INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT	
Application No.	10.2019.69
Address	89 Smith Street, Summer Hill
Proposal	Removal of tree from a Heritage listed site
Date of Lodgement	22 May 2019
Applicant	Nick Hibberd
Owner	[redacted]
Number of Submissions	Thirteen (13)
Value of works	$8,000
Reason for determination at Planning Panel	Number of submissions received exceeds officer delegations.
Main Issues	Tree Management
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Arborist Report
Attachment D	Builders Report
Attachment E	Conditions in the circumstance the application is approved

LOCALITY MAP

Subject Site		Objectors	N
Notified Area		Supporters	

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for the removal of a tree at 89 Smith Street, Summer Hill. The application was notified to surrounding properties in accordance with Council's Notification Policy and thirteen (13) submissions were received.

The main issues that have arisen from the application include:

- The application seeks to remove a tree from the site, which provides high landscape and environmental significance.

Given the above, the application is not supported and refusal is recommended.

2. Proposal

Approval is sought to remove the existing Eucalyptus Robusta (Swamp Mahogany) Tree located within the front setback of the property at 89 Smith Street, Summer Hill. The site contains a single storey dwelling house.

3. Site Description

The subject site is located on the northern side of Smith Street, between Lackey Street and Fleet Street, Summer Hill. The site consists of one (1) allotment with a total area of 272sqm and is legally described as 89 Smith Street, Summer Hill.

The site has a frontage to Smith Street of 5 metres.

The site supports a single storey residential dwelling. The neighbouring property at 87 Smith Street contains a single story dwelling house of a similar scale. The property of 91-91A Smith Street contains a three storey residential flat building to the north of the subject site. The residential flat building of 91-91A is accessed by a driveway and footpath to the immediate west of the subject site.

The subject site forms part of a heritage item under the provisions of ALEP 2013 namely Item No.622 – "Terrace Houses", a row of six (6) single storey dwelling houses from number 79-89 Smith Street.

The following trees are located on the site and within the vicinity.

- One (1) *Eucalyptus Robusta* (Swamp Mahogany) - Contained within the front setback of the subject site adjoining Smith Street.
- Five (5) *Palm Trees* - adjacent to the western boundary of the property.

Image 1: Subject Site & Tree

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
10.2019.99	Alterations and additions to existing dwelling	Under Assessment

Surrounding properties

Application	Proposal	Decision & Date
10.2019.008.1 87 Smith Street	Alterations and additions to an existing dwelling including rear two storey addition and garage.	Approved 10/09/2019

4(b) Application history

The application was submitted to council on 22 May 2019. No additional information or amended plans have been requested as part of this application.

5. Assessment

The following is a summary of the assessment of the application in accordance with 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 (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)(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 the Comprehensive Inner West Development Control Plan 2016 (CIWDCP 2016).

The application seeks consent for the removal of a *Eucalyptus Robusta* (Swamp Mahogany) from the site that is protected under the CIWDCP 2016.

An Arborist Report submitted with the application recognises that the tree is mature, has average health, average vigour and below average form for the species. In this report, the tree has also been identified in having no significant defects within its structure that would warrant its immediate removal. The tree has a risk potential that is deemed to be a low risk to people and a low risk to property.

A Builders Report was submitted with the application that identifies rectifiable damage to the hardscapes however does not provide evidence regarding any structural damage to the dwelling house.

The tree is considered to be significant and not in decline. A prominent landmark feature of Smith Street being highly visible from the adjoining Smith Street Shopping Strip and the eastern length of Smith Street. Its height of 17 meters, canopy spread of 11 metres and structural stability mean the tree is of high landscape and retention value. The trees size and position provide a significant amount of amenity given that the tree is one of very few within the immediate landscape. The tree has caused minor structural damage to hardscapes on both the subject site and the neighbouring property however; these are considered rectifiable. Notwithstanding, the tree is a healthy specimen causing little damage to surrounding property and posing a low risk to people and property therefore its removal is not supported. The removal of a significant tree of high landscape and retention value presenting little risk to surrounding property is contrary to the Controls of Chapter A, Part 5 PC5 and Chapter F, Part 1 PC15 of the CIWDCP 2016.

As a result of the above it is considered the proposal does not satisfy Clauses 3(a) and 3(b) of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 which aims -

(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

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

An assessment has been made of the matters set out in Division 2 Maters 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 maters for consideration of the Plan and would not have an adverse effect on the natural assets and heritage significance of the Sydney Harbour Catchment.

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

The application was assessed against the following relevant clauses of the ALEP 2013:

Clause 1.2 – Aims of Plan
The removal of the tree is contrary to the following aims of the ALEP 2013
- (2)(a) to promote the orderly and economic development of Ashfield in a manner that is consistent with the need to protect the environment
- (2)(c) to identify and conserve the environmental heritage of Ashfield,
- (2)(h) to ensure that development has proper regard to environmental constraints and minimises any adverse impacts on biodiversity, water resources, riparian land and natural landforms.

The removal of the tree is not considered acceptable in regard to the objectives of clause 1.2 of the 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 proposal, being ancillary to the existing residential uses is permissible within the zone.

The removal of the tree is considered acceptable in regard to the objectives of the R2 – Low Density Residential zone.

Clause 5.10 – Heritage Conservation
The subject site is listed as a heritage item under the provisions of ALEP 2013, namely Item No.622 – “Terrace Houses” a row of 6 terrace houses that stretches from 79 Smith Street to 89 Smith Street. The tree is not of any individual heritage significance and it may have been accidentally sewn or planted, the dwellings have since adjusted to its roots and presence.

The removal of the tree is neither opposed nor supported in regard to the aims and objectives of Clause 5.10, as it will have neutral implications on the heritage significance of the item.

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 2016:

CIWDCP 2016 – Chapter A: Miscellaneous – Part 5				
Control No.	**Control**	**Standard**	**Proposed**	**Compliance**
PC5.	Significant Vegetation	To retain, Protect and integrate significant vegetation within development ***Note:*** *Significant vegetation can include that which provides wildlife habitat, contributes to visual character and appeal of the street or neighbourhood or increases the amenity of the site, street or neighbourhood*	Removal of significant vegetation.	No – Refer to section 5(a)(i)
CIWDCP 2016 Chapter E1: All Heritage Items and Conservation Areas (excluding Haberfield) – Part 2				
Control No.	**Control**	**Standard**	**Proposed**	**Compliance**
C1	External Form and Setting	Retain significant settings, garden and landscape features and details.	Removal of a landscape/garden feature that is not contributory to the heritage significance of the item.	Yes – Refer to section 5(a)(iii)

CIWDCP 2016 – Chapter F: Development Category Guidelines – Part 1				
Control No.	**Control**	**Standard**	**Proposed**	**Compliance**
PC15.	Significant Trees are Retained.	Significant trees that make a contribution to the landscape character, amenity or environmental performance of the site are retained.	Removal of significant tree that contributes to landscape character, amenity and environmental performance of the site.	No – Refer to section 5(a)(i)
PC15.	Significant Trees are Retained	Where retention of trees is impractical due to site constraints, tree removal trees or planting of new or replacement trees is to be consistent with the Tree Preservation Order within Part C4 – Tree Preservation and Management of this DCP	A new planting proposed.	No – Refer to section 5(a)(i)

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in regards to the loss of a significant vegetation.

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

The site is capable of accommodating the proposal however, as discussed in sections 5(a), 5(b) and 5(c) of this report the removal of the tree will have an adverse impact on the amenity of the site, neighbourhood, adjoining properties and is contrary to the aims and objectives of the Vegetation SEPP, ALEP 2013 and CIWDCP 2016. The removal of the tree is therefore considered unsuitable.

5(f) Any submissions

The application was notified in accordance with CIWDCP 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill for a period of 14 days to surrounding properties. A total of thirteen (13) submissions were received comprising of 10 objections and 3 in support of the application.

The objections raised the following concerns, which are discussed under the respective headings below:

Issue	Comment
Significant Tree	The removal of the tree would have significant impacts on the neighbourhood. The tree is as an important landscape feature and is one of the few large established trees remaining in the neighbourhood. This is agreed as assessed in sections 5(a), 5(b) and 5(c) of this report. Additionally, observations from the public suggest the tree plays host to a significant amount of biodiversity including birds, bats, possums, lizards and insects.
Shade and Privacy	The removal of the tree would diminish the amount of shade

	and privacy provided to the area especially in an area already lacking in mature vegetation. This is agreed, such a substantial tree and canopy will take many years to be replaced and provide the amenity currently offered by the tree. Its removal is therefore contrary to PC5 of Part 5 of Chapter A of the CIWDCP 2016, which seeks to retain significant vegetation and the amenity it provides to site, street and neighbourhood.
Loss of View	The tree is a substantial and characterising feature of Smith Street visible from the shopping village and neighbouring residential properties. PC15 of Part 1 of Chapter F of the CIWDCP 2016 seeks to retain significant trees that make a contribution to the landscape character, amenity or environmental performance of the site. Removal of the tree would result in a loss of this significant tree and the outlook and amenity it provides for neighbouring properties.

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 public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application to remove a significant tree from the Smith Street neighbourhood is considered to have departed from the relevant policies and would result in an outcome that would result in a negative impact for the community. Accordingly, it is considered that the proposal is contrary to the public interest.

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.

Tree Management – Refer to section 5 of this report

Heritage – Refer to section 5 of this report

Building – Refer to section 5 of this report

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions/7.12 levies are not payable for the proposal.

8. Conclusion

The proposal does not comply with the aims and objectives contained in the Vegetation SEPP, ALEP 2013 and the CIWDCP 2016 for Ashbury, Ashfield, Croydon, Croydon Park, Haberfield, Hurlstone Park and Summer Hill.

The tree is a healthy specimen of low risk to property and human life that provides amenity to the site, street and neighbourhood. The tree has caused rectifiable damage to hardscapes in both the subject site and the neighbouring property 87 Smith Street. The damage to the hardscapes is not significant enough to warrant its removal. Removal of the tree would result in the loss of significant vegetation as well as negative impacts on the amenity of the adjoining properties, and surrounding neighbourhood and is therefore not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

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 (EPA Act 1979),* refuse Development Application No. 10.2019.69 for the removal of a tree at 89 Smith Street, Summer Hill for the following reasons:

1. The removal of the tree is contrary to the aims and objectives set out by the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979. Specifically:

    a) Clause 3 – Aims of Policy

2. The removal of the tree is contrary to the aims and objectives of the Ashfield Local Environmental Plan 2013, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979. Specifically:

    a) Clause 1.2 – Aims of the Plan

3. The removal of the tree is contrary to the aims and objectives of the Comprehensive Inner West Development Control Plan 2016, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979. Specifically:

    a) Chapter A – Part 5 – Landscaping
    b) Chapter F – Part 1 – Dwelling Houses and Dual Occupancy

4. The removal of the tree will have an adverse impact on the subject site, adjoining properties and the public interest. Therefore it is considered that the proposal will have an adverse impact and is not in the public interest pursuant to Section 4.15(1)(d) and (e) of the Environmental Planning and Assessment Act 1979.

Attachment A – Reasons for refusal

Attachment A – Reasons for refusal

1. The removal of the tree is contrary to the aims and objectives set out by the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979. Specifically:

    a) Clause 3 – Aims of Policy

2. The removal of the tree is contrary to the aims and objectives of the Ashfield Local Environmental Plan 2013, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979. Specifically:

    a) Clause 1.2 – Aims of the Plan

3. The removal of the tree is contrary to the aims and objectives of the Comprehensive Inner West Development Control Plan 2016, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979. Specifically:

    a) Chapter A – Part 5 – Landscaping
    b) Chapter F – Part 1 – Dwelling Houses and Dual Occupancy

4. The removal of the tree will have an adverse impact on the subject site, adjoining properties and the public interest. Therefore it is considered that the proposal will have an adverse impact and is not in the public interest pursuant to Section 4.15(1)(d) and (e) of the Environmental Planning and Assessment Act 1979.

Attachment B – Plans of proposed development

APPENDIX

A - site plan

Tree proposed to be removed shown dotted in red

Aerial view

Appendix 4 Site Plan (for locating position of tree only)

Aerial image above showing the tree to the front of the property.

Attachment C – Arborist Report

Client	Alex Yiannikas
Location	89 Smith Street Summer Hill
Document Type	Arboricultural Risk Assessment & Assessment for Damage
Date/Time	4th May 2018

INSTITUTE OF AUSTRALIAN CONSULTING ARBORICULTURISTS
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Client	Alex Yiannikas
Location	89 Smith Street Summer Hill
Document Type	Arboricultural Risk Assessment & Assessment for Damage
Date/Time	4th May 2018

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2 Introduction

2.1 On the 30th April 2018 Mr Yiannikas engaged The Ents Tree Consultancy in regard to completing an assessment and tree report for tree located on the property to the front of 89 Smith Street Summer Hill. The client stated that the tree has been nominated to be inspected due to concerns over the trees position, the damage it is causing to the adjoining structures and the trees growth potential. The tree has already caused damage to the front entry path, adjoining path and is damaging clients house. The client has also stated that the tree drops branches.

2.2 The site inspection of the nominated tree occurred on the 4th May 2018. The tree is located in a partially exposed position with some protection from surrounding trees, topography and surrounding structures. This tree appears to be average in size for its age which appears to be related to its growing conditions. The tree is growing in a small garden bed to the front of the client's property. The tree is growing 2.65m from the veranda, is 3.8m from the house and is 1.5m to the path measured from the centre of the tree. All natural soil areas appear to have been disturbed previously for the construction of the surrounding buildings and the surrounding landscapes. The client was not present for the site inspection and issued a verbal brief providing background information in regard to the tree on site.

2.3 The purpose of this report is to assess the tree in relation to the site, noting the health and structure at the time of the inspection. The growth potential of the tree, its characteristics and risk potential will be reviewed to estimate the trees landscape value and retention rating. The damage that the tree is doing in relation to the property will also be assessed. Tree Protection Guidelines will be discussed if relevant to this situation and options will be provided to resolve the issues concerning the tree if possible and requested by the client. The information in this report will be based on the information presented by the client at the time of the inspection as well as the site inspection. No root mapping or specialised testing was completed for the purpose of this report.

2.4 To achieve the objectives of the report, the tree will be assessed noting the species, size, general condition with any defects or damage to the trees discussed. The trees characteristics and eventual sizes will be taken into consideration as will the trees position in relation to structures and hard scapes. Recommendations will be outlined in section 5 of the report. Details of the tree surveyed will be provided in Appendix 2 of the report and a numerical system will be used to identify the tree for this report and future reference on this job site. A site plan will show the tree and its allocated number in Appendix 4. If no site plan has been provided by the client, an aerial image will be provided to indicate the position of the trees on site.

2.5 To assess the level of risk the tree poses to the surrounding houses and the land users TRAQ Tree Risk Assessment will be completed based on the tree at the time of the assessment and the areas use. The trees Risk Potential was recorded using the TRAQ methodology and criteria from the ISA Publication, Best management Practice, Tree Risk Assessment. Refer to Appendix 6 for the Likelihood Matrix under the risk categorisation section of the QTRA form. The trees landscape and retention value will also be assessed using the STARS system, refer to Appendix 7. This will assist in ascertaining the trees value in the landscape as well as their overall retention value. This methodology of tree assessment is consistent with the best practices of the industry and recognised industry standards. Please note that no aerial inspections, specialised testing or root mapping was completed for the purpose of the assessment.

3 Methodology

3.1 The trees were assessed using the standard Visual Tree Assessment technique (VTA). The trees were assessed from the ground for the purpose of this report. VTA is an internationally recognised practice in the visual assessment of trees as formulated by Mattheck & Breloer (1994).

3.2 A Lufkin 6.5m diameter tape was used to obtain the Diameter at breast height (DBH) as recommended at 1.4 metres unless otherwise stated due to variations in the trees form.

3.3 The height of the tree was estimated and the spread of the trees canopy was paced out.

3.4 A Canon 5D Digital camera with an 11-24mm and 24-105mm lens was used to take all photographs in this report. No image modification has been used in any of the images, although due to the wide angle lens some distortion of images may occur.

3.5 The ULE rating system has been used as a guide to assist in determining the Useful Life Expectancy of the tree surveyed. Refer to Appendix 1.

4 Discussion

4.1 The tree nominated to be inspected is located on the property to the front of 89 Smith Street Summer Hill. The tree is significant in the immediate landscape and is likely to be considered important in the local areas landscape in terms of amenity and function due to its size and position. The client is concerned about the damage the tree is causing to the hardscapes and damage and to his house. The client stated that the neighbour is concerned about the damage the tree is doing to the hardscapes on his site.

4.2 The tree is located on a partially sheltered site with protection provided from the surrounding structures, trees and topography from some aspects. The soil on the site appeared to be a sandy loam. This soil has been disturbed previously for earthworks, the construction of buildings and hardscapes. There did not appear to be any disturbances around the trees structural root zone in recent years, however not all parts of the trees root zone could be viewed. No root mapping, aerial assessments or specialised diagnostic testing was completed for this report as it did not appear to be warranted.

4.3 **Tree 1** is a mature tree that has average health, average vigour and below average form for this species. The tree has a moderate level of deadwood, a low level of dieback with a moderate amount of epicormic growth with good vitality at the time of the inspection. The tree has been crown raised, pruned in the past and appears to have been periodically maintained over time. Some of the pruning was not favourable to the trees form with some evidence of lopping observed. There is evidence of second and third order branch failures with one hanger present. There appeared to have no significant defects within the trees structure that would warrant its immediate removal.

4.4 When measured from the centre of the tree it is estimated that the tree has been planted 2.65m from the veranda, 3.8m from the house and 1.5m from entry path. The adjoining path is 3m and the adjoining wall is 4.25m. This tree appears to be mature at this stage in its life with small increments of growth anticipated over a long period of time. The structural root zone (SRZ) of the tree is calculated at 3.5m and the pruning of structural roots 50mm+ is not recommended. This means that the options for pruning roots to repair the veranda, entry path and adjoining path are not possible without a significant reduction in the crown. It may be possible to repair the pathways via engineering solutions but the front veranda is part of the house and this may be difficult.

4.5 The client has stated that the tree is poorly positioned and that he does not want to retain it. The client has also stated that he does not want to be liable for damages caused by the tree to the adjoining property. The neighbour has claimed that there are damages to their property due to the tree roots. Although the tree is significant, it is envisaged that the tree could be removed and replaced with another specimen in a better location that will not cause the same issues

4.6 A tree risk assessment has been completed using the ISA, TRAQ Tree Risk Assessment methodology which is based on the Best Management Practice for Tree Risk Assessment. Part of the form has been included for transparency, refer to Appendix 5. Within the target zone of the tree there is the client's building as well as the front yard. There is an adjoining building and adjoining buildings and front yards under the tree. There is also the boundary fences and landscape features on the client's property and the adjoining yards. There is the public path and streetscape. The areas within the fall zone of the tree appeared to be of low use for most of the time and received moderate levels of use for limited times during the week. The areas are used intermittently by people, but the structures are always in the fall zone. The consequence of a tree part failing, will either be damage to the surrounding hardscapes or possibly damage to the adjoining building. The pedestrian traffic is intermittent and the chances of hitting a person are unlikely with minor to significant consequences, (depending on the type of failure).

4.7 Using the risk matrix as shown in appendix 5 the likelihood of failure within the next year is possible from the second / third order branches. A failure from the trees primary branches, trunk or the trees basal plate is unlikely. The likelihood of hitting a structure is somewhat likely, combined with the consequence of hitting a structure, (minor-significant). The consequences of the tree part failing and hitting the target are low. This tree receives a rating of having a low level of risk for damaging a building/hardscape based on the assessment criteria. Using the risk matrix as shown in appendix 5 the likelihood of failure within the next year is possible, the likelihood of hitting a person is unlikely, combined with the consequence of hitting a person, (minor). The consequences of the tree part failing and hitting the target are low. This tree receives a rating of having a low level of risk for hitting a person based on the assessment criteria.

5 Recommendations

5.1 Tree 1 is a mature tree that has average health, average vigour and below average form for the species. The tree has a risk potential that is deemed to be a low risk to people and a low risk to property.

5.2 The main issue with the tree is that it has damaged the veranda, the house and the entry path as well as the hardscapes on the adjoining property. Many of the structures are within the trees projected structural root zone with limited options for repairing the damage without destabilising the tree.

5.3 The client has stated that the neighbour claims that the tree has damaged their hardscapes. The client has stated that he does not accept the risk presented by the tree or the damages being caused by the tree. The client would like to remove and replace the tree. If the tree is removed, it could easily be replaced somewhere else on site with a better specimen.

Please do not hesitate to call 0422 265 128 if you have any questions regarding the contents of this report.

Regards

Hayden Coulter
Diploma in Arboriculture
Advanced Certificate in Urban Horticulture
Institute of Australian Consulting Arborists, ACM0482014.

The Ents Tree Consultancy. ABN: 95 598 933136 *theents@bigpond.net.au*

THE ENTS TREE CONSULTANCY

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Disclaimer

All trees have been assessed based on the information and facts of the site and as presented by the client or relevant parties at the time of inspection. No responsibility can be taken for incorrect or misleading information provided by the client or other parties. The nominated tree/s are assessed for biological requirements and hazard potential with reasonable care. The trees are assessed from the ground and by visual means only unless otherwise stated. All tree protection and tree preservation measures are designed to minimise the damage to the tree/s or to reduce the hazard potential of the tree/s. Trees are inherently dangerous, therefore will always have a hazard potential. Trees fail in ways that are not predictable or fully understood. There is no guarantee expressed or implied that failure or deficiencies may not arise of the subject trees in the future. No responsibility is accepted for damage to property or injury/death caused by the nominated tree/s.

Appendix 1 ULE Rating

Useful Life Expectancy (ULE): Useful life expectancy refers to an expected period of time the tree can be retained within the landscape before its amenity value declines to a point where it may detract from the appearance of the landscape and/or becomes potentially hazardous to people and/or property. ULE values consider tree species, current age, health, structure and location. ULE values are based on the tree at the time of assessment and do not consider future changes to the tree's location and environment which may influence the ULE value.

Category rating:	Category definition in years:	Category rating:
1	> 40 Years	High
2	15 to 40 Years	Medium
3	10-20 Years	Low
4	0 Years	Dead

Appendix 2 Tree Table

Tree No	Species	Height (m)	Trunk Diameter (DBH*)	Canopy Spread (m)	Estimated Age Class	TPZ ** (M)	ULE ***	S.T.A.R.S Value +	Risk Rating #	Observations and comments
1	*Eucalyptus robusta* Swamp Mahogany	19	.77 DAC .90	11	Mature	9.25 SRZ 3.5	2	Landscape Value High Retention Value High	Low (building / property) Low (people)	# This is a mature tree located on the property close to the front veranda and wall of the house, as well as the surrounding hardscapes. # The tree has average health, vigour and below average form for the species with reasonable vitality. # The tree has a moderate level of deadwood, low level of dieback and a moderate amount of epicormic growth. # The tree has been crown raised in the past and has lost apical dominance but does not appear to have any significant wounds or defects. # The tree is causing damage to the adjoining structures. The structures are located these distance from the tree, 2.65m from veranda (North), 3.8m from the front wall of the building (North), 1.5m from the path (West) and the adjoining path is 4.25m (west).

Explanatory Notes for Table

- *Dbh = Diameter of trunk at breast height.
- ** DAC = Diameter above collar of roots.
- ***TPZ is the recommended TPZ 12x the DBH at 1.4m, SRZ is the trees structural root zone. Refer to AS4970 for details.
- ****ULE Explanation can be found in Appendix 1.
- # The Risk rating criteria can be found in Appendix 6
- + Refer to Appendix 7 for STARS Rating.

Appendix 3 Images

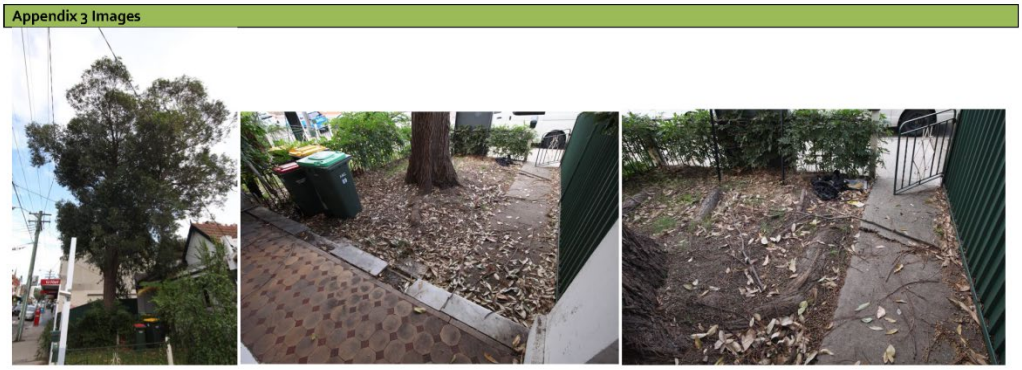


Image 1 showing the tree on site. Images 2-5 above centre and right, below left and centre show the trees position in relation ot the structures and the damage that it is causing. Image 6 below right shows the tree with a hanger and epicormic shoots.

Appendix 4 Site Plan (for locating position of tree only)

Aerial image above showing the tree to the front of the property.

Appendix 5 Tree References

Harris, R. W; Clark, J.R; & Matheny, N.P (2004). *Arboriculture:* Integrated Management of Landscape Trees, Shrubs & Vines 4th Edition, Prentice Hall, New Jersey

Shigo, A.L. (1986). *A New Tree Biology*. Shigo & Trees, Associates, Durham, New Hampshire

Hadlington, P. & Johnston, J. (1988). *Australian Trees: Their Care & Repair. University of NSW Press, Kensington*

Lonsdale, D. (1999). *Principles of Tree Hazard Assessment & Management.* Forestry Commission, The Stationery Office, London

Mattheck, C. & Breloer, H. (1994). *The Body Language of Trees.* Research for Amenity Trees No.4. The Stationery Office, London

Appendix 6 TRAQ Tree Risk Assessment

This Tree Risk Assessment is the Likelihood Matrix from the risk categorization section of the TRAQ form for Tree Risk Assessment Qualified Arborists 2013. This TRAQ form has been based on the Best Management Practice for Tree Risk Assessment, E. T Smiley, Nelda Matheny, Sharon Lily, published by the ISA 2011.

The Tree Risk Categorization in this case is a qualitative risk assessment used by qualified tree assessors in combination with a matrix to assign risk. The assessor considers possible targets, the target zone, occupancy rates, site specific factors, Tree species, noted defects and environmental factors within a specified period.

The tree assessor uses this information to Categorize risk for the Likelihood of failure, combined with the Likelihood of impacting a target. These two categories make up the first table (table 1) in the Tree Risk Matrix. The second table assesses the Tree Risk rating by combing the Likelihood of failure and impact in table 1 with the Consequences of the branch or tree failing, refer to table 2. The end result is a risk rating of low, moderate, high or severe.

The Likelihood of failure options,

- **Improbable**- the tree or branch is not likely to fail in normal weather conditions within the specified time period.
- **Possible**- Failure of the tree or branch could occur in normal weather conditions within the specified time period.
- **Probable**- the tree or branch may be expected to fail in normal weather conditions within the specified time period.
- **Imminent-** the tree or branch failure has started and is likely to occur in the near future, even without significant wind or load. This is a rare occurrence for the risk assessor to encounter and immediate action must be taken to prevent harm to people or property.

The Likelihood of impacting a target options,

- **Very low-** The chance of the failed tree or branch hitting a target is remote. This would be the case in a site with no targets or a rarely used site or a site that is protected by from impact by other structures.
- **Low-** It is not likely that the failed tree or branch will impact the target. This would be the case in a site which is fully exposed to the tree but is used occasionally, a frequently used area that is partially exposed to the assessed tree.
- **Medium-** The failed tree or branch may or may not hit the target with nearly equal likelihood. This would be the case in a frequently used area that is fully exposed on one side to the assessed tree, or a constantly occupied area that is partially protected for the assessed tree.
- **High-** The failed tree or branch will most likely impact the target. This would be the case when a fixed target is fully exposed to the assessed tree or near a high use road or walkway with an adjacent street tree.

Table 1. The matrix used to estimate the likelihood of a tree failure impacting a specified target.

Likelihood of failure	Likelihood of Impacting Target			
	Very Low	Low	Medium	High
Imminent	Unlikely	Somewhat likely	Likely	Very likely
Probable	Unlikely	Unlikely	Somewhat likely	Likely
Possible	Unlikely	Unlikely	Unlikely	Somewhat likely
Improbable	Unlikely	Unlikely	Unlikely	Unlikely

Categorizing Consequences of failure

- **Negligible**- consequences are those that involve low value property damage or disruption that can be replaced or repaired, and does not involve personal injury.
- **Minor**- consequences are those that involve low – moderate property damage, disruptions in traffic or disruption in communications or minor personal injury.
- **Significant**- consequences that involve property damage of a moderate to high value, considerable disruption or personal injury.
- **Severe**- consequences that could involve serious personal injury or death, damage to high value property or disruption of important activities.

Table 2. Risk rating matrix showing the level of risk as the combination of likelihood of a tree or part failing and impacting a target and severity of the associated consequences.

Likelihood of failure and impact	Consequences			
	Negligible	Minor	Significant	Severe
Very likely	Low	Moderate	High	Extreme
Likely	Low	Moderate	High	High
Somewhat likely	Low	Low	Moderate	Moderate
Unlikely	Low	Low	Low	Low

The four levels of risk as used in the table are defined below and should be used in making recommendations.

- **Extreme**- The extreme risk category applies in situations in which failure is *imminent* and there is a high likelihood of impacting the target with severe consequences. The tree risk assessor should recommend mitigation measures to be taken as soon as possible. This may involve immediately restricting the target zone.

- **High**- High risk situations are those for which consequences are *significant* and likelihood is *very likely* or *likely* or consequences are *severe* and likelihood is *likely*. This combination of likelihood and consequences indicates that the tree risk assessor should recommend mitigation measures. The decision for mitigation and timing of treatment depends upon the risk tolerance of the tree owner or risk manager.

- **Moderate**- Moderate risk situations are those in which consequences are *minor* and likelihood is *very likely* or *likely* or likelihood is somewhat likely and consequences are *significant* or *severe*. The tree risk assessor should recommend mitigation and or retaining the tree with monitoring. The decision for mitigation and timing depends upon the risk tolerance of the tree owner or manager.

- **Low-** The low risk category applies when consequences are *negligible* and likelihood is *unlikely* or consequences are *minor* and likelihood is *somewhat likely*. Some trees with this level of risk may benefit from mitigation or maintenance measures, but immediate action is not usually required. Tree risk assessors may recommend retaining and monitoring these trees as well as mitigation that does not include tree removal.

Appendix 7 STARS Rating System

IACA Significance of a Tree, Assessment Rating System (STARS) © (IACA 2010)©

In the development of this document IACA acknowledges the contribution and original concept of the Footprint Green Tree Significance & Retention Value Matrix, developed by Footprint Green Pty Ltd in June 2001.

The landscape significance of a tree is an essential criterion to establish the importance that a particular tree may have on a site. However, rating the significance of a tree becomes subjective and difficult to ascertain in a consistent and repetitive fashion due to assessor bias. It is therefore necessary to have a rating system utilising structured qualitative criteria to assist in determining the retention value for a tree. To assist this process all definitions for terms used in the *Tree Significance - Assessment Criteria* and *Tree Retention Value - Priority Matrix*, are taken from the IACA Dictionary for Managing Trees in Urban Environments 2009.

This rating system will assist in the planning processes for proposed works, above and below ground where trees are to be retained on or adjacent a development site. The system uses a scale of *High*, *Medium* and *Low* significance in the landscape. Once the landscape significance of an individual tree has been defined, the retention value can be determined.

Tree Significance - Assessment Criteria

1. High Significance in landscape

- The tree is in good condition and good vigour;
- The tree has a form typical for the species;
- The tree is a remnant or is a planted locally indigenous specimen and/or is rare or uncommon in the local area or of botanical interest or of substantial age;
- The tree is listed as a Heritage Item, Threatened Species or part of an Endangered ecological community or listed on Councils significant Tree Register;
- The tree is visually prominent and visible from a considerable distance when viewed from most directions within the landscape due to its size and scale and makes a positive contribution to the local amenity;
- The tree supports social and cultural sentiments or spiritual associations, reflected by the broader population or community group or has commemorative values;
- The tree's growth is unrestricted by above and below ground influences, supporting its ability to reach dimensions typical for the taxa *in situ* - tree is appropriate to the site conditions.

2. Medium Significance in landscape

- The tree is in fair-good condition and good or low vigour;
- The tree has form typical or atypical of the species;
- The tree is a planted locally indigenous or a common species with its taxa commonly planted in the local area
- The tree is visible from surrounding properties, although not visually prominent as partially obstructed by other vegetation or buildings when viewed from the street,
- The tree provides a fair contribution to the visual character and amenity of the local area,
- The tree's growth is moderately restricted by above or below ground influences, reducing its ability to reach dimensions typical for the taxa *in situ*.

3. Low Significance in landscape

- The tree is in fair-poor condition and good or low vigour;
- The tree has form atypical of the species;
- The tree is not visible or is partly visible from surrounding properties as obstructed by other vegetation or buildings,
- The tree provides a minor contribution or has a negative impact on the visual character and amenity of the local area,
- The tree is a young specimen which may or may not have reached dimension to be protected by local Tree Preservation orders or similar protection mechanisms and can easily be replaced with a suitable specimen,
- The tree's growth is severely restricted by above or below ground influences, unlikely to reach dimensions typical for the taxa *in situ* - tree is inappropriate to the site conditions,
- The tree is listed as exempt under the provisions of the local Council Tree Preservation Order or similar protection mechanisms,
- The tree has a wound or defect that has potential to become structurally unsound.

Environmental Pest / Noxious Weed Species

- The tree is an Environmental Pest Species due to its invasiveness or poisonous/ allergenic properties,
- The tree is a declared noxious weed by legislation.

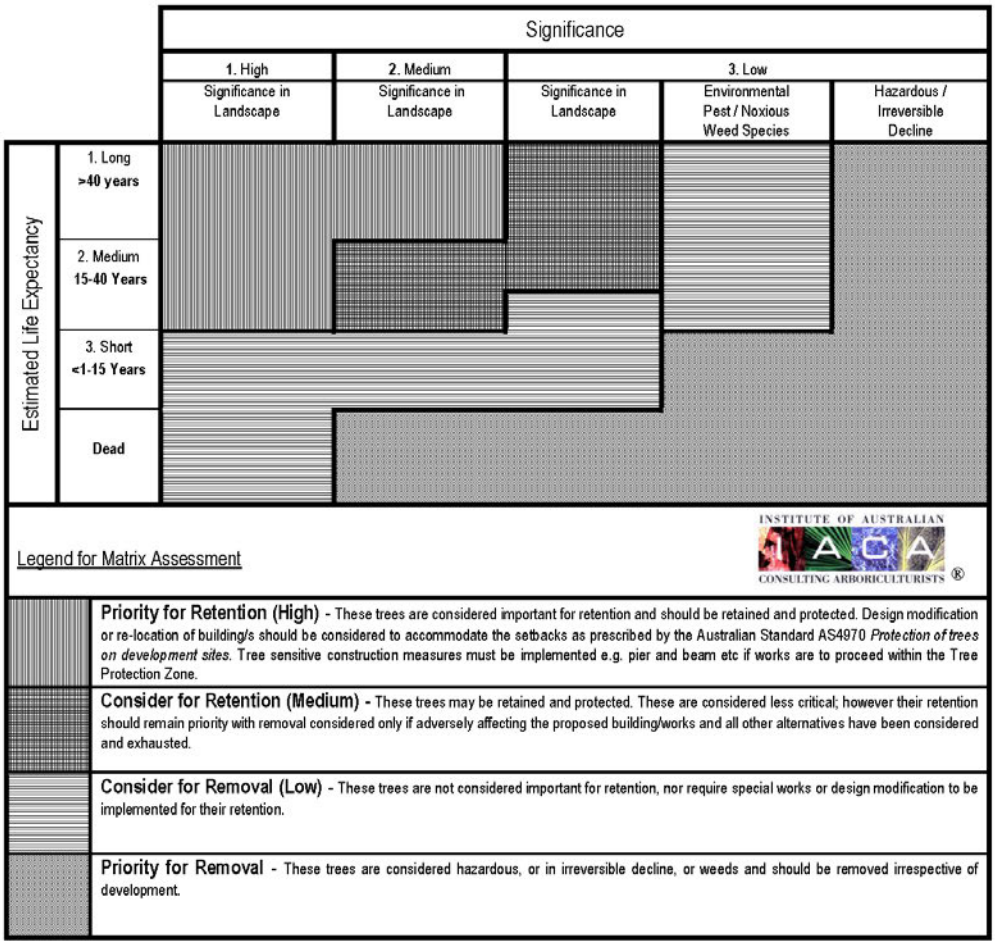
Hazardous/Irreversible Decline

- The tree is structurally unsound and/or unstable and is considered potentially dangerous,
- The tree is dead, or is in irreversible decline, or has the potential to fail or collapse in full or part in the immediate to short term.

The tree is to have a minimum of three (3) criteria in a category to be classified in that group.

Note: The assessment criteria are for individual trees only, however, can be applied to a monocultural stand in its entirety e.g. hedge.

Table 1.0 Tree Retention Value - Priority Matrix.



REFERENCES

Australia ICOMOS Inc. 1999, *The Burra Charter – The Australian ICOMOS Charter for Places of Cultural Significance*, International Council of Monuments and Sites, www.icomos.org/australia

Draper BD and Richards PA 2009, *Dictionary for Managing Trees in Urban Environments*, Institute of Australian Consulting Arboriculturists (IACA), CSIRO Publishing, Collingwood, Victoria, Australia.

Footprint Green Pty Ltd 2001, *Footprint Green Tree Significance & Retention Value Matrix*, Avalon, NSW Australia, www.footprintgreen.com.au

Appendix 8 Glossary of Terms

Abiotic	Nonliving
Anthracnose	a fungal disease causing dead areas on the leaves, buds, stems.
Arboriculture	The science and art of caring for trees, shrubs and other woody plants in landscape settings.
Barrier Zone	Protective boundary formed in new wood in response to wounding or other injury.
Biotic	Alive, pertaining to living organisms.
Branch attachment	The structural union of a lateral branch.
Callus	Undifferentiated tissue produced in response to wounding.
Canker	A dead spot or necrotic lesion that is caused by a bark inhabiting organism/pathogen.
Cavity	an open wound characterized by the presence of decay resulting in a hollow.
Collar	the ring of tissue that surrounds the lateral branch at its point of attachment.
Compartmentalization	A physiological process that creates the chemical and physical boundaries that act to limit the spread of disease and decay organisms.
Compression wood	A type of reaction wood that forms on the underside of branches which tends to maintain a branch angle of growth.
Crown	The above ground parts of the tree, including the trunk.
DBH	The diameter of a trees trunk measured at 1.4m.
Decay	Process of degradation of woody tissues by fungi and bacteria through the decomposition of cellulose and lignin.
Decline	Progressive decrease in health of organs or the entire plant usually caused by a series of interacting factors.
Drip line	The width of the crown, as measured by the lateral extent of the foliage.
Epicormic shoot	a shoot that arises from latent or adventitious buds that occur on stems, branches or the bases of trees.
Included bark	Pattern of development at branch junctions where bark is turned inward, rather than pushed out; contrast with the branch nark ridge.
Mortality Spiral	The sequence of events describing a change in the trees health from vigorous to declining to death.
Photosynthesis	The transformation in the presence of chlorophyll and light, of carbon dioxide from (the air) and water (primarily from soil) into a simple carbohydrate and oxygen.
Pruning	systematic removal of branches of a plant usually a woody perennial.
Reaction wood	Specialized secondary xylem that develops in response to a lean or similar mechanical stress to restore the stem to vertical.
Taper	The change in diameter over the length of trunks and branches. Important to mechanical support.
Tension wood	A type of reaction wood that trees form on the upper side of branches and stems and roots.
VTA	Visual Tree Assessment is a method of evaluating structural defects and stability in trees.
Wound	Any injury that induces a compartmentalization response.

Appendix 9 Curriculum Vitae

Education and Qualifications

- 2005 Diploma of Arboriculture (AQF Cert 5), Ryde TAFE. Distinction.
- 2000 Tree Climbing Course (AQF Cert 2), Ryde TAFE.
- 1999 Advanced Certificate in Urban Horticulture, (AQF Cert 4), Ryde TAFE. Distinction.
- 1995 Greenkeepers Trade Certificate (AQF 3) Ryde TAFE. Credit.
- 1991 Higher School Certificate.
-

Conference Attendance/presentation of Scientific Papers

- **Barrell Tree Care Workshop- Trees on Construction Sites (Brisbane 2005)**
- **Tree Logic seminar- Urban Tree Risk Management (Sydney 2005)**
- **Tree Pathology and Wood Decay Seminar Sydney (2004)**
- **Excelsior Training Claus Mattheck (Sydney 2001)**
- **Managing Mature Trees NAAA(Sydney 2000), Presented a Paper "Habitat Value of Mature Trees"**

Industry Experience

- **2004 to Date, Sole Trader The Ents Tree Consultancy.** Writing of tree reports for development applications, master plans, hazard evaluations, tree management plans and expert witness reports. Hazard assessments, tree surveys and consultations. Clients include The Royal Botanic Gardens Sydney, UNSW Master Planning Works including SIRF building, Tyree Building, DP sports field redevelopment, Sydney University Mays Green Precinct, Taronga Zoo Coastline Precinct, Capital Insight, Campbelltown Hospital Redevelopment, Parramatta Park Trust multiple jobs, Woollahra Council multiple jobs and many other jobs.
- **2003 to 2008, Arborist University of New South Wales**. Survey all trees on site, developed a Tree Management Database. Minimise hazard potential of all trees on site through evaluation and works. Generate and prioritise works and tree assessment based areas usage, tree conditions and staff required. Development of UNSW Tree Protection Guidelines for master planning works. Acting Supervisor December 2006 to May 2007.
- **2003 Tree management Officer Randwick Council**. Liaise with public to explain and enforce the councils Tree Preservation order. Management of internal staff and contractors. Project management and co-ordination of street tree planting and maintenance.
- **1999 to 2003 Animal Food Production Manager and Arborist.** Management of Koala food Plantation, Management of animal food supply registry for herbivores/omnivores. Coordination of staff contractors and volunteers. Maintain and manage tree management database, complete tree works within zoo grounds and at zoo owned plantations. Acting supervisor 6 month period 2002 for grounds dept and asset management trade team.
- **1998 to 1999 Sole Trader Techniques Lawn & Garden Consultancy.** Lawn, garden and Tree care. Garden design and maintenance. Tree works and tree removal. Installation of irrigation equipment.
- **1997 to 1998 Greenkeeper / Horticulturist Muirfield Golf Course.** General grounds duties, machinery maintenance, horticultural works, tree works

1992 to 1997 Greenkeeper / Horticulturist Ashlar Golf Course. General grounds duties, machinery maintenance, horticultural works, tree works

Attachment D – Builders Report

agia projects
INSPIRE · CREATE · DELIVER

Alex and Penny Yiannikas
89 Smith st
Summer Hill

RE: Tree related damage and ongoing risks - 89 Smith st Summer Hill

Dear Alex and Penny

Further to your request to assess the existing structural damage and possible risks caused by the large Swamp Mahogany located in front yard of your home at the above address I make the following observations:

Existing and ongoing damage
The roots of this tree have caused and are continuing to cause significant structural damage to your home by the following mechanisms:

1. Racking, separation and uplift – due to the ongoing expansion of the roots under the building structure and the relatively small size of the building in comparison to the tree, significant damage has been done to the building footings and support walls. This damage is structural in nature and will increase with time as the tree grows and expands its root network. Many of the homes structural walls are racking due to the separation and uplift force of the roots. As this is a progressive process there is a high risk of an eventual complete structural failure if the situation is not remedied by removal of the tree and repair of the structural damage. In the case of structural failure of one of the homes supportive walls, the outcome would be at a minimum, significant loss of property and at worst loss of life of an occupant of the home.
2. Differential settlement – Due to the extensive root system removing normal ground moisture from the areas it covers, the affected areas are settling and moving at a different rate from the ground which is not affected by the drying influence of a large tree root network. This drying influence is seasonal in nature as the tree demands more water during hotter months. The effect of this seasonal differential settlement of the building footings is causing serious structural damage to the building. This mechanism has the same associated risks of causing total structural failure with the same consequential risks to life and property.

In addition to the damage I observed during my inspection of your home I also observed damage to your neighbor's home and surrounding private and public pavements. In the case of your neighbor's home I observed a similar damage pattern as caused to your home. The surrounding public and private pavements show significant cracking and lipping caused by root uplift. This damage is a trip hazard on public land and council should be made aware so that action can be taken to avoid injury or worse to members of the public.

AGIA PROJECTS PTY LTD
LIC: 221922C ABN: 14 138 646 303 HIA Member: 594308
A: PO Box 160 Rockdale NSW 2216 P: 02 9327 5400 F: 02 9327 5411 E: admin@agiaprojects.com

Future risks

The future risks imposed by the tree are as follows:

1. The above root related structural damage processes are progressive. The damage already done to the structure of your building is significant and will continue to worsen without intervention. Any attempt to repair the damage without also removing the tree will result in the future progressive damage and is therefore not practical.
2. In addition to the ongoing damage to structures as laid out above, due to the size and proximity of the tree to the buildings there is a significant risk of branch fall onto your and your neighbors' homes. This could be caused by either lightning strike or natural branch fall driven by die back or water stress. Although the risk of such an event is moderate, the outcome of a significant branch fall onto yours or your neighbor's residence would be catastrophic. Given the position of the bedrooms and other living spaces located essentially under the tree, such a catastrophic event could result in the loss of life.

Recommendation

I recommend the removal of the tree as soon as practically possible. The danger imposed by the tree both on both property and life is significant, imminent and should not be ignored.
Once the tree is removed, I recommend rectification of the structural damage to your building and that council are contacted to repair the damage caused to pavements in order to restore them to a safe state.

Regards,

Athan Giannikos
Managing Director

AGIA PROJECTS PTY LTD
LIC: 221922C ABN: 14 138 646 303 HIA Member: 594308
A: PO Box 160 Rockdale NSW 2216 P: 02 9327 5400 F: 02 9327 5411 E: admin@agiaprojects.com

Attachment E – Conditions in the circumstance the application is approved

General Conditions

1. Documents related to the consent
The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
15850	Survey Plan	22/06/2018	Sydney Surveyors
Appendix A - Site Plan	Statement of Environmental Effects	05/2019	Nick Hibbed Architect

As amended by the conditions of consent.

2. Waste Management Plan
Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

3. Erosion and Sediment Control
Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

4. Verification of Levels and Location
Prior to the pouring of the ground floor slab or at dampcourse level, whichever is applicable or occurs first, the Principal Certifier must be provided with a survey levels certificate prepared by a Registered Surveyor indicating the level of the slab and the location of the building with respect to the boundaries of the site to AHD.

5. Boundary Alignment Levels
Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

6. Works Outside the Property Boundary
This development consent does not authorise works outside the property boundaries on adjoining lands.

7. Tree Protection
No trees on public property (footpaths, roads, reserves etc.) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's Management Controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

Any public tree within five (5) metres of the development must be protected in accordance with Council's *Development Fact Sheet—Trees on Development Sites*.

No activities, storage or disposal of materials taking place beneath the canopy of any tree (including trees on neighbouring sites) protected under Council's Tree Management Controls at any time.

8. Tree Removal
Approval is given for the following works to be undertaken to trees on the site:

Tree/Location	Approved Works
Tree 1 – *Eucalyptus Robusta* (Swamp Mahogany)	Removal.

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

Prior to any Demolition

9. Dilapidation Report
Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

Prior to Construction Certificate

10. Dilapidation Report – Pre-Development – Minor
Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

11. Tree Replacement Planting
The following trees must be planted:

A minimum of 1 x 75 litre size replacement tree, which will attain a minimum mature height of eight (8) metres, shall be planted in a more 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.*

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.

During Demolition and Construction

12. Construction Hours – Class 2-9
Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

a) 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
b) 8:00am to 1:00pm 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 out of hours 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 must be limited to:

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

The person acting on this consent must not undertake such activities for more than three continuous hours and must 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.

Prior to Occupation Certificate

13. Public Domain Works
Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:

a) Heavy duty concrete vehicle crossing(s) at the vehicular access location(s).
b) The redundant vehicular crossing to the site removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.
c) The existing concrete footpath across the frontage of the site must be reconstructed.
d) Other works subject to the Roads Act 1993 approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

14. Dilapidation Report
Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey and structural condition which was compiled after the completion of works. As the report details public infrastructure, a copy is to be furnished to Council at the same time.

15. Landscaping Works
Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to be satisfied that all landscape works have been undertaken in accordance with the approved landscape plan and/or conditions of Development Consent.

Advisory notes

Public Domain and Vehicular Crossings
The vehicular crossing and/or public domain works are required to be constructed by your contractor. You or your contractor must complete an application for 'Design of Vehicle Crossing and Public Domain Works – Step 1' form and/or 'Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

Insurances
Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

Prescribed Conditions
This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000.*

Notification of commencement of works
At least 7 days before any demolition work commences:

a) the Council must be notified of the following particulars:
   i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
   ii. the date the work is due to commence and the expected completion date; and

b) a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

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.

Infrastructure
The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

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.

Failure to comply with conditions
Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

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.*

Obtaining Relevant Certification
This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

a) Application for any activity under that Act, including any erection of a hoarding.
b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979.*
c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979.*
d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
f) Development Application for demolition if demolition is not approved by this consent.
g) Development Application for subdivision if consent for subdivision is not granted by this consent.

National Construction Code (Building Code of Australia)
A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works
Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

a) in the case of work for which a principal contractor is required to be appointed:
   i. the name and licence number of the principal contractor, and
   ii. the name of the insurer by which the work is insured under Part 6 of that Act,
b) in the case of work to be done by an owner-builder:
   i. the name of the owner-builder, and
   ii. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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
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.

Noise

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.

Amenity Impacts General
The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Dial before you dig
Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

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.