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NSW 2060



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Thursday, 28 November 2024

## **Request for a Biodiversity Development Assessment Report Waiver for a Proposed Mixed-use Development at 3-5 Help Street, Chatswood**

To whom it may concern,

As an Accredited Biodiversity Assessor, I am writing this letter to provide to the NSW Department of Planning in request of a Biodiversity Development Assessment Report (BDAR) Waiver with regard to sections 1.5, 7.3 and 7.9 of the *Biodiversity Conservation Act 2016* (BC Act) and clause 1.4 of the *Biodiversity Conservation Regulation 2017*.

On behalf of the applicant, Loftex Chatswood Pty Ltd, I kindly request that you provide your confirmation whether you agree that there is no need to submit a Biodiversity Development Assessment Report (BDAR) as part of the State Significant Development (SSD) application Ref SSD-76555711 for the proposed development of a mixed-use Residential and Commercial Tower at 3-5 Help Street (Lots CP/-/SP134 and CP/-/SP52320), Chatswood, NSW 2067 (the 'Subject Property'; **Figure 1**).

### **Development Overview**

The proposed development involves the construction of a tower and podium with 5 levels of basement parking for mixed residential and commercial purposes in the centre of Chatswood (EMBECE 2024a; 2024b) (**Figure 2**). The proposed development will require the demolition of the existing buildings on the Subject Property.

### **Existing Site**

The existing site at approx. 2290m<sup>2</sup>, is predominately covered by buildings, including a four storey brick apartment block at 5 Help Street and a two storey brick townhouse complex at 3 Help Street. The site has three street frontages: one on Help Street to the south, Cambridge Lane to the west, and McIntosh Street to the north.

The Subject Property contains managed lawns and gardens with scattered, historically planted ornamental trees that will be directly impacted by the proposed development. This garden and ornamental vegetation is the focus of this report.

### **BDAR Waiver details**

Section 7.9(2) of the Biodiversity Conservation Act 2016 (BC Act) stipulates the following:

*"Any such application is to be accompanied by a biodiversity development assessment report unless the Planning Agency Head and the Environment Agency Head determine that the proposed development is not likely to have any significant impact on biodiversity values. The authority of the 'Planning Agency Head' is required to determine whether a proposed development is "not likely to have any significant impact on biodiversity values" is usually delegated to Directors within the Planning Services Division."*

In preparing this request for a BDAR Waiver, we have completed a desktop assessment of the native/exotic vegetation and threatened species habitat values within the Subject Property.

In applying for a BDAR Waiver, we have completed the table provided by the NSW Department of Planning and Environment (DPE 2018) in order to assess the significance of the impacts of the proposed SSD on biodiversity values (**Table 1**).

A desktop assessment was conducted on 21<sup>st</sup> October 2024 using public online imagery to observe all native and non-native trees within and adjacent to the Subject Property. An Arboricultural Impact Assessment Report was also analysed to determine the potential impacts of the proposed development on the trees within the Subject Property (Earthscape Horticultural Services 2023).

A total of 23 trees were observed within or immediately adjacent to the Subject Property, including non-indigenous native and exotic species. All trees are proposed to be removed for the proposed development (Earthscape Horticultural Services 2023) (**Figure 3**). Sixteen trees

within the Subject Property are of low and very low retention value, including ten trees (*Gleditsia triacanthos*, *Fraxinus griffithii*, and *Plumeria acutifolia* species) that are not protected under the Section C.9 of the Willoughby Development Control Plan 2012 (WDPCP) (Willoughby City Council 2012).

Only three trees (*Camellia sasanqua* and *Phoenix canariensis* species) are of moderate retention value (Earthscape Horticultural Services 2023). However both of these trees are non-native and one, *Phoenix canariensis* is an environmental weed. Interestingly, there is a sapling *Pittosporum undulatum*, and a *Ficus rubiginosa* growing out of this tree. Most likely sowed from seed deposited (spat out) by a foraging flying-fox or frugivorous bird.

None of the trees on the Subject Property are listed as Threatened or Vulnerable Species or form part of Threatened Ecological Communities (TECs) under the provisions of the *Biodiversity Conservation Act 2016* (NSW) or the *Environment Protection and Biodiversity Conservation Act 1999*. As such, the vegetation within the Subject Property represents low conservation significance.

It is expected that no locally occurring threatened species would regularly utilise habitat on the Subject Property, other than occasional foraging Grey-headed Flying-fox (*Pteropus poliocephalus*) as the habitat is too disturbed by people and buildings. The planted non-indigenous native and exotic trees within the Subject Property represents minimal habitat value. No significant foraging, roosting, or breeding habitat is likely to occur.

On occasion, Grey-headed Flying-fox (listed Vulnerable under the BC Act and EPBC Act) may fly over the Subject Property and occasionally forage in the *Phoenix canariensis* tree. This large bat species is highly mobile and capable of moving significantly long distances during foraging bouts, typically seeking-out remnant, native vegetation with abundant foraging trees and shrubs. No known roost camps for the Grey-headed Flying-fox occur on the Subject Property, and it is not expected the Subject Property would ever form important roost habitat for the species as the habitat is too disturbed.

Crevice in the existing artificial structures on the Subject Property to be demolished may provide temporary roosting habitat for threatened microbats, however this is unlikely due to the disturbed, urban nature of the site. No substantial hollow-bearing trees providing suitable breeding habitat were observed within the Subject Property and surrounds.

From the information I have been provided by the applicant, to date, I anticipate the impacts of the proposed development will not adversely affect a local, viable population of the vulnerable Grey-headed Flying-fox or any other threatened species. I also anticipate that the proposed development will not impact upon any area of intact indigenous native vegetation.

In conclusion, it is in my professional opinion that the proponent, Loftex, should not be required to prepare a BDAR, and therefore I support the request by Loftex Chatswood Pty Ltd for a BDAR Waiver to accompany this SSD.

Thank you.

Yours sincerely,



Kurtis Lindsay *BSc (Hons)*  
Principal Ecologist  
Accredited Biodiversity Assessor (#BAAS18059)  
Land Eco Pty Ltd



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## References

Department of Planning and Environment (DPE 2018). Biodiversity Development Assessment Report Waiver determinations for SSD and SSI applications. [21/10/2024]

Earthscape Horticultural Services (2023) Arboricultural Impact Assessment Report, Proposed Mixed-Use Development, 3-5 Help Street, Chatswood

EMBECE (2024a) Help St Apartments 22023, 3-5 Help Street, Chatswood NSW Development Application, Architectural Drawings

EMBECE (2024b) Scoping Meeting Design Report, 3-5 Help Street, Chatswood NSW

NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) (2024). Planning Portal ePlanning Spatial Viewer <https://www.planningportal.nsw.gov.au/> [accessed 21/10/2024]

PlantNET (The NSW Plant Information Network System; 2020). Royal Botanic Gardens and Domain Trust, Sydney. <https://plantnet.rbg Syd.nsw.gov.au> [21/10/2024]

Threatened Species Scientific Committee (2001). Commonwealth Listing Advice on *Pteropus poliocephalus* (Grey-headed Flying-fox). Available from: <http://www.environment.gov.au/biodiversity/threatened/species/p-poliocephalus.html>. In effect under the EPBC Act from 06-Dec-2001

Willoughby City Council Development Control Plan (2012).

[https://www.willoughby.nsw.gov.au/files/assets/public/v/11/documents/publications-reports-master-plans-strategies-action-plans/ecm\\_6906040\\_v4\\_willoughby-development-control-plan-2023.pdf](https://www.willoughby.nsw.gov.au/files/assets/public/v/11/documents/publications-reports-master-plans-strategies-action-plans/ecm_6906040_v4_willoughby-development-control-plan-2023.pdf) [accessed 21/10/2024]

# Appendix



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0 5 10 20 30 40 Metres

## Legend

 Subject Property



Date: 21/10/2024

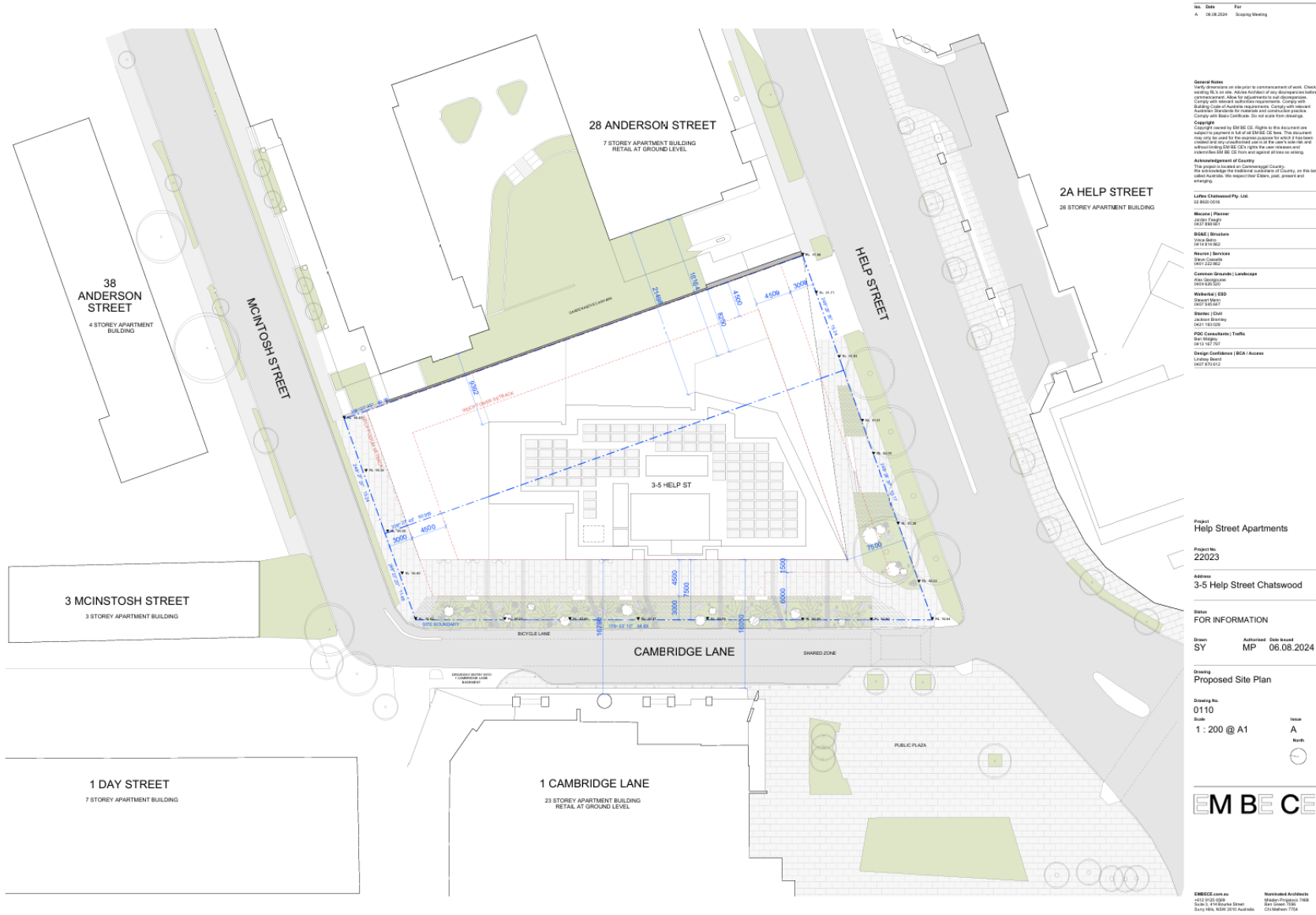
Imagery: © NSW Public Imagery

Coordinate System: GDA 1994 MGA Zone 56

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Figure 1. The Subject Property – 3-5 Help Street (Lot CP/-/SP52320), Chatswood, NSW 2067



No. Date For  
 A 06.08.2024 Staging Meeting

**General Notes**  
 1. Being a preliminary site plan, it is subject to confirmation of work. Check with the relevant authorities for any discrepancies before construction. Also for adjustments to the site plan, contact the relevant authorities for any discrepancies. Comply with all relevant regulations, standards, codes of practice, and any other requirements. Comply with all relevant standards, codes of practice, and any other requirements. Comply with all relevant standards, codes of practice, and any other requirements. Do not scale from drawings.

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**Acknowledgement of Country**  
 The project is located in the Municipality of Council. We acknowledge the traditional custodians of Country, on this land, the local Aboriginal community. We respect their values, past, present and emerging.

**EMBECC Pty. Ltd.**  
 17/200/0100  
 Director / Planner  
 02/95 42 00 00  
 02/95 42 00 00  
 02/95 42 00 00

**Structural / Services**  
 02/95 42 00 00  
 02/95 42 00 00

**Common Ground / Landscaping**  
 02/95 42 00 00  
 02/95 42 00 00

**Waterworks / ESD**  
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**Stormwater / Drainage**  
 02/95 42 00 00  
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**Fire / Safety / Traffic**  
 02/95 42 00 00  
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**Design / Construction / BIM / Access**  
 02/95 42 00 00  
 02/95 42 00 00

**Project**  
 Help Street Apartments

**Project No.**  
 22023

**Address**  
 3-5 Help Street Chatswood

**Status**  
 FOR INFORMATION

**Drawn**  
 SY

**Authorised**  
 MP

**Date Issued**  
 06.08.2024

**Drawing**  
 Proposed Site Plan

**Drawing No.**  
 0110

**Scale**  
 1 : 200 @ A1

**Issue**  
 A

**North**

**EMBECC**

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Figure 2. Proposed Site Plan - 3-5 Help Street, Chatswood, NSW 2067 (EMBECE 2024a)

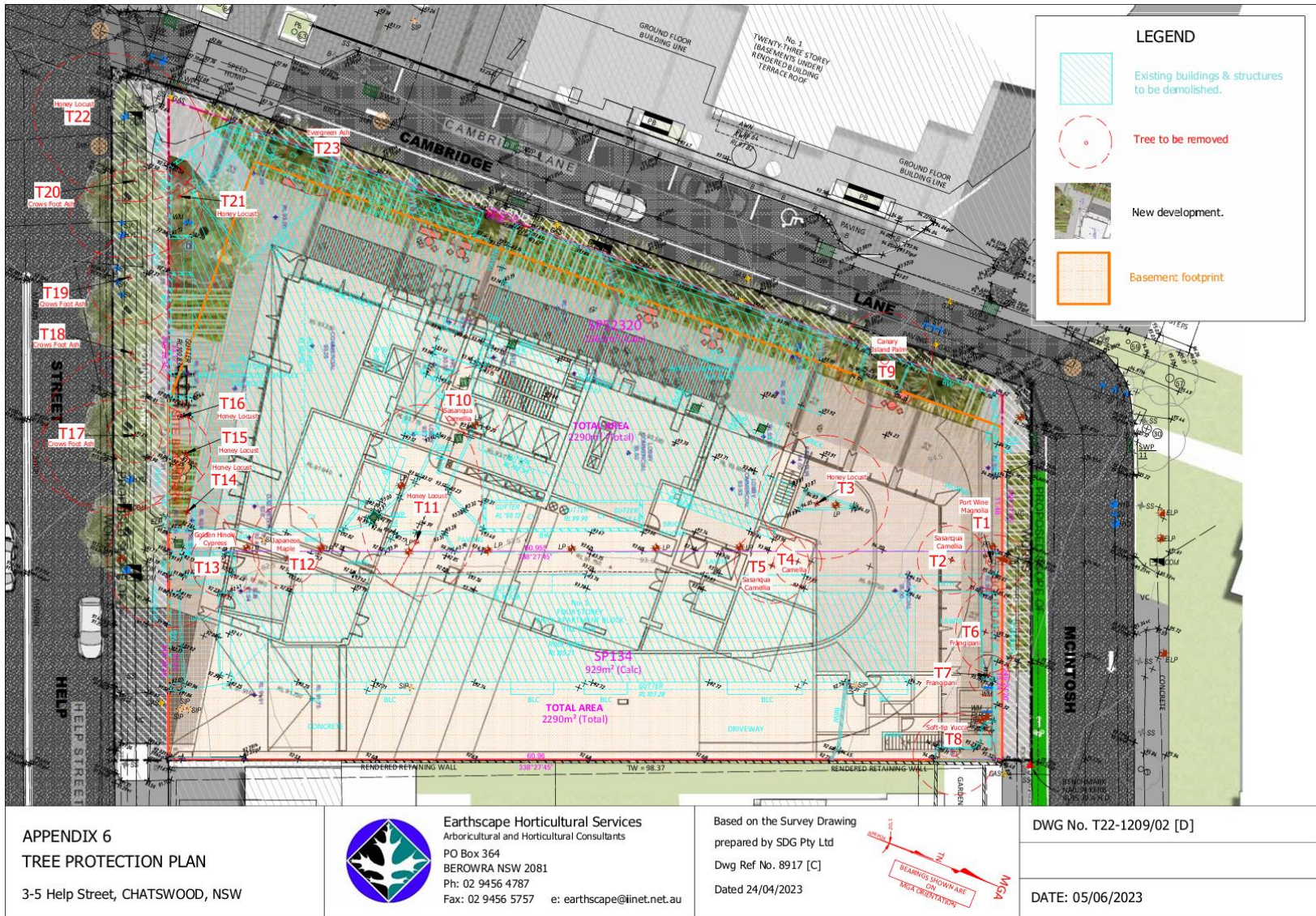


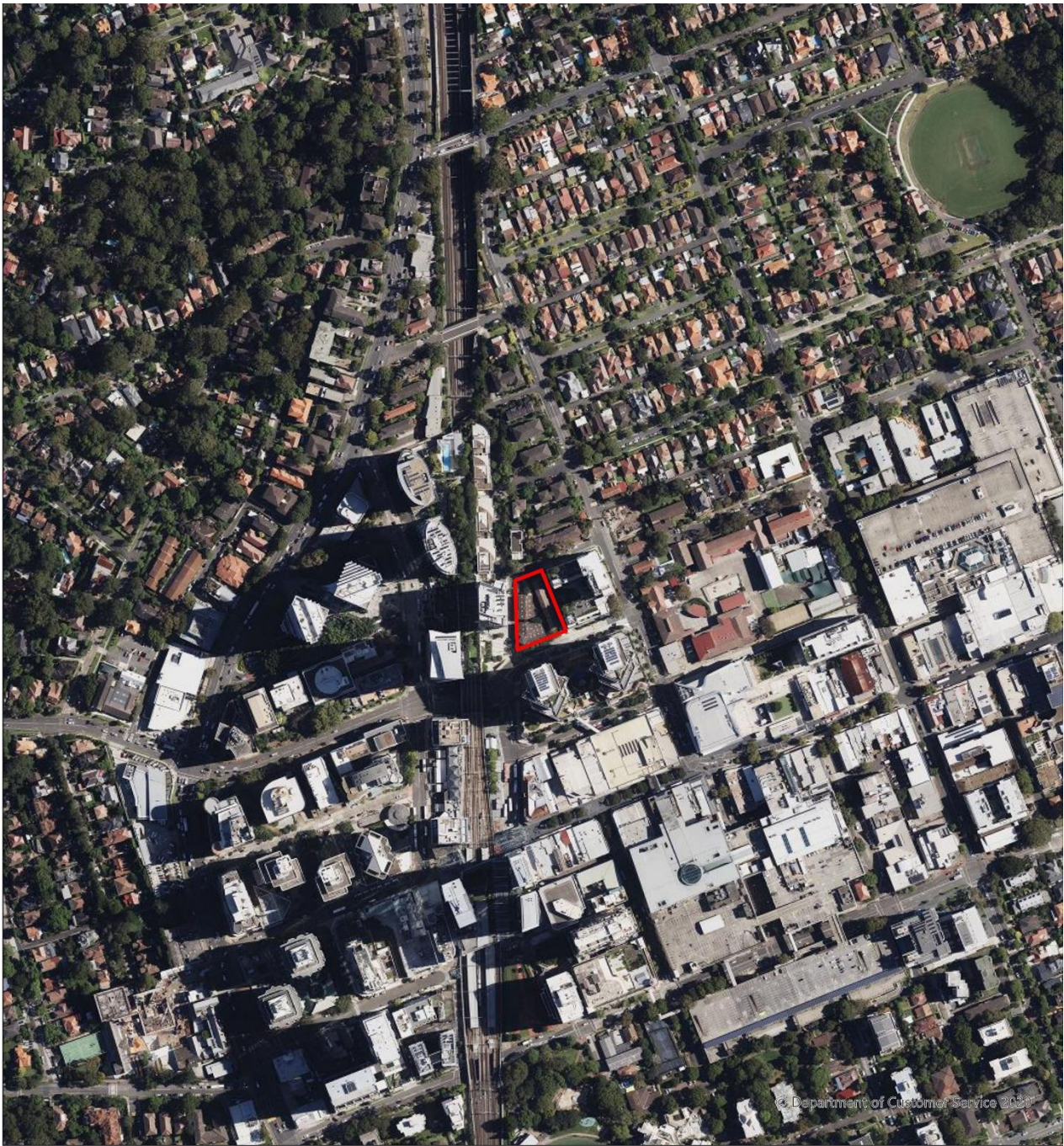
Figure 3. Trees to be removed for the proposed development at 3-5 Help Street, Chatswood, NSW 2067 (Earthscape Horticultural Services 2023)

**Table 1. Summary of Impacts of the Proposed Development on Biodiversity Values**

| Biodiversity Value  | Meaning  | Relevant<br>(✓ or N/A) | Explain and document potential impacts including additional impacts prescribed under the BC Regulation   |
|---|--|------------------------|--|
| <b>Vegetation abundance – 1.4(b) BC Regulation</b>          | Occurrence and abundance of vegetation at a particular site  | ✓                      | <p>The proposed development will reduce the occurrence and abundance of native and non-native vegetation across the Subject Property.</p> <p>Twenty three trees are proposed to be removed. These include planted non-indigenous native and exotic species, most of which have low to very low retention value. The impact to these trees in an urban/industrial landscape is not considered significant to the IBRA sub-bio region, or any threatened species that may utilise the vegetation on occasion. It is recommended that the three trees with moderate retention value be replaced within the Subject Property post-construction to maintain vegetation abundance (Earthscape Horticultural Services 2023).</p>  |
| <b>Vegetation integrity– 1.5(2)(a) BC Act</b>               | Degree to which the composition, structure and function of vegetation at a particular site and the surrounding landscape has been altered from a near natural state. | N/A                    | <p>The composition, structure and function of vegetation at the site and the surrounding landscape has been extensively altered from a near natural state. It is mostly hardstand and buildings, with some planted trees, lawns, and garden beds. It is not considered likely that these plants would reproduce naturally, in situ, and therefore are not viable long-term. No indigenous native tree species occur within the development footprint other than a sapling <i>Ficus rubiginosa</i> and sapling <i>Pittosporum undulatum</i> growing out of an introduced <i>Phoneix canariensis</i>.</p> <p>The development will result of loss of the majority of the trees from this high density urban property.</p>   |
| <b>Habitat suitability - 1.5(2)(b) BC Act</b>               | Degree to which the habitat needs of threatened species are present at a particular site   | N/A                    | <p>The Subject Property does not provide important habitat to any threatened species. It is unlikely that threatened species would utilise the existing artificial structures due to the disturbed nature of the site. Threatened species may utilise the non-indigenous and exotic vegetation within the Subject Property, however the habitat is unlikely to be of significance.</p> <p>While the Grey-headed Flying-fox may fly over and temporarily forage in the Subject Property on occasion, it is unlikely this species would regularly forage within the trees. The Grey-headed Flying-fox is highly mobile and capable of moving significantly long distances during foraging bouts, typically seeking-out remnant, native vegetation with abundant foraging trees and shrubs. It is expected this species would never roost in the trees, as the habitat is too disturbed by people, cars and infrastructure.</p> <p>Preferential habitat for the Grey-headed Flying-fox and other potential threatened species occurs in the reserve system across the locality including local parks.</p> <p>None of the trees within the Subject Property contain cavities that would be suitable as nesting hollows for arboreal mammals or birds (Earthscape Horticultural Services 2023).</p> |
| <b>Threatened species abundance - 1.4 (a) BC Regulation</b> | Occurrence and abundance of threatened species or threatened ecological communities, or their habitat, at a particular site  | N/A                    | <p>The proposed development will not significantly impact on the occurrence and abundance of threatened entities on the Subject Property. The planted non-indigenous native and exotic trees that will be impacted by the proposed development are not important foraging resources for any threatened species.</p>  |

| Biodiversity Value                                      | Meaning  | Relevant<br>(✓ or N/A) | Explain and document potential impacts including additional impacts prescribed under the BC Regulation   |
|---|--|------------------------|--|
|   |  |                        | <p>It is unlikely that the Grey-headed Flying-fox would regularly forage on the flowering or fruiting trees within the Subject Property as the few trees that exist there only flower or fruit sporadically, and the Grey-headed Flying-fox typically seeks out remnant, native vegetation with abundant foraging trees and shrubs (i.e. bushland or densely vegetated urban areas). The Grey-headed Flying-fox is capable of nightly flights of up to 50 km from their roost to different feeding areas as food resources change (Threatened Species Scientific Committee 2001).</p> <p>It is unlikely that any threatened microbats would occur within the Subject Property. It is simply too urban and disturbed.</p> <p>There are no other visible signs of wildlife habitation within the Subject Property (Earthscape Horticultural Services 2023).</p>  |
| <b>Habitat connectivity – 1.4 (c) BC Regulation</b>     | Degree to which a particular site connects different areas of habitat of threatened species to facilitate the movement of those species across their range | N/A                    | <p>The is no local or regional habitat corridor that includes the Subject Property, or areas adjacent. It is already an extremely urbanised landscape with few trees or other habitat features.</p> <p>The Subject Property is unlikely to have the potential to facilitate the movement of threatened species across their range. Grey-headed Flying-fox may fly over and forage in the Subject Property on occasion but is unlikely to regularly forage in/around the trees within the Subject Property. This species is highly mobile and can fly over the 'hostile matrix' of Chatswood without the need for cover, and therefore would not rely on these trees for facilitated movement.</p> <p>The proposed development will not significantly impact on habitat connectivity. The trees are an isolated patch of historically planted specimens. There is no habitat connectivity with natural areas (<b>Figure 4</b>).</p> |
| <b>Threatened species movement – 1.4 (d) Regulation</b> | Degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle  | N/A                    | <p>The proposed development will not significantly impact any threatened species' movement. Although, the vulnerable Grey-headed Flying-fox may fly over the Subject Property, this species is not likely to rely on the planted trees to facilitate tits movement. This species is highly mobile, and the trees within the Subject Property are unlikely to be a significant foraging resource for the species.</p>   |
| <b>Flight path integrity – 1.4 (e) BC Regulation</b>    | Degree to which the flight paths of protected animals over a particular site are free from interference  | ✓                      | <p>There is the potential that the proposed development will interfere with 'flight paths' of some protected animals. The locally common Grey-headed Flying-fox could potentially utilise this flight path.</p>  |

| Biodiversity Value                                | Meaning   | Relevant<br>(✓ or N/A) | Explain and document potential impacts including additional impacts prescribed under the BC Regulation   |
|---|---|------------------------|--|
|   |   |                        | <p>It is not expected that any important bird flight paths would be affected by the proposed development, as it is located in amongst multiple existing tall buildings.</p> <p>The proposed development is surrounded by buildings of similar height (EMBECE 2024a). Therefore, the proposed development will not significantly impact on flight path integrity beyond its current state.</p> <p>The Grey-headed Flying-fox is highly mobile and can change its movement patterns to avoid collisions with buildings (Threatened Species Scientific Committee 2001).</p> |
| <b>Water sustainability 1.4 (f) BC Regulation</b> | Degree to which water quality, water bodies and hydrological processes sustain threatened species and threatened ecological communities at a particular site. | N/A                    | There are no mapped watercourses within the Subject Property or the surrounding areas. The proposed development will not significantly impact on water sustainability.   |



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0 50 100 200 300 400 Metres



**Legend**

 Subject Property

Date: 21/10/2024

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**Figure 4. Locational context of the Subject Property showing the dense urban interface in an existing, urbanised site.**

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