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| DEVELOPMENT ASSESSMENT REPORT | |
| Application No. | DA/2023/0857 |
| Address | 185 Parramatta Road HABERFIELD |
| Proposal | Removal of trees. |
| Date of Lodgement | 17 October 2023 |
| Applicant | Department of Planning & Environment |
| Owner | CO.AS.IT Lands Administration Ministerial Corporation |
| Number of Submissions | Initial: 0 |
| Value of works | \$6,500.00 |
| Reason for determination at Planning Panel | Removal of trees on heritage site where the gardens specifically form part of the heritage listing |
| Main Issues | N/A |
| Recommendation | Approved with Conditions |
| Attachment A | Recommended conditions of consent |
| Attachment B | Site plans and photos |

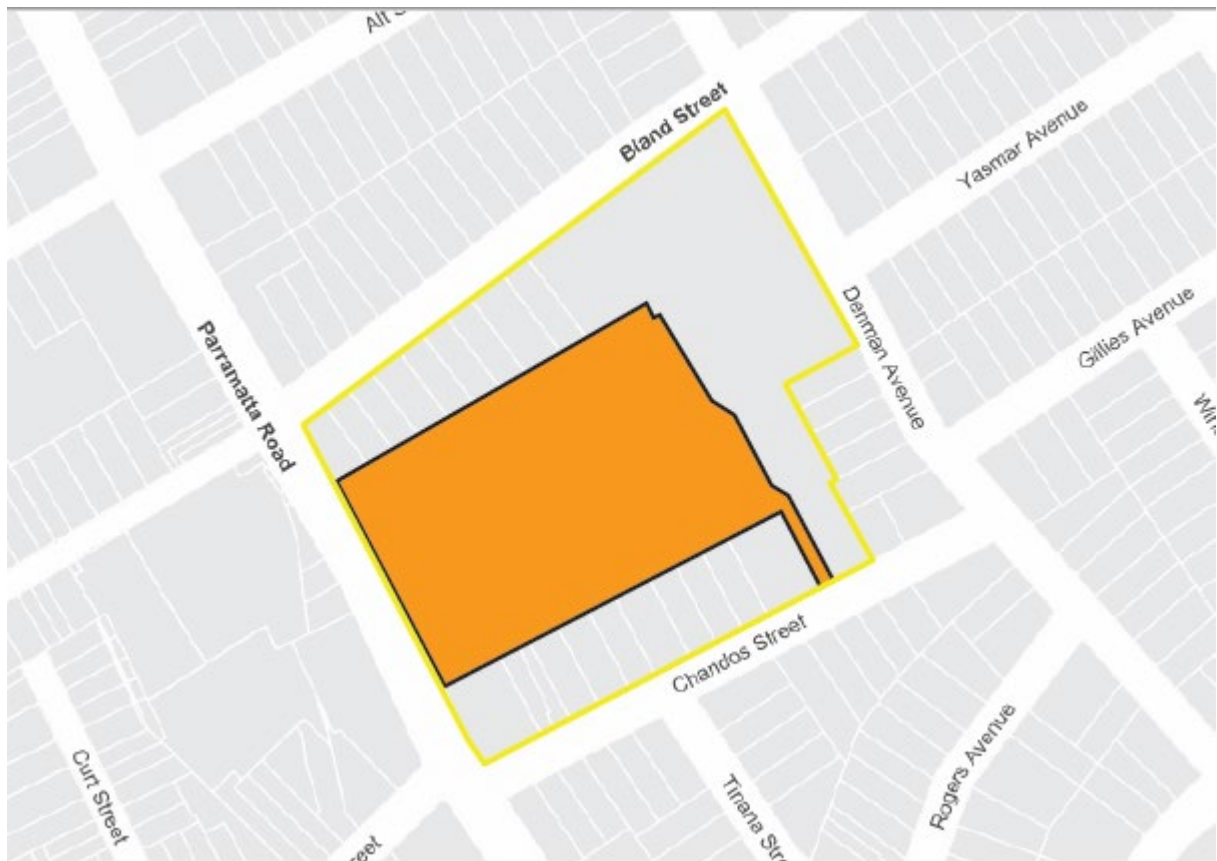






Figure 1: Locality Map

| | | | | |
|---------------|-------------------------------------------------------------------------------------|------------|---------------------------------------------------------------------------------------|-----|
| Subject Site |  | Objectors |  | ↑ N |
| Notified Area |  | Supporters |  | |

1. Executive Summary

This report is an assessment of the application submitted to Council for removal of trees at 185 Parramatta Road Haberfield.

The application was notified to surrounding properties and no submissions were received in response to notification.

The proposal generally complies with the applicable planning controls. The proposal will not result in any significant impacts on the streetscape or the amenity of the adjoining properties, subject to conditions of consent.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

2. Proposal

The application seeks development consent for tree removals.

Specifically, the application seeks to remove/prune thirteen (13) trees, including privet, jacaranda, box elder and fried egg plants, from within the site. These trees are located between the Yasmar House at the northern end of the eastern boundary and surrounding properties.

The subject trees are in close proximity to each other, forming parts of the internal courtyard and southern side of the Yasmar House. This is illustrated in Figures 2 and 3 for reference.



Figure 2: Site Plan



Figure 3: Site Plan

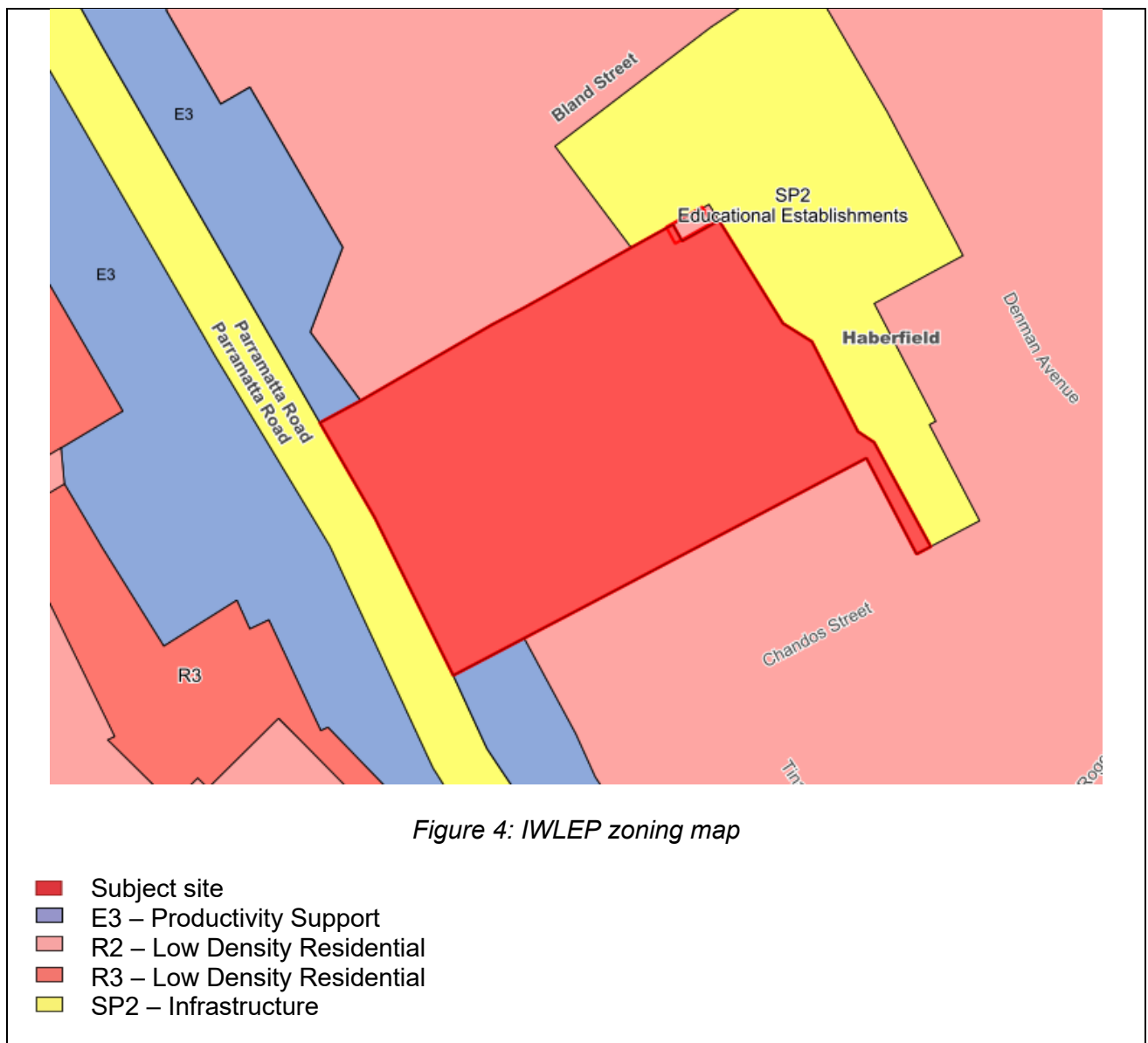
3. Site Description

The subject site is located on the eastern side of Parramatta Road, between Bland Street and Chandos Street. The site consists of two (2) allotments, is generally L – Shaped with a total area of 9,834 sqm and is legally described as Lot 1 and 2 in DP 1160724.

The site has a frontage to Parramatta Road and a secondary frontage to Chandos Street of approximately 6.8 metres.

The site contains Juvenile Justice – Yasmar Training Facility which consists of a number of single storey buildings with associated parking and landscaping. The adjoining properties support single storey detached dwelling houses.

The subject site is listed as a State Item of Heritage, known as “Yasmar House, including interiors and gardens” under Schedule 5 of the *IWLEP 2022*. The property is also located within the Haberfield Heritage Conservation Area (HCA).



4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

| Application | Proposal | Decision & Date |
|-----------------|----------------------------------------------------------------------------------------|---------------------|
| MOD/2021/0449 | Modification of approved tree works application to allow trees 16 and 17 to be removed | Approved 27/10/2022 |
| 0102019000186.1 | Tree removal and pruning | Approved 13/10/2020 |

4(b) Application history

The following table outlines the relevant history of the subject application.

| Date | Discussion / Letter / Additional Information |
|------------------|----------------------------------------------------------------------------------------------|
| 17 October 2023 | Application lodged with Council |
| 2 November 2023 | Council assessment planner and heritage advisor completed site inspection. |
| 06 November 2023 | Council urban forest officer completed site inspection. |
| 16 January 2024 | Delegate of the Minister reviewed drafted conditions of consent and confirmed no objections. |

5. Assessment

Heritage Act 1977

In accordance with Section 57(2) of the *Heritage Act 1977*, evidence has been provided that an exemption has been granted by the Minister for the carrying out of the proposed works on the State Item of Heritage.

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EPA Act 1979).

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy (Resilience and Hazards) 2021*

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

*“(a) it has considered whether the land is contaminated, and
 (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council’s records. The land will be suitable for the proposed use as there is no indication of contamination.

5(a)(ii) State Environmental Planning Policy (Biodiversity and Conservation) 2021**Chapter 2 Vegetation in non-rural areas**

The protection/removal of vegetation identified under the SEPP and gives effect to the local tree preservation provisions of Council's DCP.

The application seeks the removal of vegetation from within the site. The application was assessed in reference to relevant planning provisions and identified the following:

- Subject trees proposed for removal are located within the courtyard of the Yasmar house.
- All trees proposed for removed/pruning are of minor size and low landscape significance.
- Tree 13 (privet) is proposed for pruning, however the applicant has stated that if access is challenging or it proves to be impractical to retain the tree will be removed. No objections are raised to the pruning or removal of this tree.
- The proposal is supported, subject to conditions for additional planting which have been included in the recommendation of this report.

Overall, the proposal is considered acceptable with regard to the SEPP and Chapter C of the Comprehensive Inner West Development Control Plan 2016 (the DCP) subject to the imposition of conditions, which have been included in the recommendation of this report.

5(a)(iii) Inner West Local Environmental Plan 2022 (IWLEP 2022)

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022*:

- Section 1.2 - Aims of Plan
- Section 2.3 - Land Use Table and Zone Objectives
- Section 2.7 – Demolition requires development consent
- Section 5.10 – Heritage conservation
- Section 6.20 – Development on land in Haberfield Heritage Conservation Area

Section 1.2 – Aims of Plan

The proposal is consistent with the aims of the plan as it seeks:

- *To conserve and maintain the natural, built and cultural heritage of Inner West.*

Section 2.3 – Land Use Table and Zone Objectives

The site is zoned R2 Low Density Residential under the *IWLEP 2022*.

The existing use of the site as a training facility is not permitted under the provisions of IWLEP 2022. However, it is considered the use of the site meets the definition of an “existing use” under Clause (Cl.) 4.65 of the *EPA Act 1979* with consent for the use issued prior to the commencement of *IWLEP 2022*.

Notwithstanding the above, the subject application seeks consent for tree removal and pruning on the site and does not seek to alter the use of the land.

Section 2.7 – Demolition requires development consent

The proposal satisfies the section as follows:

- Demolition works are proposed, which are permissible with consent; and
- Standard conditions are recommended to manage impacts which may arise during demolition.

Section 5.10 – Heritage Conservation

The subject site is a listed heritage item, namely 'Yasmar House, including interiors and gardens' (Item No. I1060).

The proposal responds to the significance of the conservation area and preserves contributory elements and fabric of the existing heritage listed buildings.

An assessment of the proposed works in reference to Section 5.10 and relevant planning provisions under CIWDGP 2016 has identified the following matters:

- Many of these trees are adversely impacting on either the internal verandah flooring or the guttering.
- It is unlikely that these trees are original plantings due to their species and age.
- The proposed works are supported, subject to conditions to ensure all works to be completed in accordance with the 2003 Conservation Management Plan.

Given the above, the development preserves the environmental heritage of the Inner West.

Section 6.20 – Development on land in Haberfield Heritage Conservation Area

The objective of this clause is:

- *to maintain the single storey appearance of dwellings in the Haberfield Heritage Conservation Area*

The application does not alter the single storey appearance of dwellings within Haberfield and satisfies this Part.

5(b) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

| IWCDCP2016 | Compliance |
|--------------------------------------------|------------|
| Section 2 – General Guidelines | |
| A – Miscellaneous | |
| 5 - Landscaping | Yes |
| C – Sustainability | |
| 4 – Tree Management | Yes |
| E2 – Haberfield Heritage Conservation Area | Yes |

The following provides discussion of the relevant issues:

Chapter A – Part 5 Landscaping

Part 5 specifies Performance Criteria that must be achieved when considering a development application with regard to significant vegetation:

PC5. To retain, protect and integrate significant vegetation within development

Comment: The subject trees are not considered to constitute significant vegetation worthy of retention and the proposal satisfies this part.

Chapter C – Part 4 Tree Management

Part 4 stipulates the following objectives with respect to protection and management of trees within the Inner West LGA:

- O2 *To consider the safety of the community, private property, and public infrastructure assets.*
- O5 *To maintain and enhance the amenity of the Inner West Local Government Area through the preservation of appropriate trees and vegetation.*

Comment: The proposal is considered acceptable with regard to the relevant provisions of this Part, in accordance with the *State Environmental Planning Policy (Biodiversity and Conservation)* discussion above.

Chapter E2 – Haberfield Heritage Conservation Area

Chapter E2 sets out objectives for developments within the Haberfield HCA as follows:

- To keep the qualities which contribute to the heritage significance of the historic suburb of Haberfield;*
- To allow necessary change, but only where it will not remove or detract from those special qualities;*

Comment: The subject trees do not exhibit contributory character and removal of these trees are acceptable on heritage grounds.

5(c) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

5(d) The suitability of the site for the development

Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(e) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties.

No submissions were received in response to the initial notification.

5(f) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is not contrary to the public interest.

5(g) Section 4.33(1)(b) of the *Environmental Planning and Assessment Act 1979*

In accordance with Section 4.33(1)(b), a consent authority must not “impose a condition on its consent to a Crown development application, except with the approval of the applicant or the Minister”.

On 16 January 2024, a delegate of the Minister confirmed that there were no objections to the proposed conditions of consent.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Heritage
- Urban Forest

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal as the carrying out of the development would not result in an increased demand for public amenities and public services within the area.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Inner West Comprehensive Development Control Plan (DCP) 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2023/0857 for removal of trees at 185 Parramatta Road, HABERFIELD subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

GENERAL CONDITIONS

1. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

2. Tree removals

1. The tree removals/prunings are to be completed in accordance with the 2003 Conservation Management Plan prepared by the Heritage Design Services of Department of Public Works and Services.
2. If unexpected archaeological deposits are found during the works covered by this approval, work must cease in the affected area(s) and the Office of Environment & Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

3. Works to Trees

Approval is given for the following works to be undertaken to trees on the site.

| Tree/location | Approved works |
|-------------------------------------------------|-----------------------------------------|
| Trees 1, 2, 7. <i>Ligustrum lucidum</i> x 3. | 3 trees approved for removal. |
| Tree 13. <i>Ligustrum lucidum</i> x1 | 1 tree approved for pruning or removal. |
| Trees 3, 8, 10, 11, 12. <i>Acer negundo</i> x 5 | 5 trees approved for removal |
| Tree 4. <i>Jacaranda mimosifolia</i> x 1 | 1 tree approved for removal |
| Tree 5. <i>Polyscias elegans</i> | 1 tree approved for removal |
| Tree 6. <i>Gordonia axilaris</i> | 1 tree approved for removal |
| Tree 9. Unidentified dead tree. | 1 tree approved for removal |

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and shall be retained and protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

DURING DEMOLITION AND CONSTRUCTION**4. Construction Hours – Tree Removal**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

PRIOR TO OCCUPATION CERTIFICATE**5. Certification of Tree Planting**

A minimum of 1 x 75 litre size tree, which will attain a minimum mature height of 12 metres, must be planted in a more suitable location within the property at a minimum of 1.5 metres from any boundary or structure and allowing for future tree growth. The tree is to conform to AS2303—*Tree stock for landscape use*. Trees listed as exempt species from Council's Tree Management Controls, Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements.

If the replacement trees are found to be faulty, damaged, dying or dead within twelve (12) months of planting then they must be replaced with the same species (up to 3 occurrences). If the trees are found dead before they reach a height where they are protected by Council's Tree Management Controls, they must be replaced with the same species.

ADVISORY NOTES**Storage of Materials on public property**

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Useful Contacts

BASIX Information

1300 650 908 weekdays 2:00pm - 5:00pm

| | |
|----------------------------------------------|----------------------------------------------------------------------------------|
| | www.basix.nsw.gov.au |
| Department of Fair Trading | 13 32 20 |
| | www.fairtrading.nsw.gov.au |
| | Enquiries relating to Owner Builder Permits and Home Warranty Insurance. |
| Dial Prior to You Dig | 1100 |
| | www.dialprior toyoudig.com.au |
| Landcom | 9841 8660 |
| | To purchase copies of Volume One of "Soils and Construction" |
| Long Service Payments Corporation | 131441 |
| | www.lspc.nsw.gov.au |
| NSW Food Authority | 1300 552 406 |
| | www.foodnotify.nsw.gov.au |
| NSW Government | www.nsw.gov.au/fibro |
| | www.diySAFE.nsw.gov.au |
| | Information on asbestos and safe work practices. |
| NSW Office of Environment and Heritage | 131 555 |
| | www.environment.nsw.gov.au |
| Sydney Water | 13 20 92 |
| | www.sydneywater.com.au |
| Waste Service - SITA Environmental Solutions | 1300 651 116 |
| | www.wasteservice.nsw.gov.au |

Water Efficiency Labelling and Standards (WELS) www.waterrating.gov.au

WorkCover Authority of NSW 13 10 50

www.workcover.nsw.gov.au

Enquiries relating to work safety and asbestos removal and disposal.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Consent of Adjoining property owners

This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. Where access to adjacent land is required to carry out approved tree works, Council advises that the owner's consent must be sought. Notification is the responsibility of the person acting on the consent. Should the tree owner/s refuse access to their land, the person acting on the consent must meet the requirements of the *Access To Neighbouring Lands Act 2000* to seek access.

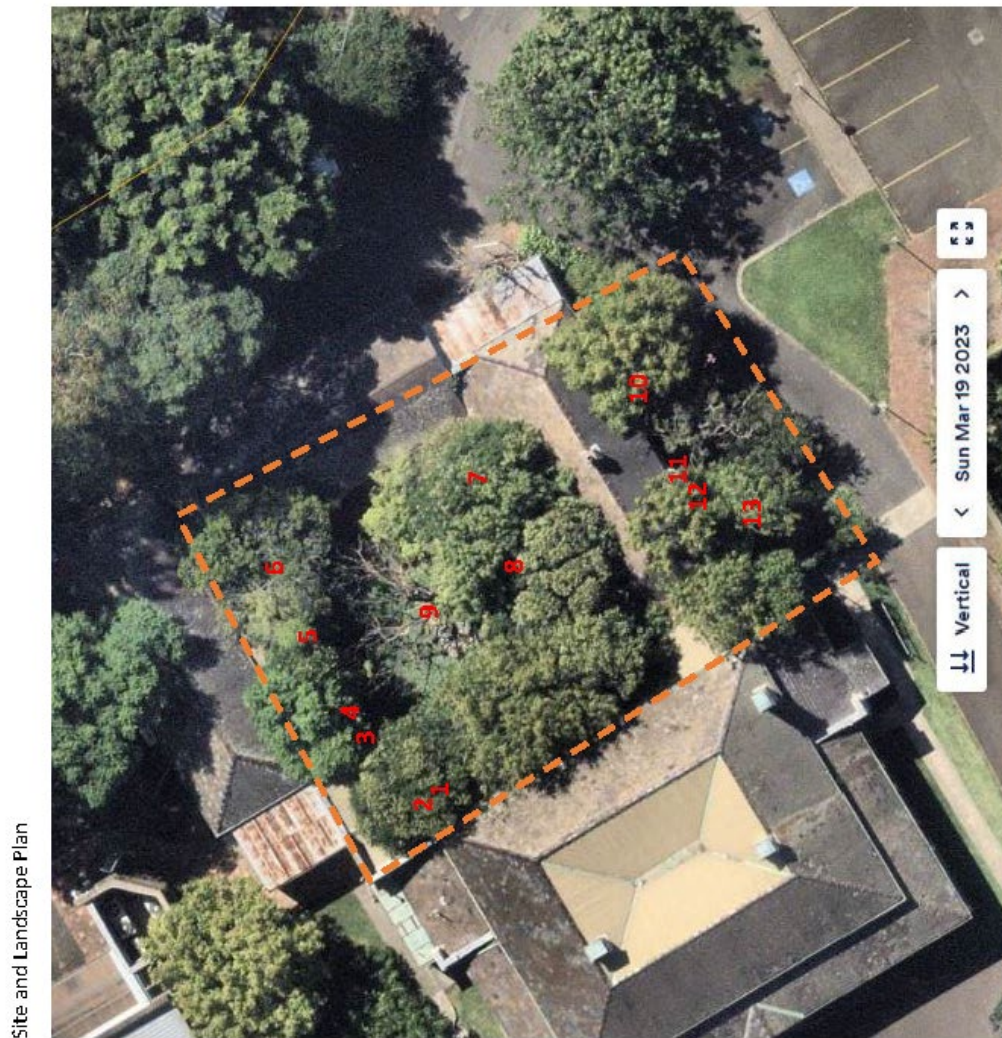
Tree Pruning or Removal (including root pruning/mapping)

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved and must be retained and protected in accordance with Council's *Development Fact Sheet—Arborist Reports*.

Arborists standards

All tree work must be undertaken by a practicing Arborist. The work must be undertaken in accordance with AS4373—*Pruning of amenity trees* and the Safe Work Australia Code of Practice—*Guide to Managing Risks of Tree Trimming and Removal Work*. Any works in the vicinity of the Low Voltage Overhead Network (including service lines—pole to house connections) must be undertaken by an approved Network Service Provider contractor for the management of vegetation conflicting with such services. Contact the relevant Network Service Provider for further advice in this regard.

Attachment B – Site Plans and Photos



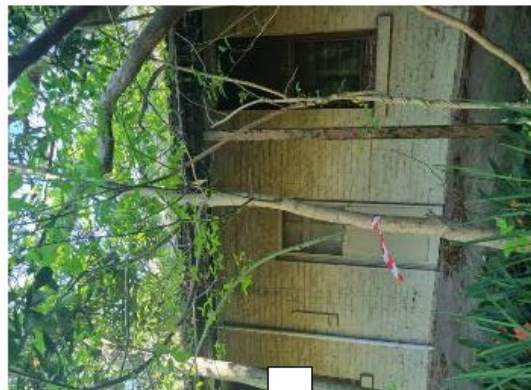




3 and 4



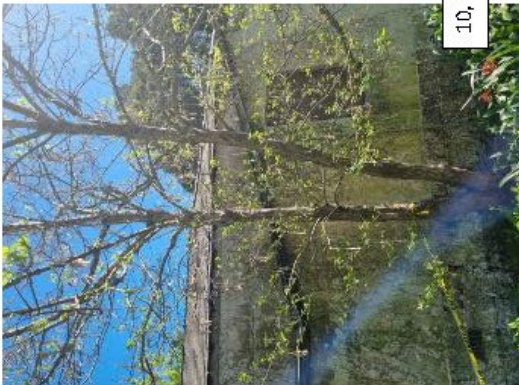
1 and 2







10, 11, 12



10, 11, 12



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