

 <h1 style="display: inline; margin-left: 10px;">INNER WEST COUNCIL</h1>			
DEVELOPMENT ASSESSMENT REPORT			
Application No.	10.2019.42.1		
Address	55 Holborow Street, Croydon		
Proposal	Tree Removal		
Date of Lodgement	1 April 2019		
Applicant	Mr M S Thomas		
Owner	Mr M S Thomas & Mrs C A Thomas		
Number of Submissions	Not required to be notified		
Value of works	\$9,000.00		
Reason for determination at Planning Panel	Heritage Item		
Main Issues	Heritage, Tree Management		
Recommendation	Approved with Conditions		
Attachment A	Recommended conditions of consent		
Attachment B	Statement of Heritage Significance		
			
Locality Map			
Subject Site		Objectors	N/A
Notified Area	N/A	Supporters	N/A

1. Executive Summary

This report is an assessment of the application submitted to Council for the removal of two trees at 55 Holborow Street, Croydon. The application was not required to be notified in accordance with Council's notification policy.

The main issues that have arisen from the application include heritage and tree management.

2. Proposal

Approval is sought to remove the following trees from the rear yard of the subject site:

- Tree 1 – *Liquidamba styracifula* (Liquidambar); and
- Tree 2 – *Eucalyptus saligna* (Sydney Blue Gum).

An Arborist Report was submitted with the development application which recommended the following:

- Tree 1 be removed given its questionable structural stability as a result of several unexplained live branch failures. The tree is not significant in the landscape and should be removed and replaced with a tree with greater longevity and predictable structural condition; and
- Tree 2 should be maintained given it is in good health and good condition.



Image 1: Tree 1 (Liquidambar)



Image 2: Tree 2 (Sydney Blue Gum)

3. Site Description

The subject site is located on the western side of Holborow Street, between Arthur Street and Mills Street. The site has a total area of approximately 485.5sqm and is legally described as Lot C in Deposited Plan 433671.

The site supports a two storey dwelling house. The adjoining properties support one and two storey dwelling houses.

The subject site is listed as a heritage item, identified as Item No.406 in the Ashfield LEP.



Image 3: Site Photo

4. Background

4(a) Site history

There is no relevant development history for the subject site.

4(b) Application history

There is not relevant history for the subject application.

5. Assessment

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*.

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy No. 55—Remediation of Land*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Ashfield Local Environmental Plan 2013*

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. CIWDCP 2016 provides controls and guidelines for remediation works. *SEPP 55* requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with *SEPP 55*.

5(a)(ii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

An assessment has been made of the matters set out in Division 2 Matters for Consideration of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*. It is considered that the carrying out of the proposed development is generally consistent with the relevant matters for consideration of the Plan and would not have an adverse effect on environmental heritage, the visual environment, the natural environment and open space and recreation facilities.

5(a)(iii) State Environmental Planning Policy (Vegetation in Non-Rural Areas) (Vegetation SEPP)

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 concerns the protection of trees identified under Comprehensive Inner West Development Control Plan 2016.

The application seeks consent for the removal of two (2) trees from the site that are protected under CIWDCP 2011. The issue of tree management is discussed later in this report under the provisions of Section 2, Chapter C of CIWDCP 2011.

5(a)(iv) Ashfield Local Environment Plan 2013 (ALEP 2013)

Clause 2.3 - Land Use Table and Zone Objectives

The property is zoned R2 – Low Density Residential under the provisions of ALEP 2013.

The development is considered acceptable having regard to the objectives of the R3 – Medium Density Residential zone.

Clause 5.10 – Heritage Conservation

The subject site is identified as a heritage item under the provisions of ALEP 2013, name Item No.406 known as “House”.

The proposed trees are located in the rear yard. Given the poor condition of Tree 1 (Liquidambar), it is considered that it does not contribute to the heritage significance of the property. Tree 2 (Sydney Blue Gum) shows high landscape and environmental significance given it shows good condition and is of high retention value.

As such, it is considered reasonable having regard to Clause 5.10(4) of ALEP 2013 to remove and replace Tree 1 with a more suitable tree and retain Tree 2.

5(b) Draft Environmental Planning Instruments

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

Draft Environment SEPP

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

The application has been assessed against the following relevant provisions of the Comprehensive Inner West Development Control Plan 2015:

Section 2, Chapter C – Sustainability

The application was referred to Council's Tree Management Officer. Council's Tree Management Officer raised no objection to the removal of Tree 1 (Liquidambar) given the recent large limb failure has opened the canopy, exposing wounded limbs to environmental stresses with expected further branch failure. Appropriate conditions of consent have been imposed regarding the replacement planting of a tree with sufficient canopy cover.

Council's Tree Management Officer has objected to the removal of Tree 2 (Sydney Blue Gum) given the tree shows high landscape and environmental significance, has high retention value and shows good condition and structure. Appropriate conditions of consent have been imposed regarding the retention of Tree 2 (Sydney Blue Gum).

Subject to the retention of Tree 2 (Sydney Blue Gum) and replacement planting of Tree 1 (Liquidambar) it is considered that the application ultimately achieves the aims and objectives of the Comprehensive Inner West Development Control Plan 2016.

5(d) 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(e) 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(f) Any submissions

In accordance with the CIWDCP 2016 the application was not required to be notified.

5(g) 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.

6 Referrals

6(a) Internal

The application was referred to Council's Tree Management Officer who has requested Tree 2 (Sydney Blue Gum) be retained and raised no objection to the removal of Tree 1 (Liquidambar) subject to appropriate replacement planting.

7. Section 7.12 Levy

The cost of works is under \$100,000.00 and therefore no contribution applies.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Ashfield Local Environmental Plan 2013 and Comprehensive Inner West 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 development would result in significant impacts on the amenity of the adjoining premises/properties and the streetscape and is not considered to be in the public interest.

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

9. Recommendation

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.10.2019.42.1 for tree removal subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

Attachment A – Recommended conditions of consent

GENERAL

(1) Tree Removal

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

Tree/location	Approved works
Tree 1 <i>Liquidamber styraciflua</i> (Liquidamar) Rear	Remove tree

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved.

(2) Tree Retention

The trees identified below are to be retained and protected during site works:

Tree/location
Tree 2 <i>Eucalyptus saligna</i> (Sydney Blue Gum) Rear

(3) Replacement Planting

The following trees must be planted:

A minimum of one (1) x 75 litre size replacement tree, which will attain a minimum mature height of eight (8) metres, shall be planted in a suitable location within the property at a minimum of 1.5m from any boundary or structure. The tree is to conform to AS2303—*Tree stock for landscape use*.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

Note: any replacement tree species must not be a palm tree species or tree species listed as an exempt species under Council's Tree Management Controls.

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. 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.

(4) Canopy Replenishment

The canopy replenishment tree required by this consent is to be maintained in a healthy and vigorous condition until it attains a height of 6 metres whereby it will be protected by Council's Tree Management Controls. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species within 2 months.

(5) Compliance with BCA

All works are to comply with the Building Code of Australia and relevant Australian Standard requirements.

(6) Hours of Work

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:

- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

"Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

Noise arising from the works must be controlled in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

(7) Occupational Health and Safety

All site works must comply with the occupational health and safety requirements of the SafeWork NSW.

(8) Tree Preservation

Where tree removal or work has not been approved by this Development Consent, the developer is notified that a general Tree Preservation Order applies to all trees (with the exception of certain species) in the Municipality of Ashfield with a height greater than five (5) metres. This order prohibits the ringbarking, cutting down, topping, lopping*, pruning, transplanting, injuring or wilful destruction of such trees except with the prior approval of the Council. Written consent from Council for such tree works must be in the form of a "Tree Preservation Order Permit for Pruning or Removal of Protected Trees" to be obtained from Council.

* Lopping may be carried out without consent only to maintain a minimum clearance of 500mm from power lines, pruning to remove dead wood/branches and minor pruning of branches overhanging buildings to a height of 2 metres only with the agreement of the owner of the tree. Contact Council's One Stop Shop - telephone 9716 1800, for details of the Tree Preservation Order.

Attachment B – Statement of Heritage Significance

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House

Item details

Name of item: House

Type of item: Built

Group/Collection: Residential buildings (private)

Category: House

Primary address: 55 Holborow Street, Croydon, NSW 2131

Local govt. area: Ashfield

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
55 Holborow Street	Croydon	Ashfield			Primary Address

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Ashfield LEP 2013	406	23 Dec 13		
Heritage study					