

To: Southern Regional Planning Panel

Subject: PPSSTH-407 – MOD24/1140 (PAN-415744) – Council Response to Applicant – Draft Conditions – 2 Colo Street, Mittagong

Date: 12/02/2025

Council provides the following addendum to the submitted assessment report following review of the draft conditions of consent by the applicant.

Applicant response to the draft conditions

Comments were provided by the applicant on 11 February 2025 and forwarded to the Panel.

The following table addresses each of the relevant conditions.

Condition	Comments made by applicant	Council response
Condition 2 Asbestos Management Plan	It is our understanding that the surface clearance certificate issued by SafeWork NSW does not require further assessment by Council, it should be for Council's record only.	<p>The condition does <u>not</u> mention 'further assessment' of the certificate by Council.</p> <p>What the condition says is that the certificate shall be <i>submitted to the satisfaction of Council's Environmental Health Officer (EHO).</i></p> <p>This will allow Council's EHO to make sure that the submitted certificate refers to the whole and correct area, issued by a duly qualified person and <i>in accordance with section 429 of the Work Health and Safety Regulation 2017.</i></p> <p>A hypothetical condition requiring the certificate to be submitted 'for Council's record only' will <u>not</u> allow</p>

		<p>Council to reject a certificate if it has obvious errors.</p> <p><u>Council recommendation:</u> No change.</p>
<p>Condition 4 Section B5 Site Audit Statement or Interim Audit Advice</p>	<p>It is the role of the Accredited Auditor to audit the RAP and to determine whether the site can be made suitable for the intended use. It is our understanding that the Interim Audit Advice or Section B5 Site Audit Statement is for Council's record and not for their further assessment or approval.</p>	<p>Similar to the above comments, a hypothetical condition requiring the Section B5 Site Audit Statement or Interim Audit Advice to be submitted 'for Council's record only' will <u>not</u> allow Council to reject a Section B5 Site Audit Statement or Interim Audit Advice if it has obvious errors.</p> <p><u>Council recommendation:</u> No change.</p>
<p>Condition 6 Validation Report</p>	<p>It is our understanding that the Validation Report does not require further assessment or approval by Council, the Report should be for Council's record only.</p>	<p>Similar to the above comments, a hypothetical condition requiring a Validation Report to be submitted 'for Council's record only' will <u>not</u> allow Council to reject a Validation Report if it has obvious errors.</p> <p><u>Council recommendation:</u> No change.</p>
<p>Condition 7 Site Audit Report and Site Audit Statement</p>	<p>It is our understanding that the Site Audit Report and Site Audit Statement do not require further assessment or approval by Council, they should be for Council's record only.</p>	<p>Similar to the above comments, a hypothetical condition requiring a Site Audit Report (SAR) and Site Audit Statement (SAS) to be submitted 'for Council's record only' will <u>not</u> allow Council to reject a SAR/SAS if it has obvious errors.</p> <p><u>Council recommendation:</u> No change.</p>

Conditions 8A Prior Notice of Category 2 Remediation Works	This condition does not appear to be relevant, as approval of the remediation works are sought in the original DA.	<p>Prior Notice of Category 2 Remediation Works and Notice of Completion of Category 2 Remediation Works are statutory requirements under sections 4.13 and 4.14(2), respectively, of <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>. For that reason they may be removed as conditions of consent.</p> <p><u>Council recommendation:</u> Condition 8A to be deleted.</p>
Condition 8B Notice of Completion of Category 2 Remediation Works	This condition does not appear to be relevant, as approval of the remediation works are sought in the original DA.	<p>As above.</p> <p><u>Council recommendation:</u> Condition 8B to be deleted.</p>
Condition 11 Development in Accordance with Plans and Documents	<p>Drawing number M1/2 000 (Cover Sheet + Drawing Index) should be Revision G.</p> <p>The version number for the Access Report should be Revision 05.</p>	<p>There is no objection to updating this condition to reflect the relevant documentation details.</p> <p><u>Council recommendation:</u> Condition 11 to be modified.</p>
Condition 22C Retention of cast iron columns to Malthouse No.1	The condition requires the first two full rows of cast iron columns (comprising eight in total) within the ground floor of M1 to be retained in-situ. The condition should allow for circumstances where the deterioration of particular columns may not warrant retention. It is suggested that wordings be included to address the above, for example "where the condition and integrity of the columns are suitable and safe for retention based on advice from a qualified structural engineer".	It is considered the existing wording of the condition 'as is' to be acceptable and appropriate. The applicant's suggested amendments would open the condition up to interpretation, creating a very real risk of none of the columns being retained were they to obtain structural advice stating that retention is not feasible, even if in fact, retention is entirely possible.

The condition requires the retention of the first two rows of the cast iron columns as a means of interpretation of the building and site overall, which feeds into the required heritage interpretation of the site. The reason why the first two rows were specified is that it allows for the retention of a meaningful portion of the columns so that their relationship to each other and the masonry skin of the building can be meaningfully appreciated and understood. Grouping them together at one end also still allows for a reasonable 'activation' of the interior of the building, clear of obstructions.

The condition also obligates the applicant to ensure their retention and protection as part of the conservation of the site to sensitively balance the new development with positive conservation outcomes.

In any case, Council's Heritage Advisor has confirmed that were the applicant to obtain further structural advice to cogently demonstrate that retention was not feasible, and Council was to agree to the same, then there is no reason why a further modification application could not be considered to revise or otherwise delete the condition.

		<u>Council recommendation:</u> No change.
Condition 40 Off Street Parking Provision – General	The condition should refer to the correct date of the current site plan, number 0100, M1/M2 Site Plan, Revision E, dated 12.02.2024, prepared by Snohetta.	<p>The condition correctly references the date of the current site plan as 12/02/2023.</p> <p>However, it is noted that the date for the plan referenced in the table under Condition 11 is incorrect.</p> <p><u>Council recommendation:</u> No change to Condition 40.</p> <p>Condition 11 to be modified.</p>
Condition 48 Interpretation of the Maltster's Cottage	<p>Condition 48 currently reads as follows:</p> <p>48. Interpretation of the Maltster's Cottage Remnants of the 1907 Maltster's Cottage and garden shall be retained and integrated into the new Exhibition Building and its immediate setting to interpret the historical significance and use of the building as part of the former Maltings industrial complex. As the building is severely damaged and unstable, elements to be retained shall be capable of interpretation without reconstruction. Details are to be provided to Wingecarribee Council for approval prior to the release of the construction</p> <p><i>Reason:</i> <i>To ensure that the historical significance of the site is recognised and preserved for future generations.</i></p> <p>The proposed modification includes a design that addresses the requirements of Condition 48. This condition is also superseded by requirements in the newly inserted Condition 22D, which reads as follows:</p>	<p>Condition 48 is an existing condition which requires the retention and protection of the remnants of the Maltster's Cottage and integrated into the new exhibition building. It requires details to be provided to Council for approval prior to a Construction Certificate.</p> <p>Council has received a design as part of the modification application, which has been reviewed and considered acceptable subject to Condition 22D which requires design changes to the proposed interpretation response to the ruins, by deleting the trees and providing specifications of the proposed fill material.</p> <p>Council's Heritage Advisor does not see the two conditions as mutually exclusive, and both are still</p>

	<p>22D. Maltster's Cottage interpretation works (inserted by 24/1140)</p> <p>Prior to the issue of a Construction Certificate, amended plans are to be submitted to the satisfaction of Council demonstrating the following:</p> <ul style="list-style-type: none"> a) The trees within the footprint of the retained footings of the Maltster's Cottage are to be deleted. No landscaped plantings are to be introduced within the footprint of the former dwelling. b) Details are to be provided of the nominated fill material. c) The fill material is to be separated by a geotextile fabric membrane to provide protection to retained heritage fabric. <p>Reason: <i>Heritage conservation.</i></p> <p>Condition 48 should be deleted.</p>	<p>required. Were Condition 48 to be deleted, then there is no obligation for the applicant to retain the ruins and incorporate into the new exhibition building. In turn, this would make Condition 22D effectively redundant.</p> <p>Condition 48 prescribes that the ruins are to be protected and interpreted and a design submitted to Council for approval. Condition 22D fine-tunes the submitted proposal.</p> <p>Council's Heritage Advisor had considered possibly amalgamating Conditions 48 and 22D but upon further reflection, did not consider there to be any utility in doing so.</p> <p>However, to provide clarification and remove any potential ambiguity, it is recommended that additional wording (i.e. 'except where modified by Condition 22D of this consent') be inserted into Condition 48.</p> <p><u>Council recommendation:</u> Condition 48 to be modified.</p>
Condition 56B Microbat Management Plan	<p>The second dot point states, in relation to the provision of additional habitat, that "The use of plywood boxes is generally discouraged for this project":</p> <ul style="list-style-type: none"> • If microbats are recorded, additional habitat must be installed within the Study Area. Additional habitat must be specific to the species recorded. Where suitable, this may be incorporated into 	<p>Council's Ecologist has confirmed that when drafted, the MMP should also include procedural guidance around avoiding exclusion during breeding periods if bats are present at this time.</p>

	<p>the refurbishment of the buildings. Council must provide approval of all proposed habitat and should be consulted in the design process. Consideration must be given around the longevity of additional habitat, thermal stability and likelihood of uptake. The use of plywood boxes is generally discouraged for this project. Installation of replacement habitat must occur three months prior to construction works commencing.</p> <p>However, the existing Condition 55 provides for the provision of hollows or nest boxes for any natural hollow removed by the development.</p> <p>Condition 55 reads as follows:</p> <p>55. Erection of Nesting Boxes</p> <p>Hollows or nest boxes are to be installed on a one for one basis for any natural hollow removed by the development. Nest boxes are to be constructed of appropriate durable materials (e.g. painted marine ply, native hardwood or similar) and fixed to recipient trees with stainless steel screws, wire or similar. All nest boxes are to be erected prior to any clearing occurring on the development site.</p> <p>The Consulting Ecologist must identify suitable locations to erect hollows/nest boxes that minimise the risk of vandalism and maximise the likelihood of occupation by native fauna. To replace nest hollows lost, at least 1 large nest box per tree removed shall be erected at least 5 metres high within retained vegetation at the rear of the property within the retained native trees.</p> <p><i>Reason:</i> To provide an equivalent replacement for any natural hollow to be removed.</p>	<p>The applicant notes that timber boxes are acceptable under Condition 55, but Condition 56B states that use of timber is discouraged.</p> <p>The Ecologist would support that timber boxes are discouraged for bats, as the aim of this condition is bats utilising the building. Timber will not be the best option. Condition 55 targets different habitat features, for which plywood boxes may be suitable, as different taxa are targeted. Condition 55 specifically concerns bats in buildings.</p> <p>In general, it is favourable to replace or add additional bat habitat in the same or similar form to what they are confirmed as using. That is where the recommendation from incorporating bat roost sites into the building design stems from. The MMP will outline this, as well as provide a mechanism to confirm where bats are roosting, if they are present at all.</p> <p><u>Council recommendation:</u> No change.</p>
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	<p>The suitability of providing nesting boxes and/or hollows should be subject to the project ecologist's advice depending on the specific location, species and conditions of trees and environmental conditions. As such, Condition 56B should be revised to allow flexibility rather than having a presumption against the use of nesting boxes, through deleting the wordings "The use of plywood boxes is generally discouraged for this project".</p>	
<p>Condition 73 Traffic Control Plan</p>	<p>This existing condition is not proposed by Council for amendment. However, it is a duplicate of Condition 63 and should be removed.</p>	<p>Council agrees that Condition 73 is a duplicate of Condition 63 (Traffic Management Plan).</p> <p><u>Council recommendation:</u> Condition 73 to be deleted.</p>
<p>Condition 73A Habitat Bearing Tree Survey</p>	<p>Condition 73A currently reads as follows.</p> <p>73A. Habitat Bearing Tree Survey (inserted by 24/1140)</p> <p>A Habitat Bearing Tree survey must be undertaken prior to construction commencing. The ecologist must inspect all trees (native and exotic) proposed for removal, aiming to identify hollows, nests, dreys or other fauna habitat. Of note, the Pines contain possum dreys and hollows which must be suitably managed to ensure harm to fauna is minimised as much as possible. Where habitat is being removed, a commensurate habitat replacement must be introduced with a preference for hollows drilled into retained trees rather than only nest boxes.</p> <p>Same issue as above, flexibility for using nest boxes or hollows should be allowed, depending on the advice of the project ecologist.</p>	<p>Council's Ecologist has confirmed that if plywood is to be used for replacement nest boxes, ply must be at least 25mm thick, with entrance holes similar to habitat features being removed, or designed to target fauna to be impacted. The nest box type is to be informed by the project ecologist, which inherently provides some flexibility in what is required.</p> <p><u>Council recommendation:</u> No change.</p>

<p>Condition 110G Koala Corridor</p>	<p>Council's assessment states that: "the proposed VMP works will enhance the corridor and are supported by Council. Ensuring Koala friendly fencing is used is key" (p. 23).</p> <p>The proposal will rehabilitate the riparian zone of Nattai River within the site. The design scheme seeks to maintain an open landscape around the buildings. The condition should clarify that should any fencing be installed, then it needs to be koala friendly. The title to the condition and the reference to "Koala Corridor" may imply other works to establish a Koala Corridor (depending on how it is defined) that are out of scope.</p>	<p>Council's Ecologist sees no issue with the wording of this condition.</p> <p><u>Council recommendation:</u> No change.</p>
<p>Condition 140 Concurrence – Water NSW</p>	<p>Reference to the following drawings and documents should be updated to reflect the current version:</p> <p><u>Drawings</u></p> <ul style="list-style-type: none"> • 1100 – M1/2 Plan Ground (L00), Revision G, dated 25.10.2024 • 1101 – M1/2 Plan L02-03, Revision F, dated 13.09.2024 • 1102 – M1/2 Plan Roof, Revision F, dated 13.09.2024 • 1801 – M1/2 GFA Plans, Revision E, dated 12.02.2024 • 2000 – M1/2 Elevations (Exterior), Revision G, dated 25.10.2024 • 3000 – M1/2 Sections, Revision G, dated 25.10.2024 <p><u>Documents</u></p> <ul style="list-style-type: none"> • Stormwater & Flood Management Strategy, Issue D, dated 24/10/2024 (note: the figures within the Stormwater & Flood Management Strategy currently referred to in the condition should also be updated). <p>Utilities Servicing Assessment, Issue E, dated 28/08/2024</p>	<p>The revisions to the submitted documentation were not considered to cause any additional impact on water quality, as such the application was not required to be re-referral Water NSW for updated concurrence, including reference to the current version of relevant drawings and other supporting documents.</p> <p><u>Council recommendation:</u> No change.</p>

Condition 141 General Terms of Approval – Department of Planning and Environment – Water	<p>The condition has included reference to the following documents that are unrelated to the project and should be removed or superseded with the application documents:</p> <ul style="list-style-type: none"> • Statement of Environmental Effects, prepared by Calibre, dated 1/07/2020 • Station St Menangle – Stage 2, Road and Drainage Design Plan 	<p>This relates to an approval issued by the Department of Planning and Environment – Water. Council is unable to amend the referenced documentation in Schedule 1 without consulting the Department. Regardless, removing or superseding the relevant documents is not considered necessary.</p> <p><u>Council recommendation:</u> No change.</p>
S7.11 Contributions Sheets Follow:-	<p>The title “S7.11 Contributions Sheets Follows” should be revised as the Notice of Payment relate to Section 64 levies.</p> <p>The notice should be addressed to: Colliers on behalf of Maltings Holdings Pty Ltd.</p>	<p>Council agrees to the suggested changes.</p> <p><u>Council recommendation:</u> The title ‘S7.11 Contributions Sheets Follows’ to be modified.</p> <p>The relevant notice of payment is to be addressed to the applicant, The Trustee for the Maltings Property Trust c/- Colliers.</p>

In summary, Conditions 8A, 8B and 73 in the draft determination are to be deleted.

The title ‘S7.11 Contributions Sheets Follows’ in the draft determination is to be modified to include reference to S64. The relevant notice of payment is to also be modified to be addressed to the applicant, The Trustee for the Maltings Property Trust c/- Colliers.

Conditions 11 (the table) and 48 in the draft determination are to be modified to read as follows:

Condition 11

Plan Title / Supporting Reference / Version Prepared By Document

Dated

Plan of Detail & Levels at The Maltings, Mittagong		Veris	16-Jan-20
Architectural and Landscape Plans	M1/2 000 (G), M1/2 0002 (E), A030-A031 (G), A040 (I),	Snøhetta	

	M1/2 1100-1102 (F) & (G), M1/2 1801 (E), A210 (M), A211-213 (L), A220 (D), M1/2 2000 (G), M1/2 3000 (G), MH 0300 (E), MH 1100-1101 (E), MH 1801 (E), MH 2000 (G), MH 3000 (G), A1000 (G), A1001-1002 (F)		
Malthouse 5 + 6	A000, A200-202, A30, A1000 (A)	Snøhetta	14-May-20
Civil & Structural Engineering Report		ARUP	1-May-20
Arboricultural Impact Assessment		Eco Logical Australia	22-May-20
Aboriginal Archaeological Survey Report		Kayandel Archaeological	8-May-20
DA Report - Acoustics		ARUP	12-May-20
Building Code of Australia Summary Report	H	Group DLA	27-Feb-24
Building Code of Australia Capability Statement	A	Group DLA	27-Feb-24
Bushfire Assessment		Peterson Bushfire	30-Apr-20
Access Report	05	Group DLA	27-Feb-24
Stage 1 Preliminary Site Investigation		JK Environment	17-Apr-20
Sustainability Vision		Atelier Ten	6-May-20
Fire Engineering DA Support		Performance Based Consulting	7-May-20
Flood Level Info from 2014 Flood Study		-	n.d.
Flora and Fauna Assessment Report	1	Eco Logical Australia	30-Apr-20
Geotechnical Assessment		JK Geotechnics	16-Apr-20
The Maltings Koala Assessment Report		Eco Logical Australia	29-Apr-20
SD Illustrative Landscape Plan		Snøhetta	5-May-20

DA Cost Plan		MBM	28-Apr-20
Soil & Water Management Plan & Notes		J. Wyndham Prince	29-Apr-20
Utilities Servicing Assessment		J. Wyndham Prince	23-Apr-20
Landscape Management Plan		Snøhetta	May-20
Conservation Management Plan Vol 2	Draft 2	Paul Davies Architects	12-May-20
Heritage Impact Statement	Draft 2	Paul Davies Architects	May-20
Statement of Environmental Effects	7	Elton Consulting	21-May-20
Archaeology Response		Kayandel	18-Dec-20
Demolition Plans	M1/2 0300-0302 (E) & (F), A151-155 (F)	Snøhetta	12-Feb-24 13-Sep-24
Design Drawings	A310 (J), A410 (I)	Snøhetta	14-Dec-20
Bushfire Response Letter		Peterson Bushfire	16-Dec-20
Vegetation Management Plan	5	Eco Logical Australia	22-Dec-20
Conservation Management Plan		Paul Davies	Dec-20
Heritage Response Letter		Paul Davies	n.d. (Dec 20)
Measured Drawings (Maltster's Cottage)	MD01-MD05 (P1)	Paul Davies	11-Jan-21
Concept Methodology – New Work and Interventions		Paul Davies	Dec-20
Services Response Letter		J. Wyndham Prince	18-Dec-20
Maltster's Cottage Conjectural Form	MD01-MD05 (A)	Paul Davies	20-Jan-21
Render, Imagery Document		Snøhetta	20-Jan-21
Plan of Management		Elton Consulting	17-Feb-21
Landscape Plans	A500 (E), A501 (D), A502 (D), A503 (E), A504 (D), A505 (E), 506 (D)	Snøhetta	

Landscape Plan (Vegetated Riparian Zone)		Snøhetta	n.d. (Dec-20)
Traffic Impact Assessment	2	Cardno	12-May-20
Updated Site Plan	M1/2 0100 (E)	Snøhetta	12-Feb-23
Stormwater and Flooding Management Strategy	D	J. Wyndham Prince	24-Oct-24
Riparian Corridor Bank Stabilisation Concept Plan		Tooker and Associates	7-Jun-21
Property Report (Crown Lands)		Mark Groll	5-May-21
Traffic Technical Memorandum	2	Cardno	22-Dec-20
Traffic Technical Memorandum	1	Cardno	8-Jun-21
Vehicle Bridge Elevation	SD-A530	Snøhetta	-
Interim Audit Advice Letter No. 1 - Review of Preliminary Site Investigation and Detailed Site Investigation, the Maltings: 2 Colo Street, Mittagong		Rowena Salmon	22 March 2022
Detailed Site Investigation		JKEnvironments	22 March 2022
Memorandum from SLR Consulting Australia Pty Ltd	610.30708-M03-v0.1-20220302.docx	SLR Consulting Australia Pty Ltd	2 March 2022

Condition 48

Interpretation of the Maltster's Cottage

Except where modified by Condition 22D of this consent, remnants of the 1907 Maltster's Cottage and garden shall be retained and integrated into the new Exhibition Building and its immediate setting to interpret the historical significance and use of the building as part of the former Maltings industrial complex. As the building is severely damaged and unstable, elements to be retained shall be capable of interpretation without reconstruction. Details are to be provided to Wingecarribee Council for approval prior to the release of the construction



Andre Vernez
Acting Coordinator Planning Assessment
Date: 12 February 2025

Attachments

- Revised Draft Conditions.