



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	201800231
Address	142 Cavendish Street, Stanmore
Proposal	To remove a Persian silk tree from the rear of the site
Date of Lodgement	29 May 2018
Applicant	Alan Reed
Owner	Inner West Council
Number of Submissions	Nil – Not required to be notified
Value of works	\$1,000
Reason for determination at Planning Panel	Council is owner of the land
Main Issues	Tree removal
Recommendation	Approval subject to conditions



Subject Site:

1. Executive Summary

This report concerns an application submitted to remove a Persian silk tree from the rear of the site at 142 Cavendish Street, Stanmore. The application was not required to be notified in accordance with Council's Notification Policy.

The application must be determined by Inner West Local Planning Panel, as per Clause 1(a) of Schedule 1 of the referral criteria as the land is owned by Council.

The proposal generally complies with the aims, objectives and design parameters contained in State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, Marrickville Local Environmental Plan 2011 (MLEP 2011) and Marrickville Development Control Plan 2011 (MDCP 2011).

The potential impacts to the surrounding environment have been considered as part of the assessment process and are considered to be acceptable. The application is suitable for approval subject to the imposition of appropriate terms and conditions.

2. Proposal

Approval is sought to remove an *Albizia julibrissin* (Persian silk tree) tree from the rear of the site. Removal of the tree is sought because it is pushing over the retaining wall on the north western boundary. The tree is located in the western corner of the site at the rear of the property. The tree is located beside a retaining wall on the subject site and an existing garage on the neighbouring property at 144 Cavendish Street, Stanmore.

3. Site Description

The subject site is located on the southern side of Cavendish Street, between Holt Street and Merchant Street, Stanmore. The site consists of one allotment with a total area of approximately 843sqm and is legally described as Lot 1 in Deposited Plan 602105.

The site has a 28 metre frontage to Cavendish and is adjoined by Cavendish Lane at the rear of the site. A retaining wall/boundary wall is located at the rear of the site adjoining the lane. The site contains a two storey child care centre. The surrounding area consists mainly of 1 and 2 storey dwelling houses and a primary school is located opposite the subject site on Cavendish Street.

The property is located within a Heritage Conservation Area under MLEP 2011 and there are a number of trees at the front and rear of the site.

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site.

Application	Proposal	Decision & Date
DA201300557	To demolish the existing retaining wall on the eastern boundary which has failed and erect a new concrete blockwork retaining wall and steel fence	Approval subject to conditions, 20 December 2013. The consent was subsequently modified on 12 May 2014.
MW201800004	Minor works application to repair the rear boundary wall.	Approved on 17 May 2018.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 79C 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 (Vegetation in Non-Rural Areas) 2017

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 which concerns the protection of trees identified under Marrickville Development Control Plan 2011.

The application seeks consent for the removal of a tree from the site that is protected under MDCP 2011. The issue of tree management is discussed later in this report under the provisions of Part 2.20 of MDCP 2011.

5(a)(ii) Marrickville Local Environment Plan 2011 (MLEP 2011)

The application was assessed against the following relevant clauses of the Marrickville Local Environmental Plan 2011:

- Clause 2.3 – Zone objectives and Land Use Table
- Clause 5.10 – Heritage Conservation

(i) Land Use Table and Zone Objectives (Clause 2.3)

The property is zoned R2 - Low Density Residential under the provisions of Marrickville Local Environmental Plan 2011 (MLEP 2011). The development is permissible with Council's consent under the zoning provisions applying to the land.

The development is acceptable having regard to the objectives for development in the zone under Marrickville Local Environmental Plan 2011.

(ii) Heritage Conservation (Clause 5.10)

The property is located within a Heritage Conservation Area under MLEP 2011 (Heritage Conservation Area C17 – Kingston South Conservation Area).

The application seeks consent for tree removal works only and it is considered that the development would not adversely affect the heritage significance of the Kingston South Conservation Area and is acceptable having regard to Clause 5.10 (6) of MLEP 2011 and Part 8 of MDCP 2011 as the tree does not contribute to the significance of the conservation area.

5(b) Draft Environmental Planning Instruments

Draft Marrickville Local Environmental Plan 2011 (Amendment 4) (the Draft LEP Amendment) was placed on public exhibition commencing on 3 April 2018 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The amended provisions contained in the Draft LEP Amendment are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft LEP Amendment.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011.

Part of MDCP 2011	Compliance
Part 2.20 Tree Management	Yes
Part 8 Heritage	Yes

The following provides discussion of the relevant issues:

(i) Tree Management (Part 2.20)

The proposal seeks removal of one Persian silk tree from the site. The removal of the tree is necessary to carry out rectification works to the existing retaining wall at the north eastern boundary.

This application was referred to Council’s Tree Management Officer who provided the following comments with regard to the Persian silk tree proposed to be removed:

“The proposed works requires an expanded scope of works from that which was initially planned and the removal of the silk tree is required to facilitate the expanded scope of works.

The project was inspected by Council’s Urban Forest Manager who has advised that it is evident that the work cannot be completed without the removal of the silk tree and that adequate compensatory tree planting is proposed.”

As part of the previous minor works application, exemption for the removal of a *Celtis sinensis* (Chinese hackberry) was sought. Council’s Tree Management Officer however advised that the *Celtis* was exempt by virtue of its size and species and consent was not required for its removal. .

Council’s Tree Management Officer supports the removal of subject tree from the site subject to the imposition of appropriate conditions which relate to replacement tree planting and maintenance. These conditions are included in the recommendation.

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

The site is zoned R2 – Low Density Residential. 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

No authorities or bodies were required to be consulted. The application was not required to be notified in accordance Council's Notification Policy contained within Part 1.2.3 of MDCP 2011 which states that applications for tree removal in Heritage Conservation Areas are 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 considered contrary to the public interest.

6. Referrals

6(a) Internal

The application was referred to Council's Tree Management Officer and issues raised in this referral have been discussed in section 5 above.

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

That Council, as the consent authority pursuant to S4.16 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: 201800231 to remove the *Albizia julibrissin* (Persian silk tree) tree from the rear of the site at 142 Cavendish Street, Stanmore subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

1. The person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to include colour photographs and is to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the property owner of the identified property, before work commences, on the garage on the adjoining property at 144 Cavendish Street, if the consent of the adjoining property owner can be obtained. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.
Reason: To catalogue the condition of the adjoining property for future reference in the event that any damage is caused during work on site.
2. The tree to be removed shall be removed by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in compliance with the Safe Work Australia *Guide to Managing Risks of Tree Trimming and Removal Work*, July 2016.
3. Within six weeks from the removal of the *Albizia julibrissin* (Persian silk tree), one new tree shall be planted.
4. The new tree shall be planted in accordance with the following criteria:
 - a) The new tree shall be planted a minimum of 2.0 metres from any building and a minimum of 1.5 metres from any property boundary.
 - b) The species of the new tree shall be *Zelkova serrata* (Japanese zelkova).
 - c) The planting stock size shall be at least 400 litres.
 - d) The planting stock shall comply with the Australian Standard *Tree Stock for Landscape Use AS 2303-2015*.
 - e) The new tree shall be planted in accordance with the tree planting detail included in the Marrickville Street Tree Master Plan 2014. Please note that planting holes for trees shall not be excavated deeper than the root ball and that new trees shall not be staked.
 - f) The new tree shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
 - g) The new tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).
 - h) If the tree dies or needs to be removed before that time it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.
5. Within one month of the removal of the existing tree, council's Urban Forest Manager shall be notified in writing that the new tree has been planted in accordance with these conditions and an inspection of the new tree shall be facilitated at any future date thereafter if council wishes to inspect the new tree.
6. All excavation, demolition, construction, deliveries and tree removal works at the site necessary for the carrying out of the development, must be restricted to between 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above no work must be carried out on any Saturday that falls adjacent to a Public Holiday.

7. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.

Attachment B – Site Plan



INNER WEST COUNCIL
Statement of Environmental Effects –
Removal of Tree/s from Heritage Items or Heritage Conservation
Areas

Site Plan:

In the space provided below, please include:

- A diagram of the subject site, indicating street frontage, general location of any buildings, the location of all trees that are the subject of this application and any other trees on the property.
- Approximate height, trunk diameter, canopy width and species of each tree that is the subject of this application.
- Please number the trees which are subject to this application.

