recommendations states "All areas outside of the AHIP curtilage have been identified as being subject to significant historical and modern disturbance, with these areas retaining nil archaeological potential. Works outside of the AHIP curtilage within the project area may proceed with caution".</p>

Should you require any further information please contact William Toose, Principal Development Officer (Planning) on 4974 2731.

Regards,

W. Toose
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