 DEVELOPMENT ASSESSMENT PANEL REPORT	
Application No.	REV/2024/0018
Address	12 Stanley Street STANMORE NSW 2048
Proposal	Section 8.2 Review of DA/2024/0374 determined on 20 June 2024, for removal of one (1) tree, located within the rear setback.
Date of Lodgement	24 September 2024
Applicant	Carmel Gatt
Owner	Carmel Gatt Mr Ian J Pike
Number of Submissions	Nil
Cost of works	\$0.00
Reason for determination at Planning Panel	No substantial change to original determination of 8.2 review.
Main Issues	Tree removal
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	DA Review Request
Attachment C	DA/2024/0374 – Assessment Report
Attachment D	DA/2024/0374 – Notice of Determination
Attachment E	Draft Conditions of Consent in the event of Approval



Figure 1: Subject site highlighted in red. Source: IntraMaps

Note: The application was not notified in accordance with Council’s community engagement strategy.

1. Executive Summary

This report is an assessment of the application submitted to Council under Section 8.2 of the *Environmental Planning and Assessment Act 1979 (EP and A Act 1979)* to review DA/2024/0374 determined on 20 June 2024, for the removal of one (1) tree, located within the rear yard at 12 Stanley Street STANMORE.

Concerns with the application relate to the inadequate justification for the tree removal within a Heritage Conservation Area. Therefore, the review application is recommended for refusal.

2. Proposal

The proposal seeks to remove one (1) *Celtis sinensis* (Chinese Hackberry) located on the north-western rear corner of the site.

3. Site Description

The subject site is located on the western side of Stanley Street at the bend with Gordon Crescent, between Douglas Street to the north and Trafalgar Street to the south. The site area is approximately 173.93sqm with a primary frontage of 6.2m to Stanley Street and is legally described as Lot 16 in DP 1336. An existing single storey dwelling house is located on the site.

The site is zoned *R2 – Low Density Residential* under the Inner West Local Environmental Plan 2022, as shown in Figure 2 below. The property is located within a heritage conservation area and adjoins a heritage item at the rear, namely No. 2 York Crescent Petersham.



Figure 2: Zoning Map – Subject site highlighted in Red.



Figure 3: Photo of subject tree located in the rear yard

4. Background

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
DA/2024/0374	Removal of one (1) tree, within the rear setback	20/06/2024 – Refused

5. Section 8.2 Review

The application was lodged under Section 8.2 of the *Environmental Planning and Assessment Act 1979 (EPA Act 1979)*.

Requirement	Proposal
8.2 Determinations and decisions subject to review	
<p>(1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division—</p> <ul style="list-style-type: none"> a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary), b) the determination of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary), c) the decision of a council to reject and not determine an application for development consent. 	<p>The subject application relates to the review of a determination of an application for development consent by Council.</p>
<p>(2) However, a determination or decision in connection with an application relating to the following is not subject to review under this Division—</p> <ul style="list-style-type: none"> a) a complying development certificate, b) designated development, c) Crown development (referred to in Division 4.6). 	<p>The subject application does not relate to any of the applications noted in Clause 2.</p>

(3) A determination or decision reviewed under this Division is not subject to further review under this Division.	Noted.
8.3 Application for and conduct of review	
(1) An applicant for development consent may request a consent authority to review a determination or decision made by the consent authority. The consent authority is to review the determination or decision if duly requested to do so under this Division.	Noted.
(2) A determination or decision cannot be reviewed under this Division— a) after the period within which any appeal may be made to the Court has expired if no appeal was made, or b) after the Court has disposed of an appeal against the determination or decision.	<p>The original DA was determined on 20 June 2024. Pursuant to Section 8.10(1)(b)(i) of the <i>Environmental Planning and Assessment Act 1979</i>, an appeal may be made to the Court 6 months after the date of determination.</p> <p>The subject application was lodged on 24 September 2024 and has been reported to the Inner West Local Planning Panel for determination prior to the expiry of the appeal period (20 December 2024).</p>
(3) In requesting a review, the applicant may amend the proposed development the subject of the original application for development consent or for modification of development consent. The consent authority may review the matter having regard to the amended development, but only if it is satisfied that it is substantially the same development.	The applicant has not made amendments to the subject application.
(4) The review of a determination or decision made by a delegate of a council is to be conducted- - by the council (unless the determination or decision may be made only by a local planning panel or delegate of the council), or - by another delegate of the council who is not subordinate to the delegate who made the determination or decision.	The original DA was determined under Council Officer delegation. Given that refusal is recommended for this application, the current application is to be determined by the Local Planning Panel.
(5) The review of a determination or decision made by a local planning panel is also to be conducted by the panel.	N/A.
(6) The review of a determination or decision made by a council is to be conducted by the council and not by a delegate of the council.	N/A.
(7) The review of a determination or decision made by a Sydney district or regional planning panel is also to be conducted by the panel.	N/A.
(8) The review of a determination or decision made by the Independent Planning Commission is also to be conducted by the Commission.	N/A.
(9) The review of a determination or decision made by a delegate of the Minister (other than the Independent Planning Commission) is to be conducted by the	N/A.

Independent Planning Commission or by another delegate of the Minister who is not subordinate to the delegate who made the determination or decision.	
8.4 Outcome of review	
After conducting its review of a determination or decision, the consent authority may confirm or change the determination or decision.	It is recommended that the determination remain the same, and that the proposal be refused.

An application for the removal of one (1) tree, located within the rear setback (DA/2024/0374) was refused by Council under delegated authority under Development Application No. DA/2024/0374 on 20 June 2024. The Section 8.2 Review application is supported by a letter from the applicant, which includes the following justification in response to the reasons for refusal;

Reasons for refusal

1. **The proposed development is inconsistent with, and has not demonstrated compliance with the State Environmental Planning Policy (Biodiversity and Conservation) 2021, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, including:**
 - a. **Section 2.1 (a) as the proposal does not protect the biodiversity values of trees in non-rural areas, and**
 - b. **Section 2.1 (b) as the proposal does not preserve the amenity of non-rural areas of the State through the preservation of trees.**

Applicant’s Response:

- a. *The tree, a Celtis, is in stand of tree of diverse species. There are, already, a number of celtis trees in the street and area. The removal of one celtis tree, which are regarded as weed species, will not adversely impact the biodiversity of trees in the area.*
- b. *The Marrickville Development Control Plan Part 2.20 provides the definition of ‘Amenity – a desirable or useful feature, or facility of a building or place’. To contribute to amenity, the tree would need to be seen. The tree in question can only be sighted from the backyards of No. 10 and No. 12 Stanley Street, Stanmore. The owners of each of the two (2) properties are seeking the removal of this one tree due to its invasive nature and the risk to the health, welfare and safety of the owner occupier of No. 10, Iris Walter (100 years old). The celtis is in a stand of 6 or 7 trees, the other trees being in the property behind No. 12 and is not discernible from the stand unless you specifically seeking to do so. It is therefore considered that there will be no loss of amenity.*

Council’s Assessment:

- In the context of a highly modified urbanised environment such as the Inner West Local Government Area (LGA), the *Celtis sinensis* is not considered a weed. It does not pose a threat to locally occurring vegetation or environments in the location where it is growing.

- With regard to its amenity value, the tree is visible from several surrounding properties including from the rear of the properties located on the western side of Stanley Street as well as from the heritage listed property at 2 York Crescent. It is acknowledged that there are several large canopy trees in close proximity. However, despite it being grouped, it does not diminish the value and benefit of the subject tree. Additionally, it is noted that it is likely the leaves, flowers and seed pods from the *Jacaranda mimosifolia* (Jacaranda) tree located on the adjacent property to the rear or the leaves that fall in Autumn from the *Platanus sp.* (Plane tree) at the rear would drop or be blown into the rear of 10 Stanley Street if the canopy of the *Celtis* was removed.
 - The tree is not in poor health nor does it have any structural hazards that would result in a high risk of substantial damage to property or harm to a person. No evidence was sighted, nor any submitted that demonstrates likely structural damage (to a substantial structure) or that the sewer or drainage pipes are being impacted in any significant way that can be linked to the tree. It is acknowledged that the low masonry retaining wall close to the tree is cracked and that the displacement may be partially a result of pressure from tree roots however no nexus has been demonstrated between the tree and the cracks. Notwithstanding the previous comment, it must be noted that in accordance with the TMDCP Part 3.1, C9, vi), '*Minor lifting of driveways, paths and paving or minor damage to outbuildings, garden structures, walls or landscape structures*' are generally not considered valid reasons for tree removal as such items can be reasonably repaired/altered without requiring removal of the tree.
2. ***The proposed development is inconsistent with, and has not demonstrated compliance with the Inner West Local Environmental Plan 2022, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, including:***
- a. ***Section 1.2(2)(h) and 1.2(2)(i) as the removal of the tree will result in adverse environmental impacts on the local character of the Inner West and will not prevent adverse cumulative environmental impacts***
 - b. ***Section 2.3 as the tree removal does not maintain the natural features in the surrounding area.***

Applicant's response:

- a. *Given the circumstance outlined in response to the above item, it is not understood what adverse environment impact is envisaged. To rely on a general statement without any rationale seems to be prejudicial. The removal of the one tree, a weed species, in a stand of mature tree does not, in this instance, result in an adverse environmental impact.*
- b. *Section 2.3 – the rationale provided to refuse the DA is on the basis that 'the tree removal does not maintain the natural features in the surrounding area.' The tree is not a native species to the area. It is in a stand of trees an this one tree can only be sighted from the rear yards of two (2) houses only. The stand of trees has a significant canopy and it is the stand that is, and will remain, the natural feature.*

Council's Assessment

- As previously noted above, the *Celtis sinensis* is not considered a weed within the Inner West LGA. As a result, the tree is considered to provide a moderate level of landscape significance where no replacement plantings are provided to offset the tree being removed.
- With regards to its amenity value, the tree is visible from several surrounding properties including from the rear of the properties located on the western side of Stanley Street as well as from the heritage listed property at 2 York Crescent. It is acknowledged that there are several large canopy tree in close proximity. However, despite it being grouped, it does not diminish the value and benefit of the subject tree.

3. *The proposed development is inconsistent with, and has not demonstrated compliance with the Marrickville Development Control Plan 2011, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, including:*

- a. *Part 2.20 Tree Management, in that the proposal includes tree removal of a tree in good health, without valid arboricultural reasons and sights dropping of seeds and branches as the primary reasons for removal which are not considered justification for removal, contrary to Controls C8 and C9 and the tree removal is inconsistent with Objectives O4 and O5 as the proposal does not adequately manage the urban landscape and the proposal does not maintain the amenity of the Inner West through the preservation of trees.***

Applicant's response:

- a. *The determination is inconsistent with Part 2.20 of the Marrickville Development Control Plan 2011 (MDCP 2011). The MDCP 2011 provides the wording '...without valid arboricultural reasons and sights of dropping of seeds and branches as the primary reasons for removal which are not considered justification for removal.' It is clear from this determination that Council officers assessing the application did not read significant parts the application was lodged. The submission made it clear that the owner occupier of No. 10, and the neighbour, Iris Walter, is 100 years old, lives by herself in the same house she was born in, and relies on being able to access the rear yard. It should be noted that Iris uses a 'walker' to traverse the backyard. The leaf litter and droppings presents a significant risk to her safety and wellbeing.*
- b. *The feasibility of pruning branches over the fence line has been assessed, however, given that the tree grows aggressively and the trees to the rear are ensuring the celtis grows towards the two homes to seek the sun.*
- c. *This tree growth is also reducing the level of natural light receives by No. 10 and No. 12 .*
- d. *Iris (neighbour) was never interviewed as part of the original application and should have been conducted as part of the assessment process.*
- e. *Objective O2 of the Tree Management DCP 2023 stipulates that consideration of the safety of the community, private property, and public infrastructure is to be undertaken as part of the assessment.*

- f. *C8 of the Tree Management DCP 2023 states that 'A high risk of danger will be given significant weight when determining an application, noting that dangerous tree assessments are based on the safety risk posed by a tree in normal weather conditions.'. The determination of the application is inconsistent with Control 8 of the Tree Management DCP 2023.*

Council's Assessment:

- The application refers to seeds and that the situation 'requires the owners carers to keep her yard free of litter'. There is an expectation that in order to live and enjoy the benefits that of a leafy green environment (provided by trees), it is appropriate to expect that property owners regularly clean the surrounds of their house. This is supported by case law issues by the NSW Land & Environment Court [*Barker v Kyriakides [2007] NSWLEC 292*].
 - In accordance with the provisions of MDCP2011, overshadowing or a reduction in solar access to a site is not a consideration for removal of a tree that positively contributes to the biodiversity values of the area.
 - It is considered that the proposal is inconsistent with control C8 of the Tree Management DCP 2023, as the tree is in good health and condition, and therefore does not pose a high level of risk or danger to occupants of the subject site or adjoining properties. As previously outlined above, concerns surrounding the dropping of leaves, flowers, fruit, sap, seeds or small elements of deadwood (or other natural processes) does not provide sufficient justification for tree removal. Pruning of the subject tree could ameliorate the concerns raised by the applicant.
- 4. The proposal is considered to result in adverse environmental impacts on the built environment pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.**

Applicant's response:

- a. *Understanding is sought with regards to what adverse environmental impacts is identified as.*

Council's Assessment:

- The removal of the tree would result in adverse environmental impacts to the natural environment, given that the subject tree proposed for removal contributes to the urban canopy of the Inner West LGA tree, whilst no replacement plantings are proposed as.
- 5. The proposal is not suitable for the site pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.**

Applicant's response:

- a. *Section 4.15(1)(c) of the EP&A Act 1979 refers to the suitability of the site for the development. However, this clause does not give guidance with regards to its application.*
- b. *This development, the removal of the one tree, in a stand of trees that is forcing the celtis trees to grow to the east and north to access the sun, which results to significant hazard for an elderly resident, shading the properties is adding no amenity at all to the vicinity. The application is eminently is suitable and appropriate that it be approved.*

Council's Assessment:

- It is considered that the proposal will have an adverse impact on the environmental amenity of the local area. Therefore, it is considered that the site is unsuitable to undertake the proposed tree removal.
 - As previously discussed above, the tree is in good health and condition and does not pose a safety risk at this time. Overshadowing or the dropping of leaves, flowers, fruit, sap, seeds or small elements of deadwood (or other natural processes) does not provide justification for tree removal, as it is considered that this issue could be remedied via regular grounds maintenance such as sweeping.
- 6. *The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.***

Applicant's response:

- a. *Clause 4.15(1)(e) of the EP&A Act 1979 does not provide guidance with regards to its application. The stand of trees is unaffected by the removal of the celtis tree.*
- b. *The public can only view the stand from the west and cannot see the celtis tree at all. As such, it is considered that there is not detriment to interest in removing the celtis tree.*
- c. *The refusal of the application puts the wellbeing of the resident's life at risk due to the leaf litter and debris coming from the tree.*

Council's Assessment:

- The proposal seeks to remove a healthy tree without adequate arboricultural justification, which contributes to the local landscape and has ecological and amenity value, in which the proposed tree removal would be contrary to the public interest.
- As previously discussed above, the tree can be seen (visual amenity) from several surrounding properties, including from the rear of the properties located on the western side of Stanley Street as well as from the heritage listed property at 2 York Crescent.
- As previously discussed above, the tree is in good health and condition and does not pose a safety risk at this time. Council's site inspection noted that both No. 10 and No. 12 Stanley Street had minimal tree related debris and no tree related trip hazards were observed on site.

6. 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 (EPA Act 1979)*.

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The *Biodiversity and Conservation SEPP* requires consideration for the protection and/or removal of vegetation and gives effect to the local tree preservation provisions of Part 2.20 of the MDCP 2011.

The application seeks the removal of one (1) x *Celtis sinensis* (Chinese Hackberry) from within the subject site.

An assessment of the proposal against the abovementioned provisions has identified the following:

- The *Celtis sinensis* (Chinese Hackberry) is a small mature species in good health, vigour and form, which contributes to the amenity of the subject site, canopy cover of the area, biodiversity and ecological values of the site and surrounds.
- The proposed removal of the above tree is considered to be inconsistent with the following provisions:
 - Section 2.1(a) & (b) of *Biodiversity and Conservation SEPP*: The proposed development does not protect the biodiversity values of trees nor preserves the amenity of the area.
 - The reason given for supporting removal in the supplied Statement of Environmental Effects (SEE) is that this tree drops branches and seeds on neighbouring properties and causes overshadowing. In accordance with the provisions of MDCP2011, this is not a consideration for removal of a tree that positively contributes to the biodiversity values of the area, noting that impact from branches and seeds of the tree may be mitigated by pruning.
- Additionally, the proposal is considered to be inconsistent with specific Objectives and Controls of Part 2.20 within the MDCP2011, which is discussed in detail elsewhere in this report.

Overall, the proposal is considered unacceptable with regard to the *Biodiversity and Conservation SEPP* and provisions of Part 2.20 of the MDCP 2011 and recommended for refusal.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal is inconsistent with the following relevant aims under this section</p> <p style="text-align: center;"><i>(h) to prevent adverse social, economic and environmental impacts on the local character of Inner West,</i></p> <p style="text-align: center;"><i>(i) to prevent adverse social, economic and environmental impacts, including cumulative impacts.</i></p> <p>As discussed throughout this report, the proposal does not satisfactorily prevent adverse environmental impacts.</p>	No

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> The application proposes tree removal, which is permissible with consent in the R2 zone. 	Yes
Section 2.3 Zone objectives	<ul style="list-style-type: none"> The application is not consistent with the following relevant objectives of the R2 zone: <p style="text-align: center;"><i>To provide residential development that maintains the character of built and natural features in the surrounding area</i></p> <p>As discussed in further detail in this report, the proposal is generally inconsistent with the objectives of the zone and the relevant DCP controls, which seek to protect trees within and adjacent to development sites in conjunction with managing the urban landscape to allow trees to make a continued, significant contribution to quality, character, and amenity.</p>	No

Part 4 – Principal development standards

The application proposes tree removal only, and as such, there is no change to principal development standards.

Part 5 – Miscellaneous provisions

Section	Compliance	Compliance
Section 5.10 Heritage conservation	<p>The subject site is a contributory building within the Kingston South Heritage Conservation Area (HCA)</p> <p>The tree is unlikely to be related to heritage plantings within the Heritage Conservation Area and its removal will raise no issues that are contrary to the provisions and objectives of Section 5.10 of the IWLEP 2022.</p> <p>However, the proposal is recommended for refusal based on other factors.</p>	Yes

B. Development Control Plans

Marrickville Development Control Plan 2011

The application was assessed against the following relevant parts of the Marrickville Development Control Plan 2011 (MDCP 2011).

Part 2 – Generic Provisions

Control	Assessment	Compliance
Part 2.20 Tree Management	<p>The proposed development does not satisfy the relevant provisions of this Part, noting that the proposal does not provide an arboricultural justification for the removal of trees per the assessment criteria of this Part and the proposal is not designed to maintain or improve urban forest values.</p> <p>For further details, refer to discussion below.</p>	<p>No</p> <p>See discussion below</p>
<p><u>Discussion:</u></p> <p>The application seeks to remove one (1) x <i>Celtis sinensis</i> (Chinese Hackberry) from within the rear setback of the subject site. The application is accompanied by a Statement of Environmental Effects from the applicant which seeks to justify the removal of the tree on the grounds that the tree currently poses a threat to human life and property on the grounds that it drops seeds and branches on the neighbouring property, causes overshadowing and is not deemed to be a tree of landscape significance, since the tree provides no additional amenity value due to the rear yard being currently enveloped by the canopy of various trees on surrounding properties and the subject site..</p>		

Control	Assessment	Compliance
	<p>In accordance with Control C9 of this Part, the above criteria are not considered justification for tree removal or pruning. The tree and subject site have been assessed by Council’s Urban Forest Officer who considers the tree to be in good health and does not meet the assessment criteria for tree removal set out in Control C8 of this Part.</p> <p>Additionally, a site visit determined that there are a number of deciduous trees within the proximity of the subject and neighbouring site, and the shedding of leaves and flowers from these trees also contributes to the need to maintain and clear both yards. It is not considered that the removal of the above tree would remove the need to provide maintenance.</p> <p>Further to this, case law (i.e., <i>Barker v Kyriakides</i> [2007] NSWLEC 292) supports the expectation that in order to live in and enjoy the benefits that a leafy green environment (enabled by trees) provides, it is appropriate to expect that property owners regularly clean the surrounds of their house.</p> <p>No further arboricultural justification has been provided with the application, and no replacement plantings are proposed, or considered possible given the constraints of the site.</p> <p>It was noted during a site inspection that the wall of the planter box containing the tree displayed signs of minor cracking. As evidenced by discolouration and presence of moss, the cracking is not considered to be a recent consequence of the tree growth. Additionally, in accordance with Control C9, minor lifting of driveways, paths and paving or minor damage to outbuildings, garden structures, walls or landscape structures are not generally considered valid reasons for tree removal where such items can reasonably be repaired without requiring the removal of the tree.</p> <p>Given the above, the removal of the <i>Celtis sinensis</i> (Chinese Hackberry) is considered to be inconsistent with applicable controls of this Part and the following objectives:</p> <ul style="list-style-type: none"> • <i>Objective 4 - To manage the urban landscape so trees continue to make a significant contribution to its quality, character and amenity.</i> • <i>Objective 5 - To maintain and enhance the amenity of the Inner West Local Government Area through the preservation of appropriate trees and vegetation.</i> <p>As such, the application is recommended for refusal.</p> <p>Note: Should the property owner wish to prune the tree, in accordance with the Controls of this part of the MDCP 2011, they may prune up to 10% of the tree's overall canopy (max. branch diameter 100mm at point of attachment) on the provision that the work is done in accordance with AS4373 - <i>Pruning of amenity trees</i> without Council approval although.</p>	

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have significant adverse environmental impacts upon the locality as it would result in the loss of a tree that is in good health.

D. The Suitability of the Site for the Development

It is considered that the proposal will have an adverse impact on the environmental amenity of the local area. Therefore, it is considered that the site is unsuitable to accommodate the proposed development.

E. Submissions

The application was not required to be notified in accordance with Council's Community Engagement Strategy.

F. The Public Interest

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

As detailed in this report, the proposal contains several inconsistencies with the aims, objectives, and controls of relevant EPIs and the MDCP 2011 and would result in adverse impacts upon the locality.

Therefore, the proposal is not considered to be in the public interest.

7. Section 7.11 / 7.12 Contributions

As the application is recommended for refusal, the applicable contribution/levy has not been calculated.

8. Referrals

The application has been referred to Council's Tree Assessment Officer, and their comments have been considered as part of the above assessment.

9. Conclusion

The proposal generally does not comply with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and *Marrickville Development Control Plan 2011*.

The development would result in significant impacts on the amenity of the adjoining properties and is not considered to be in the public interest. The applicant has not provided adequate arboricultural reasons to support removal of the *Celtis sinensis* (Chinese Hackberry) on the

site, which is in good health, contributes to the local landscape and has ecological and amenity value.

Therefore, the application is considered unsupportable and in view of the circumstances, the original determination of refusal of Determination No. DA/2024/0374 be CONFIRMED for the reasons outlined in the notice of determination.

10. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Application No. REV/2024/0018 for a Section 8.2 Review of DA/2024/0374 determined on 220 June 2024¹ March 2024, which seeks the removal of one (1) tree, located within the rear setback at 12 Stanley Street , Stanmore for the following reasons in Attachment A;

Attachment A – Reasons for refusal

1. The proposed development is inconsistent with, and has not demonstrated compliance with the State Environmental Planning Policy (Biodiversity and Conservation) 2021, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, including:
 - a. Section 2.1 (a) as the proposal does not protect the biodiversity values of trees in non-rural areas, and
 - b. Section 2.1 (b) as the proposal does not preserve the amenity of non-rural areas of the State through the preservation of trees.
2. The proposed development is inconsistent with, and has not demonstrated compliance with the Inner West Local Environmental Plan 2022, pursuant to Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, including:
 - a. Section 1.2(2)(h) and 1.2(2)(i) as the removal of the tree will result in adverse environmental impacts on the local character of the Inner West and will not prevent adverse cumulative environmental impacts
 - b. Section 2.3 as the tree removal does not maintain the natural features in the surrounding area.
3. The proposed development is inconsistent with, and has not demonstrated compliance with the Marrickville Development Control Plan 2011, pursuant to Section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, including:
 - a. Part 2.20 Tree Management, in that the proposal includes tree removal of a tree in good health, without valid arboricultural reasons and sufficient justification for removal, contrary to Controls C8 and C9. The tree removal is inconsistent with Objectives O4 and O5, as the proposal does not adequately manage the urban landscape and the proposal does not maintain the amenity of the Inner West through the preservation of trees.
4. The proposal is considered to result in adverse environmental impacts on the built environment pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
5. The proposal is not suitable for the site pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
6. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

Attachment B – DA Review Request

Attention Inner West Council

Re; DA/2024/0374 – 12 Stanley Street, Stanmore

I refer to the Notice of Determination of a Development Application dated 20 June 2024 and write in response to the DA refusal and the grounds for that refusal. We request a review of the consent authority's decision under section 8.3(1) of the EP&A Act,

The following is provided in response to the determination:

Reason 1

Inconsistency with the aims of Section 4.15 of the State Environmental Planning Policy (Biodiversity and Conservation) —

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State.

The tree, a Celtis, is in a stand of trees of diverse species. There are, already, a number of celtis trees in the street and area. The removal of one celtis tree, which are regarded as weed species, will not adversely impact the biodiversity of trees in the area.

- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Please note that the Marrickville Development Control Plan Part 2.20 provides the following definition;

Amenity - a desirable or useful feature, or facility of a building or place.

To contribute to amenity the tree would need to be seen. The tree in question can only be sighted from the backyards of No.12 and No.10 Stanley Street, Stanmore. The owners of each of the 2 properties are seeking the removal of this one tree due to its invasive nature and the risk to the health, welfare and safety of the owner occupier of No.10, Iris Walter [100 years old]. The celtis is in a stand of 6 or 7 trees, the other trees being in the property behind No.12 and is not discernible from the stand unless you are specifically seeking to do so. There will be no loss of amenity.

Reason 2

Inconsistency with the Inner West Local Environment Plan which was reported as:

Section 1.2(2) (h) - prevent adverse social, economic and environmental impacts on the local character of Inner West.

Given the circumstance outlined in response to the above item I do not understand what adverse environmental impact is envisaged. To rely on a general statement without any rationale seems to be prejudicial. The removal of the one tree, a weed species, in a stand of mature trees does not, in this instance, result in an adverse environmental impact.

Section 2.3 – the rationale provided to refuse the DA is on the basis that ‘the tree removal does not maintain the natural features in the surrounding area.’ The tree is not a native species to the area. It is in a stand of trees and this one tree can only be sighted from the rear yards of 2 houses [only]. The stand of trees has a significant canopy and it is the stand that is, and will remain, the natural feature.

Reason 3

Inconsistent with Marrickville Development Control Plan 2011

Part 2.20 - the determination is worded as follows;

‘...without valid arboricultural reasons and sights dropping of seeds and branches as the primary reasons for removal which are not considered justification for removal.

It is clear from this determination that the council officers assessing the DA did not read significant parts the DA lodged. The DA submission made it clear that the owner occupier of No.10, and our neighbour, Iris Walter, is 100 years old, lives by herself in the same house she was born in, and relies on being able to access her backyard. She uses a ‘walker’ to traverse the backyard. The leaf litter and droppings present a significant risk to her safety and wellbeing. She is stressed and worried about accessing her own backyard and falling because of the leaf litter etc.

We have assessed the feasibility of lopping branches hanging over the fence line but the tree grows aggressively and the trees to the rear are ensuring the celtis grows towards the two homes to seek the sun.

This tree growth is also reducing the level of natural light available into the homes.

Our DA requested that our neighbour be interviewed as part of the assessment process but she was never interviewed.

The Tree Management DCP 2023 makes it clear that one of the objectives that guides the management of trees within the Inner West LGA is:

O2 To consider the safety of the community, private property, and public infrastructure assets.

This is the objective that relates to our application and it is clear from the correspondence that this was not taken into account in making the determination.

Please note that 3.1 Application Assessment Criteria, at C8 states that ‘*A high risk of danger will be given significant weight when determining an application, noting that dangerous tree assessments are be based on the safety risk posed by a tree in normal weather conditions.*’

It seems as if the refusal of the DA is inconsistent with the Control Plan.

Reason 4

Adverse environmental impacts on the built environment.

We seek to understand what adverse environmental impacts have been identified noting all of the information provided above.

Reason 5

Not suitable for the site pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979

This Section simply states, the suitability of the site for the development. It gives no guidance as to how this is applied. This development, the removal of the one tree, in a stand of trees that is forcing the celtis tree to grow to the east and north to access the sun, creating a significant hazard for an elderly resident, shading the properties is adding no amenity at all to the vicinity and means the DA eminently is suitable and it is appropriate that it be approved. Can council provide its rationale for making a determination to refuse the DA on the grounds that it, the removal of the celtis tree, is not suitable for the site.

Reason 6

Proposal is not in the public interest pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979

This Section simply states, the public interest. It gives no guidance, however, this development, is for the removal of the one tree in a stand of trees. The stand is unaffected by the removal of the celtis tree. The public can only view the stand from the west and cannot see the celtis tree at all. There is no detriment to interest in removing the celtis tree.

Indeed, it is not in the public interest for council to refuse the DA and put an elderly resident's life, or at least her wellbeing, at risk. Iris is 100 years old, she is in fear of falling in her backyard due to the leaf litter and debris coming from this tree.

We are dissatisfied with the determination and seek a review.

Regards




Ian Pike and Carmel Gatt

2 Sept 2024

Attachment C – DA/2024/0374 – Assessment Report



Development Assessment Report

Application No:	DA/2024/0374	Assessing Officer:	Kate Tomlinson
Date of lodgement:	13 May 2024	Cost of works:	\$0.00
Heritage Significance:	HCA	Notification:	N/A
Permissible:	Yes	Submissions:	N/A
Applicant:	Carmel Gatt		
Owner:	Carmel Gatt Mr Ian J Pike		
Subject Site:	12 Stanley Street STANMORE NSW 2048		
Site Location:	<p>The subject site is located on the Western side of Stanley Street, at the bend with Gordon Crescent. The site area is approximately 174sqm with a primary frontage to Stanley Street. An existing single storey dwelling house is located on the site.</p> <p>Surrounding land uses are predominantly single and two storey dwelling houses.</p>  <p>Figure 1: Aerial photo of the subject site outline in green</p>		
Proposal:	<p>Removal of one (1) tree, located within the rear setback</p> <p>Specifically, the proposal involves the following works:</p> <ul style="list-style-type: none"> Removal of one (1) <i>Celtis sinensis</i> (Chinese Hackberry) within the 		

INNER WEST

	Northwestern rear corner of the site.
Relevant Background:	<u>Site History:</u> <ul style="list-style-type: none">• No relevant site history pertaining to the current application
Key Issues:	Tree Removal within a Heritage Conservation Area
Recommendation:	Refusal





1. 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 (EPA Act 1979)*.

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The *Biodiversity and Conservation SEPP* requires consideration for the protection and/or removal of vegetation and gives effect to the local tree preservation provisions of Part 2.20 of the MDCP 2011.

The application seeks the removal of one (1) x *Celtis sinensis* (Chinese Hackberry) from within the subject site.

An assessment of the proposal against the abovementioned provisions has identified the following:

- The *Celtis sinensis* (Chinese Hackberry) is a small mature species in good health, vigour and form, which contributes to the amenity of the subject site, canopy cover of the area, biodiversity and ecological values of the site and surrounds.
- The proposed removal of the above tree is considered to be inconsistent with the following provisions:
 - Section 2.1(a) & (b) of *Biodiversity and Conservation SEPP*: The proposed development does not protect the biodiversity values of trees nor preserves the amenity of the area.
 - The reason given for supporting removal in the supplied Statement of Environmental Effects (SEE) is that this tree drops branches and seeds on neighbouring properties and causes overshadowing. In accordance with the provisions of MDCP2011, this is not a consideration for removal of a tree that positively contributes to the biodiversity values of the area, noting that impact from branches and seeds of the tree may be mitigated by pruning.
- Additionally, the proposal is considered to be inconsistent with specific Objectives and Controls of Part 2.20 within the MDCP2011, which is discussed in detail elsewhere in this report.



Overall, the proposal is considered unacceptable with regard to the *Biodiversity and Conservation SEPP* and provisions of Part 2.20 of the MDCP 2011 and recommended for refusal.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal is inconsistent with the following relevant aims under this section</p> <p><i>(h) to prevent adverse social, economic and environmental impacts on the local character of Inner West,</i></p> <p><i>(i) to prevent adverse social, economic and environmental impacts, including cumulative impacts.</i></p> <p>As discussed in further detail in this report, the proposal does not satisfactorily prevent adverse environmental impacts.</p>	No

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> The application proposes tree removal, which is permissible with consent in the R2 zone. 	Yes
Section 2.3 Zone objectives	<ul style="list-style-type: none"> The application is not consistent with the following relevant objectives of the R2 zone: <p><i>To provide residential development that maintains the character of built and natural features in the surrounding area</i></p> <p>As discussed in further detail in this report, the proposal is generally inconsistent with the objectives of the zone and the relevant DCP controls, which seek to protect trees within and adjacent to development sites in conjunction with managing the urban landscape to allow trees to make a continued, significant contribution to quality, character, and amenity.</p>	No



Part 4 – Principal development standards

The application proposes tree removal only, and as such, there is no change to principal development standards.

Part 5 – Miscellaneous provisions

Section	Compliance	Compliance
Section 5.10 Heritage conservation	<p>The subject site is a contributory building within the Kingston South Heritage Conservation Area (HCA)</p> <p>The tree is unlikely to be related to heritage plantings within the Heritage Conservation Area and its removal will raise no issues that are contrary to the provisions and objectives of Section 5.10 of the IWLEP 2022.</p> <p>However, the proposal is recommended for refusal based on other factors.</p>	Yes

B. Development Control Plans

Marrickville Development Control Plan 2011

The application was assessed against the following relevant parts of the Marrickville Development Control Plan 2011 (MDCP 2011).

Part 2 – Generic Provisions

Control	Assessment	Compliance
Part 2.20 Tree Management	<p>The proposed development does not satisfy the relevant provisions of this Part, noting that the proposal does not provide an arboricultural justification for the removal of trees per the assessment criteria of this Part and the proposal is not designed to maintain or improve urban forest values.</p> <p>For further details, refer to discussion below.</p>	<p>No</p> <p>See discussion below</p>
<p><u>Discussion:</u></p> <p>The application seeks to remove one (1) x <i>Celtis sinensis</i> (Chinese Hackberry) from within the rear setback of the subject site. The application is accompanied by a Statement of Environmental Effects from the applicant which seeks to justify the removal of the tree on the grounds that the tree currently drops seeds and branches on the neighbouring property and causes overshadowing.</p> <p>In accordance with Control C9 of this Part, the above criteria are not considered justification for tree removal or pruning. The tree and subject site have been assessed by Council's Urban Forest Officer who considers that the tree is in good health, and the tree does not display criteria consistent with application assessment criteria for tree removal set out in Control C8 of this Part.</p>		



Control	Assessment	Compliance
	<p>Additionally, a site visit determined that there are a number of deciduous trees within the proximity of the subject and neighbouring site, and the shedding of leaves and flowers from these trees also contributes to the need to maintain and clear both yards. It is not considered that the removal of the above tree would remove the need to provide maintenance.</p> <p>Further to this, recent case law (i.e., <i>Barker v Kyriakides</i> [2007] NSWLEC 292) supports the expectation that in order to live in and enjoy the benefits that a leafy green environment (enabled by trees) provides, it is appropriate to expect that property owners regularly clean the surrounds of their house.</p> <p>No further aboriginal justification has been provided with the application, and no replacement plantings are proposed, or considered possible given the constraints of the site.</p> <p>It was noted during a site inspection that the wall of the planter box containing the tree displayed signs of minor cracking. As evidenced by discolouration and presence of moss, the cracking is not considered to be a recent consequence of the tree growth. Additionally, in accordance with Control C9, minor lifting of driveways, paths and paving or minor damage to outbuildings, garden structures, walls or landscape structures are not generally considered valid reasons for tree removal where such items can reasonably be repaired without requiring the removal of the tree.</p> <p>Given the above, the removal of the <i>Celtis sinensis</i> (Chinese Hackberry) is considered to be inconsistent with applicable controls of this Part and the following objectives:</p> <ul style="list-style-type: none"> • <i>Objective 4 - To manage the urban landscape so trees continue to make a significant contribution to its quality, character and amenity.</i> • <i>Objective 5 - To maintain and enhance the amenity of the Inner West Local Government Area through the preservation of appropriate trees and vegetation.</i> <p>As such, the application is recommended for refusal.</p> <p>Note: Should the property owner wish to prune the tree, in accordance with the Controls of this part of the MDCP 2011, they may prune up to 10% of the tree's overall canopy (max. branch diameter 100mm at point of attachment) on the provision that the work is done in accordance with AS4373 - <i>Pruning of amenity trees</i> without Council approval although.</p>	

Part 9 – Strategic Context

Control	Assessment	Compliance
Part 9.3 Stanmore North (Precinct 3)	<p>The proposed tree removal satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposal does not seek to alter the contributory dwelling located on the site, or the single storey streetscape. <p>However, as discussed elsewhere in this report, the application is recommended for refusal based on other grounds.</p>	Yes



C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will have significant adverse environmental impacts upon the locality for the loss of a tree that is in good health and does not meet the arboricultural criteria for removal.

D. The Suitability of the Site for the Development

It is considered that the proposal will have an adverse impact on the environmental amenity of the local area. Therefore, it is considered that the site is unsuitable to accommodate the proposed development.

E. Submissions

In accordance with Council's Community Engagement Strategy, notification of the application was not required.

Notwithstanding the above, no submissions were received

F. The Public Interest

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

As detailed in this report, the proposal contains several inconsistencies with the aims, objectives, and controls of relevant EPIs and the MDCP2011 and would result in adverse impacts.

Further to this, the proposal to remove a healthy tree without adequate arboricultural justification, and which contributes to the local landscape and has ecological and amenity value, would be contrary to the public interest. Therefore, the proposal is not considered to be in the public interest.

2. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Heritage Specialist;
- Urban Forest;



3.Recommendation

The proposal does not comply with the aims and controls contained within the relevant environmental planning instruments and Development Controls Plan.

The applicant has not provided adequate arboricultural reasons to support removal of the *Celtis sinensis* (Chinese Hackberry) on the site, which is in good health, contributes to the local landscape and has ecological and amenity value.

It is recommended that the application is unsupportable and, in view of the circumstances, REFUSAL of the application is recommended for the reasons outlined in the notice of determination.



Attachment D – DA/2024/0374 – Notice of Determination



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA/2024/0374 PAN-433183
Applicant	Carmel Gatt 33 Woodward Street MEREWETHER NSW 2291
Description of development	Removal of one (1) tree, located within the rear setback
Property	12 Stanley Street STANMORE NSW 2048 Lot 16 Section E DP 1336
Determination	Refused Consent Authority ○ Delegation to Staff
Date of determination	20 June 2024

Under section 4.18(1)(a) of the EP&A Act, notice is given that the above development application has been determined by refusing consent using the power in section 4.16(1)(b) of the EP&A Act, for the reasons specified below:

Reasons for refusal

1. The proposed development is inconsistent with, and has not demonstrated compliance with the *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
 - a. Section 2.1 (a) as the proposal does not protect the biodiversity values of trees in non-rural areas, and
 - b. Section 2.1 (b) as the proposal does not preserve the amenity of non-rural areas of the State through the preservation of trees.
2. The proposed development is inconsistent with, and has not demonstrated compliance with the *Inner West Local Environmental Plan 2022*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, including:
 - a. Section 1.2(2)(h) and 1.2(2)(i) as the removal of the tree will result in adverse environmental impacts on the local character of the Inner West and will not prevent adverse cumulative environmental impacts
 - b. Section 2.3 as the tree removal does not maintain the natural features in the surrounding area.
3. The proposed development is inconsistent with, and has not demonstrated compliance with the *Marrickville Development Control Plan 2011*, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, including:
 - a. Part 2.20 Tree Management, in that the proposal includes tree removal of a tree in good health, without valid arboricultural reasons and sights dropping of seeds and branches as the primary reasons for removal which are not considered justification for removal, contrary to Controls C8 and C9 and the tree removal is inconsistent with Objectives O4 and O5 as the proposal does not adequately manage the urban

landscape and the proposal does not maintain the amenity of the Inner West through the preservation of trees.

4. The proposal is considered to result in adverse environmental impacts on the built environment pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*.
5. The proposal is not suitable for the site pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
6. The proposal is not considered to be in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.

Right of appeal / request a review of the determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have the right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.



Ferdinand Dickel
Senior Planner

Person on behalf of the consent authority

For further information, please contact Kate Tomlinson on 02 9335 2171 or kate.tomlinson@innerwest.nsw.gov.au.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means Inner West Council.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Local planning panel means Inner West Local Planning Panel.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:
the collection of stormwater,

the reuse of stormwater,

the detention of stormwater,

the controlled release of stormwater, and

connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision works certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Sydney Eastern City Planning Panel.

Attachment E – Draft Conditions of Consent in the event of Approval

GENERAL CONDITIONS

Condition							
1.	<p style="text-align: center;">Works to Trees</p> <p>Approval is given for the following tree to be removed:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Tree No.</th> <th style="width: 60%;">Botanical/Common Name</th> <th style="width: 25%;">Location</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">-</td> <td>1 x <i>Celtis sinensis</i> (Chinese Hackberry)</td> <td style="text-align: center;">Rear</td> </tr> </tbody> </table> <p>All tree works shall be undertaken by a person holding a minimum Australian Qualification Framework (AQF) Level 3, Certificate of Arboriculture, as defined by the Australian Qualification Framework and in compliance with Australian Standard AS 4373—<i>Pruning of amenity trees</i> and Safe Work Australia's Guide to Managing Risks of Tree Trimming and Removal Work.</p> <p>Note: removal of any other tree that would require consent of Council is not approved.</p> <p>Reason: To identify trees permitted to be removed.</p>	Tree No.	Botanical/Common Name	Location	-	1 x <i>Celtis sinensis</i> (Chinese Hackberry)	Rear
Tree No.	Botanical/Common Name	Location					
-	1 x <i>Celtis sinensis</i> (Chinese Hackberry)	Rear					
2.	<p style="text-align: center;">Certification of Tree Planting</p> <p>A replacement tree must be planted within one month of the tree removal. Within one month of planting of the new tree, Council is to be provided with evidence in the form of an image of the planted tree and a copy of a purchase invoice to confirm that the tree complies with the following:</p> <p>A minimum of 1 x 45 litre size canopy tree, which will attain a minimum mature height of 7 metres, has been planted in a suitable location within the property (at least 1 metre from any boundary) and allowing for future tree growth. The tree must meet the requirements of AS2303—<i>Tree stock for landscape use</i>. Trees listed as exempt species from Council's Tree Management Development Control Plan and species recognised to have a short life span, will not be accepted.</p> <p>The tree required by this condition must be maintained and protected until it is protected by Council's Tree Management DCP. Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month.</p> <p>Reason: To ensure appropriate replacement tree planting is undertaken.</p>						
3.	<p style="text-align: center;">Works Outside the Property Boundary</p> <p>This development consent does not authorise works outside the property boundaries on adjoining lands.</p> <p>Reason: To ensure works are in accordance with the consent.</p>						
4.	<p style="text-align: center;">Other works</p> <p>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 <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Reason: To ensure compliance with legislative requirements.</p>						

5.	Dividing Fences Act
	The person acting on this consent must comply with the requirements of the <i>Dividing Fences Act 1991</i> in respect to the alterations and additions to the boundary fences. Reason: To ensure compliance with legislative requirements.
6.	Dial before you dig
	Contact "Dial Prior to You Dig" prior to commencing any building activity on the site. Reason: To protect assets and infrastructure.

**BUILDING WORK
BEFORE BUILDING WORK COMMENCES**

Condition	
7.	<p>Dilapidation Report</p> <p>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 identified properties (No. 8 and No. 14 Stanley Street, Stanmore and No. 2 York Crescent, Petersham) 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.</p> <p>Reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.</p>