

**Record of Kick-Off Briefing  
Sydney Western City Planning Panel**

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| <b>PANEL REFERENCE, DA NUMBER &amp; ADDRESS</b> | PPSSWC-343 – Hawkesbury – DA0173/22 – 1256 Bells Line of Road, Kurrajong Heights |
| <b>APPLICANT / OWNER</b>                        | Applicant: Barker Ryan Stewert<br>Owner: Transport for NSW                       |
| <b>APPLICATION TYPE</b>                         | Demolition of Heritage Item - Allambie Cottages                                  |
| <b>REGIONALLY SIGNIFICANT CRITERIA</b>          | Crown - S4.33 referral   |
| <b>CIV</b>                                      | \$45,000 (excluding GST)   |
| <b>BRIEFING DATE</b>                            | Select Date  |

**ATTENDEES**

|                                    |  |
|------------------------------------|--|
| <b>APPLICANT</b>                   | Lisa Wrightson, Angela Frew, Danny Jones, Sera Taschner                            |
| <b>PANEL</b>                       | Justin Doyle (Chair), David Kitto, Fiona Gainsford, Judy Clark, Jeff Organ         |
| <b>COUNCIL OFFICER</b>             | Nicholas Powers, Andrew Johnston, Andrew Kearns, Matthew Golebiowski, Steven Chong |
| <b>CASE MANAGER</b>                | Kate McKinnon  |
| <b>PLANNING PANELS SECRETARIAT</b> | Tim Mahoney  |

**DA LODGED & DAYS SINCE LODGEMENT:** 3 June 2023 (437 Days)

**TENTATIVE PANEL BRIEFING DATE:** Requirement not currently anticipated

**TENTATIVE PANEL DETERMINATION DATE:** Public Meeting Required, tentatively in 6 weeks.

Chair reviewed attendance and introduced Kick Off Briefing purpose and process.

### **Applicant**

The applicant

- Provided description of the proposal - the demolition of heritage item - Allambie Cottages
- Provided example photographs of the appearance and condition of the heritage item.
- Provided a history of applications related to the demolition of the heritage item.
- Advised that issues for consideration included heritage significance, condition of building, safety concerns, rebuilding rather than restoration, loss of significance based on condition, costs for restoration / rebuilding and location of building within road reserve.
- Described the options considered for the site and advised that they had determined that demolition is the most feasible option for the site. The applicant advised that 90% of the building would require replacement in a retention scenario.
- Advised that the central driver for the development is the condition of the building and that there are no short-term plans for the widening of the road.
- Advised that the building is on TfNSW's S170 Heritage and Conservation Register.
- Advised that the curtilage of the site, landscaping and archaeological significance of the site have not formed part of the assessment of heritage under the proposal to date.

### **Council**

- Council gave a history of heritage impact statements and studies prepared for the current and historic Development Applications.
- Council was concerned that the reports submitted did not adequately justify demolition and would prepare an assessment report expected to recommend refusal.
- The assessment staff at Council did not accept that the building fabric was sufficiently degraded to warrant demolition on the basis of the material supplied, and suggested that the building experts engaged did not appear to have sufficient heritage experience.
- Notification concluded on 6 July 2022 and 27 submissions were received.

### **Panel**

- It was noted that the majority of the heritage item appears to be located in land vested in TfNSW as the roads authority for the Bells Line of Road as a classified public road. On that basis the Panel enquired as to whether an application under s 138 of the Roads Act 1993 (NSW) is required for demolition of the building to proceed.

- For reference, s 138 of the Roads Act reads:

**138 Works and structures**

(1) **A person must not—**

- (a) erect a structure or **carry out a work in, on or over a public road**, or
- (b) dig up or disturb the surface of a public road, or
- (c) **remove or interfere with a structure, work** or tree **on a public road**, or
- (d) pump water into a public road from any land adjoining the road, or
- (e) connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Maximum penalty—10 penalty units.

- (2) A consent may not be given with respect to a classified road except with the concurrence of TfNSW.
- (3) If the applicant is a public authority, the roads authority and, in the case of a classified road, TfNSW must consult with the applicant before deciding whether or not to grant consent or concurrence.
- (4) **This section applies to a roads authority and to any employee of a roads authority in the same way as it applies to any other person.**
- (5) This section applies despite the provisions of any other Act or law to the contrary, but does not apply to anything done under the provisions of the Pipelines Act 1967 or under any other provision of an Act that expressly excludes the operation of this section.

- If so, the Panel asked:

- a) Is the development integrated development (See EP&A Act s 4.46(1))?
- b) (If so) have the notification and procedural requirements associated with integrated development been complied with?
- c) How does the requirement for s 138 Roads Act approval interacts with the requirement for development consent under the EP&A Act (noting cases such as *Bowyer v Manly Council* (unreported, Land and Environment Court, Talbot J, File No 40305/96, 28 February 97) which might suggest that the Roads Act is a comprehensive scheme governing the granting of approvals for structures located in a public road.)

- The Panel asked whether the driving force behind the development is for road widening or whether demolition of the item is being pursued due to degradation of the built form.
- The Panel enquired as to whether effects on the heritage significance of the curtilage of the site, its landscaping or any archaeological potential had been considered by the applicant in its development proposal.
- The Panel enquired as to whether there is or should be a current and future intended maintenance schedule for the broader site.

- The Panel sought clarification as to whether the damage and disrepair to the building has occurred in the 30 years since TfNSW has owned the building as a result of neglect.
- The Panel noted that potential asbestos was mentioned within the SEE but that no contamination report or similar has been provided. The Panel requests that this be suitably addressed by the applicant either by an assessment of contamination or alternatively a statement of the reasons why no assessment should be required.
- The Panel intends to undertake a site visit. The Secretariat will liaise with the applicant to arrange access to the site which is currently restricted.
- The Panel requested that Council post the objections on the portal where they can be accessed by Panel members.
- The Panel will seek to hold a public determination meeting in around six weeks time. In the interim, the applicant is requested to furnish Council with the additional information outlined above in time for Council to finalise its assessment report and recommendations in time for that meeting.

**Note:**

Council is yet to undertake its full application assessment, so this record is not a final list of the issues it will need to consider in order to draft their recommendation.

The application is yet to be considered by the Sydney Western City Planning Panel and therefore future comment will not be limited to the detail contained within.