

DATE OF DETERMINATION	13 March 2025
DATE OF PANEL DECISION	13 March 2025
DATE OF PANEL BRIEFING	12 February 2025
PANEL MEMBERS	Chris Wilson (Chair), Susan Budd, Natasha Harras, Heather Warton, Richard Colley
APOLOGIES	Grant Christmas
DECLARATIONS OF INTEREST	Juliet Grant (Employee of Gyde. Gyde prepared SEE)

Papers circulated electronically on 6 February 2025.

MATTER DETERMINED

PPSSTH-407 –WINGECARRIBEE - DA24/1140 at 2 Colo Street, MITTAGONG (Lot 21 DP 1029384) – S4.56 modification to Development Consent 20/1400 for Concept development application for the alterations and additions to and the adaptive reuse of the Site for the purposes of a mixed use development together with a development application for consent to stage 1 of the development for the alterations and additions and adaptive re-use of Malthouses M1, M2, M3 and M4 (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The panel considered the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings, additional information provided by both the applicant and council, and the matters observed at site inspections listed at item 8 in Schedule 1.

On 12 February 2025 the panel requested that council address a number of issues raised during the final determination briefing. On 24 February 2025 council provided a response which has been considered by the panel in making its final decision.

Statutory Context

The panel accepted the proposed modifications were a result of the design development process and additional structural investigations.

However, the panel noted that there were potential contradictions between the approval (to be modified) and the modification request.

The Amended Application for which consent was sought in the Land and Environment Court Class 1 deemed refusal appeal was for the following:

- mixed-use redevelopment of buildings M1 to M4 to accommodate uses including a bar, pool area, multi-purpose spaces suitable for exhibitions, functions, recreation activities and performances, as well as a hotel with associated ancillary uses, and ground improvements including landscaping, parking and vehicular access.
- demolition of the Maltster's Cottage and construction of a new studio/exhibition space; and
- concept approval for buildings M5 and M6 to accommodate residential, tourist and/or seniors living.

The Orders made by consent by the Court on 13 May 2022 however order that;

(1).....

(2).....

(3) concept development application DA20/1400 lodged with the respondent on 10 June 2020 seeking consent for the proposed mixed-use redevelopment of land at The Maltings, 2 Colo Street, Mittagong 2575 is determined by the grant of consent subject to the conditions set out in Annexure 'B' to this agreement.

Annexure 'B' to the court orders - Determination of Development Application by Grant of Consent and the Notice of Determination issued by council, describes the development as follows:

Concept development application for the alterations and additions to and the adaptive reuse of the Site for the purposes of a mixed use development together with a development application for consent to stage 1 of the development for the alterations and additions and adaptive re-use of Malthouses M1, M2, M3 and M4.

The panel was concerned that the proposed modification sought to amend the detailed Stage 1 approval but not the concept approval that purportedly had been granted by the Court for the whole site, noting that there was not a separate instrument for the concept approval. However, the panel took the view that the concept and detailed design approval for Stage 1 were the same, and that any modifications to the detailed design for Stage 1 would in turn amend the concept approval as it relates to Stage 1.

It was further noted that Stage 2 (Maltings 5 and 6) would be the subject of separate development application/s consistent with the concept approval unless otherwise modified.

Other matters

There were several other matters raised as follows:

- The lack of a description of the proposed design amendments in the modified instrument
- The concern that the some of the recommended conditions were beyond power given the power to modify and impose conditions must be exercised in relation to the modification being sought.
- The lack of clarity and status in relation to the plans and technical reports listed in the modified instrument.
- Matters relating to ecology including additional conditions relating to microbat management and the justification for nest boxes, and the need for koala fencing.
- Absence of plans clearly delineating Stage 1 and Stage 2.

These matters have either been addressed through the additional information provided or through the recommended conditions of consent as modified by the panel.

Application for modification of consent

The panel was satisfied that the proposed development is substantially the same development and that the impacts arising from the proposal are reasonable and can be mitigated through the amended conditions of consent.

The panel determined to approve the modification application pursuant to section 4.56 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to approve the modification application for the reasons outlined in the council Assessment Report, and subject to the final approved conditions, the modification would maintain the design and heritage outcomes that were essential and fundamental to the original approval.

CONDITIONS

The modification application was approved subject to the conditions attached in Schedule 2 which reflects those conditions recommended by council as modified by the panel. The panel directs that council incorporate the conditions as drafted in schedule 2 into the instrument of consent granted by the Court before issuing a notice of determination.

The panel has amended the recommended conditions as follows:






- A description of the modification (Modification 1) has been inserted into the instrument on the first page to reflect the development as amended.
- All proposed modifications to Conditions 2 to 8 have been deleted. The panel does not accept that the changes proposed within these conditions are within power noting that there is no element of the modification that effects the remediation of the site.
- Condition 11 has been amended to:
 - retain the table of plans and supporting documents as issued by the Court
 - include the following text after the table: *'in the event of any inconsistency between the plans and documents identified in the original approval above and the plans and documents below, the plans and documents as modified/prepared below shall prevail'*
 - include a new table of plans and supporting documents that support the modification.
- Condition 22C was amended to include the following text, *'unless otherwise demonstrated that their retention is not viable given structural integrity concerns. If they can't for this reason be retained in situ, they should be relocated elsewhere on the site consistent with the objectives of Condition 22'*.
- Condition 56B was amended to:
 - include the following text: *'A range of artificial materials for compensatory habitat for roosting microbats should be considered consistent with the roost sites to be impacted'*.
 - delete the following text: *'The use of plywood boxes is generally discouraged as a default for the provision of compensatory habitat for microbats roosting in artificial structures. Other materials, preferably consistent with roost sites to be impacted, should be considered.'*
 - Include in the last line the text: *'outlining other materials considered and reasons for not utilising those materials'*.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Design
- Operational hours and noise
- Traffic management
- Financial return
- Surrounding area
- Council administration

The panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Susan Budd
 Natasha Harras	 Heather Warton
 Richard Colley	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-407 –WINGECARRIBEE - DA24/1140
2	PROPOSED DEVELOPMENT	S4.56 modification to Development Consent 20/1400 for Concept development application for the alterations and additions to and the adaptive reuse of the Site for the purposes of a mixed use development together with a development application for consent to stage 1 of the development for the alterations and additions and adaptive re-use of Malthouses M1, M2, M3 and M4.
3	STREET ADDRESS	2 Colo Street, MITTAGONG (Lot 21 DP 1029384)
4	APPLICANT/OWNER	Applicant – The Trustee for the Maltings Property Trust c/- Timothy Chung Owner – Halcyon Hotels Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.56 Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979; State Environmental Planning Policy (Planning Systems) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Transport and Infrastructure) 2021; State Environmental Planning Policy (Biodiversity and Conservation) 2021; Wingecarribee Local Environmental Plan 2010; Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Mittagong Township Development Control Plan (amended 2021) Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 5 February 2025 Applicant response letter to Wingecarribee Shire Council – Draft Conditions of Consent response: 11 February 2025 Council Addendum Memo : 12 February 2025 Revised Notice of Determination (draft conditions): 12 February 2025 Written submissions during public exhibition: 7 Total number of unique submissions received by way of objection: 5
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 20 August 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Susan Budd, Richard Colley <u>Council assessment staff</u>: Andre Vernez <u>Applicant representatives</u>: Timothy Chung (Colliers), Phillipa Aiken (Colliers), Kaare Krokene, (Snohetta), Simon Ip (Gyde), Sarah Meyer (Snohetta), Paul Lulich (K&L Gates)

		<ul style="list-style-type: none"> ○ <u>DPIE</u>: Amanda Moylan, Tracey Gillett • Site inspection: 20 August 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Susan Budd, Richard Colley <u>Council assessment staff</u>: Andre Vernez ○ <u>Applicant representatives</u>: Ben Bild • Final briefing to discuss council's recommendation: 12 February 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Susan Budd, Natasha Harras, Heather Warton, Richard Colley ○ <u>Council assessment staff</u>: Andre Vernez, Bryce Koop, Jon Shillito ○ <u>Council consultants</u>: Max de Beer (Ecologist, Lodge Environmental), Michael Edwards (Heritage Advisor, Edwards Heritage) ○ <u>Applicant representatives</u>: Phillipa Aiken (Colliers) Lyndsey Beattie (Colliers), Kaare Krokene (Snohetta), Sarah Meyer (Snohetta), Mark Schofield (Gyde), Simon Ip (Gyde), Paul Davies (Paul Davies Pty Ltd (heritage consultant), Paul Lalich (K&L Gates) ○ <u>DPIE</u>: Amanda Moylan, Nikita Lange
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2: Final Conditions of Consent

The Trustee for The Maltings Property Trust

Level 30 225 George St Sydney NSW 2000

NOTICE OF DETERMINATION OF A MODIFICATION APPLICATION

BY THE SOUTHERN REGIONAL PLANNING PANEL

Pursuant to section 4.56 of the *Environmental Planning and Assessment Act 1979*

DEVELOPMENT APPLICATION NO:	20/1400
MODIFICATION APPLICATION NO:	24/1140
PROPOSED MODIFICATION:	S4.56 Modification to Development Consent 20/1400
APPLICANT:	The Trustee for the Maltings Property Trust c/- Timothy Chung
OWNER:	HALCYON HOTELS PTY LTD
PROPERTY DESCRIPTION:	Lot 21 DP 1029384
PROPERTY ADDRESS:	2 COLO STREET MITTAGONG NSW 2575
APPROVED DEVELOPMENT:	Concept development application for the alterations and additions to and the adaptive reuse of the Site for the purposes of a mixed use development together with a development application for consent to stage 1 of the development for the alterations and additions and adaptive re-use of Malthouses M1, M2, M3 and M4
DA APPROVAL DATE:	13 May 2022
CONSENT TO OPERATE FROM:	13 May 2022
CONSENT TO LAPSE ON:	13 May 2027
DETERMINATION:	Approved subject to conditions attached in schedule 1 of this consent
MODIFICATION 1	<ol style="list-style-type: none">1. Deletion of the approved swimming pool, terrace and bar on level 1 of M1.2. Demolition of the first-floor slab to the machine room of M1 and conversion to an outdoor gallery / exhibition space with water features.3. Provision of a café and ticket office within Southern Shed 1.4. Minor revision to the design of the Northern Shed.5. Various amendments to the interior layout within the M1/M2 complex and adjustments to the back-of-house facilities and plant rooms.6. Amendment to the design for the Maltsters House.

7. Minor change and additional details regarding off-street parking and access.

DATE OF DETERMINATION:

Inconsistencies

In the event of any inconsistency between the conditions of this modified consent and the plans / supporting documents referred to in this notice, the conditions of this development consent shall prevail.

Rights of Appeal

Pursuant to Section 8.9 of the *Environmental Planning and Assessment Act 1979*, an applicant for the modification of a development consent who is dissatisfied with the determination of the application by the consent authority may appeal to the Court against the determination. Pursuant to Section 8.10, an appeal may be made only within 6 months after the date the decision appealed against is notified.

Review of determination

You have the right to request a review of determination under section 8.2 of the *Environmental Planning and Assessment Act 1979*, subject to the provisions of Division 8.2 Reviews.

SUMMARY SCHEDULE OF MODIFIED CONDITIONS

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:

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Plan of Detail & Levels at The Maltings, Mittagong		Veris	16-Jan-20
Architectural and Landscape Plans	A000 (G), A002 (E), A030-A031 (G), A040 (I), A200-201 (K), A203 (D), A210 (M), A211-213 (L), A220 (D), A300 (I), A400 (H), A860 (F), A861 (C), A1000, (G), A1001-1002 (F)	Snøhetta	
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	F	Group DLA	27-Apr-20

Building Code of Australia Capability Statement	A	Group DLA	28-Apr-20
Bushfire Assessment		Peterson Bushfire	30-Apr-20
Access Planning Review		Group DLA	27-Apr-20
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	A122-124, A151-155 (F)	Snøhetta	14-Dec-20
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	A003 (J)	Snøhetta	19-May-21
Stormwater and Flooding Management Strategy	D	J. Wyndham Prince	May-21
Riparian Corridor Bank Stabilisation Concept Plan		Tooker and Associates	7-Jun-21

Property Report (Crown Lands)		Mark Grol	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

In the event of any inconsistency between the plans and documents identified in the original approval above and the plans and documents below, the plans and documents as modified/prepared below shall prevail.

Plan Title / Supporting Document	Reference / Version	Prepared By	Dated
Architectural and Landscape Plans	M1/2 000 (G) M1/2 002 (E) 0100 (E) M1/2 0300 (F) M1/2 0301 (E) M1/2 0302 (E) M1/2 1100 (G) M1/2 1101 (F) M1/2 1102 (F) M1/2 1801 (E) M1/2 2000 (G) M1/2 3000 (G) M1/2 + MH 6000 (E) M1/2 8000 (G) M1/2 8001 (G) MH0300 (E)	Snøhetta	Various dates

	MH1100 (E) MH1101 (E) MH1801 (E) MH2000 (G) MH 3000 (G)		
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
Acoustic Letter of Support		Acoustic Logic	23-Jan-2024
Building Code of Australia 2022 Report	H	Group DLA	27-Feb-2024
Building Code of Australia 2022 Capability Statement		Group DLA	27-Feb-2024
Bushfire Advice		Peterson Bushfire	15-Feb-2024
Access Report	5	Group DLA	27-Feb-2024
Sustainability Report	03	E-Lab Consulting	2-Feb-2024
Fire Engineering Support		Credwell	20-Feb-2024
Flora and Fauna Assessment Report	5	Eco Logical Australia	27-Feb-2024
Geotechnical Assessment	1	Eco Logical Australia	23-Feb-2024
Koala Assessment Report Addenda		Eco Logical Australia	8-Feb-2024
CIV Estimate Report		MBM	15-Feb-2024
Utilities Servicing Assessment	D	J. Wyndham Prince	28-Aug-2024
Heritage Impact Statement		Paul Davies Pty Ltd	Feb-24
Section 4.56 Modification		Gyde	1-Mar-2024
Vegetation Management Plan		Eco Logical Australia	20-Feb-2024
Plan of Management		Gyde	29-Feb-2024

Stormwater and Flooding Management Strategy	A	J. Wyndham Prince	24-Oct-2024
Traffic and Transport Impacts – Statement of Advice	V1.5	SLR	29-Feb-2024
Operational Waste Management Plan		Waste Audit	Feb-2024
Demolition and Construction Waste Management Plan		Waste Audit	Feb-2024

Reason: *To ensure the development is carried out in accordance with the approved and amended plans and documentation.*

22. Heritage Interpretation Strategy and Heritage Interpretation Plan (modified by 24/1140)

Prior to the issue of a Construction Certificate, a comprehensive Heritage Interpretation Strategy and Heritage Interpretation Plan for the site is to be prepared and submitted to the satisfaction of Council, in accordance with the Heritage NSW publication 'Interpreting Heritage Places and Items Guidelines' (2005).

The strategy and plan shall be developed to integrate:

- interpretive options including tours, displays and visually appropriate signage (entry, wayfinding and interpretive signs),
- events and activities,
- conservation of significant elements including natural, landscape and built components,
- the inventory of existing significant items of movable heritage associated with The Maltings
- salvaged fabric and elements into artworks and other such interpretive installations.

(opportunities for using these items to interpret the industrial use and history of the site in the redevelopment of the site is to be included in the plan).

The plan must respond to, and convey, significant Aboriginal and non-Aboriginal cultural values of the place as recognised by relevant Conservation Management Plans and listings of the site.

The plan shall identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.

The approved Heritage Interpretation Plan must be fully implemented and all interpretive devices (including signage, artworks and other such installations) shall be fully completed prior to the issue of an Occupation Certificate.

Reason: *To protect heritage values across the site.*

22A. Building works to comply with BCA - Heritage Buildings (inserted by 24/1140)

Any building works required to ensure compliance with the BCA or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features.

If such upgrading works will potentially impact on existing fabric and features, details of the works must be submitted and approved by Council's Heritage Advisor prior to issue of a Construction Certificate.

Reason: *Heritage conservation.*

22B. **Pre-emptive structural works to heritage buildings** (inserted by 24/1140)

Prior to the issue of any Construction Certificate, full detailed drawings and specifications of all structural works required to strengthen, stabilise and ensure the protection of retained portions of the heritage buildings per the recommendations of the Structural Concept Design statement (TTW, 30 August 2024), shall be submitted to the satisfaction of Council.

The structural drawings and specifications must demonstrate the measures that will be implemented, together with the methodology for undertaking the structural works.

The Structural drawings and specifications, must:

- a) Be prepared by a suitably qualified Structural Engineer with demonstrated experience in dealing with items of heritage significance and heritage fabric; and
- b) Demonstrate that the heritage item can be retained in a safe manner that will not require material affectation (such as deconstruction, new penetrations or the like) to otherwise underpin, support or ensure the retention; and
- c) Demonstrate and certify that the excavation works will not cause the collapse in part or in full of any section of the building, its footings or substrate, as shown on the approved to be retained.

Reason: *Heritage conservation.*

22C. **Retention of cast iron columns to Malthouse No.1** (inserted by 24/1140)

The first two full rows of cast iron columns (comprising eight in total) within the ground floor internal space of Malthouse No.1 and measured from the southwestern end, shall be retained in-situ and appropriately conserved as part of the interpretation of the space unless otherwise demonstrated that their retention is not viable given structural integrity concerns. If they can't for this reason be retained in situ, they should be relocated elsewhere on the site consistent with the objectives of Condition 22.

Prior to the issue of any Construction Certificate, amended plans are to be submitted to the satisfaction of Council, demonstrating compliance with this condition.

Reason: *Heritage conservation.*

22D. Maltster's Cottage interpretation works (inserted by 24/1140)

Prior to the issue of a Construction Certificate, amended plans are to be submitted to the satisfaction of Council demonstrating the following:

- 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.

Reason: *Heritage conservation.*

40. Off Street Parking Provision – General (modified by 24/1140)

140 off-street car parking spaces suitably marked in accordance with Site plan prepared by Snohetta; Project Number 18-17; revision E; Sheet Number 0100 dated 12/02/2023 with minimum dimensions in accordance with Australian Standard AS2890.1 Off Street Car Parking. Details shall be submitted to the Accredited Certifier prior to the issue of a Construction Certificate showing compliance with this condition.

Reason: *To ensure adequate parking and access.*

48. Interpretation of the Maltster's Cottage (modified by 24/1140)

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

Reason: *To ensure that the historical significance of the site is recognised and preserved for future generations.*

56A. Grey-headed Flying Fox Management Plan (inserted by 24/1140)

A Grey-headed Flying-Fox Management Plan (GHFFMP) is to be prepared and must include at a minimum the following measures:

- Opportunities to phase out the Salix trees in the instance that annual monitoring identifies GHFF using re-planted established natives or retained natives instead. In this instance, the Salix may be removed and replaced with suitable native tree plantings which GHFF are known to utilise for roosting. Similarly, if GHFF are not recorded for a number of years, the Salix should be replaced with suitable native trees representative of the locally occurring vegetation.
- A restriction must be included that states “active dispersal is not to be used as a management tool for this camp (whether a permanent or temporary gathering)”.
- A no-go zone will be implemented during construction. Maps showing no go areas to be placed in site offices, all staff briefed during toolbox talk or pre-work briefing on the location of the GHFF.
- Measures for chance find procedures and education for site staff, including detail on Australian Bat Lyssavirus.
- Prior to works commencing, a preclearance survey specifically targeting the GHFF must be completed. The survey will identify the extent of the camp, location, size and numbers. A suitably experience ecologist will then advise on further mitigation measures required.
- On the first day of construction, a suitably qualified ecologist must be present to monitor any GHFF present. If bats in the camp become distressed and do not settle, works must cease until the bats settle. If the GHFF camp continues to become distressed, other mitigation measures such as noise attenuation may be required. This measure should be conducted daily for as long as recommended by the suitably qualified ecologist.
- If individual bats are seen flying consistently during the day, works must cease, and the ecologist will be called to provide further advice.
- Restriction to work hours to avoid flyout and return for the species (i.e. dusk and dawn).
- Install noise barriers or daily/seasonal timing of construction and operational activities to reduce impacts of noise if GHFF individuals are agitated and do not settle during construction. Winter is considered best due to the deciduous nature of the trees the GHFF are utilizing.

The GHFFMP must be approved by Council prior to the issue of the Construction Certificate.

A Microbat Management Plan (MMP) is to be prepared. The MMP must include a suitable degree of required survey to further inform management. Prior to the issue of the Construction Certificate, the MMP is to be approved by Council and include at a minimum:

- Pre-clearance survey over 4 nights per structure, by suitably qualified ecologists utilising ultrasonic recorders, infrared cameras, and diurnal and nocturnal searches of all suitable structures. Evening surveys must be conducted to capture flyouts, including thermal scanning and ultrasonic recording to ID any microbats that may be present. Dusk exit surveys are to be conducted when temperatures are >14°C, in fine weather (i.e. no rain on either day) and preferably from September to April. The results will inform further management, such as exclusion events and where to focus.

A pre-exclusion survey is to take place that identifies likely or potential roost sites, with these sites inspected up close. Visual aids with the ability to detect thermal signatures are useful in these scenarios, with the hot spot of a bat potentially visible even if no direct line of sight is possible. These surveys are to be conducted by an ecologist with demonstrated experience in such work.

- 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. 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.

A range of artificial materials for compensatory habitat for roosting microbats should be considered consistent with the roost sites to be impacted. The use of plywood boxes may be deemed suitable if sufficient justification is provided in the MMP, with the justification outlining other materials considered and reasons for not utilising those materials. to outline other materials that were considered.

- Should microbats be located, they must be excluded from the building by a suitably experienced ecologist. If exclusion is not successful, translocation may be considered in consultation with Council and relevant State departments.
- A chance find procedure and training module for construction staff must be included within the MMP.
- Ongoing monitoring of supplementary artificial habitat must be included for a minimum of five years, conducted twice a year. The frequency of monitoring will be reconsidered by Council at the end of the 5 year period.

56C. **Tree Retention Plan** (inserted by 24/1140)

Preparation of a tree retention plan is required prior to the issue of the Construction Certificate. Of note, trees covered by the BV map in the vicinity of M4 must be clearly labelled for protection.

64A. **Heritage site induction ('toolbox talks')** (inserted by 24/1140)

Prior to the commencement of any works, all contractors, tradesmen and the like, shall be given a heritage site induction ('toolbox talk').

The heritage site induction shall be delivered by a suitably qualified Heritage Consultant and shall ensure that all contractors, tradesmen and the like, are made aware that:

- i) The site contains an item of heritage significance.
- ii) All conservation works to the heritage item are to be undertaken in accordance with the Schedule of Conservation Works and undertaken by suitably qualified tradesmen.
- iii) There are statutory obligations under the *National Parks and Wildlife Act 1974* and *Heritage Act 1977* for all works to cease and Council notified of any unexpected built archaeological or Aboriginal archaeological finds during works.

Reason: *To ensure all persons undertaking works on the site are aware of the heritage restrictions and obligations.*

~~73. **Traffic Control Plan** (deleted by 24/1140)~~

~~A minimum of seven (7) days prior to the commencement of work, the developer shall submit to Council a Certified Traffic Management Plan for each activity of work in accordance with the current version of Roads and Maritime Services (RMS) document "Traffic Control at Work Sites". This plan must include each construction activity that involves works on or adjacent to public land. If the work site alters, further plans are to be submitted to Council. A copy of the plan(s) is to be kept on site at all times.~~

~~**Reason:** *To ensure public safety.*~~

73A. **Habitat Bearing Tree Survey** (inserted by 24/1140)

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 based on advice from the project ecologist. Compensatory hollows or nest boxes should be similar in size and dimension to hollows being removed.

110A. **Reduction of rising damp and salt attack in buildings constructed prior to 1930** (inserted by 24/1140)

To avoid potential damage caused by rising damp and migrating salts, no concrete slab is to be laid directly on the ground either within the building or external to the building directly adjacent to the exterior walls.

Reason: *Heritage conservation.*

110B. **Temporary storage of materials, equipment and waste during works** (inserted by 24/1140)

All construction materials, equipment and demolition / construction waste shall be stored wholly within the allotment boundaries and shall be stored, contained or stockpiled in such locations that do not cause any impacts to existing built structures including ancillary structures, walls or fences, or established gardens.

Reason: *Protection of significant features of the site.*

110C. **Uncovering of concealed architectural features or detailing** (inserted by 24/1140)

Should any concealed architectural features or detailing, not previously noted in the DA documentation, be discovered during demolition or building works, all works are to immediately cease and the architectural features or detailing to be photographically recorded and Council's Heritage Advisor is to be contacted for advice.

Reason: *Heritage conservation.*

110D. **Felling Supervision** (inserted by 24/1140)

Felling supervision of all trees, including exotic pines which are known to provide ample habitat to native arboreal fauna, must be undertaken by suitably qualified ecologists.

110E. **Clearing of Existing Vegetation** (inserted by 24/1140)

During construction activities, when clearing areas of existing vegetation, earthworks and tree removal should be undertaken with the fauna ecologist or wildlife carer to supervise works. All native timber should be retained, with mulch stockpiled for use within the VMP area, all viable seed and genetic material to be collected and all timber cut into logs to be utilised as habitat for native fauna.

110F. **Habitat Structures** (inserted by 24/1140)

Eucalypts earmarked for removal within the development area should be used as habitat structures within the VMP area. This includes the use of fallen woody debris as habitat or for mulch. Mulch should be free of weed propagules. It is assumed that no native hollow-bearing trees will be removed under the development footprint.

110G. **Koala Fencing** (inserted by 24/1140)

Where fencing is proposed along the Natai riparian corridor, then koala friendly fencing must be utilised which would allow for the rare, but potential movement of koalas along the corridor. This means any fencing must allow koalas to move either under, through or over fencing, or have a suitable alternative route.

127. **Geotechnical Risk Assessment Report Compliance** (modified by 24/1140)

The proposed development shall be carried out in accordance with the recommendations set down in the Geotechnical Risk Assessment Report set out below.

The implementation of the recommendations of the Geotechnical Risk Assessment Report shall be carried out to the satisfaction of the Council's Building Surveyor and/or Development Control Engineer, prior to the issue of the Occupation Certificate.

GEOTECHNICAL RISK ASSESSMENT REPORT:

Report Reference: **E25829.G03_Rev1**

Prepared By: **JK Geotechnics**

Date of Report: **15 February 2024**

Reason: *To ensure development complies with geotechnical risk assessment undertaken.*

138A. **No painting or rendering of masonry or stone** (inserted by 24/1140)

No painting or rendering shall be permitted to masonry or stone surfaces which have not previously been painted or rendered.

Reason: *To protect the existing character of the heritage item.*

140. **Concurrence – Water NSW** (modified by 24/1140)

The Concurrence issued by Water NSW, Reference No: DAR 20067-a3, dated 23 August 2024 are included as conditions of this consent and must be complied with.

Reason: *To ensure ongoing compliance.*

141. **General Terms of Approval – Department of Planning and Environment – Water** (modified by 24/1140)

The General Terms of Approval issued by the Department of Planning and Environment - Water, Reference No: IDAS-2024-10318, dated 19 August 2024 are included as conditions of this consent and must be complied with.

Reason: *To ensure ongoing compliance.*

142. **Concurrence – Transport for NSW** (modified by 24/1140)

The Concurrence issued by Transport for NSW, Reference No: STH24/00379/002, dated 24 May 2024 are included as conditions of this consent and must be complied with.

Reason: *To ensure ongoing compliance.*

S7.11 & S64 Contributions Sheets Follow:- (modified by 24/1140)