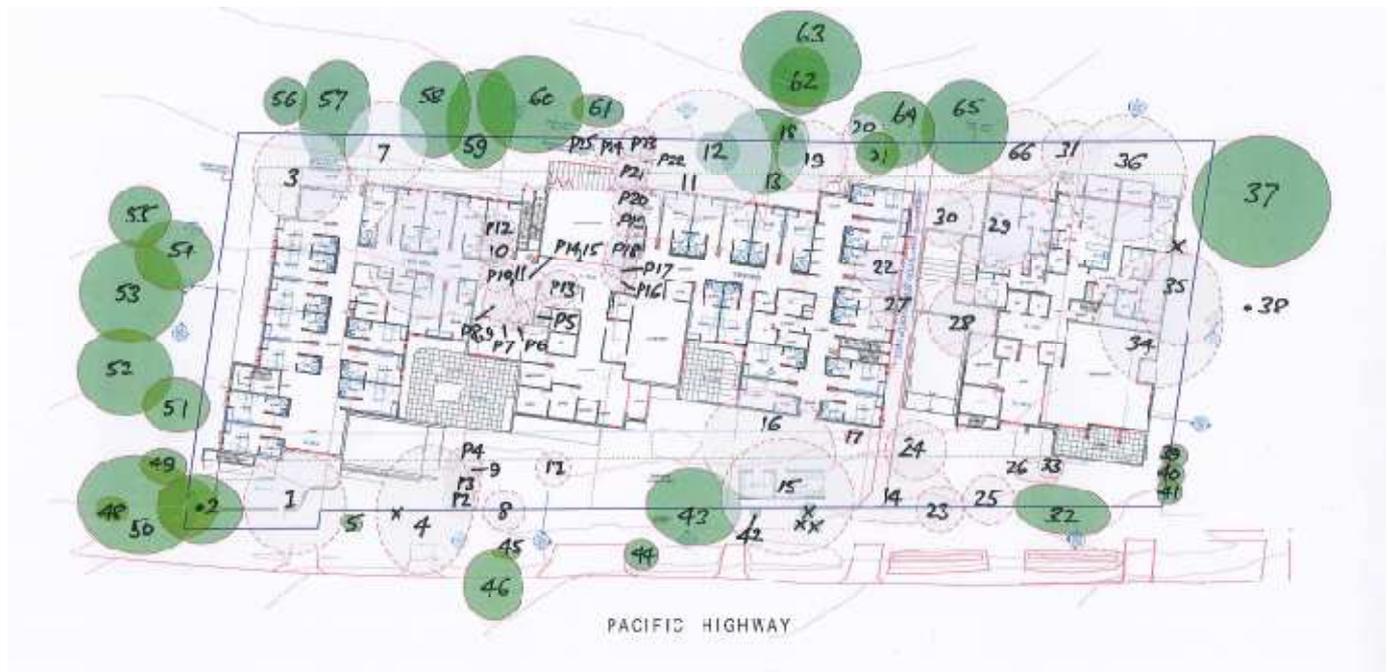




LANDSCAPE MASTERPLAN



DA/235/2018: 461 - 473 Pacific Hwy, Asquith

7th May 2018

I object to the above development application on the following grounds:

1. Hornsby Shire Council Development Control Plan (HDCP), Part 1, Section 1B.6.1, Tree Preservation (c) states "For the purposes of this section: Arborist (Project and Consulting) must have obtained through training and completed Australian Qualification Framework (AQF) Level 5, Diploma of Arboriculture".

The author of the "Arborist Report for 461-473 Pacific Highway, Asquith, New South Wales", Dr Trevor J. Hawkeswood, does not appear, from his list of qualifications on page 29 of the Report, to have ANY arboricultural qualifications whatsoever. From his list of qualifications, he has never attended let alone completed an Australian Qualification Framework (AQF) Level 5, Diploma of Arboriculture.

Certificates or other qualifications in Ancient History, Metaphysics, Philosophy or Humanistic Science does not qualify a person as an arborist. Qualifications in Environmental Science are not a substitute for Arboricultural qualifications.

Upon researching Mr Hawkeswood's website there does not appear to be anything about an Australian Qualification Framework (AQF) Level 5, Diploma of Arboriculture. There's lots of articles about bugs though. The most interesting ones were "*Aspects of female reproductive biology of two southwestern Australian Temognatha species*" and "*Notes on the sexually dimorphic jumping spider*". But nothing that I could find on trees.

Amendments to the Tree & Vegetation clauses of the HDCP, which were enacted to ensure the HDCP is consistent with the new Vegetation SEPP and which also included the requirement for the above AQF L5 qualifications, came into force on 15th February 2018, long before this application was lodged. It is up to the applicant to ensure that their proposal is consistent with current regulations and legislation.

Council must request more information from the applicant in the form of an Arboricultural Impact Assessment by a suitably qualified arborist with AQF L5 Diploma of Arboriculture qualifications.

2. With the author of the "*Arborist Report*", Dr T J Hawkeswood, apparently having no arboricultural qualifications, I feel that there can be no confidence in the identification of tree species by the author. Various trees are denoted as *Eucalyptus sp.* which appears to mean that the author cannot identify WHICH species of *Eucalyptus* is being recorded.

It is noted that in December 2017 a report was provided by Dr Hawkeswood with regard to a request to remove a tree in 12A Victory St, Asquith that came before a General Meeting of Hornsby Shire Council for a decision (the HSC professional officers successfully recommended against removal). There was conflicting identification of the *Eucalyptus* in question - Hornsby Shire Council's senior arborist identified the tree as a *Eucalyptus botryoides* and Dr Hawkeswood's identification was quite different, a *Eucalyptus microcorys*. The two species are notably different, both in the bark and the leaves.

Council MUST obtain an Arboricultural Impact Assessment that correctly and completely identifies the onsite tree species.

3. Many of the trees that are listed in the "*Arborist Report*" are species that form part of, and an extension to, the adjacent Critically Endangered Ecological Community Sydney Turpentine-Ironbark Forest (page 5 of the "*Arborist Report*" section "*3.0. Conclusions and Discussion*"), which is listed under the *Commonwealth EPBC Act 1999*.

According to the Report the onsite trees include the following trees, all of which form the dominant canopy trees found in the Critically Endangered Ecological Community Sydney Turpentine-Ironbark Forest (STIF) - the *Syncarpia glomulifera* (Turpentine), *Eucalyptus paniculata* (Grey Ironbark) and *Eucalyptus eugenoides* (Thin-leaved Stringybark).

Yet there has been NO attempt to locate the buildings to retain these remnants of the adjacent Critically Endangered Ecological Community (CEEC) Sydney Turpentine-Ironbark Forest (STIF)

The layout and design of this development has unacceptable environmental impacts on this CEEC and cannot be accepted. The positioning of the buildings MUST be sympathetic to the trees that form part of, and are within 50 metres of, a remnant Sydney Turpentine-Ironbark Forest CEEC.

4. The Report also lists the *Angophora costata* (Sydney Red Gum), *Eucalyptus resinifera* (Red Mahogany), *Hakea salicifolia* (Willow-leaved Hakea), *Pittosporum undulatum* (Sweet Pittosporum), *Ceratopetalum gummiferum* (NSW Christmas Bush), and *Melaleuca lineariifolia* (Snow in Summer).

ALL of the above trees, together with the trees in the Commonwealth listed Sydney Turpentine-Ironbark Forest **ARE INDIGENOUS TO HORNSBY SHIRE** (see Table 1B.6(b) - excerpt from HDCP).

I think it is absolutely disgraceful that the "Arborist Report" states that "Most of the trees to be removed are ... not threatened species OR INDIGENOUS TO HORNSBY SHIRE. That is **TOTALLY INCORRECT**.

This Table 1B.6(b) of trees indigenous to Hornsby Shire has been available on Council's website for almost five (5) years. It is essential that any person providing an "Arborist Report", such as those listed in Hornsby Shire on pages 29-31 of the Report, must know the applicable Tree Protection regulations of the relevant councils that reports are provided for.

Table 1B.6(b) Tree Species Indigenous to Hornsby Shire

Botanical name	Common Name
<i>Acacia binervia</i>	Coast Myall
<i>Acacia decurrens</i>	Sydney Green Wattle
<i>Acacia elata</i>	Mountain Cedar Wattle
<i>Acacia falcata</i>	Sickle Wattle
<i>Acacia floribunda</i>	White Sally Wattle
<i>Acacia implexa</i>	Hickory
<i>Acacia longifolia</i>	Sydney Golden Wattle
<i>Acacia parramattensis</i>	Parramatta Green Wattle
<i>Acacia parvipinnula</i>	Silver-stemmed wattle
<i>Acacia schinoides</i>	Green Cedar Wattle
<i>Acmena smithii</i>	Lilly Pilly
<i>Aegiceras corniculatum</i>	River Mangrove
<i>Allocasuarina distyla</i>	Scrub She-oak
<i>Allocasuarina littoralis</i>	Black She-oak
<i>Allocasuarina torulosa</i>	Forest Oak
<i>Alphitonia excelsa</i>	Red Ash
<i>Angophora bakeri</i>	Narrow-leaved Apple
<i>Angophora costata</i>	Sydney Red Gum
<i>Angophora floribunda</i>	Rough-barked Apple
<i>Angophora hispida</i>	Dwarf Apple
<i>Avicennia marina</i>	Grey Mangrove
<i>Backhousia myrtifolia</i>	Grey Myrtle
<i>Banksia integrifolia</i>	Coast Banksia
<i>Banksia serrata</i>	Old Man Banksia
<i>Callicoma serratifolia</i>	Black Wattle
<i>Callistemon linearifolius</i>	Netted Bottle Brush
<i>Callistemon salignus</i>	Willow Bottlebrush
<i>Callitris rhomboidea</i>	Port Jackson Cypress
<i>Casuarina glauca</i>	She-oak, Swamp Oak

Table 1B.6(b)cont. Tree Species Indigenous to Hornsby Shire

Botanical name	Common Name
<i>Ceratopetalum apetalum</i>	Coachwood
<i>Ceratopetalum gummiiferum</i>	NSW Christmas Bush
<i>Corymbia oximia</i>	Yellow Bloodwood
<i>Corymbia gummiifera</i>	Red Bloodwood
<i>Cryptocarya glaucescens</i>	Jackwood
<i>Doryphora sassafras</i>	Sassafras
<i>Elaeocarpus reticulatus</i>	Blueberry Ash
<i>Eucalyptus acmencides</i>	White Mahogany
<i>Eucalyptus agglomerata</i>	Blue-leaved Stringybark
<i>Eucalyptus botryoides</i>	Bangalay
<i>Eucalyptus camfieldii</i>	Heart Leaved Stringybark
<i>Eucalyptus capitollata</i>	Brown Stringybark
<i>Eucalyptus crebra</i>	Narrow-leaved Ironbark
<i>Eucalyptus elata</i>	River Peppermint
<i>Eucalyptus eugenicides</i>	Thin-leaved Stringybark
<i>Eucalyptus fibrosa</i>	Broad leaf Ironbark
<i>Eucalyptus globuloides</i>	White Stringybark
<i>Eucalyptus haemastoma</i>	Broad-leaved Scribbly Gum
<i>Eucalyptus longiflora</i>	Woollybutt
<i>Eucalyptus luehmaniarna</i>	Yellow Top Mallee Ash
<i>Eucalyptus multicaulis</i>	Whipstick Ash
<i>Eucalyptus oblonga</i>	Common Sandstone Stringybark
<i>Eucalyptus paniculata</i>	Grey Ironbark
<i>Eucalyptus pilularis</i>	Blackbutt
<i>Eucalyptus piperita</i>	Sydney Peppermint
<i>Eucalyptus punctata</i>	Grey Gum
<i>Eucalyptus racemosa</i>	Narrow-leaved Scribbly Gum
<i>Eucalyptus resinifera</i>	Red Mahogany
<i>Eucalyptus robusta</i>	Swamp Mahogany
<i>Eucalyptus saligna</i>	Sydney Blue Gum
<i>Eucalyptus siderophloia</i>	Northern Grey Ironbark

Table 1B.6(b)cont. Tree Species Indigenous to Hornsby Shire

Botanical name	Common Name
<i>Eucalyptus sieberi</i>	Silvertop Ash
<i>Eucalyptus sparsifolia</i>	Stringybark
<i>Eucalyptus squamosa</i>	Scaly Bark
<i>Eucalyptus tereticornis</i>	Forest Red Gum
<i>Eucalyptus umbra</i>	Bastard White Mahogany
<i>Eupomatia laurina</i>	Bolwarra
<i>Ficus coronata</i>	Sandpaper Fig
<i>Ficus rubiginosa</i>	Port Jackson Fig
<i>Glochidion ferdinandi</i>	Cheese Tree
<i>Hakea dactyloides</i>	Broad-leaved Hakea
<i>Hakea salicifolia</i>	Willow-leaved Hakea
<i>Leptospermum pectorsonii</i>	Lemon scented Tea Tree
<i>Melaleuca decora</i>	White feather honey-myrtle
<i>Melaleuca ericifolia</i>	Swamp Paperbark
<i>Melaleuca linariifolia</i>	Snow-In-Summer
<i>Melaleuca quinquenervia</i>	Broad-leaved Paperbark
<i>Melaleuca styphelioides</i>	Prickly-leaved Paperbark
<i>Myoporum acuminatum</i>	Boobialla
<i>Omalanthus populifolius</i>	Bleeding Heart
<i>Pitiosporum undulatum</i>	Sweet Pittosporum
<i>Rapanea variabilis</i>	Muttonwood
<i>Rhodamnia rubescens</i>	Scrub Turpentine
<i>Schizomeria ovata</i>	White Crab-apple
<i>Stenocarpus salignus</i>	Scrub Beefwood
<i>Syncarpia glomulifera</i>	Turpentine
<i>Synoum glandulosum</i>	Scentless Rosewood
<i>Syzygium australe</i>	Brush Cherry
<i>Syzygium oleosum</i>	Blue Lillypilly
<i>Syzygium paniculatum</i>	Magenta Lilly Pilly
<i>Toona australis</i>	Red Cedar
<i>Tristanopsis laurina</i>	Water Gum

It should be noted that under the Environmental Planning and Assessment Act 1979, Section 148B Offence - false or misleading information:

(1) "A person must not provide information in connection with a planning matter that the person knows, or ought reasonably to know, is false or misleading in a material particular.

(2) The maximum penalty for an offence under section 125 arising under this section is a tier 3 maximum penalty."

It appears that Council's professional arborist's will also have to confirm by ground-truthing what trees are actually on the site.

5. The "Arborist Report" contains NONE of the following which arborists include in their Arboricultural Impact Assessments as an industry standard -

- Environmental/Landscape Significance - an essential inclusion for Safe and Useful Life Expectancy (SULE) assessments
- No explanation of the tree inspection method used has been provided, such as VTA (Visual Tree Assessment) and no apparent AI (Aerial Investigations) were performed in the canopies of the major trees and no sonographic testing of possible dead or weakened wood
- There is no protection methodology provided for the trees to be retained as per *AS4970-2009 Protection of Trees on Development Sites*
- There is no programme of arboricultural inspections or certification of works by the Project Arborist
- In fact there's not even any mention of a Project Arborist attending site during construction to inspect the trees to be retained in adjoining properties

Council MUST obtain an Arboricultural Impact Assessment that is consistent with arboricultural industry standards.

6. The *Hornsby Shire Council Development Control Plan (HDCP)* states "Where trees are to be retained, the provisions of *Australian Standard AS 4970 Protection of Trees on Development Sites* must be applied".

It is further stated in Part 1B6.1 of the HDCP that all trees, except for the handful of species just mentioned, are further protected by the new Vegetation, State Environmental Planning Policy. The Vegetation SEPP states that Sydney councils can declare that any species of vegetation in any location is protected in that local government area. In Hornsby, almost all species are now protected.

Council MUST obtain an Arboricultural Impact Assessment that properly protects the trees to be retained and is consistent with the HDCP and Vegetation SEPP.

7. I think it is beyond belief that the "Arborist Report" "Conclusions and Discussions" states that "*Most of these trees (25 of them to be exact) are within the Council reserve and have SRZ (Structural Root Zone) of 2.5m or less and since all of them are more than 2.5m away from any proposed earthworks, they will not be affected by the proposal*".

AN ARBORIST WROTE THIS ?????

I feel that the arborist does not appear to understand the *Australian Standard AS 4970 Protection of Trees on Development Sites* OR the *Hornsby Shire Council Development Control Plan, Part 1B6.1, Tree Preservation*.

It is the TPZ (Tree Protection Zone), not just the SRZ (Structural Root Zone) that is to be protected on a development site where a tree is to be retained. And yes, those trees on the adjoining properties, including Council property, MUST be retained and therefore MUST be protected.

The HDCP, which I would reiterate is now supported by the Vegetation SEPP, states that "*a Tree Protection Zone is defined as the area within:*

- 9 metres of a tree with a diameter at breast height of 800mm or greater,
- 7 metres of a tree with a diameter at breast height between 400 and 800mm,
- 4 metres of a tree with a diameter at breast height of 400mm or less.

The HDCP defines the Tree Protection Zone as *"the area above or below ground at a given distance from the trunk set aside for the protection of a tree's roots and crown to provide for the viability and stability of a tree"*.

Furthermore, AS4970 Section 3.3.3 states that a *"Major encroachment"* into a Tree Protection Zone is an encroachment that is greater than 10% of the TPZ and that if an encroachment of 10% or greater is proposed *"the project arborist must demonstrate that the tree(s) would remain viable"*.

"They will not be affected by the proposal"? Really?

Remember these are trees that BELONG TO SOMEONE ELSE !!!!!

I reiterate, *"A person must not provide information in connection with a planning matter that the person knows, or ought reasonably to know, is false or misleading in a material particular"*.

Council must request more information from the applicant in the form of an Arboricultural Impact Assessment by a suitably qualified arborist with AQF L5 Diploma of Arboriculture qualifications.

And the proposed positioning of the buildings on the site must be amended as the environmental impact on the trees on adjacent properties, which are protected under the HDCP and the Vegetation SEPP and the EPBC Act, IS UNACCEPTABLE.

8. The Design Principles of SEPP 5 - Housing for Seniors or People with a Disability state that, wherever reasonable, major existing trees are to be retained.

It appears that there has been no attempt to retain ANY trees on the site, not even in the front and rear setbacks.

There are major, significant, endangered, protected trees on the site that must be retained.

9. On the basis of the seven (7) points above, this Development Application must be either rejected or the applicant be advised that amended Plans and Arboricultural Assessment must be provided, as the environmental impacts of this current development proposal are unacceptable.

10. The Flora and Fauna Report is authored by the same Dr T J Hawkeswood. The seven-part test with regard to the Sydney Turpentine Ironbark Forest (page 44 of the F&F Report), Part (c) (i) & (ii) states that *"As regards the remnant STIF, the reserve trees will not be affected by the proposal and only a limited number of trees within the subject site will be removed"*.

However, as noted in Point no.7 above, the trees in the reserve WILL be affected. The total number of STIF trees in the reserve is very small as it is only around the edge of playing fields (see Landscape Plan on page 1 of this submission).

Therefore it is maintained that the STIF *"is likely to be (sic) substantially and adversely modify the composition of the ecological community such that it's local occurrence is like to be placed at the (sic) risk of extinction"*.

11. In relation to part (g) of the seven-part test, the action on the subject property of land clearing which will impact upon the viability and vitality of the STIF trees adjacent to the building site DOES constitute a key threatening process.

12. It is not understood why a large proportion of the Flora and Fauna Report is given over to seven-part tests for species that the Report repeatedly states for each species that *"The proposal will not have any adverse effect on the life cycle of this species because the species is not found on this property"* or *"The proposal would be consistent with the objectives or actions of a recovery plan or threat abatement plan for this species since it will not be affected by the proposal (does not occur anywhere on the property)"* or *"The entity under review is a species and not an ecological community so these sections are not relevant"*.

Ninety (90) endless pages of this seven-part test stuff in total.

It is or should be known to all ecologists that *"A species does not have to be considered as part of the assessment of significance (seven-part test) if adequate surveys or studies have been carried out that clearly show that the species: does not occur in the study area, or will not use on-site habitats on occasion, or will not be influenced by off-site impacts of the proposal"*.

But there are some lovely descriptions of *"sit-sit"* alarm call of the Turquoise Parrot, which does not appear to be found in Sydney, and the fact that the Flame Robin (also apparently not found in Sydney) will *"often sally from fence-posts or thistles and other prominent perches in open habitats"*.

The facts of which do not appear to have anything at all to do with a seven-part test. Council may want to check this report for relevancy and accuracy.

Clearly this Development Application must be either rejected or the applicant be advised that amended Plans, Arboricultural Assessment and Flora and Fauna Assessment must be provided. The environmental impacts of this current development proposal are unacceptable.