

**BURRELL**  
**SOLICITORS** <sup>ILP</sup>

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Our Ref. S3476

Industry Assessments  
Dept of Planning & Environment  
23-33 Bridge Street  
**SYDNEY NSW 2000**

**Attention Jane Flanagan, Senior Planner**

**RE: ADVICE CONCERNING CONSENT FOR EXISTING WORKS & STRUCTURES**

Further to our meeting of 18 March 2015 and discussion regarding the proposed SSSD Consent and:

- i) Previous development consent DA 2009/1153 [and later section 96 modifications] - whether these can be relinquished upon granting of the SSSD Consent; and
- ii) Existing works and structures on the site intended to be retained and relied upon for the operation of the proposed SSSD Consent - whether any of these are unauthorised and query, whether if so, these can be legitimised if at all by the ensuing SSSD Consent.

**Existing works and Structures**

On 7 May 2015, Wollongong City Council approved section 96 application DA 2009/1153D which encompasses all of the existing works and structures on the site 'as built'. Council has power to grant such consent even though in effect it is retrospective in respect of works/structure which were undertaken/erected prior to consent being granted - *Windy Dropdown P/L v Warringah Council* [2000] NSWLEC 240

**Previous Consents**

There is now no reason once the SSSD has been granted to retain any of the previous consents provided these have been acted upon in respect of the physical site works and structures relied upon for the operation of the proposed SSSD Consent. The applicant will therefore accept any reasonable condition of consent requiring DA 2009/1153A & DA 2009/1153D be extinguished after any requisite occupation certificate under those consents has been issued. This will preserve the lawfulness of the works and structures undertaken/erected under those consents.

**Yours faithfully**  
**BURRELL SOLICITORS** <sup>ILP</sup>



**JOHN BURRELL**  
**Principal**