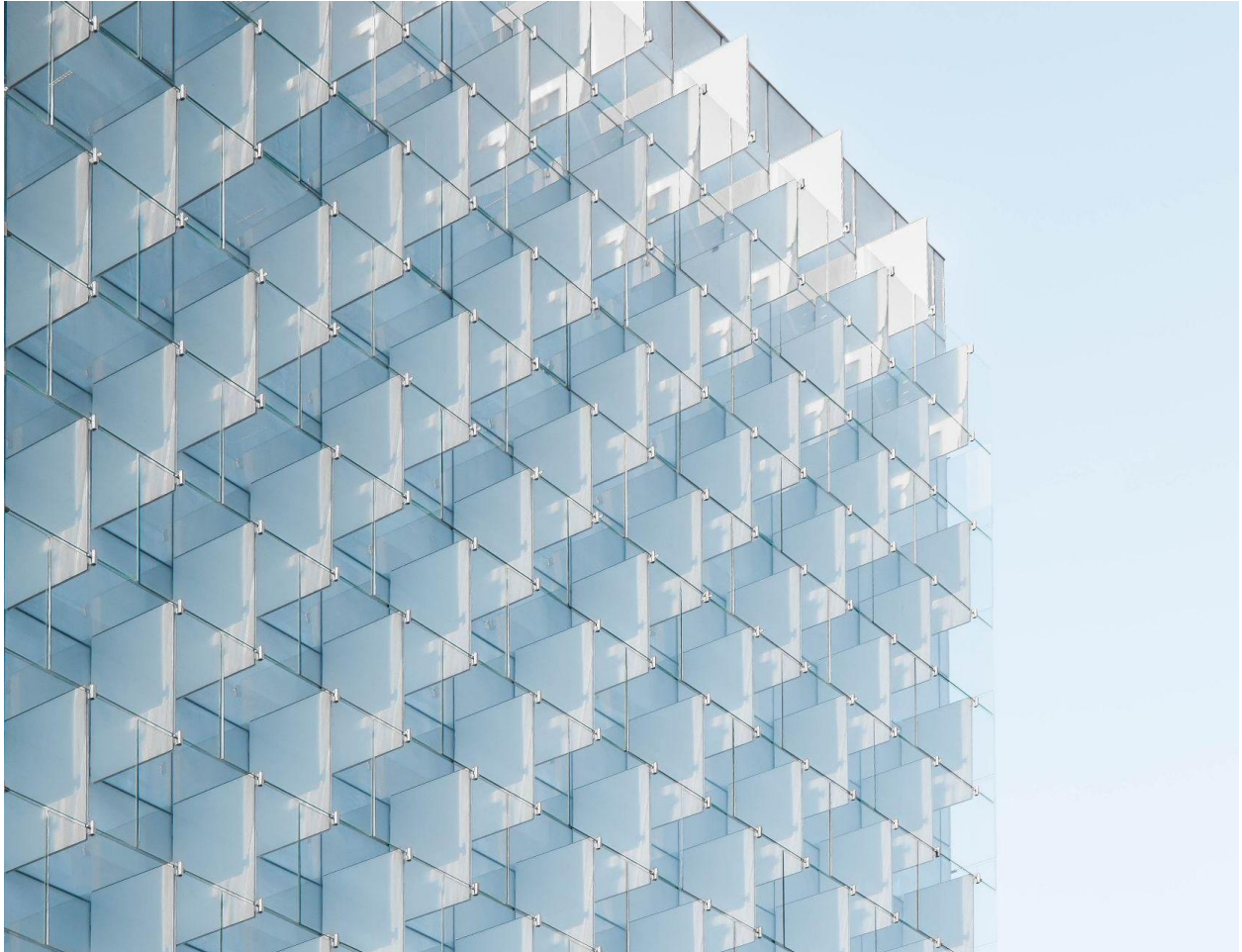


WILLOWTREE PLANNING



25 March 2022

Ref: WTJ22-072
Contact: Cameron Gray



STATEMENT OF ENVIRONMENTAL EFFECTS:

Proposed Removal of One (1) Oak Tree

51 Ryrie Road, Earlwood
Lot 59 DP10987

—
Prepared by Willowtree Planning Pty Ltd
on behalf of Frank Succimarra

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Statement of Environmental Effects

Proposal Removal of One (1) Oak Tree

51 Ryrie Road, Earlwood



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Statement of Environmental Effects

Proposal Removal of One (1) Oak Tree
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APPENDICES

Appendix	Document	Prepared by
1	Arboricultural Impact Assessment	Ezigrow Trees and Landscaping
2	Draft Complying Development Certificate Plans	Hebden Architects
3	Draft Complying Development Certificate Landscape Plans	Hebden Architects
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PART A PRELIMINARY

1.1 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared by Willowtree Planning on behalf of Frank Succimarra and is submitted to Canterbury-Bankstown Council (Council) to support a Development Application (DA).

This DA seeks development consent for the removal of one (1) Oak Tree from the rear yard of 51 Ryrie Road, Earlwood (the Subject Site) The Site is legally described as Lot 59 DP10987.

The removal of the damaged tree is proposed to facilitate the future residential redevelopment of the Site. It is noted that no built form is proposed pursuant to this DA, it seeks only the removal of one (1) tree.

This SEE has been prepared pursuant to Section 4.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and Clause 24 and Part 1 of Schedule 1 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation). Assessment against the relevant matters for consideration under Section 4.15(1) of the EP&A Act has also been carried out.

Based on the assessment undertaken, it is recommended that favourable consideration to the approval of the Development Application be given.



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51 Ryrie Road, Earlwood



PART B SITE ANALYSIS

2.1 SITE LOCATION AND CHARACTERISTICS

The Site is identified as 51 Ryrie Road, Earlwood, being legally defined as Lot 59 DP10987. The Site is located within the suburb of Earlwood and forms part of the wider Canterbury-Bankstown Local Government Area (LGA).

The irregular shaped lot exhibits an area of 897.8m² with a primary frontage to Ryrie Road and a secondary frontage to William Street. The Site is currently occupied by a single storey dwelling house.

The Site is zoned R3 Medium Density Residential and is subject to the applicable provision of *Canterbury Local Environmental Plan 2012* (CLEP2012). The Site is subject to a maximum building height of 8.5m and floor space ratio of 0.5:1 pursuant to CLEP2012.

The location of the Site and existing Site development are depicted in **Figure 1** and **Figure 2** below.



Figure 1. Cadastral Map (Source: SIX Maps, 2022)



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Figure 2. Aerial Map (Source: Near Map, 2022)

2.2 SITE CONTEXT

The Subject Site is located on the north western corner of Ryrie Road and William Street, Earlwood. The Site is currently occupied by a single storey dwelling house.

The Site is located approximately 15km to the Sydney Central Business District (CBD). Access to the road network is from the east of the Site which is in close proximity to Canterbury Road.

Surrounding land uses in the immediate vicinity include:

- North – Low density residential development zoned R3 Medium Density Residential;
- South – Low density mixed-use developments and commercial premises zoned B1 Neighbourhood Centre;
- East – Low density residential development zoned R3 Medium Density Residential; and
- West – Low density residential development zoned R3 Medium Density Residential

The surrounding context of the Site is depicted in **Figure 3** below.





Figure 3. Site Context Map (Source: Neap Map, 2022)

2.3 DEVELOPMENT HISTORY

Table 1 below provides a summary of the DAs relating to the Site that been determined or are under assessment.

TABLE 1. EXISTING CONSENTS		
DA Reference	Summary	Determination
DA-589/2021	Attached development, relocate vehicular crossing and related landscaping, including two new native trees plus strata subdivision into 2 lots	Refused 10/09/2021



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PART C PROPOSED DEVELOPMENT

3.1 OVERVIEW

This DA seeks development consent for the removal of one (1) Oak Tree. The *Quercus robur* (English Oak) is located in the middle of the rear yard and is approximately 16 meters tall, with a spread of approximately 10 meters and has a Diameter at Breast Height (DBH) of 700mm.

The tree is in fair condition with a moderate level of dieback and epicormic growth present, as well as what appears to be significant borer damage and cambium lifting due to this damage. This damage is widespread extending up into the second order branches but appears to be largely healing. There is significant scar tissue underneath the lifted bark.





PART D LEGISLATIVE AND POLICY FRAMEWORK

4.1 STATUTORY PLANNING FRAMEWORK OVERVIEW

This Part of the SEE addresses and responds to the legislative and policy requirements relevant to the proposed development at the Site in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act). The statutory planning framework relevant to the proposed development at the Site includes:

- *Environmental Planning and Assessment Act 1979;*
- *Environmental Planning and Assessment Regulation 2021;*
- *Biodiversity Conservation Act 2016;*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;* and
- *Canterbury Local Environmental Plan 2012.*

4.2 NON-STATUTORY PLANNING FRAMEWORK OVERVIEW

- *Canterbury Development Control Plan 2012.*

4.3 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The EP&A Act is the principle planning and development legislation in New South Wales. Pursuant to Part 4, the proposal is considered local development. Section 1.3 of the EP&A Act specifies the objectives of the Act as follows:

- a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*



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Of particular relevance to this DA are objectives (c) and (g) as the tree removal seeks to facilitate the future residential redevelopment of the Site and 49 Ryrie Road (discussed in **Section 4.6** below).

Section 4.15(1) of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15(1) of the EP&A Act are provided in **Table 2** below.

TABLE 2. SECTION 4.15(1)(A) CONSIDERATIONS	
Section	Response
Section 4.15(1)(a)(i) any environmental planning instrument, and	The principal EPI for the proposed development on the Subject Site is CLEP2012.
Section 4.15(1)(a)(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and	There are currently no proposed EPIs that have been subject to public consultation which is relevant to the Site or proposal.
Section 4.15(1)(a)(iii) any development control plan, and	The applicable Development Control Plan (DCP) is CDCP2012 with the relevant provisions discussed below in Section 4.9 of this SEE.
Section 4.15(1)(a)(iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	There are no voluntary agreements (VPA) applicable to the Site.
Section 4.15(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	The proposed development comprises local development.
Section 4.15(1)(b)-(c)	The potential environmental impacts and suitability of the Site for the proposed development are discussed in Part E of this SEE.

Pursuant to Section 4.5 of the EP&A Act, the consent authority for the proposed development is Canterbury-Bankstown Council. Section 4.46 of the EP&A Act defines “Integrated Development” as matters which require consent from Council and one or more authorities under related legislation. In these circumstances, prior to granting consent, Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development. The proposed development does not trigger Integrated Development.

4.4 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021

The proposal has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation). Clause 24 and Part 1 of Schedule 1 of the EP&A Regulation stipulates how a DA must be “made”. This DA satisfies the relevant criteria of the Regulation as follows:



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1) *A development application must:*

a) *be in the form that is approved by the Planning Secretary and made available on the NSW planning portal, and*

The DA includes all relevant information approved by the Planning Secretary and in accordance with the NSW Planning Portal guidelines.

b) *contain all of the information that is specified in the approved form or required by the Act and this Regulation, and*

The DA is accompanied with all the relevant consultant reports as required under the EP&A Act and EP&A Regulation.

c) *be accompanied by the information and documents that are specified in Part 1 of Schedule 1 or required by the Act and this Regulation, and*

The DA includes all relevant information including details of the development, address and formal particulars, owner's consent, supporting documents including the Arboricultural Impact Assessment and Statement of Environmental Effects.

d) *be lodged on the NSW planning portal.*

The DA will be lodged via the NSW Planning Portal.

Further, the proposal does not trigger 'Designated Development' pursuant Schedule 3 of the EP&A Regulation.

4.5 BIODIVERSITY CONSERVATION ACT 2016

The *Biodiversity Conservation Act 2016* (BC Act) sets out, among other things, to establish a scientific method for assessing the likely impacts on biodiversity values of proposed development and land use change.

The Subject Site is not identified as containing Biodiversity Values on the Biodiversity Values Map and Threshold Tool and therefore, no further assessment against the BC Act is required.

4.6 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP) repealed *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* on 1 March 2022.

The Biodiversity and Conversation SEPP aims to protect the biodiversity values of trees and other vegetation in non-rural areas, and to preserve the amenity of non-rural areas through the preservation of



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trees and other vegetation. The SEPP applies to non-rural areas. The Site is zoned R3 Medium Density Residential and therefore the provisions of the SEPP are applicable to this application.

One (1) tree is proposed for removal for which an Arboricultural Impact Assessment has been submitted (**Appendix 1**) supporting removal of the tree which concludes that:

The tree is in fair condition with a moderate level of dieback and epicormic growth present, as well as what appears to be significant borer damage and cambium lifting due to this damage. This damage is widespread extending up into the second order branches but appears to be largely healing. There is significant scar tissue underneath the lifted bark, however there is evidence that the borers have attempted to return with small holes exuding kino evident on the tree. The presence of borer is not necessarily a reason for the decline of a tree, but rather a symptom of overall poor tree health. Substantial borer damage can ring bark a tree causing dieback and sometimes death.

My long-term prognosis for this tree would be that it will continue to go through phases of decline and healing until it eventually succumbs to the borer and either dies or the risk of branch failure becomes too great. In my experience, trees like this do not have a Safe Useful Life Expectancy (SULE) of more than 5-10 years and therefore my recommendation for this tree would be to remove it and replace it with a healthier tree or trees, of a more suitable species that would also have a greater contribution to the amenity and ecology of the area.

The removal of the damaged tree is proposed to facilitate the future residential redevelopment of the Site and 49 Ryrie Road, in the form of a multi-dwelling development pursuant to Part 3B Low Rise Housing Diversity Code of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP). Concept plans of the proposed development have been provided in **Appendices 2 to 4**.

Pursuant to Design Criteria 3 of Objective 2.3C-1 of Part 2.3C Landscaped Area of The Low Rise Housing Diversity Design Guide for Complying Development, the CDC development will require a minimum of 14 new mature trees to be planted across the Site and 49 Ryrie Road, noting there are seven (7) proposed dwellings.

Given the above, it is considered that the proposed tree removal will satisfy the aims and objectives of the Biodiversity and Conservation SEPP.

4.7 CANTERBURY LOCAL ENVIRONMENTAL PLAN 2012

The *Canterbury Local Environmental Plan 2012* (CLEP2012) is the primary environmental planning instrument that applies to the Site.

The relevant provisions of CLEP2012 as they relate to the subject site are considered below:



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Proposal Removal of One (1) Oak Tree

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4.7.1 Zoning and Permissibility

The Site is located within the R3 Medium Density Residential zone under the provisions of CLEP2012 as shown below in **Figure 4**. The proposed development seeks consent for tree removal only and will not alter the existing and approved use on the Site.

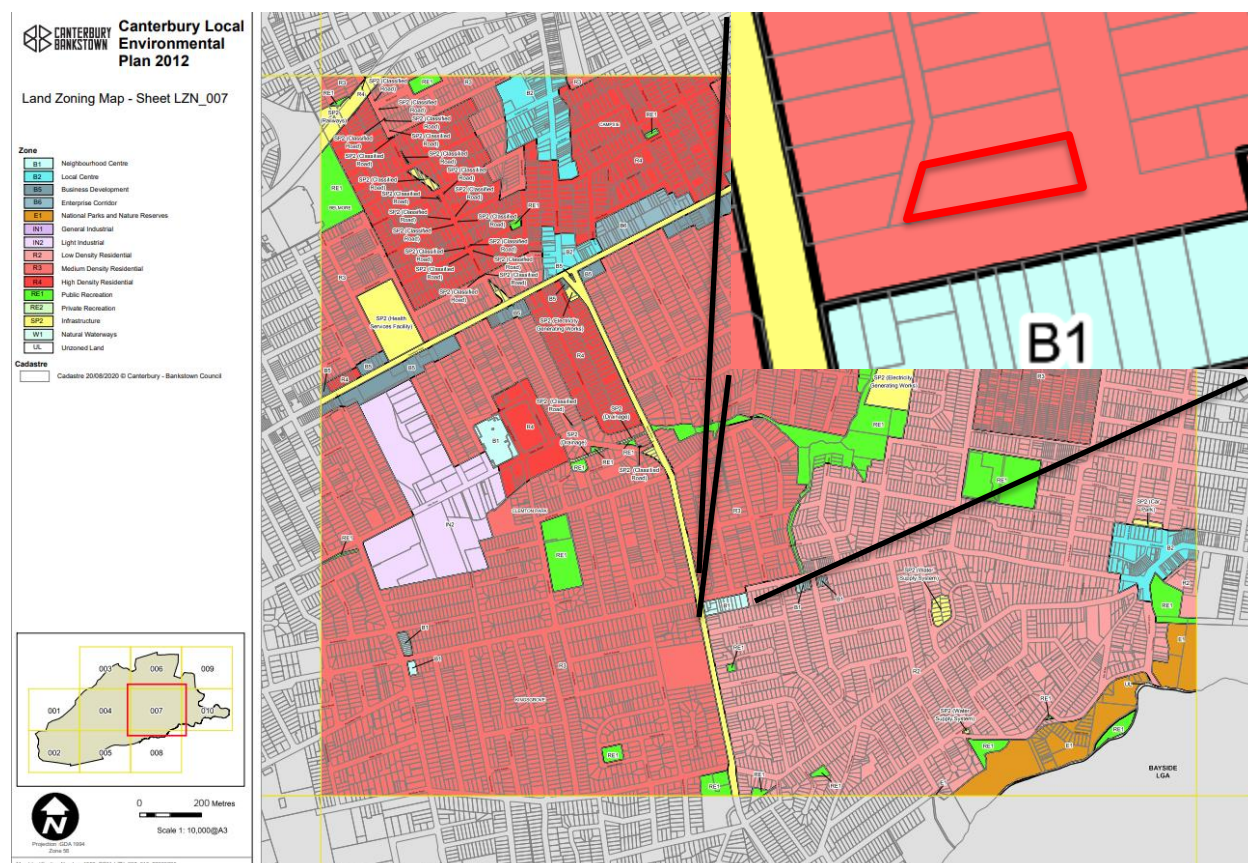


Figure 4. CLEP2012 Zoning Map (Source: NSW Legislation, 2020)

Table 3 outlines the developments consistency and compliance with the relevant development standards and controls under CLEP2012.

TABLE 3. DEVELOPMENT STANDARDS	
Clause	Comment
Clause 4.1 – Minimum Lot Size	<p>The Site is subject to a minimum lot size of 460m² pursuant to CLEP2012.</p> <p>No change to the existing lot size is proposed.</p>



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Clause 4.3 – Height of Buildings	The Site is subject to a maximum building height of 8.5m pursuant to CLEP2012. No works to the existing dwelling house are proposed.
Clause 4.4 – Floor Space Ratio	The Site is subject to a maximum floor space ratio of 0.5:1 pursuant to CLEP2012. No change to the gross floor area of the existing dwelling house is proposed.
Clause 5.10 – Heritage	The Site is not identified as a heritage item or located within a heritage conservation area pursuant to CLEP2012.

4.8 DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

The Site is subject to the Draft Consolidated Local Environmental Plan for the Canterbury Bankstown area. It is noted that the Draft LEP will not alter the existing zoning or development standards applicable to the Site.

4.9 CANTERBURY DEVELOPMENT CONTROL PLAN 2012

The Canterbury Development Control Plan 2012 (CDCP2012) provides detailed planning and design guidelines to support the planning controls of the CLEP2012. An assessment of the proposal against the sections relevant to tree removal of the CDCP2012 is provided in **Table 4** below:

TABLE 4. CDCP2012 CONTROLS	
Control	Comment
Chapter 3.5 – Matters for Consideration	
<i>C1 When assessing proposed works to a tree, consideration includes (but is not limited to) the following matters:</i>	
<i>(a) The health of the tree;</i>	The Oak Tree has a moderate level of dieback and epicormic growth present, as well as significant borer damage and cambium lifting. This damage is widespread extending up into the second order branches. There is significant scar tissue underneath the lifted bark. The Oak Tree does not have a Safe Useful Life Expectancy of more than 5-10 years.
<i>(b) Defects of trunk and canopy;</i>	The Oak Tree has a moderate level of dieback and epicormic growth present, as well as significant borer damage and cambium lifting.



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	This damage is widespread extending up into the second order branches. There is significant scar tissue underneath the lifted bark. The Oak Tree does not have a Safe Useful Life Expectancy of more than 5-10 years.
<i>(c) What damage is likely should the tree or part of it fail;</i>	There is potential for damage to the existing fencing should the Oak Tree or part of it fail.
<i>(d) Its contribution to the streetscape;</i>	The Oak Tree is centrally located within the rear yard and is partially obscured by the existing street trees and fencing. It is considered that the Oak Tree is not prominent when viewed from the streetscape.
<i>(e) Its habitat value;</i>	The habitat value of the Oak Tree is very low.
<i>(f) How, on the balance of probabilities, the tree may impact in the future on major structures, land and neighbouring properties;</i>	<p>The Oak Tree is already over mature and does not pose any significant impact from further growth, other than from shredding branches as mentioned above.</p> <p>As discussed in Section 4.6 above, the Oak Tree is restricting the future residential redevelopment of the Site.</p>
<i>(g) The number of existing established trees on the property;</i>	The Oak Tree is the only large tree remaining on the Site; however it is noted that the future CDC development will require a minimum of 14 new mature trees to be planted across the Site and 49 Ryrie Road.
<i>(h) Its prominence in the landscape;</i>	The Oak Tree is very prominent within the property as it takes up much of the backyard. There is very little space left for other landscaping under the tree due to its dominance.
<i>(i) Whether the tree is protected under the Threatened Species Conservation Act 1995; and</i>	The Oak Tree is not protected under the <i>Threatened Species Act</i> .
<i>(j) Australian Standard for the protection of trees on development sites AS 4970-2009 (Provides guidance on how to decide which trees are appropriate for retention and the means of protecting those trees during the construction process).</i>	The Oak Tree dominates the rear yard of the Site. Its Tree protection Zone (TPZ) is 8.4m from the trunk and this circle of protection encompasses most of the rear garden. The Oak Tree severely restricts the usage of the property and its potential for redevelopment. It would be very difficult to protect under any substantial redevelopment of the Site.





Other considerations	<p>Removal of the Oak Tree will promote the orderly and economic use and development of the Site pursuant to Object 1.3(c) of the EPA Act</p> <p>The proposed the future residential redevelopment of the Site, in the form of a multi-dwelling development, is permissible pursuant to Part 3B Low Rise Housing Diversity Code of the Codes SEPP. The fact that the proposed development complies with the Codes SEPP supports that it is prima facie a 'reasonable' redevelopment proposal.</p> <p>The concept landscape plans for the proposed future residential redevelopment of the Site at Appendix 1, propose the replanting of 15 mature native trees across the Site and 49 Ryrie Road.</p>
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Statement of Environmental Effects

Proposal Removal of One (1) Oak Tree

51 Ryrie Road, Earlwood



PART E LIKELY IMPACTS OF THE DEVELOPMENT

This section identifies and assesses the impacts of the development with specific reference to the heads of consideration under Section 4.15(1) of the EP&A Act.

5.1 CONTEXT AND SETTING

The proposal comprises of tree removal to facilitate future residential development. The proposal would promote the efficient and sustainable use of land designated for future residential land uses, via adherence to the provisions and overarching aims and land use objectives set out within the CLEP2012.

The proposed development is considered consistent and compatible with surrounding and adjoining land uses. The proposed development would not exhibit any adverse amenity impacts as a result of the development.

5.2 VEGETATION

One (1) tree is proposed for removal for which an Arboricultural Impact Assessment has been submitted (**Appendix 1**) supporting removal of the tree. The removal of the tree will not impact any existing significant biodiversity values of the Subject Site or surrounding land. The future residential development facilitated by the tree removal will require a minimum of 14 new mature trees to be planted across the Site and 49 Ryrie Road.

5.3 CONSTRUCTION

All works on the Site will be carried out in accordance with conditional requirements of any consent issued. Appropriate measures will be undertaken to mitigate potential impacts from the development.

5.4 SUITABILITY OF SITE FOR DEVELOPMENT

The Site is zoned R3 Medium Density Residential pursuant to the provisions outlined within CLEP2012. The proposed development would facilitate the future residential development of the lot which would not alter permissibility and are suitable for the intended future residential uses which is considered consistent with the zoning of the Site and the surrounding context.

5.5 SUBMISSIONS

No submissions have been received in relation to the proposed development at the time of writing. However, the applicant is willing to address any submissions, should they be received by Council.

5.6 THE PUBLIC INTEREST

The proposed development will have no adverse impact on the public interests. The development of the Site will be carried out for the purpose of housing generating development that shall result in a positive impact for the Canterbury-Bankstown LGA.



Statement of Environmental Effects

Proposal Removal of One (1) Oak Tree
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PART F CONCLUSION

The purpose of this SEE has been to present the proposed tree removal at 51 Ryrie Road, Earlwood and to assess its potential impacts having regards to Section 4.15(1) of the EP&A Act.

The proposal has been prepared after taking into consideration the following key issues:

- The development history of the Site;
- The context of the Site and locality;
- The relevant heads of consideration under Section 4.15(1) of the EP&A Act; and
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments.

The proposed development is permissible within the zone and is compatible with the zone objectives. As stipulated previously in this Report, the matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* have been satisfactorily addressed.

In light of the merits of the proposed development and in absence of any significant environmental impact, the proposed development warrants support by Council.

