

15 January 2016

The General Manager
Warringah Council
Civic Drive
725 Pittwater Road
DEE WHY NSW 2099

Dear Sir / Madam

Section 96(1A) Application – Amend condition 16 of DA2015/0612 to allow for removal of tree 16

This letter comprises a formal request to Warringah Council under Section 96(1A) of the *Environmental Planning and Assessment Act 1979* to modify DA2015/0612 to allow for the removal tree 16.

DA2015/0612 for drainage and stormwater management works and installation of shoring walls and bulk excavation was approved on 22 December 2015.

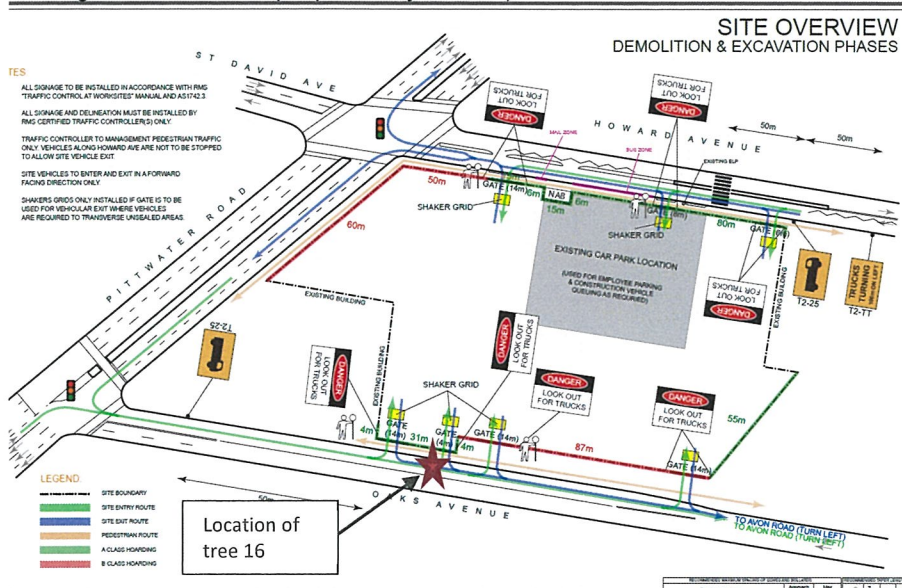
Proposed Modification

Condition 16 of the consent specifies the trees that are to be retained within and adjoining the site. It specifies that the following trees are to be retained.

“Trees numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 15, 17, 18, 19, 20 and 21 in the Aboricultural Assessment Report dated 21 January 2015 prepared by TALC.”

As specified in the Aborist Report which accompanied the DA the removal of Tree 16 is required to allow access to the site. The figure below shows the access points approved by Council for the excavation process.

Figure 1: Approved construction access points during excavation phase (extract from Construction Traffic Management Plan v.6 prepared by SBMG)



Tree 16 directly obstructs access into the site. Its removal is essential to the safe operation of the site during the excavation process.

We understand that the Council's Landscape Officer recommended the retention of the tree and commented as follows:

"The Arborist's Report indicates that Tree 16, a Platanus x hybrid (London Plane Tree) is to be removed to accommodate future access to the development.

As this application is for excavation and the site adjacent to the tree has previously been excavated, it is considered that it will be beneficial for the tree [to] be retained at this stage due to its contribution to the streetscape now and during the excavation works. Application for removal can be included in a future DA for construction of the development." (extract from Development Assessment Report)

Based on the landscape officer's recommendation to retain the Tree 16 was included among the trees identified by Condition 16 for retention.

With reference to the landscape officer's comments the following should be noted:

- No excavation of any part of the site has occurred to date. DA2015/0612 is the only consent that allows for the excavation of the site. The statement that the site adjacent to the tree has previously been excavated is therefore incorrect.
- The comments imply that the removal of the tree is only required to support the driveway of the future mixed use development. This is not the case and there is no suggestion of this within the documentation lodged with the DA. As discussed above the removal of tree 16 is required to facilitate access for the excavation of the site, as proposed by DA2015/0612. The tree blocks an entry gate required for construction access to the site. It is therefore not appropriate for the assessment of the removal of Tree 16 to be postponed until a later DA for the main building works is lodged as its removal is required to support the current proposal.

As the removal of the tree is an essential component of the construction methodology for the proposed excavation of the site we seek to amend Condition 16 to allow for the removal of Tree 16 as follows (deleted text shown in ~~strikethrough~~):

"16. Tree protection and roots

(a) Existing trees which must be retained (Tree Root Protection)

Trees numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, ~~16~~, 15, 17, 18, 19, 20 and 21 in the Aboricultural Assessment Report dated 21 January 2015 prepared by TALC"

Assessment

The development will remain substantially the same as the original approval and can be considered under Section 96(1A) of the *Environmental Planning and Assessment Act 1979*. The development is not altered in any physical way as a result of the proposal and no additional environmental impact over and above that considered in the original assessment would be generated by the proposed modification.

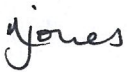
The proposed modification does not alter the permissibility of the proposal, nor does it impact on the compliance of the approved development with the relevant controls of the Warringah LEP or DCP.

The proposed modification is considered to be in the public interest as it will ensure that the excavation process can be managed safely in accordance with the details of the approved Construction Traffic Management Plan for the project.

If you require further information please do not hesitate to contact me on (02) 9287 2509. We look forward to receiving a positive determination in due course.

Yours faithfully

KARIMBLA CONSTRUCTION SERVICES (NSW) PTY LTD

A handwritten signature in black ink that reads "Norelle Jones". The signature is written in a cursive, flowing style.

Norelle Jones
Senior Town Planner