

24 February 2025

Wingecarribee Shire Council  
68 Elizabeth St  
Moss Vale NSW 2577

**ATT: Andre Vernez**

via the Planning Portal and Email - [andre.vernez@wsc.nsw.gov.au](mailto:andre.vernez@wsc.nsw.gov.au)

cc The Southern Regional Planning Panel – [enquiry@planningpanels.nsw.gov.au](mailto:enquiry@planningpanels.nsw.gov.au)

Dear Andre,

**RE MOD24/1140 – Alterations and Refurbishment to the Existing Maltings Site - 2  
Colo St Mittagong, NSW 2575, Lot: 21 DP: 1029384 – Section 4.56 Modification –  
Draft Conditions**

In reference to MOD24/1140, for the proposed alterations and refurbishment of the Maltings site located at 2 Colo St, Mittagong NSW 2575, on behalf of the owner, The Trustee for the Maltings Property Trust, Colliers provides the following response in relation to the Section 4.56 Modification Application and Council's Memo (dated 12 February 2025). Both documents were presented at the Southern Regional Planning Panel on the 12 February 2025. At the meeting, the Panel instructed Council and the Applicant to address the matters discussed, including the proposed amendments to the Conditions of Consent.

Post this meeting, Council forwarded to the Applicant on the 19 February 2025 a request to respond to two questions, being:

**1. What was originally approved / what is being amended**

*The original application purported to seek:*

- Detailed development consent for a range of works on the site and (seemingly separately)
- Concept Approval for Buildings M5 and M6

*However, the Court has seemingly approved:*

- Concept Approval for the development of the entire site (including Stage 1 and Buildings M6 and M6) and
- Detailed development consent for the range of works which form Stage 1 under the Concept Approval

*This is because only one consent was granted (not two separate consents) and the courts approval (at paragraph 16) only grants approval to a Concept development application. The Court's Instrument of Consent describes the proposal as a:*

Concept Development for 'the Site' (being the entire site), together with detailed Stage 1 Approval for Malthouses M1 – M4.

*This is also clearly articulated in condition 9. The provisions of the Environmental Planning and Assessment Act, 1979 allow for Concept Applications to be made which include detailed applications*

*for the first stage of development under the Concept Plan (but do not make provision for approval of a separate application on land separate to that on which the Concept Plan is approved.*

*The State of Environmental Effects (SEE) which accompanies the modification application currently under consideration describes the modification application as follows:*

This section 4.56 modification application seeks to amend the detailed development for stage 1 as approved by the Land and Environment Court. Specifically, the modification relates to the alterations, additions and adaptive re-use of Maltings M1, M2, the Southern Sheds (Shed 1 and 2) and the Malster's Cottage, in conjunction with adjustments to the design of the Northern Shed.

*There is no mention of the need to amend the Concept approval issued by the Court. It is possible that the Concept Approval as it relates to Stage 1 is identical to the detailed development application for Stage 1 and subsequently there is no distinguishing one from the other. Under these circumstances the current proposal which seeks to amend Stage 1 is also likely to automatically amend the Concept Approval.*

*However, to ensure the Panel has clarity around the modification being sought, and to enable the Panel to be satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted by the LEC, please clarify and confirm.*

- *the development for which consent was originally sought and then granted by the LEC.*
- *the nature of the modification to the consent currently being sought.*
- *that the proposed modification does not alter the fundamental elements of the original development for which consent was granted to the extent that it is no longer substantially the same.*

In response to question 1, we respond as follows, adopting the Panel's three points as the basis for our response.

### **1. The development for which consent was originally sought and then granted by the LEC**

The development for which consent was sought is summarised in paragraph 2 of the judgment of *Halcyon Hotels Pty Ltd v Wingecarribee Shire Council* [2022] NSWLEC 1221 as follows:

1. *detailed development consent for buildings M1 to M4 to accommodate a range of uses in multi-purpose spaces suitable for a range of cultural uses including art, exhibitions, functions, recreation activities and performances as well as a hotel with associated ancillary uses and ground improvements including landscaping, parking and vehicular access;*
2. *site works including rehabilitation of the riparian corridor along the Nattai River and conservation works to support the adaptable re-use of heritage items on the Site;*
3. *demolition of the ruins of the Malter's Cottage and construction of a multi-purpose space;*

4. *concept approval for proposed buildings M5 and M6 to accommodate the following potential uses:*
- residential accommodation;*
  - tourist and visitor accommodation; and/or*
  - seniors living development.*

Conditions 9 and 12 of Annexure B to the judgment – the conditions of consent - confirm that consent was granted for both Stage 1 detailed development for Maltings 1 to 4 and the Maltster's Cottage, and a concept development for Maltings 5 and 6, being the future stage 2 of the development.

Conditions 9 and 12 are extracted below, with our emphasis in **bold**.

Condition 9

*Development consent is granted to concept development application No.201/1400 **that sets out a concept proposal** pursuant to section 4.22 of the Environmental Planning and Assessment Act 1979 for the development of the land known as 2 Colo Street Mittagong (Lot 21 SP 1029384) (herein after referred to as the site) **together with a detailed proposal comprising Stage 1 of the application.***

***The detailed works in Stage 1 of the application comprise the Maltings 1 to 4 and redevelopment of Maltster's Cottage.***

*As part of the overall concept development application (as set out in the concept development application plans) **the future Stage 2 of the development of the site will comprise the Maltings 5 and 6.** Development consent is not granted pursuant to this consent for the construction of the Stage 2 works (Maltings 5 and 6), noting that these works are subject to future development applications.*

*This development consent does not approve any future use as part of the concept development application for the development of the site and shown as Stage 2 (Maltings 5 and 6).*

*Note: For the avoidance of doubt, nothing in this concept approval prohibits the submission of a future Stage 2 development application for a prohibited purpose in reliance on the heritage conservation provisions in clause 5.10(10) of the LEP*

Condition 12 – Staging of development – Concept development consent and Stage 1 DA

*Notwithstanding any other condition of this consent, the consent permits separate Construction Certificates and Occupation Certificates to be issued for the approved development in stages, provided that all conditions of consent relevant to the development incorporated within each stage have been complied with prior to the release of the Construction Certificate or Occupation Certificate for that stage.*

***The development is to be carried out in the following stages:***

- Detailed development application Stage 1 (Maltings 1 to 4 and redevelopment of Maltster's Cottage);***
- Stage 2 DA (Maltings 5 and 6) – proposed as part of the concept development application. Any development to be the subject of a development application lodged in the future***

*Reason: To ensure the staging of the development is consistent with legislative requirements.*

A review of the approved plans establishes that the concept development approval essentially comprises:

- a) detailed Stage 1 development consent for Maltings 1 to 4; and
- b) concept development consent for Maltings 5 and 6.

Given this, the concept approval as it relates to Stage 1 is, in effect, the Stage 1 detailed development consent.

The Applicant concurs with the views expressed by the Panel in the comments on this point, as follows:

*... the Concept Approval as it relates to Stage 1 is identical to the detailed development application for Stage 1 and subsequently there is no distinguishing one from the other. Under these circumstances the current proposal which seeks to amend Stage 1 is also likely to automatically amend the Concept Approval.*

## **2. The nature of the modification to the consent currently being sought**

The nature of the modification as sought by MOD 24/1140 is summarised at page 1 of the Section 4.56 Modification Report prepared by Gyde Consulting dated 1 March 2024 (**Modification Report**), as including:

- *Deletion of the approved swimming pool, terrace and bar on level 1 of M1.*
- *Demolition of the first floor slab to the machine room of M1 and conversion to an outdoor gallery / exhibition space with water features.*
- *Provision of a café and ticket office within Southern Shed 1.*
- *Minor revision to the design of the Northern Shed.*
- *Various amendments to the interior layout within the M1/M2 complex and adjustments to the back-of house facilities and plant rooms.*
- *A higher degree of conservation of existing fabric within M2 will be achieved, with all levels of the building retained.*
- *Amendment to the design for the redevelopment of Maltster's Cottage.*
- *Provision of more design details relating to off-street car parking and access.*

A detailed summary of the nature of the modifications sought is included at Part 4 (pages 11 – 15) of the Modification Report, and is appropriately described in Council's Assessment Report dated 5 February 2025, as detailed in Table 2 on page 16, and as discussed on pages 15-17.

## **3. No alteration of fundamental elements – substantially the same**

The Applicant is of the view that the development as sought to be modified is substantially the same development as that approved by the Land and Environment Court on 13 May 2022.

In support of this position, the Applicant refers to the discussion at Part 5.2 (pages 18 – 19) of the Modification Report, which concludes that the proposed modification does not change the nature, essence and substance of the original approved development in any material manner.

The Applicant also concurs with the conclusion expressed in Council's Assessment Report dated 5 February 2025 (page 17) that:

*Following consideration of the nature of and reasoning for changes to the approved design. Council is satisfied that the proposed modification would be substantially the same as the development which was originally approved.*

*The modified development will result in no significant changes and the proposal is considered to be quantitatively and qualitatively the same development as originally approved.*

Question 2 from Council's email dated 19 February 2025 relates to:

## 2. Additional matters

*Council is required to provide a revised set of draft conditions to the Panel.*

*Please confirm which amended / new conditions are sought and agreed to by the applicant (in addition to the marked-up changes already proposed to Condition 11), noting that the Panel has published Council's memo (response to applicant) dated 12/02/2025 and revised draft NOD (provided 12/02/2025) to the PPSSTH-407 case in the Planning Portal. These are also attached to this email.*

Table 1 Comments and recommended changes to draft conditions of consent.

Condition	Comments made by the Applicant (letter dated 11/02/2025)	Council's Response (Memo dated 12/02/2025)	Applicant's Comment – 24/02/2025
2. Asbestos Management Plan (AMP)	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 not mention 'further assessment' of the certificate by Council.</p> <p>What the condition says is that the certificate shall be submitted to the satisfaction of Council's Environmental Health Officer (EHO).</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 in accordance with section 429 of the Work Health and Safety Regulation 2017.</p> <p>A hypothetical condition requiring the certificate to be submitted 'for Council's record only' will not allow Council to reject a certificate if it has obvious errors.</p> <p><u>Council recommendation:</u> No change.</p>	<p>Disagree.</p> <p>The modification does not alter the asbestos management aspect of the approved development.</p> <p>Accordingly, we do not believe Council is empowered to amend this condition.</p> <p>The original condition 2 does not require the clearance certificate to be submitted to Council's satisfaction. In fact, the current condition does not require submission of the clearance certificate to Council at all.</p> <p>Council does not have a role to review or assess clearance certificate issued by SafeWork NSW. It should be submitted to Council for record keeping only.</p>
4. Section B5 Site Audit Statement or Interim Audit Advice	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	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 not allow Council to reject a Section B5 Site Audit Statement or Interim Audit Advice if it has obvious errors.	<p>Disagree.</p> <p>The modification does not alter the remediation aspect of the approved development.</p> <p>Accordingly, we do not believe Council is empowered to amend this condition.</p>

	record and not for their further assessment or approval.	<u>Council recommendation:</u> No change.	The original condition 4 only requires that "The Interim Audit Advice or Section B5 Site Audit Statement shall be provided to Council before the commencement of any remediation works".  Council does not have a role to review or assess the interim audit advice and SAS. They should be for Council's record only.
6. Validation Report	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.	Similar to the above comments, a hypothetical condition requiring a Validation Report to be submitted 'for Council's record only' will not allow Council to reject a Validation Report if it has obvious errors.  <u>Council recommendation:</u> No change.	Disagree.  The original condition does not require the Validation Report to be submitted to the satisfaction of Council. It only requires the report to be "provided to Council".  Council does not have a role to review or assess the Validation Report. Council is not empowered to interfere with the statutory role of the auditor. It should be for Council's record keeping only.
7. Site Audit Report and Site Audit Statement	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.	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 not allow Council to reject a SAR/SAS if it has obvious errors.  <u>Council recommendation:</u> No change.	Disagree.  The original condition only requires a copy of the Site Audit Report and Site Audit Statement to be "provided to Council".  Council does not have a role to review or assess SAR and SAS. Council is not empowered to interfere with the statutory role of the auditor They should be submitted to Council for record keeping only.
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.	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 State Environmental Planning Policy (Resilience and Hazards) 2021. For that reason they may be removed as conditions of consent.  <u>Council recommendation:</u> Condition 8A to be deleted.	Agreed.
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.	As above.  Council recommendation: Condition 8B to be deleted.	Agreed.



11. Development in Accordance with Plans and Documents	Drawing number M1/2 000 (Cover Sheet + Drawing Index) should be Revision G. The version number for the Access Report should be Revision 05.	There is no objection to updating this condition to reflect the relevant documentation details. <u>Council recommendation:</u> Condition 11 to be modified.	Agree that Condition 11 is to be modified. The Applicant has provided comments to Council under separate cover, refer Attachment A.
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.	Disagree. We acknowledge Council's intent to protect the heritage values of existing structural elements and fabric within M1, which aligns with the objectives of the project. We also maintain that flexibility should be provided in the condition of consent, especially when the structural condition and integrity of the columns and associated foundation are yet to be verified following demolition of the slab above. We therefore request that Condition 22C be removed and replaced with a requirement to retain the cast iron columns in the heritage interpretation strategy / plan, which is required to be approved by Council prior to the issue of a construction certificate (see Condition 22). This would allow further structural assessment to be carried out to confirm which columns are structurally adequate and safe to be retained in-situ, and whether any columns should be relocated and positioned elsewhere within the site for interpretation purposes. Condition 22C is too rigid and does not allow appropriate alternatives.

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.	The condition correctly references the date of the current site plan as 12/02/2023.  However, it is noted that the date for the plan referenced in the table under Condition 11 is incorrect.  <u>Council recommendation:</u> No change to Condition 40.  Condition 11 to be modified.	Noted and agreed.  (The site plan's reference is 0100 (Rev E), dated 12.02.2023.)
48. Interpretation of the Maltster's Cottage	<p>Condition 48 currently reads as follows:</p> <p><b>48. Interpretation of the Maltster's Cottage</b></p> <p><i>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</i></p> <p><b>Reason:</b> To ensure that the historical significance of the site is recognised and preserved for future generations.</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><b>22D. Maltster's Cottage interpretation works</b> (inserted by 24/1140)</p> <p><i>Prior to the issue of a Construction Certificate, amended plans are to be submitted to the satisfaction of Council demonstrating the following:</i></p> <p>a) <i>The trees within the footprint of the retained footings of the Maltster's Cottage are to be deleted. No landscaped plantings are to be</i></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 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>	<p>Disagree.</p> <p>Council's comments point to the fact that the current design for the former Maltster's Cottage as part of the modification application "is considered acceptable subject to Condition 22D".</p> <p>The proposed design and interpretation of the former Maltster's Cottage and garden are documented in the modification drawings, which are referenced in Condition 11. The proposed development is required to be implemented in accordance with the approved plans and supporting documents.</p> <p>The above would mean that Condition 48 is redundant and should be removed to avoid confusion.</p>



	<p><i>introduced within the footprint of the former dwelling.</i></p> <p><i>b) Details are to be provided of the nominated fill material.</i></p> <p><i>c) The fill material is to be separated by a geotextile fabric membrane to provide protection to retained heritage fabric.</i></p> <p><b>Reason:</b> Heritage conservation.</p> <p>Condition 48 should be deleted.</p>		
56B. Microbat Management Plan	<p>The second dot point states, in relation to the provision of additional habitat, that <i>"The use of plywood boxes is generally discouraged for this project"</i>:</p> <ul style="list-style-type: none"> <li><i>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 the refurbishment of the buildings.</i></li> </ul> <p><i>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.</i></p> <p><i>The use of plywood boxes is generally discouraged for this project. Installation of replacement habitat must occur three months prior to construction works commencing.</i></p> <p>However, the existing Condition 55 provides for the provision of hollows or nest boxes for any natural hollow removed by the development. Condition 55 reads as follows:</p> <p><b>55. Erection of Nesting Boxes</b></p> <p><i>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</i></p>	<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 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>	<p>Council's comments appear to suggest that the second dot point in Condition 56B relates to bats utilising the existing building as habitat.</p> <p>If this is the case, then the sentence <i>"The use of plywood boxes is generally discouraged for this project"</i> should be reworded to point to the specific circumstances and species (Microbats) where plywood boxes are not preferred, so as to avoid conflict or potential confusion with applying Condition 55.</p>

	<p><i>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.</i></p> <p><i>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.</i></p> <p><b>Reason:</b> <i>To provide an equivalent replacement for any natural hollow to be removed.</i></p> <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>		
73. Traffic Control Plan	<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>	Agreed.

<p>73A. Habitat Bearing Tree Survey</p>	<p>Condition 73A currently reads as follows.</p> <p><b>73A. Habitat Bearing Tree Survey</b> (inserted by 24/1140)</p> <p><i>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.</i></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>Disagree.</p> <p>The modification proposal does not involve any additional clearing of native vegetation beyond what has been approved. Council's comments suggest that the use of nest boxes would be appropriate provided they are of a specific configuration or construction. Specifically, they "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>It is requested that the following sentence be reworded:</p> <p><i>"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 based on advice from the project ecologist.</i></p> <p>An advisory may be inserted to note that if nest boxes are proposed, then their design and construction are to be advised by the project ecologist.</p>
<p>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>The applicant has no issue with providing koala friendly fencing, if fencing is to be installed in the riparian area.</p> <p>However, it is unclear whether the term "Koala Corridor" is a defined term or implies certain works other than koala friendly fencing to be undertaken along the Nattai riparian corridor.</p> <p>If the intent is to allow free movement of koalas along the Nattai riparian corridor, then the condition should simply state this intent.</p> <p>The condition is proposed to be reworded as follows:</p> <p><b>Koala Fencing</b></p> <p><i>Where fencing is proposed along the Nattai riparian corridor, then koala friendly fencing must be utilised which would allow for the rare, but potential movement of koalas along the corridor. This</i></p>

			<i>means any fencing must allow koalas to move either under, through or over fencing, or have a suitable alternative route.</i>
140. Concurrence – Water NSW	<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"> <li>• 1100 – M1/2 Plan Ground (L00), Revision <b>G</b>, dated <b>25.10.2024</b></li> <li>• 1101 – M1/2 Plan L02-03, Revision <b>F</b>, dated <b>13.09.2024</b></li> <li>• 1102 – M1/2 Plan Roof, Revision <b>F</b>, dated <b>13.09.2024</b></li> <li>• 1801 – M1/2 GFA Plans, Revision <b>E</b>, dated 12.02.2024</li> <li>• 2000 – M1/2 Elevations (Exterior), Revision <b>G</b>, dated <b>25.10.2024</b></li> <li>• 3000 – M1/2 Sections, Revision <b>G</b>, dated <b>25.10.2024</b></li> </ul> <p><u>Documents</u></p> <ul style="list-style-type: none"> <li>• Stormwater &amp; Flood Management Strategy, Issue <b>D</b>, dated <b>24/10/2024</b> (note: the figures within the Stormwater &amp; Flood Management Strategy currently referred to in the condition should also be updated).</li> </ul> <p>Utilities Servicing Assessment, Issue <b>E</b>, dated <b>28/08/2024</b></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>	<p>Council's explanation is noted. It is our understanding that Council did not refer the amended plans (submitted in response to Council's RFI) to Water NSW.</p> <p>To avoid risk in implementing the proposal, Council should insert an advisory note in the consent that it has considered the amended drawings (referenced in Condition 11) and determine that there would be no additional effects on water quality, and that any updating of plan reference in Condition 140 is deemed unnecessary by Council.</p>
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"> <li>• Statement of Environmental Effects, prepared by Calibre, dated 1/07/2020</li> </ul> <p>Station St Menangle – Stage 2, Road and Drainage Design Plan</p>	<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>	<p>The two documents in the general terms of approval issued by DPE – Water contain an error by referring to documents unrelated to the project. Council should have reviewed this matter and requested the terms of approval be updated during the assessment process. This did not occur.</p> <p>If Council forms the view that removing the incorrect reference is unnecessary, then an advisory note should be inserted in the consent to avoid potential issues with implementing the consent.</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>Council recommendation: 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>	Agreed.
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We recommend this correspondence be reviewed by Council with a view to have the draft Conditions amended.

Please do not hesitate to contact the undersigned for additional information.

Yours sincerely,

**Colliers Project Management Pty Ltd**

A handwritten signature in black ink, appearing to read "Phillipa Aiken", written over a light blue horizontal line.

Phillipa Aiken  
**National Director**

0414 248 005  
[phillipa.aiken@colliers.com](mailto:phillipa.aiken@colliers.com)

Attachment A – Condition 11 Proposed Amended Wording dated 19 February 2025

## **ATTACHMENT A**

**19 February 2025**

**PPSSTH-407 - DA24/1140 - WINGECARRIBEE - 2 Colo Street MITTAGONG 2575 - S4.56 to Development Consent 20/1400**

### **11. Development in Accordance with Plans and Documents (modified by 24/1140)**

The development must be implemented generally in accordance with the approved plans and supporting documents set out in the following table except where modified by any conditions of development consent.

All “future” buildings that are proposed to be erected on the site must be contained wholly within the building envelopes shown in the plans, and all future work on the site must be in accordance with the plans and with the requirements of the following documents, except as amended by the conditions of this consent:

<b>Plan Title / Supporting Document</b>	<b>Reference / Version</b>	<b>Prepared By</b>	<b>Dated</b>
Plan of Details & Levels at The Maltings, Mittagong		Veris	16-Jan-20
Architectural and Landscape Plans	<del>A000 (G)</del> M1/2 000 (G) <del>A002 (E)</del> M1/2 002 (E) A030-A031 (G) A040 (I) 0100 (E) M1/2 0300 (F) M1/2 0301 (E) M1/2 0302 (E) <del>A200-201 (K)</del> M1/2 1100 (G), M1/2 1101 (F), M1/2 1102 (F) <del>A203 (D)</del> M1/2 1801 (E) <del>A300 (H)</del> M1/2 2000 (G) A310 (I) M1/2 3000 (G) <del>A400 (H)</del> M1/2 + MH 6000 (E) <del>A860 (F), A861 (G)</del> <del>A1000 (G)</del> M1/2 8000 (G) <del>A1001-1002 (F)</del> M1/2 8001 (G) <del>A861 (G)</del> MH0300 (E), MH1100 (E), MH1101 (E),	Snohetta	Various dates



	MH1801 (E), MH2000 (G), MH 3000 (G)		
Malthouse 5 + 6	A000, A200-202, A30, A1000 (A)	Snohetta	14-May-20
<del>Civil &amp; Structural Engineering Report</del>		<del>ARUP</del>	<del>14-May-20</del>
Civil Engineering Report		J. Wyndham Prince	7-Feb-2024
Structural Engineering Report		TTW	28-Aug-2024
Structural letter		TTW	30-Aug-2024
Arboricultural Impact Assessment Addenda		Eco Logical Australia	21-Feb-2023
DA Report – Acoustics		ARUP	12-May-20
Acoustic Letter of Support		Acoustic Logic	23-Jan-2024
<del>Building Code of Australia 2022 Report</del>	<del>F</del>	<del>Group DLA</del>	<del>27-Apr-20</del>
Building Code of Australia 2022 Report	H	Group DLA	27-Feb-2024
<del>Building Code of Australia 2022 Capability Statement</del>	<del>A</del>	<del>Group DLA</del>	<del>28-Apr-20</del>
Building Code of Australia 2022 Capability Statement		Group DLA	27-Feb-2024
Bushfire Assessment		Peterson Bushfire	30-Apr-20
Bushfire Advice		Peterson Bushfire	15-Feb-2024
<del>Access Planning Review</del>		<del>Group DLA</del>	<del>27-Apr-20</del>
Access Report	5	Group DLA	27-Feb-2024
<del>Sustainability Vision</del>		<del>Atelier Ten</del>	<del>6-May-20</del>
Sustainability Report	03	E-Lab Consulting	2-Feb-2024

Fire-Engineering-DA Support		Performance Based Consulting	7-May-20
Fire Engineering Support		Credwell	20-Feb-2024
Flood Level Info from 2014 Flood Study		-	n.d
Flora and Fauna Assessment Report	4	Eco Logical Australia	30-Apr-20
Flora and Fauna Assessment Report	5	Eco Logical Australia	27-Feb-2024
Geotechnical Assessment		JK Geotechnics	16-Apr-20
Geotechnical Assessment	1	Eco Logical Australia	23-Feb-2024
The Maltings Koala Assessment Report		Eco Logical Australia	29-Apr-20
Koala Assessment Report Addenda		Eco Logical Australia	8-Feb-2024
SD Illustrative Landscape Plan		Snohetta	5-May-20
DA Cost Plan		MBM	28-Apr-20
CIV Estimate Report		MBM	15-Feb-2024
Soil & Water Management Plan & Notes		J. Wyndham Prince	29-Apr-20
Utilities Servicing Assessment		J. Wyndham Prince	23-Apr-20
Utilities Servicing Assessment	D	J. Wyndham Prince	28-Aug-2024
Landscape Management Plan		Snohetta	May-20
Conservations Management Plan Vol 2	Draft 2	Paul Davies Architects	12-May-20
Heritage Impact Statement	Draft 2	Paul Davies Architects	May-20
Heritage Impact Statement		Paul Davies Pty Ltd	Feb-24
Statement of Environment Effects	7	Elton Consulting	21-May-20

Section 4.56 Modification		Gyde	1-Mar-2024
Archaeology Response		Kayandel	18-Dec-20
Demolition Plans	A122-124, A151-155 (F)	Snohetta	14-Dec-20
Design Drawings	A310 (J), A410 (I)	Snohetta	14-Dec-20
Bushfire Response Letter		Peterson Bushfire	16-Dec-20
Vegetation Management Plan Vegetation Management Plan	5	Eco-Logical Australia Eco Logical Australia	22-Dec-20 20-Feb-2024
Conservation Management Plan		Paul Davies	n.d (Dec 20)
Heritage Response Letter		Paul Davies	n.d (Dec 20)
Measured Drawings (Malter's Cottage)		Paul Davies	11-Jan-21
Concept Methodology—New Work and Interventions		Paul Davies	Dec-20
Services Response Letter		J. Wyndham Prince	18-Dec-20
Malter's Cottage Conjectural Form	MD01-MD05 (A)	Paul Davies	20-Jan-21
Render, Imagery Document		Snohetta	20-Jan-21
Plan of Management Plan of Management		Elton Consulting Gyde	17-Feb-21 29-Feb-2024
Landscape Plans	A500 (E), A501 (D), A502 (D), A503 (D), A503 (E), A504 (D), A505 (E), 506 (D)	Snohetta	
Landscape Plan (Vegetated Riparian Zone)		Snohetta	n.d (Dec-20)
Updated Site Plan	A003(J)	Snohetta	9-May-21
Stormwater and Flooding Management Strategy Stormwater and Flooding	D  A	J. Wyndham Prince  J. Wyndham Prince	May-21  24-Oct-2024

Management Strategy			
Riparian Corridor Bank Stabilisation Concept Plan		Tooker and Associates	7-Jun-21
Property report (Crown Lands)		Mark Groll	5-May-21
Traffic Impact Assessment	<del>2</del>	<del>Cardno</del>	<del>12-May-20</del>
Traffic and Transport Impacts – Statement of Advice	V1.5	SLR	29-Feb-2024
Traffic Technical Memorandum	<del>2</del>	<del>Cardno</del>	<del>22-Dec-21</del>
Traffic Technical Memorandum	<del>1</del>	<del>Cardno</del>	<del>8-Jun-21</del>
Vehicle Bridge Elevation	<del>SA-A530</del>	<del>Snohetta</del>	<del>=</del>
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-v0.1-202220302.docx	SLR Consulting Australia Pty Ltd	2 March 2022
Operational Waste Management Plan		Waste Audit	Feb-2024
Demolition and Construction Waste Management Plan		Waste Audit	Feb-2024

- Black – existing supporting document, has not been varied
- Blue – new supporting document, based on submitted MOD and subsequent RFI responses
- Red – redundant supporting document, superseded based on the submitted MOD