

Our Ref:210544

9 May 2024

Justin Doyle, Chair
Sydney Western City Planning Panel
Department of Planning and Environment



ENGINEERING
PLANNING
SURVEYING
CERTIFICATION
PROJECT MANAGEMENT

ABN 26 134 067 842

Attention: Renah Givney – Senior Case Manager
renah.givney@dpie.nsw.gov.au

Re: Sydney Western City Planning Panel - PPSSWC-343 – Hawkesbury – DA0173/22 – 1256 Bells Line of Road, Kurrajong Heights

Reference is made to a deferral and request for information from the Sydney Western City Planning Panel of 6 May 2024. The deferral included the following:

MATTER DEFERRED

*PPSSWC-343 – Hawkesbury – DA0173/22 at 1256 Bells Line of Road, Kurrajong Heights
Demolition of Heritage Item - Allambie Cottages (as described in Schedule 1).*

REASONS FOR DEFERRAL

The Panel considered the matters listed at item 6, the material listed at item 7 and the material presented at the meetings observed at the site inspection listed at item 8 in Schedule 1.

The Panel unanimously agreed to defer the electronic determination of the matter.

This matter involves the proposed demolition of a vacant timber building once forming part of "Allambie Cottages" which is owned by TfNSW, and is situated substantially across the area of a proposed road widening of Bells Line of Road. Council opposes demolition due to the heritage significance of the building and what Council sees as an available repair strategy which would restore the significance of the item.

The Panel resolved to defer the determination of the DA following a public meeting convened on 27 November 2023 to allow the Applicant to address a number of matters raised in the deferral report including:

- 1. The Applicant was to update its supporting material to include a more fulsome analysis of what fabric would be lost through restoration, including achieving BCA compliance, and the likely cost of any building restoration.*
- 2. The Panel had raised as an additional issue for consideration the proposed treatment and use of the property if demolition of the item is permitted to proceed, noting that the significance of the item is likely to include the large trees within the grounds of the Cottages given their location in Kurrajong Heights neighbourhood centre.*

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Since that report, the Applicant has supplied additional material including the requested analysis of the remedial work, and a quantity survey of the estimated costs to relocate and rebuild Allambie Cottages elsewhere. The Council disputes that material having provided its own assessment which it says allows for a much cheaper remedial strategy.

What has still not been adequately addressed is the Applicant's proposal for the management of the entire site if demolition is to be permitted. The Allambie Cottages site encompasses multiple land parcels under different lots, land use zonings, and is partially within the dedicated road reserve. These portions may elicit different future land uses.

The Panel is also unable to determine the Applicant's willingness and/or the feasibility to manage the site until such a time that the road reserve is needed for road widening. This context is required to determine the public interest test in terms of both colonial heritage and economic aspects.

In the report following the 27 November 2023 meeting the Panel noted relevantly:

"It was observed that in addition to obscuring views of the building (as noted by Ms Wrightson) the overgrown unmaintained vegetation poor state of the site compromised the heritage presentation of Kurrajong Heights town centre. There appeared to be potential for the grounds to be tidied up with the trees preserved to enhance the heritage contribution of the site irrespective of the fate of the dwelling. Notably, if demolition was to proceed and the fence was removed to the part of the site subject to the road widening at least, it would functionally if not legally be amalgamated with the road reserve to the Bells Line of Road. The trees and yard along the road front could then be subject to the general arrangements for maintenance of the road reserve. They may then continue to offer a heritage presentation to motorists and users of the neighbourhood centre with ties to the site's past supported by archival recording at least until any widening of the Bells Line might proceed in the future. The remainder of the site would continue to offer a curtilage to the retained cottage."

The Panel Chair emphasised at this meeting that the Panel had reached no conclusions in relation to the determination of the DA, and it remained open to the Panel to accept the Council's position that demolition had not been sufficiently justified.

ACTIONS

The Panel meeting was further deferred to allow for the Applicant to identify succinctly what it proposed in relation to:

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

The Panel asked for information in that regard to be supplied by the Applicant by midday Thursday 9 May 2024, and for Council to reply by 5 pm on Tuesday 14 May 2024.

Transport for NSW and Barker Ryan Stewart have reviewed the options for the site as requested by the panel, and wish to advise as follows:

- The part of the site including Lots A and B in DP 14931 (shown outlined in yellow below in Figure 1) contain only a small portion of the building proposed for demolition. This area also includes a septic tank and stormwater / rainwater tank (both not in formal use).
- The area outlined in green below is part of the "road reserve", includes the majority of the building proposed for demolition. It is on land owned by Transport for NSW and has not been formally dedicated to Council.



Figure 1

This application is for the demolition of the buildings on the site only and associated landscaping and remediation of that part of the site (under the buildings). Lots A and B are surplus to current Transport for NSW requirements, there is no disposal timeframe for these lots. Should significant development be proposed on the surplus land such as a formal pocket park, NSW Treasury approval would be required.

Should Council wish to acquire Lots A and B for use as a pocket park or open space for Kurrajong Heights, then Transport for NSW would be happy to have further discussions in this regard, with a view for a change in zoning to open space or similar. It should be noted that the acquisition authority for any proposed RE1 zoning would need to be Council. Any acquisition would need to take place in accordance with the NSW Treasury Directions or the Community Use Policy.

Transport for NSW would accept the following:

- Update / repair any boundary fences (shown red on image below) in conjunction with the adjoining owners (this is not necessary to be considered as part of the development application). Note that this was recently undertaken on the boundary to the east of the site (Lot C).

- Provision of a rural or picket style fence along the front and side boundaries (shown blue on the image below). This may need to be in conjunction with a cyclone style fence further within the properties to limit access to the remainder of the site should there be any dangers associated with inground septic and stormwater / rainwater tanks or any contamination not removed or remediated as part of the demolition process.
- In the area shaded green on the image below, this will be remediated as required following demolition of the buildings and provision of appropriate landscaping. A heritage interpretation plan could include details of the landscaping (in addition to that included in the DA plans) as well as re-use of materials and provision of interpretative signage. Refer to conditions below.
- Transport for NSW will commit to maintaining the area shaded in green below to ensure the landscape plan included in the conditions (Annexure A) is fulfilled.

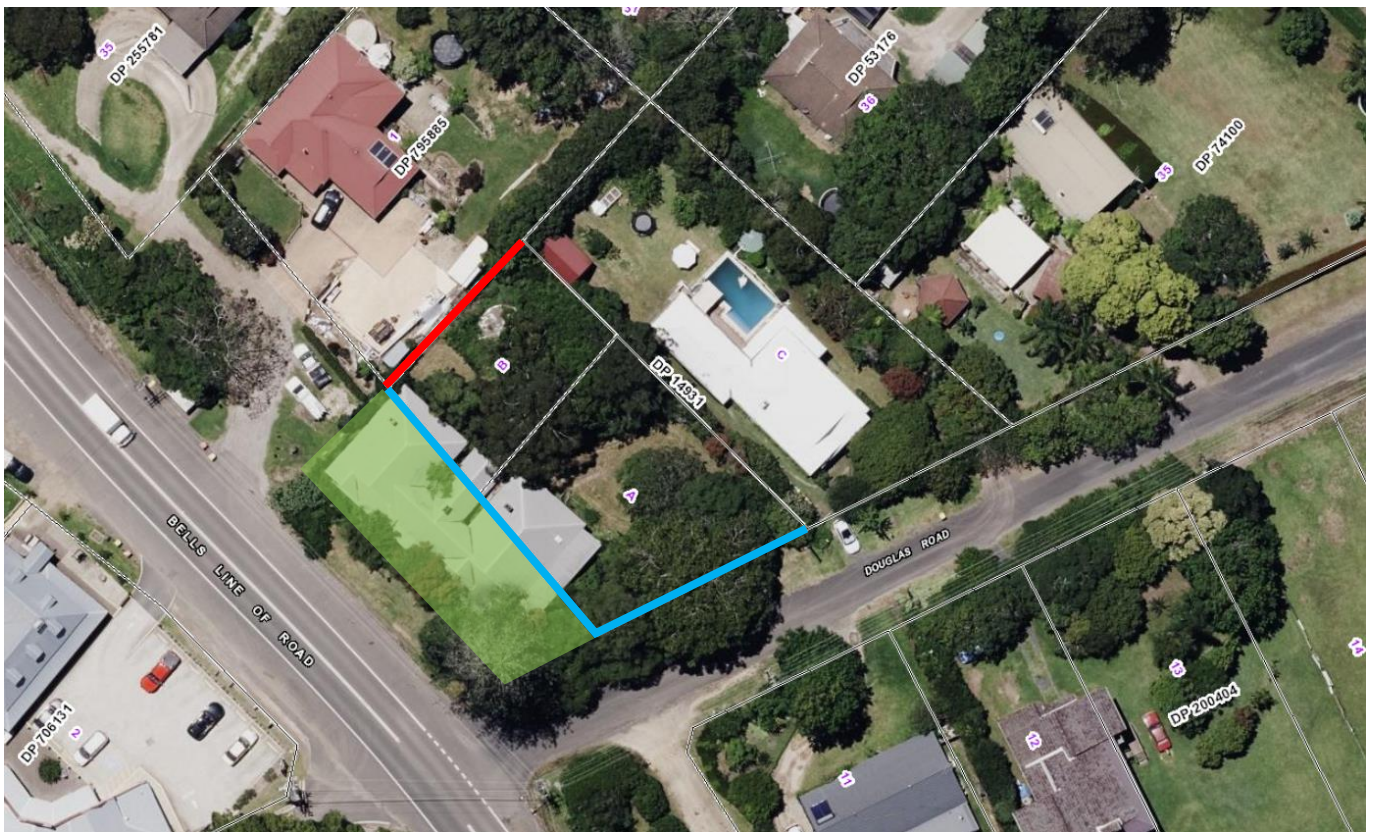


Figure 2

Based on the above Panel actions, draft conditions of consent have been prepared for review by Hawkesbury City Council and the Planning Panel. They are attached in Annexure A below.

Please note that a deferred commencement condition is not deemed necessary as the condition can be fulfilled prior to works commencing on site for the demolition and Council is required to approve the plans for interpretation and landscaping.

Should you have any questions or need anything clarified, I can be contacted on email lisa@brs.com.au or 0409 681 669.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'L Wrightson'.

Lisa Wrightson | Planning Manager
Barker Ryan Stewart Pty Ltd

ANNEXURE A

Draft Conditions

General Conditions

1. Approved Plans and Supporting Documentation

The development must be carried out generally in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended by other conditions of consent:

a) Plans Reference:

Drawing Reference No.	Drawing Description	Prepared by	Issue No.	Date
1 of 2	Site Plan	Barker Ryan Stewart	B	16 May 2022
2 of 2	Site Plan	Barker Ryan Stewart	B	16 May 2022
1 of 1	Construction Management Plan	Barker Ryan Stewart	B	16 May 2022
LA01	Landscape Plan	Taylor Brammer	A	10 February 2022

b) Document Reference:

Document Title	Reference	Prepared By	Date
Assessment of Heritage Significance Report	Ref No. 21-091	CCG Architects	January 2022
Preliminary Site Investigation Report	Ref No. 24002281.001A	Kleinfelder	06 October 2023
Waste Management Plan	Ref No. 210544	Barker Ryan Stewart	16 May 2022
?? Other reports			

No works, other than those approved (including raising or lowering of ground levels on the site, or construction of retaining walls on any property boundary) are permitted by this consent.

Note: Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- (i) any conditions contained in this consent.

2. Asbestos Removal

If asbestos containing materials are encountered during construction or demolition work; measures must be in place in accordance with SafeWork NSW guidelines and the *Occupational Health & Safety Regulation 2001*. Work must not commence or continue until all the necessary safeguards required by SafeWork NSW are fully in place.

In accordance with Safework NSW requirements, a SafeWork NSW licensed Asbestos Removalist

is to be engaged to undertake asbestos removal.

Prior to commencing demolition of buildings likely to comprise asbestos containing material (ACM), a commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring 400mm x 300mm must be erected in a prominent visible position on the site in accordance with Australian Standard AS 1319 - 'Safety Signs for the Occupational Environment'.

The person entitled to act on this consent must notify adjoining residents in writing five working days prior to the demolition.

Asbestos waste must only be disposed of at a landfill site authorised to receive such waste. All receipts and supporting documentation must be retained in order to verify lawful disposal and are to be made available to Council on request.

3. Archaeology - Discovered During Excavation

As required by the *Heritage Act 1977*, in the event that items, relics, historical cultural fabric and/or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the NSW Government's Heritage Council must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from the Heritage Council.

Note: The *Heritage Act 1977* imposes substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

4. Excavation - Aboriginal Relics

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- a) all excavation or disturbance of the area must stop immediately in that area; and
- b) Heritage NSW must be advised of the discovery.

All necessary approvals from the Heritage NSW must be obtained and a copy provided to Council prior to works recommencing.

Note: If an Aboriginal object is discovered, an Aboriginal Heritage Impact Permit may be required under the *National Parks and Wildlife Act 1974*.

Prior to Any Works Commencing on Site

5. Toilet Facilities

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- a) be a standard flushing toilet connected to a public sewer;

- b) be attached to an approved on-site effluent disposal system;
- c) be a temporary chemical closet that is regularly maintained; and
- d) appropriate facilities for the disposal of sanitary items are to be provided within the toilet.

6. Notice of Commencement

No work shall commence until a notice of commencement has been provided to Council. This notice is to be provided not less than two days from the date on which it is proposed to commence work associated with this Development Consent. The notice must also contain:

- a) details of the appointment of a Crown Certifier providing name, address and telephone number; and
- b) details of the name, address and licence details of the Builder / Contractor.

7. Safety Fencing

The site is to be secured by a fence, in accordance with Safework NSW requirements, to prevent unauthorised access during the period of all works.

8. Demolition - General

All demolition works must be carried out in accordance with the following:

- a) all demolition work must be carried out strictly in accordance with Australian Standard AS 2601 - 'The Demolition of Structures';
- b) demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current SafeWork NSW 'Demolition License' and an appropriate SafeWork NSW Asbestos License and comply with SafeWork NSW Code of Practice 'How to Safely Remove Asbestos';
- c) site safety/security fencing must be provided prior to commencement of any work on-site and must be removed only when all hazards, including site waste, have been removed. The site safety/security fencing must comply with the following Australian Standards:
 - (i) Demolition Sites - Australian Standard AS 2601 - 'Demolition of structures';
 - (ii) Construction Sites - Australian Standard AS 4687 - 'Temporary fencing and hoardings';
 - (iii) Ongoing Site Safety/Security - Australian Standard AS 1725 - 'Chain-link fabric security fencing and gates';
- d) demolition work must be carried out only between the hours of 7am to 6pm Mondays to Fridays and 8am to 4pm Saturdays. No work is to be carried out on Sundays or public holidays;
- e) no trees must be removed from the site unless they are shown for removal on the approved plans, or separately approved by Council;
- f) erosion and sediment control measures must be installed prior to any demolition works commencing and maintained in accordance with the requirements contained in the Hawkesbury Development Control Plan 2002;

- g) all waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water;
- h) public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council;
- i) any materials stored on site must be stored away from any drainage path or easement, natural watercourse;
- j) demolition activity must not cause damage to or adversely affect the structural integrity of adjoining buildings;
- k) waste must be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation;
- l) no material is to be burnt on site;
- m) details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) must be kept on site as evidence of approved methods of disposal and recycling; and
- n) the site must be grassed or otherwise rendered erosion resistant immediately upon completion of demolition.

9. Demolition - Notice

- a) Notice is to be given to Council of the date on which it is proposed to commence demolition. This notice must:
 - (i) be given not less than two days before the date on which it is proposed to commence demolition work;
 - (ii) provide details of the name, contact details of the demolisher/contractor undertaking the work;
 - (iii) provide the relevant SafeWork NSW License details of the demolisher/contractor; and
 - (iv) details of the demolisher/contractors current Public Liability/Risk Insurance Policy providing for a minimum cover of \$10 million.
- b) Notice is to be given to adjoining property owners of the date on which it is proposed to commence demolition. This notice must:
 - (i) be given not less than two days before the date on which it is proposed to commence demolition work;
 - (ii) provide details of the name, contact details of the demolisher/contractor undertaking the work; and
 - (iii) provide the telephone number of SafeWork NSW Asbestos/Demolition Hotline - 1800 672 718.

10. Restriction of Site Access to Prevent Unauthorised Access

The property entry and exit points must be secured at all times to prevent the unauthorised entry of vehicles, and to ensure that the site manager can control and prevent dumping of waste and potentially contaminated material whilst material is being managed on and /or

removed from site.

11. Asbestos Material Handling

Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under Clause 458 of the *Work Health and Safety Regulation 2017*.

In addition to the above, the following must be satisfied:

- a) the person having the benefit of this consent must provide the Crown Certifier with a copy of a signed contract with such a person before any development or works commence;
- b) any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered;
- c) if the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the consent must give the Crown Certifier a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

12. Demolition - Work Plans

The demolition work must comply with the provisions of Australian Standard AS 2601 - 'The Demolition of Structures'. The work plans required by Australian Standard AS 2601 - 'The Demolition of Structures' must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard.

The work plans and the statement of compliance must be submitted and be to the satisfaction of the Crown Certifier prior to the commencement of works.

13. Erosion and Sediment Control for Minor Development

Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with Hawkesbury Council's publication *Guidelines for Erosion and Sediment control on a building site (2017)*.

14. Heritage Archival Recording - Demolition

No works are to commence until an archival record of existing buildings on the site has been prepared and submitted to Council. This must include measured drawings and an archival photographic record. This archival record must be prepared in accordance with the Heritage Office's guideline, 'Photographic Recording of Heritage Items using Film or Digital Capture'.

15. Tree Protection Measures

This consent does not authorise the removal of trees unless specifically permitted.

Trees that are shown on the approved plans must be protected against damage during construction or demolition. The following measures are to be followed during construction or

demolition:

- a) Tree Protection Zones (TPZ) must be established around trees identified to be retained in accordance with Australian Standard AS 4970 - 'Protection of Trees on Development Sites;
- b) a 1.8 metre high chain mesh fence must be erected around each Tree Protection Zone prior to works and must remain intact until construction or demolition is completed;
- c) any excavation works within identified Tree Protection Zones are to be carried out by hand, with all care taken not to damage tree roots. If tree roots greater than 30mm are found during works that need to be severed, they are to be cut with a saw (not ripped);
- d) TPZ's must be mulched to a minimum depth of 100mm using organic mulch;
- e) fences around Tree Protection Zones must be sign posted to warn of its purpose;
- f) Harmful Materials: the storage of materials, building waste, excavated spoil, cement or similar is not permitted within a TPZ; and
- g) any minor pruning of trees must be carried out in accordance with Australian Standard AS 4373-2007 - 'Pruning of Amenity Trees, by a suitably qualified Arborist'.

A suitably qualified Consulting Arborist (AQF Level 5) must be in attendance to supervise tree works on site during critical stages of construction, particularly when excavation is occurring within the TPZ of trees nominated for retention.

16. Interpretation and Landscaping

A detailed Heritage Interpretation and Landscaping Plan is to be prepared and submitted to Hawkesbury City Council for approval prior to works commencing on site. The Heritage Interpretation Plan must (but not be limited to):

- a) Be prepared by a suitably qualified and experienced expert in consultation with Council;
- b) Include the interpretation of the significance of the site including landscaping elements, interpretation boards / signage including photos and outline of the history of the site;
- c) Include a salvage schedule to confirm what fabric can be salvaged and reused as part of interpretation on site and provided to external salvage yards; and
- d) Include a landscape plan showing trees to be retained, location of signage and interpretation and new plantings (where required) ;

Any signage should be vandal and weather resistant. It is to be sized to include an acknowledgment that the land upon which the site is situated traditionally belonged to the Darug, First Nations people.

The landscaping and signage will be limited to the road reserve portion of the site and will not be located within the adjoining allotments (being Lots A and B in DP 14931).

17. Heritage Officer Overview

A suitably qualified and experienced archaeologist be given a watching brief during the day(s) that the demolition for the proposed use takes place on the property.

During Construction

18. Construction Hours

Clearing of land, running of machinery, excavation, and/or earthworks, building works and the delivery of building materials must be carried out between the following hours:

- a) between 7am and 6pm, Mondays to Fridays inclusive;
- b) between 8am and 4pm, Saturdays;
- c) no work on Sundays and public holidays; and
- d) works may be undertaken outside these hours where:
 - (i) the delivery of vehicles, plant or materials is required outside these hours by the Police or other authorities;
 - (ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
 - (iii) a variation is approved in advance in writing by Council.

19. Sewer Works

The old septic tank system is to be decommissioned in the following manner:

- a) The septic tank/holding well is to be emptied by an authorised wastewater removal contractor and the contents disposed of at an approved wastewater depot;
- b) Receipts for emptying of tanks and disposal of contents are to be submitted to Council;
- c) The septic tank and holding well are to be thoroughly dusted with commercial grade agricultural lime;
- d) The base of the tank is to be punctured (to prevent future holding of water), the lids broken in and the top edges broken down 300mm below ground level; and
- e) The tanks are to be backfilled with clean filling material and finished to the surrounding ground level.
- f) An inspection must be conducted by Hawkesbury City Council's Regulatory Services Branch of the decommissioning prior to backfilling.
- g) To arrange inspections please telephone Customer Service on (02) 4560-4444.

Post Demolition

20. Site Suitability Confirmation

Following demolition of the buildings, a report is to be prepared with a supporting soil sampling program of the area affected by the dwelling house on the subject site and portion of the road reserve. The report and soil testing must address the risks identified in the Table 5.1 and 5.2 'Potential On-Site Sources of Contamination' within the Preliminary Site Investigation Report by

Kleinfelder and dated 06 October 2023, Reference No. 24002281.001A.

The report is to clearly identify the following:

- a) That the potential sources of contamination identified within the Preliminary Site Investigation Report are confirmed in accordance with NSW EPA Statutory and Non-statutory guidelines.
- b) That the subject site is suitable in its current state or can be made suitable for future land uses, including residential where applicable.
- c) Whether or not any contamination is at the site that may present a problem to human and ecological receptors, including future users or residents.
- d) Whether or not any future soil sampling will be required.
- e) What works will need to be undertaken to make the sites suitable for future applicable land uses.
- f) Whether or not a Detailed Environmental Site Assessment will be necessary.
- g) Whether or not a Remedial Action Plan will be necessary.

Details demonstrating compliance with the above must be provided to the Council within 28 days of the completion of works on the site, including any results of additional assessments if required.

Advisory Notes (if applicable)

(i) Site Contamination Discovered During Demolition or Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about contamination, Council must be immediately notified and works must cease. Works must not recommence on site until an agreed management strategy is developed in consultation with Council.

(ii) Dial Before You Dig

Prior to commencement of work, you are required to contact the free national community service 'Dial Before You Dig' on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.

(iii) Requirements of 88B Instrument

The applicant must make themselves aware of any User Restriction, Easements and Covenants to this property and must comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

(iv) Works on Public Land - Public Liability Insurance

Any person or contractor undertaking works on public land must take out a Public Risk Insurance policy with a minimum cover of \$10 million in relation to the occupation of public land and the

undertaking of approved works within Council's road reserve or public land, as approved by this consent.

The policy is to note, and provide protection/full indemnification for Council, as an interested party. A copy of the policy must be submitted to Council prior to commencement of any works. The policy must be valid for the entire period that the works are being undertaken.