

Addendum Report

SYDNEY WESTERN CITY PLANNING PANEL

SWCPP No.	PPSSWC-343
DA Number	DA0173/22
Local Government Area	Hawkesbury City Council
Proposed Development	Demolition of Heritage Item - Allambie Cottages
Street Address	No.1256 Bells Line of Road KURRAJONG HEIGHTS NSW 2758 (Lot A and B DP 14931)
Applicant	Barker Ryan Stewart Pty Ltd
Owner	Transport for New South Wales (TfNSW)
Number of Submissions	Twenty six (26)
Regionally Significant Development Criteria (Schedule 6 of SEPP [Planning Systems] 2021)	Crown Development
Cost of Works	Capital Investment Value: \$45,000.00
List of All Relevant Section 4.15(1) Matters	<ul style="list-style-type: none"> List of the relevant environmental planning instruments under Section 4.15(1)(a)(i): <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; and Hawkesbury Local Environmental Plan 2012. List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority under Section 4.15(1)(a)(ii): <ul style="list-style-type: none"> None applicable. List any relevant development control plan under Section 4.15(1)(a)(iii): <ul style="list-style-type: none"> Hawkesbury Development Control Plan 2002.

	<ul style="list-style-type: none"> List any relevant planning agreement that has been entered into under Section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4 (Section 4.15(1)(a)(iia)): <ul style="list-style-type: none"> None applicable List any relevant Regulations under Section 4.15(1)(a)(iv): <ul style="list-style-type: none"> Environmental Planning and Assessment Regulation 2021.
Does the DA require Special Infrastructure Contributions conditions (s7.24)?	No. The subject land is not located within the Western Sydney Growth Areas – Special Contributions Area Map and the development is not subject to a Special Infrastructure Contribution.
List all documents submitted with this report for the panel's consideration	Nil
Recommendation	Refusal
Report By	Matthieu Santoso – Senior Town Planner
Report Date	14 May 2024

Addendum Report

At its meeting on 6 May 2024, the Sydney Western City Planning Panel resolved to defer the determination of the subject Development Application:

“to allow the applicant to identify succinctly, what it proposed in relation to:

- Preservation and potential rehabilitation of the landscaped setting of the building (noting the listing extends to includes the entire site) and the heritage significance of the gardens was being compromised through neglect;*
- Management and maintenance of the site into the future including the potential for referencing the demolished structure and permitting public access;*
- The form of a condition of consent (and potentially a deferred commencement consent condition) which might address those matters.*

Council Officers have reviewed the actions resolved by the Panel and the subsequent material prepared by Barker Ryan Stewart and submitted on 9 May 2024 and provide the following responses:

- Council Officers agree with Transport for NSW (TfNSW) and Barker Ryan Stewart (BRS) in that the conversion of the road reserve area into an open park, as discussed, would involve other matters outside of the scope of the subject Development Application including but not limited to, NSW treasury approval, rezoning of land, community consultation and the like.

In this respect, a condition of consent to advise on the future use of the land would be beyond the scope of the current application and would not be in the public interest in the absence of appropriate community consultation in that respect.

- The submitted response prepared by BRS makes no recommendations for the preservation and potential rehabilitation of the landscape setting other than a commitment to maintain the ‘area shaded green.’

- The applicant has not provided a draft Heritage Interpretations Strategy (HIS) or a Plan of Management to demonstrate maintenance of the site into the future. It is considered that where an interpretation strategy seeks to convert the existing heritage item into public domain would have significant legislative and financial impacts. These discussions have not been undertaken to date.

It is the position of Council Officers that a condition premising the future use of the site without a detailed planning assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 would be beyond the scope of the original proposal.

- Council Officers maintain its position that it had engaged external consultants to prepare two (2) expert reports addressing the most recent expert reports provided by the applicant. Council's expert reports, in reply, have demonstrated that *"an appropriately fulsome exploration of significance, condition and restoration options would readily show that Allambie and its key aspects of significance would be retained, not lost through restoration"*.
- It is therefore summarised that the application presented before the Panel in its current form, has yet to consider the future impacts of the site. Whilst the application seeks the demolition of the existing heritage item, there has yet to be a detailed discussion on what is to replace the historic structure on the site or other such interpretation strategies, should approval be subsequently granted to the demolition of "Allambie."

In the matter of *Helou v Strathfield Municipal Council [2006] NSWLEC 66* it is noted that in the Planning Principle, point No.6 asks;

"6. Is the replacement of such quality that it will fit into the conservation area?"

It is considered that the proposed development has not discussed this point and as admitted by the applicant, it has not been canvassed nor a condition of consent would be an appropriate vehicle to satisfy this principle.

- Consequently, Council Officers take the view that the imposition of such a condition of consent by the Panel would result in an unsatisfactory outcome in terms of procedural fairness as well as the public interest given the justification Council Officers had previously submitted to the Panel in respect the achievable restoration of the item and the overall lack of material provided for the future use of the site.

In this respect, the following recommendation is made:

Recommendation

That:

- A. Pursuant to Section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel refuse Development Consent to Development Application No. DA0173/22, PPSSWC-343 for 'Demolition of Heritage Item - Allambie Cottages' at Lot A and B of DP 14931, known as 1256 Bells Line of Road, Kurrajong Heights for the following reasons:

Hawkesbury Local Environmental Plan 2012

1. The proposed demolition does not adequately consider the impact on the heritage item known as 'Allambie Cottages' and as such, does not conserve the heritage significance of the item having regard to the overall objectives and requirements of Clause 5.10 Heritage Conservation of the Hawkesbury Local Environmental Plan 2012

(Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979).

Hawkesbury Development Control Plan 2002

2. The proposal is considered unacceptable having regard to the matters required to be considered under Hawkesbury Development Control Plan 2002:
 - (a) The application has not sufficiently demonstrated that all alternatives to demolition of a locally listed heritage item have been sought and that the buildings condition does not stem from a lack of maintenance having regards to the provisions of Section 10.4.4 'Demolition of a Heritage Item' under Part C of the Hawkesbury Development Control Plan 2002.
 - (b) The proposal does not preserve the scenic amenity, heritage significance and character of Kurrajong Heights precinct having regard to the Section 1 'Kurrajong Heights Village' under Part E of the Hawkesbury Development Control Plan 2002.

(Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979).

Likely Impact

3. The proposal does not adequately consider the heritage significance of site with respect to its former use and history and its contribution to the Kurrajong Heights Precinct with respect to the building's visual and architectural association with the surrounding heritage buildings in the precinct.
4. The proposal is not supported by documentation and plans that show the intended future use and site conditions post demolition works.

(Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979).

Submissions

5. The issues raised in the submissions are considered valid and demonstrate that the proposed development should not be supported.

(Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979).

Public Interest

6. The proposed development is not in the public interest as the demolition of a heritage item, due to inadequate maintenance required under Section 170A of the Heritage Act 1977 would have a cumulative impact by setting a precedent for other heritage buildings in the area to be demolished if in poor condition and may potentially encourage neglect of such items.

(Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979).

- B. The matter be referred to the Minister of Planning and Place for determination in accordance with Section 4.33 of the Environmental Planning and Assessment Act 1979; and
- C. That those who made a submission be advised of the Panel's decision.

Matthieu Santoso | Senior Town Planner | Hawkesbury City Council