



In reply please quote: SSD-10436

Contact: Kerren Ven on (02) 9725 0878

07 September 2020

Mr Bruce Zhang
Senior Environmental Assessment Officer
Industry Assessments
Department of Planning, Industry and Environment
GPO Box 39
SYDNEY NSW 2001

REQUEST FOR ADVICE ON ENVIRONMENTAL IMPACT STATEMENT – 6 JOHNSTON CRESCENT, HORSLEY PARK – ESR HORSLEY LOGISTICS PARK (SSD-10436)

Dear Mr Zhang,

I refer to correspondence from the Department of Planning, Industry and Environment (DPIE) regarding the public exhibition of the above State Significant Development (SSD).

Council officers have reviewed the Environmental Impact Statement (EIS) prepared by Urbis dated July 2020 and the supporting technical reports, and request that additional information and clarification be provided by the applicant for Council to be able to fully assess the potential impacts of the proposed SSD. These issues are detailed further in this submission.

Landscaping

The southern boundary of the subject site incorporates a 10m wide landscaped buffer and mounded area that has been created to address requirements issued by the NSW Land and Environment Court in relation to approval (in 2015) for the original 14 lot subdivision of the site that led to creation of the lot subject of SSD 10436.

The landscape buffer and mound were created to help protect the amenity of rural residential lands in Penrith and Fairfield City directly to the south of the site in pursuant to provisions of the SEPP (WSEA)

The EIS submitted for the proposal acknowledges the above and relies extensively on the provision of the landscape buffer and bund as the basis for mitigating visual and (to some extent), acoustic impacts on the adjoining rural residential lands.

Council's concern is that the EIS is silent in regard to the applicants commitment to providing ongoing protection and maintenance of these areas, particularly in regard to the effective establishment of the landscaped measures in the short term. It is also noted the plans submitted with the application indicates that provision of the southern landscape buffer and retaining walls is referenced as being provided "by others".

Council requests further clarification from the applicant in regard to their intentions and commitment to protection and maintenance of the landscape area and bund to ensure these areas maximise their effectiveness in mitigating impacts of the proposal on the adjoining rural residential area.

Council's view is that this is not the responsibility of "others" and that the requirements issued by the NSW Land & Environment Court are binding to the scope of the development proposed on the site in both the short and long term. This issue should also be factored into conditions (see Appendix 1 – Condition 21) for any approval issued for the project.

Access, Traffic and Parking

Council's Traffic Branch have reviewed the EIS and provide the following comments in relation to the SSD:

Restricted Vehicle Access

A review of the TfNSW Restricted Access vehicle (RAV) map confirms that Old Wallgrove Road to the north of the site is classified as an approved B-Double route. However, the site will be accessed via public road which will not automatically be approved for B-Double access. Upon dedication of estate roads to Council, further consultation with the National Heavy Vehicle Regulator (NHVR) and Council is required to ensure that these roads will be included in future updates to the approved B-Double network.

Southern Link Road Upgrade

The Southern Link Road upgrade remains in a concept phase with no funding or commitments made by Transport for NSW. Currently, access into the site is via the Old Wallgrove Road and Burley Road intersection into Johnston Crescent. Ultimately, access will be via the four-way signalised intersection of Southern Link Road and Access Road 2 with Johnston Crescent being restricted to a left-in/left-out configuration.

Parking Requirements

The applicant has utilised an average rate of 1 space per 169m² GFA for the provision of on-site parking. Due to there being no specific tenancies assigned to the lots, it is not possible to determine tenant specific parking demand.

Hence, parking provision must be made to accommodate future peak parking demand generated by the development in accordance with the requirement of section 4.5.4 Car Parking of the 327-335 Burley Road, Horsley Park Development Control Plan, March 2016.

Parking spaces and aisle widths shall be designed in accordance with AS 2890.1:2004 and shall be reflected on the plans. In addition, revised plans shall reflect the layout, ramp grade and dimensions of the proposed basement car park to Council for review and comment.

Accessible and Bicycle Parking

- The accessible parking spaces shall be designed in accordance with AS 2890.6:2009. The dimensions of the proposed accessible spaces shall be reflected on the plan.
- A copy of the plan showing the locations and dimensions of the proposed bicycle parking spaces within the development shall be submitted to Council for assessment. On-site bicycle parking facilities shall comply with AS 2890.3:2015. Bicycle parking and access arrangements shall ensure that the potential conflicts with vehicles are minimised. Furthermore, bicycle parking is to be secure and located undercover with convenient access from the street and building entries.

Site Servicing

- All loading and servicing will occur on-site with access and circulation designed for 26m B-Double trucks manoeuvring within and out of the site.
- Loading bays and docks shall be designed in accordance with AS 2890.2:2002 and the dimensions shall be clearly reflected on the plan.
- The allotment of loading dock spaces is to be managed by the Dock Traffic Manager and any increases in daily activity of the proposed service trucks must be communicated to the Traffic Consultant in order to verify and amend the loading dock management plan accordingly.
- Service vehicles shall only undertake loading and unloading activities from the service bay/hard stand area and shall not obstruct traffic flow into, within and out of the site. Determination on the size of the loading bays or manoeuvring areas shall be based on relevant Australian Standards and turning path analysis.

Stormwater Drainage

The existing pipe details including the invert levels within the access road at all stormwater connection points shall be shown on the stormwater plans. The obvert level of the pipe in the access road shall be taken as the tailwater level for the design of OSD system.

Waste Storage

The Waste Management Plan prepared by SLR dated May 2020 is considered satisfactory. A review of the Final Architectural Plans illustrate waste storage for only Lot 201 and not on the other lots part of the Stage 2 development. Waste storage shall be

provided and indicated on the architectural plans for each lot, in addition waste storage areas should also be less than 30 metres away from the office area to avoid the potential for unlawful dumping.

Biodiversity Stewardship

Natural Resources Team notes that the Proposal is consistent with the previous state and federal approvals issued to the previous owner, CSR (2015 and 2017 respectively).

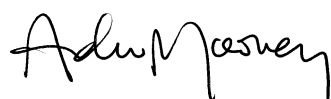
The Proposal would retain the 25 metre E2 – Environmental Conservation Corridor, located outside but immediately to the east of the site, which acts as a buffer between the conservation lot and the site. No works are proposed for this area, consistent with the Conditions of Approval (EPBC 2017/7744) and the Land and Environment Court Judgement (issued on 16 October 2015). Given the highly disturbed nature of the site and no works impacting any ecological communities, and the waiving of the BDAR requirements as per Clause 7.9(2) of the BC Act, the proposal is considered suitable from an ecological perspective.

In conclusion, Council officers have reviewed the submitted EIS and technical reports and advise the above mentioned issues raised shall be addressed in a response to submissions for further consideration of the proposal.

In addition, Council recommends the following conditions in Appendix 1 of this letter be imposed as part of the conditions of consent to protect the environment and the Community and assist Council if there is a need in the future to address compliance and/or regulate the site/s effectively and efficiently. It is noted that additional conditions may be recommended to be imposed when additional information is provided regarding the above issues that have been raised in this letter.

If you have any questions regarding the above, please contact Kerren Ven at Strategic Land Use Planning Team on 9725 0878.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Andrew Mooney', written in a cursive style.

Andrew Mooney

ACTING MANAGER, STRATEGIC LAND USE PLANNING

Appendix 1 – Conditions to be imposed as part of the consent

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a Construction Certificate by a Certifier. The Certifier can be either Fairfield City Council or an Accredited Certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a Construction Certificate.

1. Section 7.12 Levy Development Contributions

Prior to the issue of a Construction Certificate, a receipt for the payment to Fairfield City Council of Section 7.12 Levy Contributions shall be submitted to the Certifier.

The Section 7.12 Levy as determined at the date of this consent is **\$1,100,206.40**.

The contribution amount payable may be adjusted at the date of payment. Any unpaid contributions will be adjusted on a quarterly basis to account for movements in the Australian Bureau of Statistics, Producer Price Index – Building Construction (New South Wales).

2. Pollution Control Valve

Prior to the issue of a Construction Certificate, a certificate from a suitably qualified person shall be submitted to the Certifier and Council certifying that the design of the stormwater drainage system will in the event of a pollution incident will contain all pollutants on the property and that all stormwater outlets from the property will contain a vandal resistant remote control valve capable of being closed off from a conspicuous position.

3. Long Service Levy Fee

Prior to the issue of a Construction Certificate, a receipt for payment of the Long Service Levy (in accordance with the Building and Construction Industry Long Service Levy Payments Act 1986) shall be submitted to the Certifier.

The Long Service Levy is calculated at 0.35% of the value of building works, as is in force at the date of this consent. The rate of calculation is subject to change and should be verified (and adjusted) at the date of payment. Payment can be made to Fairfield City Council or direct to the Long Service Levy Corporation.

4. Erosion and Sediment Control Plan

Prior to the issue of a Construction Certificate, an Erosion and Sediment Control Plan shall be submitted to and approved by the Certifier. The Erosion and Sediment Control Plan shall be prepared in accordance with the requirements of the Fairfield City Council's Erosion and Sediment Control Policy. The Erosion and Sediment Control Plan shall clearly show and demonstrate how erosion is to be minimised and how sediments are to be trapped on the site and prevented from escaping, transported, carried or discharged across and outside the boundaries of the site of the development or building activity.

5. Sydney Water Consent

The plans must be assessed by Sydney Water Tap in to determine whether the development will affect any Sydney Water asset and if any requirements need to be met. The plans will be appropriately stamped. All amended plans will require restamping.

Please refer to the web site <https://tap-in.sydneywater.com.au> for:

- See the Building plan approvals section on the Tap in site, and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and developing then Building and renovating

Or telephone 13 20 92

6. Construction Traffic Management Plan

Prior to the issue of a Construction Certificate, a Construction Traffic Management Plan (CTMP) report shall be prepared by RMS accredited person and be submitted to and approved by the Manager of Development Planning of Fairfield City Council.

7. Landscape Plans Certified by Landscape Architect

Prior to the issue of a Construction Certificate, a landscape plan prepared and certified by a qualified landscape architect and designed in accordance with Section 4.2 Landscape Design of the 327-335 Burley Road, Horsley Park Development Control Plan (March 2016) shall be submitted to the Certifier.

Landscape plans shall contain the following information:

- a. Outline of the proposed building;
- b. Existing trees (height and location);
- c. Trees to be removed;
- d. Proposed planting (quantity, species, and expected mature height);

- e. Proposed earth mounding;
- f. Paths and paving (location and materials);
- g. Minimum 2 metre width of landscape areas;
- h. The method of planting and the proposed maintenance program; and
- i. Details of lighting, fencing, seating and paving, where relevant.

The landscaping shall be of a scale that will match the scale of the development. Landscaping shall be designed to complement and enhance the development and where applicable, screen such features as open storage areas, car parks, loading docks and garbage storage areas.

PRIOR TO THE COMMENCEMENT OF ANY WORKS

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. A Certifier can either be Fairfield City Council or an accredited certifier. All of these conditions are to be complied with prior to the commencement of any works on site.

8. Construction Certificate Required

Prior to the commencement of any building and construction works, a Construction Certificate is required to be issued by a Certifier.

Enquiries regarding the issue of a Construction Certificate can be made to Council's Customer Service Centre on 9725 0222.

9. Appointment of a Principal Certifier

Prior to the commencement of any construction works, the person having benefit of a Development Consent, must:

- a. appoint a Principal Certifier; and
- b. notify Council of the appointment.

10. Notify Council of Intention to Commence Works

The applicant must notify Council, **in writing** of the intention to commence works at least two (2) days prior to the commencement of any construction works on site.

11. Kerb and Gutter Status Form

Prior to the commencement of any construction works on site, the applicant shall return the attached footpath/kerb and gutter form to Council detailing the existence

of, and the condition of, any foot paving, and/or kerb and gutter provided adjoining the site for checking against Council's records. Damage to footpaths, kerbs, stormwater systems and general streetscape will require restoration at the developer's expense.

12. Erosion and Sedimentation Control

Prior to the commencement of any construction works on site, controls in accordance with **Chapter 3.12 of the Fairfield City Wide DCP 2013** shall be implemented prior to clearing of any site vegetation, to ensure the maintenance of the environment and to contain soil erosion and sediment on the property. Erosion and sediment controls shall be maintained until all construction works are completed and all disturbed areas are restored by turfing, paving and revegetation.

The documented erosion and sediment control plan shall be available on-site for inspection by Council Officers and all contractors undertaking works on the site.

Note: On the spot penalties up to \$1,500 will be issued for any non-compliance with this requirement without any further notification or warning.

13. Toilet Facility

Prior to the commencement of any construction works on site, a flushing toilet facility is to be provided on site. The toilet must be connected to either a public sewer, or an accredited sewage management facility or to an alternative sewage management facility (chemical closet) approved by Fairfield City Council.

14. Required Signage

For building, subdivision or demolition work that will affect the external walls of the building, signage shall be installed in a prominent position detailing:

- The name, address and telephone number of the principal Certifier for the work; and
- The name of the principal contractor (if any) of the building work and a telephone number on which that person may be contacted outside working hours; and
- Stating that unauthorised entry to the work site is prohibited.

This sign shall be maintained while the building, subdivision or demolition work is being carried out and must be removed when the work has been completed.

15. Notice of Completion of Remediation Work

Prior to the commencement of any construction works on site, a copy of the Notice of Completion of Remediation Works must be submitted to Council Environmental Management Section for review and approval.

16. Notify Council of Intention to Commence Work

The applicant must notify Council, in writing of the intention to commence works at least seven (7) days prior to the commencement of any construction works on site.

17. Erosion and Sedimentation Control

Prior to the commencement of any construction works on site, erosion and sedimentation controls shall be implemented, to ensure the maintenance of the environment and to contain soil erosion and sediment on the property. Erosion and sediment controls shall be maintained until all construction works are completed and all disturbed areas are to be restored.

The documented erosion and sediment control plan shall be available on-site for inspection by Council Officers and all contractors undertaking works on the site.

Note: On the spot penalties will be issued for any non-compliance with this requirement without any further notification or warning.

PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an Occupation Certificate by the Principal Certifier.

18. Occupation Certificate Required

Prior to the commencement of any use and/or occupation of the subject development (whole or part), an Occupation Certificate must be issued.

Prior to the issue of any Occupation Certificate, the Principal Certifier must be satisfied that the development (part or whole) is in accordance with the respective Development Consent, Construction Certificate.

19. Interim Fire Safety Certificate

Prior to the issue of an Occupation Certificate a fire safety certificate shall be submitted to and approved by the Principal Certifier.

Note: An Annual Fire Safety Statement for the building premises dealing with essential fire safety measures shall be submitted to Council in accordance with the requirements of Clauses 177 and 181 of the Environmental Planning and Assessment Regulation 2000.

20. Building in Saline Environments

The whole of the Fairfield Local Government Area is potentially saline affected, and as such appropriate design features and building materials need to be incorporated into the construction of buildings, to minimise the risk of salt damage.

Prior to the issue of an Occupation Certificate, documentary evidence shall be submitted to the Principal Certifier, certifying that the building has been constructed in accordance with Fairfield City Council's 'Building in Saline Environments Policy'.

21. Environmental Reports Certification

Prior to the issue of an Occupation Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifier and Fairfield City Council, stating that all works/methods/procedures/control measures/recommendations approved by Fairfield City Council's Environmental Health Officer and the following reports have been completed:

- Environmental Impact Statement (EIS), prepared by URBIS Pty Ltd , dated July 2020
- Air Quality Impact Assessment, prepared by prepared by SLR Consulting Australia Pty Ltd, dated 25 June 2020
- Noise and Vibration Impact Assessment, prepared by SLR Consulting Australia Pty Ltd, dated 17 July 2020

GENERAL CONDITIONS

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land. A Principal Certifier can either be Fairfield City Council or an accredited certifier.

22. Landscaped Buffer and Mound

The 10m wide landscape buffer and bund located along the southern boundary of the site (as shown in the plans accompanying the proposal), are required to be protected and maintained to ensure the effectiveness and longevity of these areas in mitigating potential impacts of the development on the adjoining rural residential lands to the south of the site, in accordance with the determination issued by the NSW Land and Environment Court (Appeal no. 10634 of 2014) in relation to DA 893.1/2013.

23. Compliance with the Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia. Compliance with the performance requirements can only be achieved by:

- a. complying with the deemed-to-satisfy provisions; or
- b. formulating an alternative solution which:
 - i. complies with the performance requirements; or
 - ii. is shown to be at least equivalent to the deemed-to-satisfy provisions; or
- c. a combination of (a) and (b).

24. Administration Fee for the Lodgement of Certificates

Where a Principal Certifier has been appointed other than Council, an administration fee is charged by Council for the lodgement of Construction Certificates and Occupation Certificates.

25. Hoarding / Fencing

During construction, a hoarding or site safety fence must be erected between the work site and a public place if the work involved in the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or if the building involves the enclosure of a public place.

If necessary, overhead protection is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

26. Critical Stage Inspections

In accordance with Section 6.5 of the Environmental Planning and Assessment Act 1979 the Certifying Authority for this development is to inform the applicant of the Critical Stage Inspections prescribed for the purposes of Clause 162A of the Environmental Planning and Assessment Regulation 2000.

Note: Fines may be imposed if you fail to request the Certifying Authority to undertake the required mandatory inspections.

27. Compliance with Approved Waste Management Plan

The Waste Management Plan submitted to and approved by Council must be adhered to throughout all stages of the demolition and/or construction process. Source separation of materials and maximum reuse and recycling of materials are requirements of Fairfield City Council's Waste Not DCP. The applicant is required to keep supporting documentation (receipts/dockets), of reuse/recycling/disposal methods carried out, which are to be produced upon request by Council.

Note: Any non-compliance with this requirement will result in penalties being issued.

In addition, the applicant is to supply Council with the name and address of the waste disposal facility where the fill materials will be disposed. The applicant must keep supporting documentation (dockets/receipts), which is to be produced upon request by Council.

Note: Any non-compliance with this requirement will result in penalties being issued.

28. Filling within a Building Envelope

Any fill imported into the site to fill within the building envelope must meet the criteria of "Virgin Excavated Natural Material" as defined in EPA Environmental Guidelines – Assessment Classification and Management of Liquid and Non-Liquid Wastes and written verification provided to the satisfaction of the Principal Certifier.

29. Demolition, Building and other Works

When demolition, building and other works are being undertaken on site:

- a.** A trade waste service must be provided so as to ensure that all debris and waste material is removed from the site; and
- b.** Plant equipment, fencing or other materials of any kind must not be placed or stored upon any public footpath or roadway; and
- c.** Such works must only be carried out within the following hours:

Monday - Friday between the hours of 7:00am to 6:00pm and Saturday between 8:00am and 1:00pm in all zones.

No work shall be carried out on Sundays or public holidays. Except that, Building works in a IN1 zone may be carried out within the following hours:

Monday - Friday between the hours of 7:00am to 6:00pm and Saturday between 8:00am and 5:00pm. No work may be carried out on Sundays or public holidays.

Note: Council may issue a penalty infringement notice for the amount imposed under the Environmental Planning and Assessment Act 1979, for any non-compliance with this Development Consent.

30. Wheel Wash Facility

All trucks leaving the site, having had access to unpaved or contaminated areas, shall depart via a wheel wash facility in order to prevent mud, dust or debris from being deposited on Council roads. In order to achieve this, a wheel wash facility shall be constructed prior to any truck movements occurring. A plan and operational guidelines for the wheel wash facility shall be submitted for approval prior to the commencement of the removal of fill material from the site. Any direction of Council with regard to cleansing trucks or the clean-up of road pavements adjoining the site shall be complied with immediately.

31. Unreasonable Noise and Vibration

The proposed use/s, including operation of vehicles, shall be conducted so as to avoid unreasonable noise or vibration and cause no interference to adjoining or nearby occupations. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like. In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out, an acoustic investigation by an appropriate acoustical consultant and submit the results to Council. If required by Council, the person in charge of the premises shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

32. Lighting

Illumination of the site is to be arranged in accordance with the requirements of Australian Standard 4282_2019 Control of the obtrusive effects of outdoor lighting so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises.

33. Public Address System

No public address system or sound amplifying equipment shall be installed so as to permit the emission of offensive noise, as defined by the Protection of the Environment Operations Act 1997, onto any private premises or public place.

34. Acoustic Report

An acoustic report is to be prepared and submitted to Council for its assessment and approval between nine (9) and twelve (12) months of occupation/completion of the development and/or at any time there is a verifiable noise complaint. The report shall include but is not limited to the following information:

- a. Noise measurements taken at the nearing noise sensitive locations as indicated in the Acoustic Assessment

- b. Verification that noise levels at the nearest potentially affected receiver comply with all relevant assessment criteria detailed in the abovementioned report;
- c. All complaints received from local residents in relation to the operation of the premises/development.
- d. Where noise measurements required under point a) above indicate that the relevant assessment criteria are exceeded, recommendations shall be provided in relation to how noise emissions can be satisfactorily reduced to comply with the assessment criteria.

Following written approval from Fairfield City Council, any recommendations provided under point d) above shall be implemented fully.

Note: Verifiable noise complainant is assessed and deemed verified at the discretion of Council Officers.

35. NSW Protection of the Environment Operations Act 1997

The use of the premises shall operate in accordance with the Protection of the Environment Operations Act (POEO) 1997. All activities and operations carried out shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined under the Protection of the Environment Operations Act 1997.

36. Buried Waste

Should buried materials/wastes or the like be uncovered during the excavation of footings or trenches on site works, Council's Environmental Management Section is to be contacted immediately for advice on the treatment/removal methods required to be implemented.

37. Environmental Audit

Within 12 to 18 months of occupation/completion of the development, the company shall carry out a comprehensive Environmental Audit of the premises and submit a report on the audit to Council for approval. This audit is to be carried out at the company's expense by a duly qualified independent person or team to be approved by Council. Further, the company shall, at its own expense, comply with any requests of Council in respect of the implementation of any measures arising from the audit, within such time as Council may agree. Further audits will be required every 12 months from the due date or such longer period as may be agreed to by Council.

38. Signage Conditions

The proposed signage is subject to the following conditions:

- i. Sign to be non-flashing.
- ii. Sign to be maintained in a manner satisfactory to Council at all times.

- iii. Submission of a certificate of adequacy from a practising structural engineer upon erection of the sign.
- iv. Overall height of the sign not to exceed 8 metres.
- v. The sign is to be setback a minimum distance of 1 metre from the property boundary. No portion of the sign is to infringe the setback.
- vi. Under no circumstances shall any signs be erected above the wall to which the signs are attached.
- vii. The sign shall be erected in accordance with manufacturer's specifications.
- viii. Signage must be installed on-site in accordance with Section 4.4.2 of the 327-335 Burley Road, Horsley Park Development Control Plan, March 2016.

HERITAGE CONDITIONS

39. Ongoing Engagement with Expert Consultants

The project team should continue to engage with an appropriately qualified professionals who can advise on Aboriginal heritage for the duration of the project.

Reason: To ensure that the procurement of the development is appropriately managed from an Aboriginal heritage perspective.

40. Archaeology

In accordance with Section 146 of the NSW Heritage Act, during the demolition, excavation or construction works; if any deposits, objects or relics are uncovered; the works are to stop immediately and the NSW Heritage Council notified of the discovery.

Depending on the nature of the discovery and advice from the NSW Heritage Council, an application for an excavation permit under Section 140 of the NSW Heritage Act may be required to be made.

Reason: To be consistent with the provisions of the NSW Heritage Act (1977).

41. Indigenous Heritage

In accordance with Council's Aboriginal Heritage Study, this condition is applied in addition to Condition Archaeology (above) to ensure that any objects of potential indigenous significance are protected. Such objects are not specifically protected by the relics provision as outlined by the NSW Heritage Council.

The National Parks & Wildlife Act (1974) provides statutory protection for all Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) under Section 90 of the Act, and for 'Aboriginal Places' (areas of cultural significance to the Aboriginal community) under Section 84. It is an offence to harm either an Aboriginal object or Aboriginal Place in NSW. The Act defines an Aboriginal 'object' as:

‘any deposit, object or material evidence (not being a handicraft for sale) relating to indigenous and non-European habitation of the area that comprises New South Wales, being habitation before or concurrent with the occupation of that area by persons of non-Aboriginal European extraction, and includes Aboriginal remains’.

Works must be stopped in the instance where there is a suspected discovery of an ‘object’ in accordance with the above definition and a valid and applicable Aboriginal Heritage Impact Permit be obtained under Section 90 of the NPW Act.

Reason: To be consistent with the provisions of the National Parks & Wildlife Act (1974) and ensure the protection of all objects that are significant.