







INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	10.2018.175.1
Address	9 Bogan Street, Summer Hill
Proposal	Removal of a tree in rear yard
Date of Lodgement	17 October 2018
Applicant	Mr M A Calladine
Owner	Mr M A Calladine & Ms A Pipicelli
Number of Submissions	1
Value of works	\$1,000.00
Reason for determination at Planning Panel	Heritage Item
Main Issues	Tree Management
Recommendation	Approval
Attachment A	Recommended conditions of consent
Attachment B	Statement of Heritage Significance



LOCALITY MAP

Subject Site		Objectors (Nil)		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for removal of a tree in the rear yard at 9 Bogan Street, Summer Hill. The application was notified to surrounding properties and one (1) submission was received in support of the application. The main issues that have arisen from the application include Tree Management and Heritage.

2. Proposal

Approval is sought to remove a *Cupressus macrocarpa* (Monterey Cypress) tree located on the rear eastern property boundary of the site. An Arborist Report in support of the application has been submitted which provides the following reasons for the removal of the tree:

- The tree has been heavily pruned throughout its life resulting in numerous trunk and basal wounds which have resulted in the tree being structurally weakened;
- Up to two (2) metres of the tree has been compromised by termite activity;
- The tree provides little amenity impact to the property given it is located behind larger, more dominant trees; and
- The tree is of low retention value.



Image 1: Subject Tree

3. Site Description

The subject site is located on the eastern side of Bogan Street, perpendicular to Kensington Road. The site is legally described as Lot 2 DP 204957. The site supports a single storey dwelling house. The adjoining properties support a single storey dwelling house and a two storey residential flat building.

The subject site is listed as a heritage item, namely Item No. 474, a group of houses.

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

- *Cupressus macrocarpa* (Monterey Cypress), located on the rear property boundary
- *Eucalyptus saligna* (Sydney Blue Gum), located adjacent to the subject tree
- *Lophostemon confertus* (Brush Box) located adjacent to the subject tree

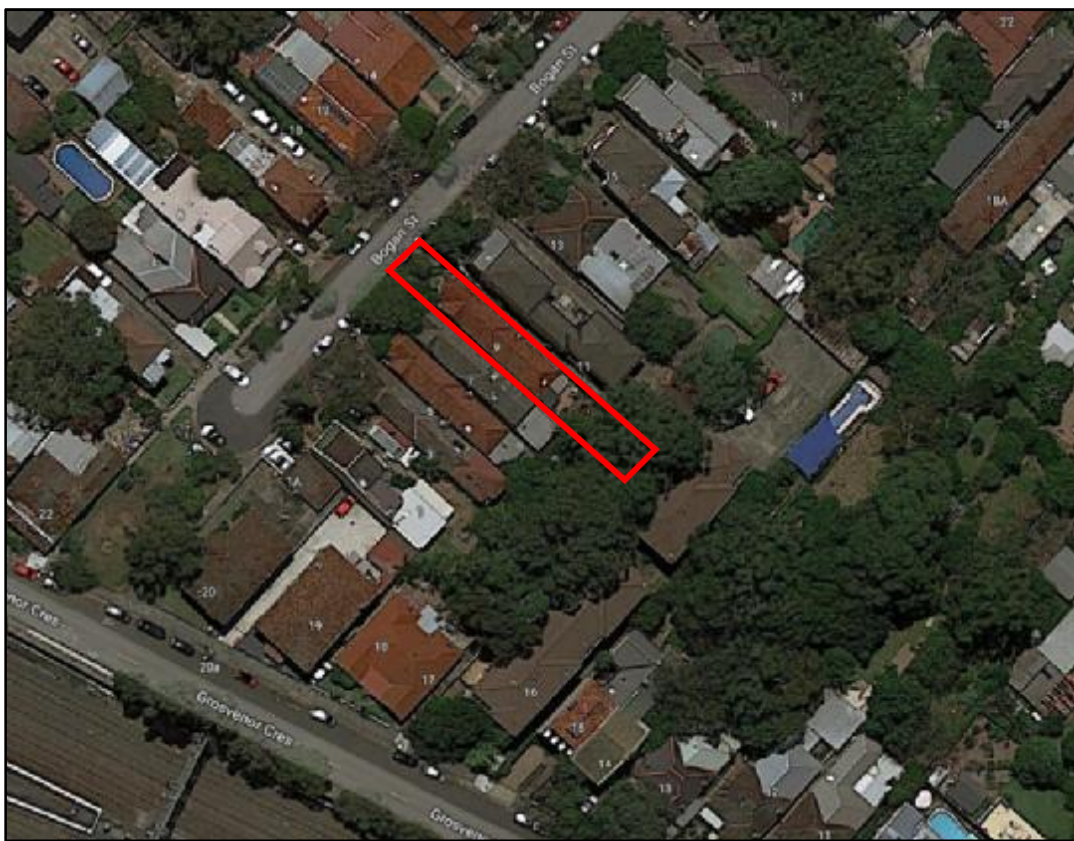


Image 2: Site Aerial Photo

4. Background

4(a) Site history

There is no relevant development history for the subject site.

4(b) Application history

There is no relevant application history for the subject site.

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
- 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. CIWDGP 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.

The site has not been used in the past for activities which could have potentially contaminated the site and will not require remediation in accordance with SEPP 55. The site is therefore considered suitable for the proposed use.

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

An assessment has been made of the matters set out in Clause 20 of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. It is considered that the carrying out of the proposed development is generally inconsistent with the objectives 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) Ashfield Local Environment Plan 2013 (ALEP 2013)

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

Land Use Table and Zone Objectives:

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

The application is for the removal of a tree in the rear yard which is permissible as ancillary development to a permissible residential use.

The development is considered acceptable having regard to the objectives of the R2 – Low Density Residential zone.

Heritage:

The subject site is identified as being part of a heritage item under the provisions of ALEP 2013, namely Item No.474 known as 'Houses'.

The tree is located in the rear yard and its removal will not alter any existing structures on the site or surrounding properties. The tree does not contribute to the heritage significance of the item given its poor condition and suppression by more dominant site canopy trees. As such, it is considered that the removal of the tree will not impact upon the heritage significance of the existing site or the adjoining properties.

Given the above the application is considered reasonable having regard to Clause 5.10(4) of the ALEP 2013.

5(b) Draft Environmental Planning Instruments

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

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:

Section 2, Chapter C – Sustainability

The removal of the tree is consistent with the *Ashfield Tree Preservation Policy*. The application was referred to Council's Tree Management Officer who raised no objection to the removal of the tree, subject to the replacement planting of a tree of a more suitable species planted in a more suitable location.

Given the above, 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

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

The application was notified in accordance with the Comprehensive Inner West Development Control Plan 2016 for a period of 14 days to surrounding properties. One (1) submission was received in support of the removal of the tree.

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 the following internal officers and issues raised in those referrals have been discussed in section 5 above.

- **Tree Management** – The application was referred to Council's Tree Management Officer who raised no objection to the removal of the tree, subject to the replacement planting of a tree of a more suitable species planted in a more suitable location. Appropriate conditions of consent have been imposed regarding the removal of the tree and replacement planting.

7. Section 7.12 Contributions

The cost of works is under \$100,000.00, no contribution therefore 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 2016. 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 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.10.2018.175.1 for removal of a tree in the rear yard at 9 Bogan Street, Summer Hill NSW subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS

DA 2018.175.1

9 Bogan Street SUMMER HILL 2130

Description of Work as it is to appear on the determination:

Removal of a tree in the rear yard.

A General Conditions

(1) Approved Works

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

Tree/location	Approved works
<i>Cupressus macrocarpa</i> (Monterey Cypress)	Remove

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

(2) Replacement Planting

The following trees must be planted:

A minimum of 1 x 75 litre size *Eleocarpus reticulatus* (Blueberry Ash) 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*. The proposed location of the tree shall be submitted to and approved by Council prior to the planting of the tree.

If the replacement tree is 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 tree is found dead before it reaches a height where it is protected by Council's Tree Management Controls, it must be replaced with the same species.

(3) Canopy Replenishment

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

(4) Compliance with BCA

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

(5) 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.

(6) Occupational Health and Safety


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

(7) 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

ASHFIELD HERITAGE STUDY			1991-1992
NAME	Group of four small detached houses		REFERENCE NO. 049
OTHER NAMES			REAL PROPERTY DESCRIPTION
LOCALITY / SUBURB	Summer Hill	POSTCODE	ZONING 2(a)
STREET ADDRESS	3, 5, 7 and 9 Bogan Street		OWNER
MAP	REFERENCE		(3) McEwan NA; Chambers. (5) Lau YY; Wonger. (7) Flaherty K. (9) Milic PA; Beram A.
PHYSICAL CHARACTERISTICS/HISTORICAL NOTES - SEE OVER			BOUNDARY / IDENTIFICATION The property boundary
CATEGORY	SUB CATEGORY		SITE CONDITION
EVALUATION OF SIGNIFICANCE			
Historic:	Rare <input type="checkbox"/>	Associative <input type="checkbox"/>	Representative <input checked="" type="checkbox"/>
Aesthetic:	Rare <input type="checkbox"/>	Associative <input type="checkbox"/>	Representative <input checked="" type="checkbox"/>
Social:	Rare <input type="checkbox"/>	Associative <input type="checkbox"/>	Representative <input checked="" type="checkbox"/>
Scientific:	Rare <input type="checkbox"/>	Associative <input type="checkbox"/>	Representative <input type="checkbox"/>
Other:	Rare <input type="checkbox"/>	Associative <input type="checkbox"/>	Representative <input type="checkbox"/>
STATEMENT OF SIGNIFICANCE			Intact <input type="checkbox"/>
* An unusual group of small Italianate cottages which, though all display modifications, retain considerable harmony of style and streetscape scale. They affect embellishment befitting much larger houses and are marked by the surprising use of a more steeply pitched roof over each front room to elevate the scale of the facades.			Minor Alteration <input type="checkbox"/>
			Major Alteration <input type="checkbox"/>
			- Sympathetic <input checked="" type="checkbox"/>
			- Unsympathetic <input checked="" type="checkbox"/>
			Removed (site only) <input type="checkbox"/>
			
PHOTOGRAPHS		DATE OF SURVEY	
BandW ROLL 91-052-10	NEG NO. 35	5/5/92	
COLOUR SLIDES ROLL	FRAME NO.	SURVEYOR	
STUDY TEAM: Richard Mackay, Robert Irving, Chris Pratten, Jill Sheppard, Stephen Harris		RI/CHP	

GODDEN MACKAY PTY LTD 56 Waterloo Street, Surry Hills 2010 (02) 319 4811

ASHFIELD HERITAGE STUDY

1991-1992

<p>HERITAGE LISTINGS</p> <p><input type="checkbox"/> Register of the National Estate (AHC) - Registered</p> <p><input type="checkbox"/> Register of the National Estate (AHC) - Interim</p> <p><input checked="" type="checkbox"/> Register of National Trust (NSW)</p> <p><input checked="" type="checkbox"/> Within National Trust Conservation Area</p> <p><input type="checkbox"/> Register of Significant Twentieth Century Architecture (RAIA)</p> <p><input type="checkbox"/> Department of Public Works Heritage and Conservation Register</p> <p><input type="checkbox"/> Heritage Council Register - Permanent Conservation Order</p> <p><input type="checkbox"/> Heritage Council Register - Interim Conservation Order</p> <p><input type="checkbox"/> Heritage Council Register - Section 130 Order</p> <p><input type="checkbox"/> Heritage Council Register - Nomination</p> <p><input type="checkbox"/> NSW Government Department Heritage Register (S170 Heritage Act)</p> <p><input type="checkbox"/> Institution of Engineers (NSW) Heritage Register</p> <p><input type="checkbox"/> Regional Environmental Plan Heritage Schedule</p> <p><input checked="" type="checkbox"/> Local Environmental Plan Heritage Schedule</p> <p><input type="checkbox"/> Other</p>	<p>PERIOD</p> <p>Pre - 1800 <input type="checkbox"/></p> <p>1800 - 1825 <input type="checkbox"/></p> <p>1825 - 1850 <input type="checkbox"/></p> <p>1851 - 1875 <input type="checkbox"/></p> <p>1876 - 1900 <input checked="" type="checkbox"/></p> <p>1901 - 1925 <input type="checkbox"/></p> <p>1926 - 1950 <input type="checkbox"/></p> <p>1951 - 1975 <input type="checkbox"/></p> <p>Post - 1975 <input type="checkbox"/></p>	<p>REFERENCE NO. 049</p> <p>DATE OF CONSTRUCTION: Between 1890 and 1893</p> <p>ARCHITECT/DESIGNER: Not known</p> <p>BUILDER: Not known</p>
<p>HISTORICAL THEMES:</p> <p>State Themes: A place to live. Booms and busts.</p> <p>Local Themes: Subdivision and consolidation. The boom years.</p>		
<p>HISTORICAL NOTES</p> <p>The land on which these houses stand was originally part of the Underwood Estate. The purchaser and developer of some of the Bogan Street land was Henry Moses. These four houses were built on two allotments acquired by Edward Fredericks in 1884. They are shown on the Water Board Plan as having been erected between 1890 and 1893. They were tenanted for many years and were separated into individual subdivisions in the 1950s.</p>		
<p>INFORMATION SOURCES:</p> <p>Written: Rate Books. Sands' Directories. Research by N. Peek.</p> <p>Oral:</p> <p>Graphic: Water Board Plans.</p>		
<p>PHYSICAL CHARACTERISTICS:</p> <p>Materials: Brick/stucco walls. Terra cotta/concrete/metal tile roofs. Timber joinery. Bullnose corrugated iron porch roofs. Encaustic tile porch floors.</p> <p>Exterior: Narrow detached houses forming an array behind identical iron palisade fences.</p> <p>Interior: Not inspected.</p> <p>Styles: Victorian Italianate with traceried bargeboards.</p>		
<p>DESCRIPTION:</p> <p>A group of four small and narrow houses, each dominated by its projecting bay containing a superimposed window bay. Roofs are fairly steeply pitched with traceried barges. Each has a tiny entrance porch alongside the bay, and the front corners of each have rusticated vermiculated quoins. The windows have stilted semi elliptical windows with Ionic pilastration. A narrow fretwork timber fringe is suspended around the bracketted eaves of the window bay. The most striking feature of these cottages is that the front room of each, i.e. the room occupying the projecting bay, is more steeply pitched than the rest of the roof, presumably to lend scale to the street fronts. Each house has an identical iron palisade front fence.</p>		
<p>MODIFICATION:</p> <p>The bargeboards of Nos. 3 & 4 are slightly different from those of Nos. 7 and 9; but that of No. 7 has been stripped. All cottages have been re-roofed: No. 3 with sheet metal tile panels; Nos. 5 and 9 with terra cotta tiles and No. 7 with concrete tiles. No. 3 still retains the slating to the faceted roof over its window bay.</p>		

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