

From: [Adam Croft](#)
To: [DA Admin Mailbox](#)
Cc: [Lauren Robins](#)
Subject: FW: NSW Government concurrence and referral request (CNR-52301): Request for consideration returned
Date: Tuesday, 13 June 2023 2:30:15 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)

Hi Lauren,

Based on the below email from Heritage NSW, the proposal does not require an approval under the Heritage Act. Can you please withdraw the referral as requested by Heritage?

Kind Regards,

Adam Croft

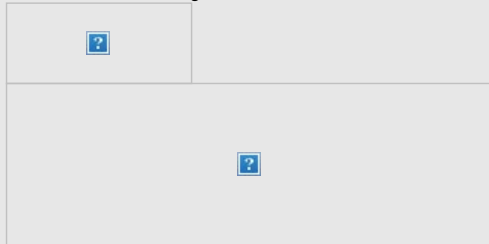
Principal Planner

Development Assessment - North Team

t 02 8495 6496

adam.croft@northernbeaches.nsw.gov.au

northernbeaches.nsw.gov.au



From: James Quoyle <James.Quoyle@environment.nsw.gov.au>

Sent: Tuesday, June 13, 2023 12:35 PM

To: Adam Croft <adam.croft@northernbeaches.nsw.gov.au>

Cc: NSW Planning <planning.apps@planning.nsw.gov.au>; Tempe Beaven <Tempe.Beaven@environment.nsw.gov.au>

Subject: RE: NSW Government concurrence and referral request (CNR-52301): Request for consideration returned

<https://szabosolicitors.com.au/blog/entry/clarifying-the-meaning-of-land-where-a-heritage-item-is-situated>

Hi Adam

Thank you for confirming the *subject application does not involve any works within the established SHR curtilage* (8 June 2023).

The issue you raise regarding Council's interpretation that '*any development on a site containing a SHR listing would require an approval, unless there is a specific reference to the curtilage of the item or an exemption for development works not within the SHR curtilage*' was recently tested in the Courts (see attached link), specifically the meaning of land where a SHR heritage item is situated.

The Court of Appeal disagreed with a decision of the NSW Land & Environment Court (LEC) and, in doing so, clarified the meaning of 'land' as it applies to s57(1)(e) Heritage Act 1977 (NSW). HNSW is bound by this definition of 'land' and if the works are not within the hatched area of the SHR curtilage, the DA does not require approval by the Heritage Council of NSW.

Therefore the referral of the current DA in CNR and HMS should be withdrawn.

Regards

James

From: Adam Croft <adam.croft@northernbeaches.nsw.gov.au>

Sent: Thursday, 8 June 2023 12:05 PM

To: James Quoyle <James.Quoyle@environment.nsw.gov.au>

Cc: NSW Planning <planning.apps@planning.nsw.gov.au>; Tempe Beaven <Tempe.Beaven@environment.nsw.gov.au>

Subject: RE: NSW Government concurrence and referral request (CNR-52301): Request for consideration returned

Hi James,

Thank you for your response.

I can confirm that the subject application does not involve any works within the established SRH curtilage.

However, I note that S57(1)(e) of the Act refers to the carrying out of "**any development in relation to the land on which the building, work or relic is situated, the land that comprises the place, or land within the precinct**".

Council's interpretation of this provision is that any development on a site containing a SHR listing would require an approval, unless there is a specific reference to the curtilage of the item or an exemption for development works not within the SHR curtilage. Are you able to advise if any such reference or exemption exists?

Kind Regards,

Adam Croft

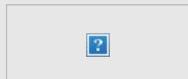
Acting Manager, Development Assessments

Development Assessment - North Team

t 02 8495 6496

adam.croft@northernbeaches.nsw.gov.au

northernbeaches.nsw.gov.au





From: James Quoyle <James.Quoyle@environment.nsw.gov.au>

Sent: Wednesday, June 7, 2023 12:38 PM

To: Adam Croft <adam.croft@northernbeaches.nsw.gov.au>

Cc: NSW Planning <planning.apps@planning.nsw.gov.au>; Tempe Beaven <Tempe.Beaven@environment.nsw.gov.au>

Subject: RE: NSW Government concurrence and referral request (CNR-52301): Request for consideration returned

Dear Adam

Further to our conversation about HMS 2870 for works at 6 Namona Street North Narrabeen and your request for clarification the DA does not require referral to the Heritage Council of NSW, the supporting documents have been reviewed and the following comments are provided:

- S57 of the *Heritage Act 1977 - Effect of interim heritage orders and listing on State Heritage Register*
 - When an interim heritage order or **listing on the State Heritage Register** applies to a place, building, work, relic, moveable object, precinct, or land, a person must not do any of the following things except in pursuance of an approval granted by the approval body under Subdivision 1 of Division 3
- The process of **listing** requires the establishment of a curtilage. The SHR curtilage is mapped to define the extent of the **listing** and establishes an area that encloses all parts of the place that contribute to its state heritage significance (copy attached the area listed is red hatched area).

To enable assessment of this application please can you confirm the proposed works are within the SHR curtilage. If the works are not within the hatched area, the DA does not require referral for approval by the Heritage Council of NSW.

This advice does not relate to works that may impact archaeology of State significance which is protected whether within a curtilage or not. If within the curtilage it requires a Section 60 application and if outside the curtilage it requires a S140 application.

Regards

James



From: Adam Croft <adam.croft@northernbeaches.nsw.gov.au>

Sent: Wednesday, 7 June 2023 10:28 AM

To: James Quoyle <James.Quoyle@environment.nsw.gov.au>

Cc: NSW Planning <planning.apps@planning.nsw.gov.au>; Lily Chu <Lily.Chu@environment.nsw.gov.au>

Subject: RE: NSW Government concurrence and referral request (CNR-52301): Request for consideration returned

Hi James,

Hope you're well.

Just following up on our recent discussions regarding this application.

Could you please provide clarification as to why the proposal is not 'Nominated Integrated Development' under the Heritage Act and does not require referral to Heritage NSW at your earliest convenience?

Kind Regards,

Adam Croft

Acting Manager, Development Assessments

Development Assessment - North Team

t 02 8495 6496

adam.croft@northernbeaches.nsw.gov.au

northernbeaches.nsw.gov.au



From: Adam Croft

Sent: Monday, May 15, 2023 4:45 PM

To: 'james.quoyale@environment.nsw.gov.au' <james.quoyale@environment.nsw.gov.au>

Cc: 'NSW Planning' <planning.apps@planning.nsw.gov.au>

Subject: RE: NSW Government concurrence and referral request (CNR-52301): Request for consideration returned

Hi James,

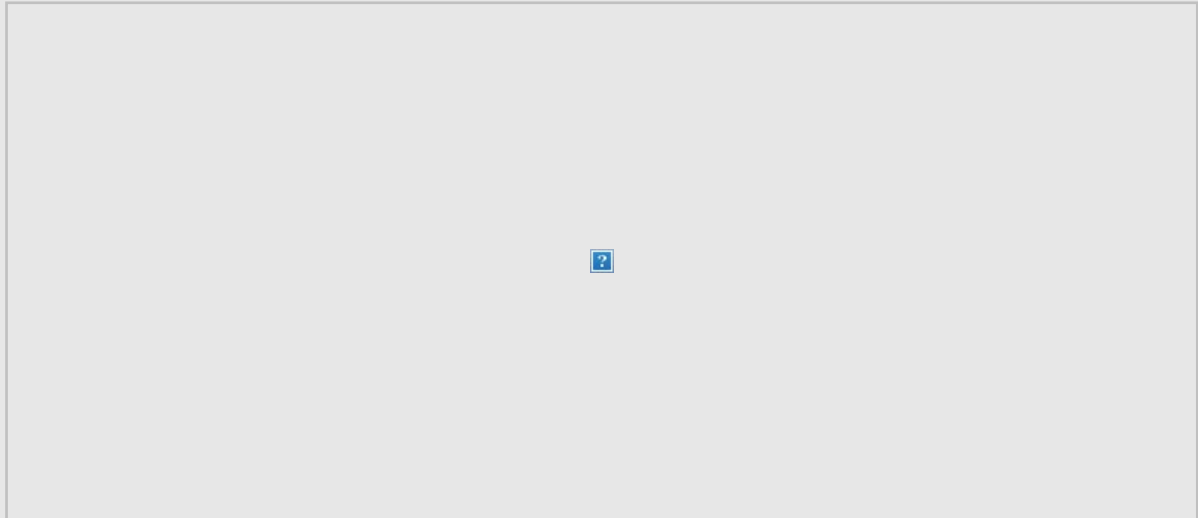
Hope you're well.

I'm following up regarding the below response to Council's referral request.

I think there may have been some confusion between the two concurrent applications relating to the site, the other application being DA2022/1649 (CNR-47009) for which GTA's were provided on 6 April 2022.

The subject application (DA2023/0127 / CNR-52301) referral is appearing in the Portal as approved with conditions, however the only response I can see is the is the rejected notification in the below email.

Could you please call me to discuss at your earliest convenience?



Kind Regards,

Adam Croft

Principal Planner

Development Assessment - North Team

t 02 8495 6496

adam.croft@northernbeaches.nsw.gov.au

northernbeaches.nsw.gov.au



From: NSW Planning <planning.apps@planning.nsw.gov.au>

Sent: Friday, March 10, 2023 11:46 AM

To: DA Planning Portal <daplanningportal@northernbeaches.nsw.gov.au>; dfp@dfpplanning.com.au

Subject: NSW Government concurrence and referral request (CNR-52301): Request for consideration returned



A request for consideration of development application PAN-303881 was submitted to DPE - Heritage NSW through the NSW Planning Portal on Friday, 10 March 2023. The Agency has returned this request.

The associated details are:

- NSW Planning Portal application reference number: PAN-303881
- Consent authority reference number: DA2023/0127
- Site address: 6 NAMONA STREET NORTH NARRABEEN 2101
- Concurrence and referral reference number: CNR-52301
- Clause/section reference/s:

Clause / Section name	Clause / Section type	Pre-assessment outcome
Other	Referral	Rejected

The Agency returned this request for the following reason/s: Please choose correct clause. Clause Other cannot be accepted..

Please log into the NSW Planning Portal to review the agency's response. Note: Any documentation provided by the Agency can be accessed via the "Documents" tab within the related development application or the concurrence and referral request within the "Related cases" tab.



Please contact DPE - Heritage NSW directly to discuss the refund of any fees, if relevant.

This email has been automatically sent through the NSW Planning Portal. Please do not reply to this message.

For more information or assistance, please visit the [NSW Planning Portal](#) and view our [Frequently Asked Questions](#) or [Quick Reference Guides](#). Alternatively, you can call our help line on 1300 305 695.

Northern Beaches Council

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