



28 May 2019

Our Ref: DB/08-164AD

Northern Beaches Council
725 Pittwater Road
DEE WHY NSW 2099

**RE: Section 4.55 Modification of Development Consent No. DA2009/1693 –
Demolition of existing buildings and associated structures and construction
of 47 self-contained dwellings for older people and people with a disability
(Old Darby and Joan precinct of the RSL War Veterans Retirement Village)**

Dear Sir/Madam,

1. INTRODUCTION

This report accompanies an application to modify development consent DA2009/1693 for the “demolition of existing buildings and associated structures and construction of 47 self-contained dwellings for older people and people with a disability (Old Darby and Joan precinct of the RSL War Veterans Retirement Village)” near the south-eastern corner of the War Veterans site off Veterans Parade, Narrabeen and identified as Lot 1 DP 774980.

This modification seeks approval for a number of design changes resulting from on-going consultation with existing residents. The design changes set out in this application are solely in response to the residents’ concerns about the approved development within the Anzac Village and in particular those residents residing in the existing units along James Wheeler Street, which is adjacent to the new development. RSL LifeCare have taken these concerns on board and presented solutions to ease resident concerns both towards the design, their environment and to aim to reduce building works around their properties.

2. BACKGROUND

Development consent for DA 2009/1693 was granted by the Sydney East Joint Regional Planning Panel on 18 May 2010. This approved the demolition of existing buildings and the construction of 67 self-contained dwellings on the site.

A separate application (DA 2014/0714) was granted consent by Warringah Council on 8 September 2014 approving the construction of 18 independent living units over part of the site subject to DA 2009/1693.

The consent for DA 2014/0714 was conditional on the modification of DA 2009/1693 to reflect the changes necessitated by the approval of DA 2014/0714 over part of the site.

Mod2015/0056 approved on 1 July 2015 changed the description of DA 2009/1693 to reference 47 dwellings and added an additional plan that removed reference to the 20 dwellings approved in DA 2014/0714.

Mod2017/0304 approved on 21 March related to minor reconfigurations of the site layout, changes to the internal floor plans, additional ancillary internal road and access improvements, minor reconfiguration of the proposed garages and car parking and the removal of additional trees.

Mod2019/0133 approved on 7 May 2019 granted approval to the removal of additional trees on the site.

3. APPLICATION BASIS

This application is made pursuant to section 4.55(1A) of the EP&A Act based on the following:

- The proposed modifications will result in minor environmental impacts that can be mitigated. These result from the detailed design process for retaining walls and service diversions.
- The proposed modifications are generally consistent with the original development application and the proposal is 'substantially the same development' as the development for which consent was originally granted. There is no change to the development as approved being 47 independent living units on the site generally within the confines of the existing approved development footprint on the site.
- The proposed modifications will result in an improved amenity for existing residents during construction and once completed.

Relevant details of the proposed modification of the consent are provided below.

4. LAND TO WHICH THIS MODIFICATION APPLICATION RELATES

This application relates to part of the land identified as Lot 1 DP 774980 off Veterans Parade and Lantana Avenue, Narrabeen being the land to which development consent granted in DA 2009/1693 relates. This land is part of the greater RSL Anzac Village development which comprises a number of separate but inter-related precincts. Specifically, this application relates to that part of the site identified as "Old Darby and Joan units" which are being demolished and the site redeveloped with new independent living seniors housing units to be known as Labuan.

5. PROPOSED MODIFICATIONS

5.1 Description

This application seeks approval for the following amendments:

- Design changes to the 2-storey enclosed garages directly opposite the existing Units 608 to 612 on James Wheeler Street. These changes include:
 - Deletion of parking spaces at the James Wheeler Street level – the residents of the existing Units 608 to 612 requested the removal of the low level

garages accessible from James Wheeler Street (originally included for their own use, not for the development). The garage doors have been removed and the under-croft has been enclosed.

- The scale of the upper garages has been reduced and the elevation has been softened to be less bulky with the inclusion of planters.
- One of the parking spaces on the upper level has been relocated to Second Avenue (for Unit 37B) to reduce scale and provided a drying yard.
- In relocating the high level enclosed garage off James Wheeler Street to Second Avenue the design of the pathway from the parking space for Unit 65A has been modified to allow accessible parking spaces to Units 65A and 65B.
- A communal bin store and additional external drying yards have been added on request of residents in locations shown on the amended drawings off James Wheeler Street and near Lantana Avenue.
- OSD Tank 2 is to be relocated from its position on the northern side of James Wheeler Street to a position on the southern side of James Wheeler Street. This is described in the letter from Warren Smith and Partners (**Attachment 1**).

These changes are shown on the drawings accompanying this S4.55 application.

5.2 Proposed Modification of Development Consent Conditions

Condition 1A

It is suggested that this modification can be given effect by a change to condition 1A as it is currently drafted to allow for the amended DA drawings accompanying the application.

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA3.01, DA3.02, DA3.03, DA3.13, DA3.14 , DA3.15, DA3.16, DA3.17, DA3.18, DA3.19, (Revision 01)	08/11/2017	Humel Architects
DA3.04, DA3.05, DA3.07, DA3.08, DA3.09, DA3.10, DA3.11, DA3.12, and DA3.14 (Revision 02)	14/11/2017	Humel Architects
DA3.01 R6, DA3.04 R7, DA3.05 R7, DA3.07 R7, DA3.08 R7, DA3.09 R7, DA3.10 R7, DA3.11 R8, DA3.12 R7, DA3.13 R4, DA3.14 R3, DA3.14A R5	24-05-2019	McNally Architects

Add the following paragraph to condition 1A:

g) The on-site detention basin No 2 is to be relocated as shown in the letter prepared by Warren Smith & Partners dated 22 May 2019.

Condition No. 44

This condition relates to the original integrated development approval granted by the NSW Rural Fire Service and contains reference to the plans originally approved with DA 2009/1693. The proposed modification will supersede these plans. It is requested that this condition be updated in consultation with the NSW Rural Fire Service to reflect the details proposed with this modification.

6. PRESCRIBED FORM

The prescribed requirements for a Section 4.55 application are set out in Clause 115(1) of the *Environmental Planning and Assessment Regulation 2000*. Northern Beaches Council has integrated these requirements into a form for its own administrative purposes. A completed copy of this form accompanies this correspondence.

7. RELEVANT PROVISIONS OF SECTION 4.55

7.1 Section 4.55(1A) Considerations

Section 4.55(1A) of the Act states as follows:

(1A) *Modifications involving minimal environmental impact*

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

In relation to 4.55(1A)(a), the proposal seeks to implement design changes to reduce the amount of construction near existing residences in response to concerns raised by residents.

In relation to 4.55(1A)(b), the proposed modification does not materially change the development for which the consent was originally granted. The development to which the consent, as modified, will relate is substantially the same as the development to which consent was originally granted.

In relation to 4.55(1A)(c) and (d), Northern Beaches Council may choose to notify the application and consider any submissions.

7.2 Section 4.55(3) Considerations

The proposed modification will not change the environmental impacts of the development as approved and remains the same as those outlined in the original application documentation and subsequent modification applications.

8. ENVIRONMENTAL EFFECTS

The relevant matters listed under Section 4.15(1) of the Environmental Planning and Assessment Act, 1979 are addressed below.

8.1 Statutory Planning Considerations

The original development of the site was approved in accordance with the statutory planning instruments and regulations applicable at the time of consent. The proposed modified development is consistent with the relevant planning controls. Compliance with applicable instruments is detailed in the tables below.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposed development is BASIX affected development, seeking consent for the reconfiguration of 47 independent living units (dwellings). The modifications do not require changes to BASIX certification documents.

State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004

Consistent with the SEE lodged with DA2009/1693, while the provisions of this SEPP apply to the land, the permissibility of the proposal is not dependent on it and relies on the provisions of the Warringah Local Environmental Plan 2011. However, the consent authority is required to take into consideration the provisions of any environmental planning instrument relevant to the land.

Also, consistent with the SEE lodged with DA2009/1693, a detailed compliance assessment with the SEPP provisions has not been undertaken. Rather, a general analysis has been undertaken which has determined that the proposed modification fulfils all the relevant requirements of the SEPP and is consistent with the policy in that:

- The supply of independent living units is increased;
- It is consistent with the character of the village and the surrounding area;
- It takes advantage of the existing utility services; and
- It provides well designed units.

State Environmental Planning Policy No. 55 – Remediation of Land

Development consent has previously been granted for the use of the site for seniors housing. The potential for contamination on the site was considered in the assessment of the original development application for the land with a Phase 1 Environmental Site Assessment submitted in support of the proposal. No changes to the approved use of the site are proposed in this application to modify consent. The land is not considered to be contaminated and is suitable for the approved use.

Warringah Local Environmental Plan 2011

Zoning and permissibility

The site is zoned SP1 Special Activities with the purposes shown on the Land Zoning Map being "Seniors Housing and Health Services Facility". Use of

	the site for seniors housing is a land use permissible with consent. The approved development and the proposed modifications are consistent with the zone objectives and the special land uses contemplated for the site in the LEP.
Heritage	Clause 5.10 contains provisions for the conservation of environmental heritage. The site contains the Anzac War Memorial which is an item listed in Schedule 5 of the LEP (Item No. I30). The heritage impact of the development was considered in the original development application. The proposed modification will not directly impact on the heritage values of the listed item and relies on the assessment and conclusions of the Statement of Heritage Impact prepared by Design 5 Architects (December 2009) as submitted with the original application.
Earthworks	The proposed modifications do not result in any additional earthworks.
Development of sloping land	The site is identified on the Landslip Risk Map as within Areas A and D with the provisions of Clause 6.4 applicable. The proposed modifications do not change or increase the potential risk of the development from land slip and relies on the findings and recommendations of the Geotechnical Investigation prepared by Jeffery and Katauskas Pty Ltd submitted with the original development application.

Warringah Development Control Plan 2011	
Part F Zones and Sensitive Areas F3 SP1 Special Activities	This chapter contains special provisions that apply to SP1 zoned land. It requires development of the land to be generally <i>“sympathetic to the scale and amenity of surrounding development, particularly adjacent to residential zones. The natural landscape will be protected and enhanced and development should not create buildings which dominate long distance views of the area.”</i> The proposed modification will result in a built form that is consistent with the above requirements and will integrate well with the site and surrounding built environment. This chapter also contains special provisions applicable to the “War Veterans Village” site. Of relevance to the development are the following:

	<i>Future development will respond to the visual prominence of this site by keeping buildings below the predominant tree line when viewed from the Narrabeen Lagoon viewing catchment. Articulated building forms, landscaping and colours will combine to break up apparent building mass and reduce the impact of new development on long distance views of the locality. Landscaping and the redevelopment of existing buildings so that their visual presence in the Narrabeen Lagoon viewing catchment is reduced will be strongly encouraged.</i> The proposed built form is of a modest, low scale and will comply with this requirement and will be appropriately landscaped. <i>The scale and height of development along Veterans Parade and Lantana Avenue will be consistent with the adjacent established residential development and buildings are to address the street. New buildings will be grouped in areas that will minimise disturbance of vegetation and landforms. Bushfire hazard reduction measures and stormwater detention required as a result of development will be contained within the site.</i> The proposed modified built form is consistent with the existing approval. There is no significant change to the appearance of the development from Lantana Avenue. The proposed additional drying area is behind the building line and well below street level.
Part E The Natural Environment Chapter E1 Preservation of Trees or Bushland Vegetation	

8.2 Environmental, Social and Economic Impacts

The proposed modifications will not result in any social or economic impacts that are significantly different from those associated with the original development application (DA 2009/1693, as amended). Accessibility will be improved by the modifications to access to parking areas off Second Avenue (**Attachment 2**).

The arborist advised that no additional trees would be affected by the modifications (**Attachment 3**).

The development removes access to 4 parking spaces previously proposed for residents of the existing village at the request of the residents who have no need for this parking. Parking for the new development remains unchanged with the exception of the relocation of one space to Second Avenue.

8.3 Suitability of the Site

The proposed modifications will not alter the suitability of the site for the development previously approved.

8.4 Submissions

Any relevant representations will need to be considered by the consent authority.

8.5 Public Interest

The proposed modifications are in the public interest in that the design qualities and functionality of the approved development are to be improved.

9. Conclusion

The proposed modifications will have a minimal environmental impact when considered in association with the assessment of the original application and development consent granted for the site. The development to which the application relates is substantially the same development as the development for which consent was originally granted (and as previously modified). In considering the proposed modification, it is noted that:

- the proposed modifications are permissible with consent in the zone, and are consistent with the provisions of the relevant planning controls.
- the proposed modifications are consistent and generally in accordance with the current approval for the site and will have no adverse impacts on the built environment.
- the proposed modifications are consistent and generally in accordance with the current approval for the site will not result in an unacceptable or significant adverse impact on the natural environment.
- the proposed modifications will not increase the site's currently approved development yield and will therefore result in no additional or adverse impacts on access or traffic.
- the proposed modifications are consistent and generally in accordance with the current approval for the site and no adjoining properties are expected to be adversely affected by the proposed modifications;
- the proposed modifications respond directly to resident concerns on the nature of development near existing dwellings on James Wheeler Street and seek to reduce construction impacts and amenity impacts of the proposed development.

Having regard for the above, the modifications are considered to be in the public interest and will not give rise to any adverse social or economic impacts.

The modifications for which consent is now sought do not alter the original findings made in relation to the original DA (as modified) regarding the reasonableness and appropriateness of the proposal when considered in the light of the matters listed in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*.

If any further details are required, or if further justification is required in support of the requested modification, please do not hesitate to contact the undersigned.



We trust that you will find the application acceptable and look forward to a prompt and favourable determination.

Yours faithfully,

BBC Consulting Planners,

A handwritten signature in blue ink, appearing to read 'Dan Brindle', is written over a light blue horizontal line.

Dan Brindle
Director

Email dan.brindle@bbcplanners.com.au

ATTACHMENTS

1. WSP Report
2. Access Report
3. Arborist Report



Attachment 1

22nd May 2019

Attention: Mr Geoff Bauchop
PBS Building
Level 18, 11-21 Underwood Road
Homebush, NSW, 2140

Project No. 2017-5929001

RE: RSLLC Labuan, Narrabeen
Section 4.55 Stormwater Modification Submission

Dear Geoff,

Warren Smith and Partners (WS+P) has provided this letter in support of a Section 4.55 application for the above referenced development. The Section 4.55 application proposes the relocation of OSD Tank 2 to the landscaped area south of James Wheeler Street which sits within the development area.

The existing approved Development Application (DA) stormwater design proposes that OSD Tank 2 be located beneath an existing lawn area between James Wheeler Street and Simpson Close. Stormwater from OSD Tank 2 was proposed to discharge to an existing stormwater pit located in Simpson Close. Refer to Figure 1 for an illustration of the approved stormwater design.

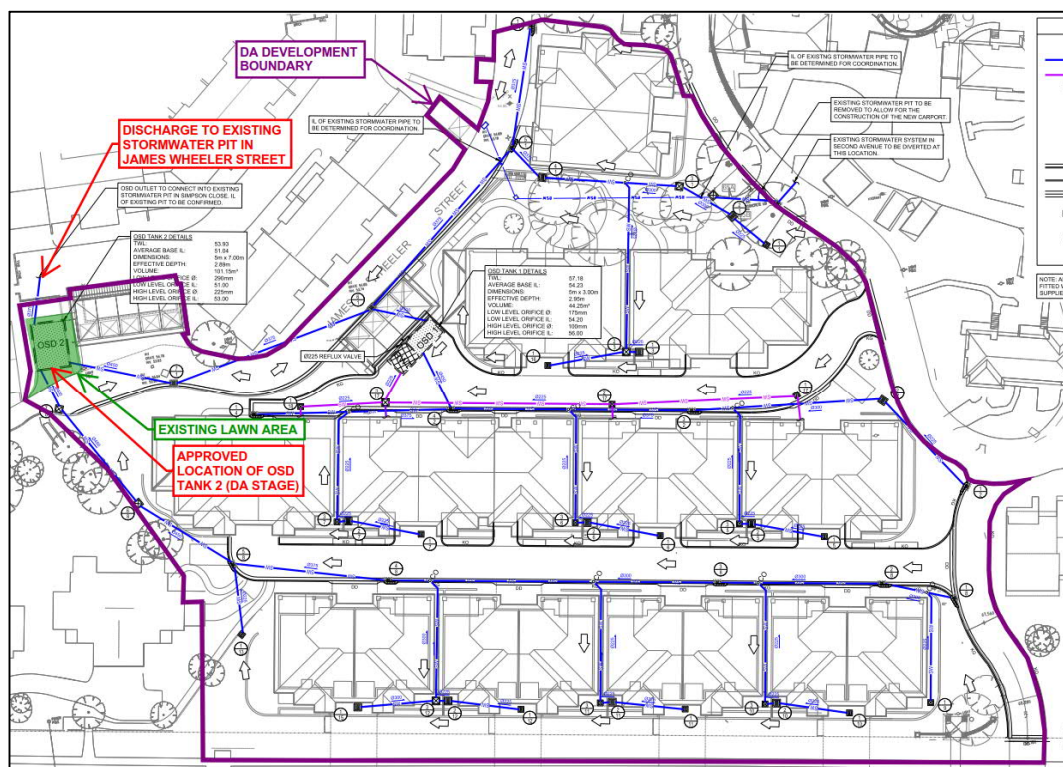


Figure 1: Approved Stormwater Layout Plan (DA Stage)

Warren Smith & Partners Pty Ltd Consulting Engineers ABN 36 300 430 126

A Level 9, 233 Castlereagh Street, Sydney 2000 NSW Australia T 02 9299 1312 wsp@warrensmith.com.au www.warrensmith.com.au

■ Hydraulic Services ■ Fire Services ■ Civil Services ■ Sydney Water Accredited Water Servicing Co-ordinator and Designer

It is now proposed that OSD Tank 2 be relocated to beneath the landscaped area adjacent to Block H within the development site following the detailed design phase post DA. The relocation of the OSD Tank 2 will result in minimal disruption to the existing residence currently living on James Wheeler Street. It is also proposed that stormwater from the relocated OSD tank will discharge to an existing stormwater pit in James Wheeler Street. Refer to Figure 2 for an illustration of the proposed revised location of OSD Tank 2.

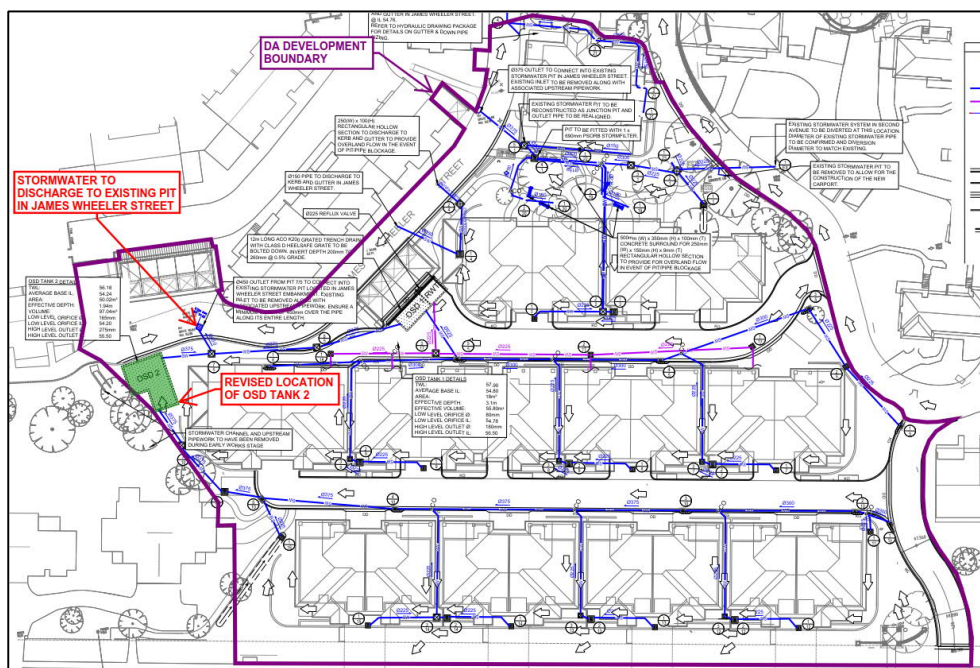


Figure 2: Stormwater Layout Plan (Revised)

Modelling of the newly proposed stormwater and OSD tanks has been undertaken to ensure that the system complies with the Council requirements, in particular the Warringah Council Water Management Policy, 2015, and Warringah Council's On Site Stormwater Detention Technical Specification 2012. The Council requirements are as follows:-

- Runoff from the developed site must not exceed the runoff from the total site prior to the development for the 20%, 5% and 1% AEP storm events. The pre-development conditions must be taken within an impervious fraction of 0% when utilising the full computational method;
- Overland flow paths must be capable of carrying stormwater up to, and including, the 1% AEP storm event to account for 100% blockage of the system, and;
- A maximum of 50% of the total site area will be allowed to bypass the OSD system.

The proposed design submitted as part of the S4.55 modification does not deviate from these design principles. The development area OSD tank system has been designed to ensure that the discharge requirements are being achieved, and overland flow paths are capable of carrying stormwater for all storm events up to, and including, the 1% AEP storm event with 100% blockage of the system. Please refer to Table 1 for the development area discharge results based on the revised stormwater layout plan.

Table 1: DRAINS Development Area Discharge Results

Scenario	20% AEP (L/Sec)	5% AEP (L/Sec)	1% AEP (L/Sec)
Pre-Development Discharge Results (0% Impervious Fraction)	227	349	488
Post-Development Discharge Results	213	348	418

We trust that the revised design, as discussed, and the attached drawing provides enough information to support notification of the relocation of OSD Tank 2. Should you require further information or clarification, please do not hesitate in contacting us.

Kind Regards,



Michael Cahalane

Director - Water and Civil Engineering

Mobile: 0433 522 569

Email: michael@warrensmith.com.au



Attachment 2



**accessible
building
solutions**

24th April 2019

ABN 58 006 628 812

124 Upper Washington Drive
Bonnet Bay NSW 2226

P 0415 255 163
E howard@absaccess.com.au

PBS Building (NSW) Pty Limited
Unit 18, 11-21 Underwood Rd,
Homebush NSW 2140

Attn: Geoff Bauchop

Re: RSL Lifecare Labuan Project

Dear Sir,

I confirm that I have reviewed the proposed changes to the project and confirm that the design remains compliant with Schedule 3 of SEPP Seniors Living. The carparking for the dwellings is provided in accordance with the SEPP with 5% of the parking, being 2 spaces, are provided on Second Ave and 1 garage on Road 02 with an accessible path to their respective dwelling.

Yours faithfully

A handwritten signature in black ink, appearing to read 'H. Moutrie'.

Howard Moutrie
ACAA Accredited Access Consultant No 177



Attachment 3

ADVANCED TREESCAPE CONSULTING

AQF5 ARBORICULTURIST & HORTICULTURIST

☎ 02 4340 2964 ☎ 0408 439 186 ✉ advancedtreescape@bigpond.com
📮 PO Box 7192 KARIONG NSW 2250

ABN: 30 138 200 388



26/04/2019

RSL Life Care ANZAC Village

c/- PBS Building (NSW) Pty Ltd Unit 18,
11-21 Underwood Road
HOMEBUSH NSW 2140

ATTN: Geoff Bauchop
0447 667 113
geoff.bauchop@pbsbuilding.com.au

RE: 4 COLOOLI ROAD, NARRABEEN NSW 2101

I refer to the S4.55 application for Wheeler Street at the above project.

Please be advised that there will be no trees, within the area, impacted by the S4.55 application.

Should you have any further questions please do not hesitate to contact me directly.

Yours sincerely,

Russell Kingdom
Arboriculturist & Horticulturist

MIACA MAIH MAA
Diploma of Arboriculture (AQF5) | Graduate Diploma of Horticulture (AQF8)

Principal: Russell Kingdom

Fully Insured: Public Liability \$20M, Professional Indemnity \$5M & Personal Accident.
Advanced Treescape Consulting is committed to providing a safe working environment for its employees in accordance with The Occupational Health & Safety Act NSW 2000.

