

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0870
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Responsible Officer:	Rebecca Englund
Land to be developed (Address):	Lot 5 DP 1161389, 6 Macpherson Street WARRIEWOOD NSW 2102
Proposed Development:	removal and replacement of 32 trees
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Anglican Community Services
Applicant:	Anglican Community Services

Application lodged:	25/05/2018
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Residential - Seniors Living
Notified:	05/06/2018 to 21/06/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Refusal

Estimated Cost of Works:	\$ 17,600.00
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ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of

- determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - B4.22 Preservation of Trees and Bushland Vegetation
 Pittwater 21 Development Control Plan - C6.2 Natural Environment and Landscaping Principles

SITE DESCRIPTION

Property Description:	Lot 5 DP 1161389 , 6 Macpherson Street WARRIEWOOD NSW 2102
Detailed Site Description:	The site is legally described at Lots 3,4 & 5 in Deposited Plan 1161389, and is commonly known 6-10 Macpherson Street, Warriewood. The site contains 59 attached and detached independent living units managed by Anglican Retirement Villages. The application is limited to the removal and replacement of canopy trees located centrally on the site in close proximity to the internal loop road.

Map:



SITE HISTORY

On 17 September 2013, Development Application N0267/13 was lodged with Council, seeking consent for the construction of 59 self-contained dwelling at the subject site.

On 19 February 2014, Development Application N0267/13 was approved. Of relevance to the subject application, the approved landscape plan provided for 64 x *Angophora hispida* (dwarf apple trees) around the internal loop road, being 1 small canopy tree in front of each dwelling.

On 14 April 2016, Modification Application N0267/13/S96/3 was lodged with Council, seeking consent to amend the approved landscape plan for the site.

On 9 June 2016, the Applicant lodged an appeal with the Land and Environment Court against the deemed refusal of N0267/13/S96/3.

On 5 October 2016, Modification Application N0267/13/S96/3 was approved by virtue of a s34 agreement between the parties. Of relevance, the amended landscape plan provided for 32 x *Corymbia gummiferas* (Red Bloodwoods) to replace the 64 x *Angophora hispida*s (dwarf apple trees) around the internal loop road, to achieve 1 large canopy tree between dwellings.

on 25 May 2018, the subject Development Application was lodged with Council.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the removal of 32 existing *Corymbia gummiferas* (Red Bloodwoods), to be replaced with 32 *Tristaniopsis laurinas* (Water Gums).

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter can be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter can be addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the	(i) Environmental Impact

Section 4.15 Matters for Consideration'	Comments
development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>Council's Landscape division has assessed the proposal against the Pittwater 21 DCP 2014 Control - B4.22 Preservation of Trees and Bushland Vegetation C1.1 Landscaping, and believes the proposed development does not comply with these controls.</p> <p>The proposal identifies removing 32 existing <i>Corymbia gummifera</i></p>

Internal Referral Body	Comments
	<p>(Red Bloodwood) and the proposed replacement of 32 <i>Tristaniopsis laurina</i> 'Luscious' (Water Gum cv).</p> <p>During site inspection it was noted that all the current plantings of Water Gums are in poor condition with chlorotic leaves and no new growth. All the Red Bloodwoods viewed during inspection were healthy, vigorous and thriving and predominantly located in positions between buildings.</p> <p>It is unlikely this species, in this position, will reach the referred 18m in height, however having a larger species will allow the canopy to be eventually raised up over the roadway, access ways and awnings allowing ease of movement for pedestrians and vehicles.</p> <p>This species will provide adequate scale for the site, I do not believe removal and replacement is appropriate.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	
Integrated Development – NSW Rural Fire Service (Subdivisions and Special Fire Protection Purposes under Section 100B of Rural Fires Act)	

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

Nil

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes

zone objectives of the LEP?	Yes
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Compliance Assessment

Clause	Compliance with Requirements
6.1 Warriewood Valley Release Area	Yes

Pittwater 21 Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	No	No
C6.2 Natural Environment and Landscaping Principles	No	No

Detailed Assessment

B4.22 Preservation of Trees and Bushland Vegetation

See comments from Council's Arborist.

C6.2 Natural Environment and Landscaping Principles

The removal of otherwise healthy canopy trees is not supported by Council's arborist, particularly noting that trees of the same variety as the proposed replacements are not doing as well on the subject site. Furthermore, the size and shape of the proposed replacement variety are not considered appropriate for the location, whereby the broader canopy of the proposed watergums will conflict with the adjacent road and dwellings and necessitate constant pruning such that a mature canopy will never be achieved.

The loss of the healthy established bloodwoods and the proposed replacement of watergums is not consistent with the outcomes and requirements of this control, which aim to achieve an increase in canopy cover, promote the healthy growth of large trees with large canopies, and protect existing mature trees. With this in mind, the proposal is recommended for refusal.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.


RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2018/0870 for the removal and replacement of 32 trees on land at Lot 5 DP 1161389,6 Macpherson Street, WARRIEWOOD, for the reasons outlined as follows:

1. The proposed removal of establishing canopy trees is inconsistent with the outcomes and requirements of clauses B4.22 (Preservation of Trees and Bushland Vegetation) and C6.2 (Natural Environment and Landscaping Principles) of P21 DCP. Furthermore, the application was not supported by sufficient information to demonstrate that the trees are dying or in poor health, or that they pose an unacceptable risk, and as such, the removal of otherwise healthy canopy trees is not supported.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Rebecca Englund, Principal Planner

The application is determined on 09/08/2018, under the delegated authority of:



Matthew Edmonds, Manager Development Assessments

















ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

No notification map.

ATTACHMENT C

Reference Number	Document	Date
 2018/325188	Plan - Landscape	23/04/2018
 2018/325190	Company Extract	26/04/2018
 2018/325189	Report - Bushfire Report	16/05/2018
 2018/325186	Report - Statement of Environmental Effects	22/05/2018
 DA2018/0870	6 Macpherson Street WARRIEWOOD NSW 2102 - Development Application - Alterations and Additions	25/05/2018
 2018/318826	DA Acknowledgement Letter - Anglican Community Services	25/05/2018
 2018/325192	Fee Form	28/05/2018
 2018/325193	Applicants Details	28/05/2018
 2018/325194	Development Application Form	28/05/2018
 2018/340334	DA Acknowledgement Letter (integrated) - Anglican Community Services	04/06/2018
 2018/342086	Notification map for 6-14 Macpherson Street	04/06/2018
 2018/341970	Notification Letter Integrated Dev RFS	05/06/2018
 2018/341991	Referral - Integrated Cheque Letter - NSW Rural Fire Service (Subdivisions and Special Fire Protection Purposes under Section 100B of Rural Fires Act)	05/06/2018
 2018/354683	Referral - RFS - 6-14 Macpherson Street Warriewood	12/06/2018
 2018/359344	Notification to Property - DA2018/0870	13/06/2018
 2018/447819	Landscape Referral Response	13/07/2018
 2018/450715	Request for Withdrawal of Development Application - Anglican Community Services	16/07/2018
 2018/484390	Referral - RFS Response - DA2018/0870 - 6-14 Macpherson Street Warriewood	02/08/2018