

Landscape Referral Response

Application Number:	Mod2025/0390
Date:	05/08/2025
Proposed Development:	Modification of Development Consent DA2021/0199 granted for Demolition works and construction of a community centre with associated parking and landscaping
Responsible Officer:	Olivia Ramage
Land to be developed (Address):	Lot 10 DP 1312242 , 4 Jacksons Road WARRIEWOOD NSW 2102

Reasons for referral

This application seeks consent for the following:

- Construction / development works within 5 metres of a tree or
- New residential works with three or more dwellings. (RFB's, townhouses, seniors living, guesthouses, etc). or
- Mixed use developments containing three or more residential dwellings.
- New Dwellings or

Officer comments

The application is for modification to development consent 2021/0199 as described in reports and as illustrated on plans.

In reviewing the Statement of Modification, the modification request is to "allow for issue of a Partial Occupation Certificate", and to delete or modify conditions 46, 52 and 53. Condition 46. Landscape Completion is imposed by Landscape Referral. It is noted that in the Statement of Modification the term *clauses* as utilised instead of *condition*.

This does not require modification to the development consent, as Part 5 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, does not resolve that only one occupation certificate is allowable, as described in paragraph 49 (1) (g) and (h). NSW Planning guidance is clear on how private certifiers may determine an occupation certificate, including: The Occupation Certificate authorises the occupation and use of a new building or building section. For staged works, an interim Occupation Certificate may be issued which allows you to occupy the completed part of the building.

Therefore, the Private Certifying Authority may issue any numbered of separate Occupation certificates for parts of the works.

The Statement of Modification further identifies the modification works as:

The Community Centre build is well progressed and nearing completion. Shortly after commencement of works, additional environmental testing (required by the Development Approval Condition 25 Further Site Investigations), confirmed the presence of friable asbestos in the soil. This required strict adherence to environmental controls and NSW Safe Work protocols. As part of the remediation works, a cap and contain approach has been adopted, with a marker layer at 300mm below ground and a Long-Term Environmental Management Plan applicable to the entire site.

This has resulted with the Clauses in the Development Approval 2021/0199 relating to landscape design not being able to be achieved.

It is requested that the above clauses be deleted or modified to allow issue of a Partial Occupation Certificate by the Principal Certifying Authority by amending the words to 'issue of an Occupation Certificate' rather than 'any Occupation Certificate'.

This will allow the occupation and use of the centre while the landscape design is reviewed in the context of the Long Term Environmental Management Plan. In the short term, an additional layer of top soil and bark chip mulch will be installed to landscaped areas and all tree planting deleted, with a view to the design being reviewed and approved, subject to a second Modification application under 4.55 (2). Mass planting will continue to car parking and perimeter gardens as per original plans.

In reviewing the amended landscape plans it is noted that all proposed tree planting is to be deleted whilst mass planting shrubs is to continue. Landscape Referral require scientific and environmental evidence to report that the capping must not be penetrated by roots to accept that tree planting cannot be planted. If tree roots are able to penetrate the capping layer without environmental risks, then there is no reason not to plant trees, albeit at a smaller installation size. Likewise, with 300mm soil depth it is expected that mass planting shrub roots would penetrate no different to tree roots. Should evidence be presented that the capping layer must not be penetrated then it is envisaged that only grass and native grasses would be suitable.

Landscape Referral shall recommence assessment following receipt of a scientific / environmental report as prepared by a qualified professional able to assess risks associated with the restrictions or otherwise opportunities of the capping layer and any proposed planting works.

The proposal is therefore unsupported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Recommended Landscape Conditions:

Nil.