

**Item 8.****Development Application: Junction Street, Woolloomooloo - D/2019/467****File No.:** D/2019/467**Summary****Date of Submission:** 10 May 2019**Applicant:** Mr D Picklum - Project Officer, City of Sydney**Owner:** City of Sydney**Cost of Works:** \$6,600**Zoning:** B4 Mixed Use Zone - the proposed installation and operation of a chicken coop is ancillary to the use of the site as a community garden and which is permitted with consent in the zone.**Proposal Summary:** Installation of a chicken coop within the Bourke Street Community Garden.

The application is referred to the Local Planning Panel as Council is the applicant and land owner of the subject site.

The proposed development complies with the relevant provisions of the Sydney LEP 2012, the Sydney DCP 2012 and the relevant SEPPs.

The proposal has been reviewed by Council's Environmental Health, Heritage and Tree Management Specialists and Legal. Each of these referrals support the proposal, subject to recommended conditions.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.**Development Controls:** (i) Sydney Local Environmental Plan 2012  
(ii) Sydney Development Control Plan 2012**Attachments:** A. Recommended Conditions of Consent  
B. Selected Drawings

**Recommendation**

It is resolved that consent be granted to Development Application No. D/2019/467 subject to the conditions set out in Attachment A to the subject report.

**Reasons for Recommendation**

The application is recommended for approval for the following reasons:

- (A) The proposed installation and operation of a chicken coop is ancillary to the use of the site as a community garden and which is permitted with consent in the zone.
- (B) The proposed development is suitable to its setting and satisfies the relevant provisions of the Sydney LEP 2012, the Sydney DCP 2012 and the relevant SEPPs.
- (C) Subject to the recommended conditions the proposed development will not detract from the amenity of nearby residences.

## Background

### The Site and Surrounding Development

1. The site is a portion of land at the western end of Junction Street as identified in DP 1018485 and is commonly known as the Bourke Street Community Garden.
2. Bourke Street Community Garden is located adjacent and to the east of the Eastern Distributor and occupies parts of several lots including Lot 2 in DP 78050, Lot 1 in DP 1018485, and Lots 3 and 4 in DP 536017. The landscaped area south of Junction Street is commonly known as Bourke Street Park and the landscaped area north of Junction Street is commonly known as Viaduct Area #2.
3. Bourke Street Community Garden runs parallel to and is set back by 24 metres behind a landscaped strip of land, from the western edge of the carriageway of Bourke Street. The eastern suburbs railway viaduct passes over part of the northern end of the community garden.
4. Surrounding land uses are predominantly residential in character to the north, south and east. The site is not a heritage item and is not in the vicinity of a heritage item, but is located within the Woolloomooloo conservation area (C71).
5. A site visit was carried out on 15 May 2019. Photos of the site are provided below:

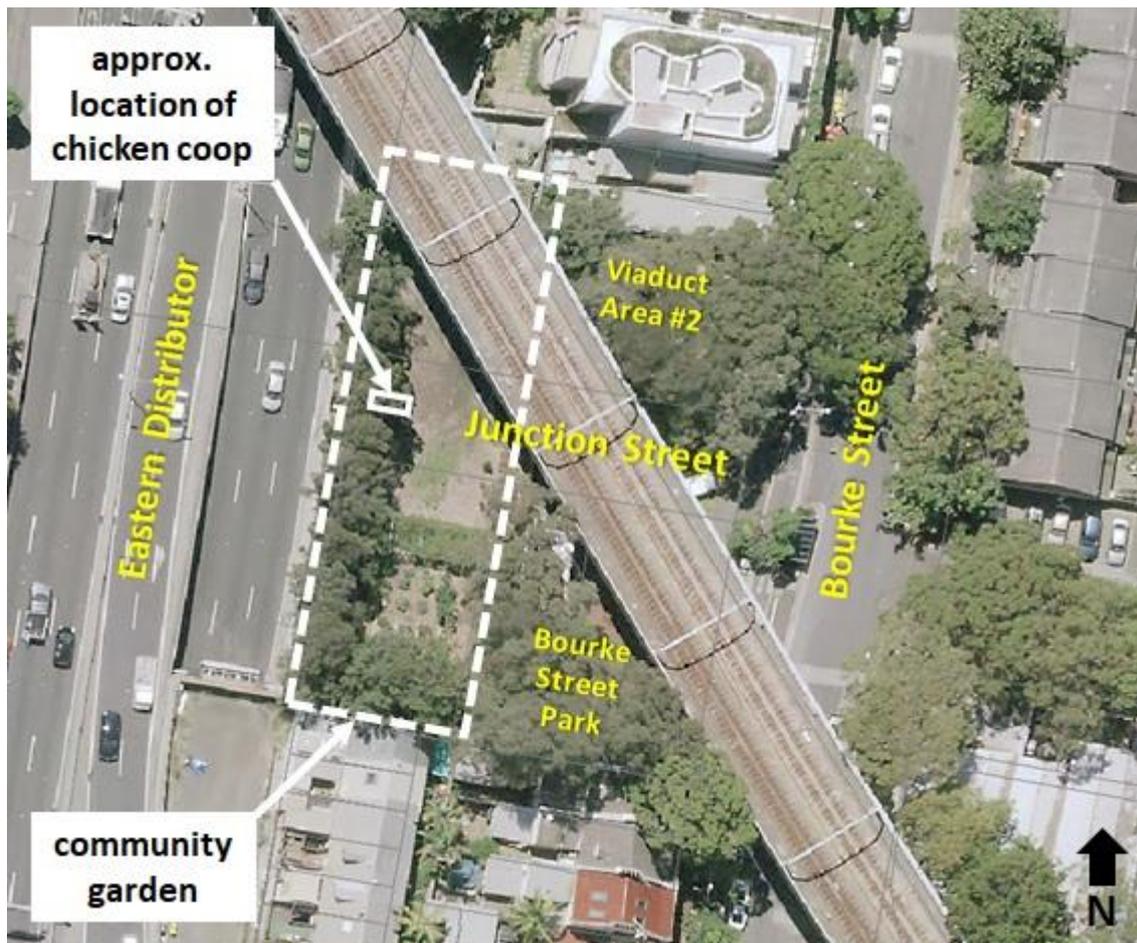
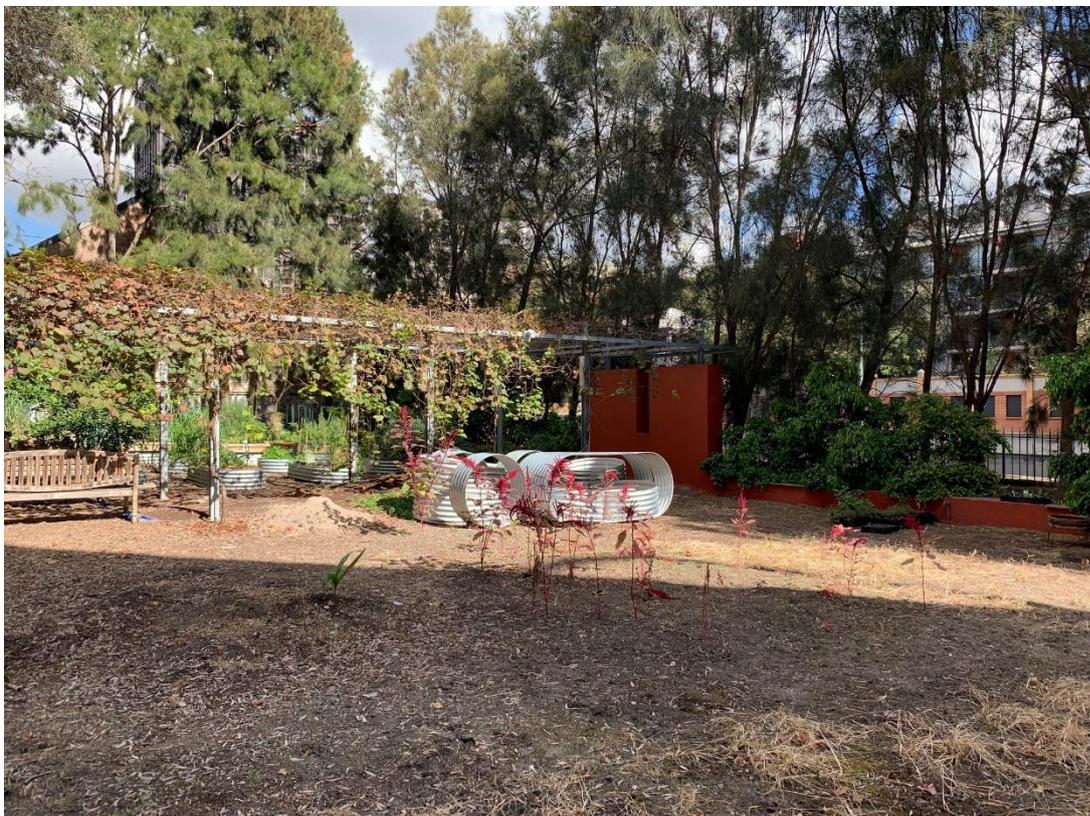


Figure 1: Aerial image of subject site.



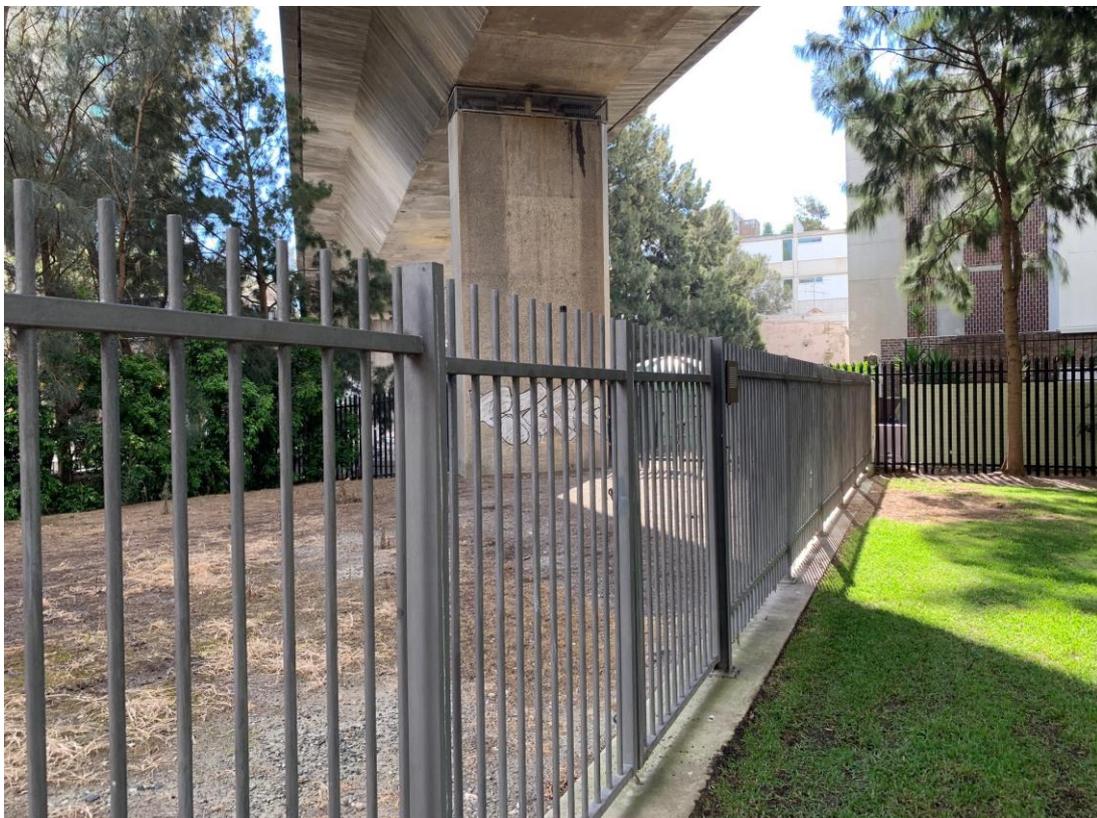
**Figure 2:** Fenced off community garden viewed from Bourke Street.



**Figure 3:** Garden beds and trellises within existing community garden, to the south of the location of the proposed chicken coop.



**Figure 4:** Approximate location of proposed chicken coop within the community garden.



**Figure 5:** View to unplanted area to the north of the location of the proposed chicken coop within the fenced off community garden.

## History Relevant to the Development Application

6. The portion of land on which the chicken coop is located is still legally public road as this portion of Junction Street has not been formally closed. Notwithstanding this Council records indicate that Junction Street was effectively closed to traffic in the late 1990s to accommodate the construction of the Eastern Distributor.
7. The Bourke Street Community Garden was established in 2011 as part of the upgrade of Bourke Street Park. This consisted of the construction of a high surrounding fence, picnic tables, garden beds, pathways, pergolas, toilets and garden sheds.
8. It is noted that works associated with the establishment of the community garden, with the exception of the subject chicken coop, are development without consent under Part 5 of the Act and have been subject to a self-assessment by the City Greening and Leisure unit.
9. The Bourke Street Community Garden Group formed in early 2012 and led community consultation for the design of the garden. The garden was completed in August 2013.
10. On 25 July 2016, Council resolved to extend the Bourke Street Community Garden to the north to take in the western end of Junction Street and the area beneath the viaduct to form the current configuration of the site as identified in **Figure 1** above.

## Proposal

11. The application seeks consent for the installation of a chicken coop, as follows:
  - (a) Construction of a reinforced 110mm thick floating concrete slab on the surface of the ground upon which the prefabricated metal chicken coop will be based;
  - (b) The prefabricated structure comprises:
    - (i) dimensions 2.5m x 1.6m and a height of 2.2m;
    - (ii) aluminium frame;
    - (iii) 2.5mm gauge galvanised mesh;
    - (iv) galvanised mini-corrugated iron walls to one side and rear elevations; and
    - (v) two wooden laying boxes and two wooden perches.
12. On 18 June 2019, the proposal was amended to incorporate a reinforced floating concrete slab so as to avoid the need for any excavation of the site.
13. Drawings of the proposed development are provided on the following pages.



**Figure 6:** Future intended occupant, perched on wooden laying box.



**Figure 7:** Prefabricated chicken coop.

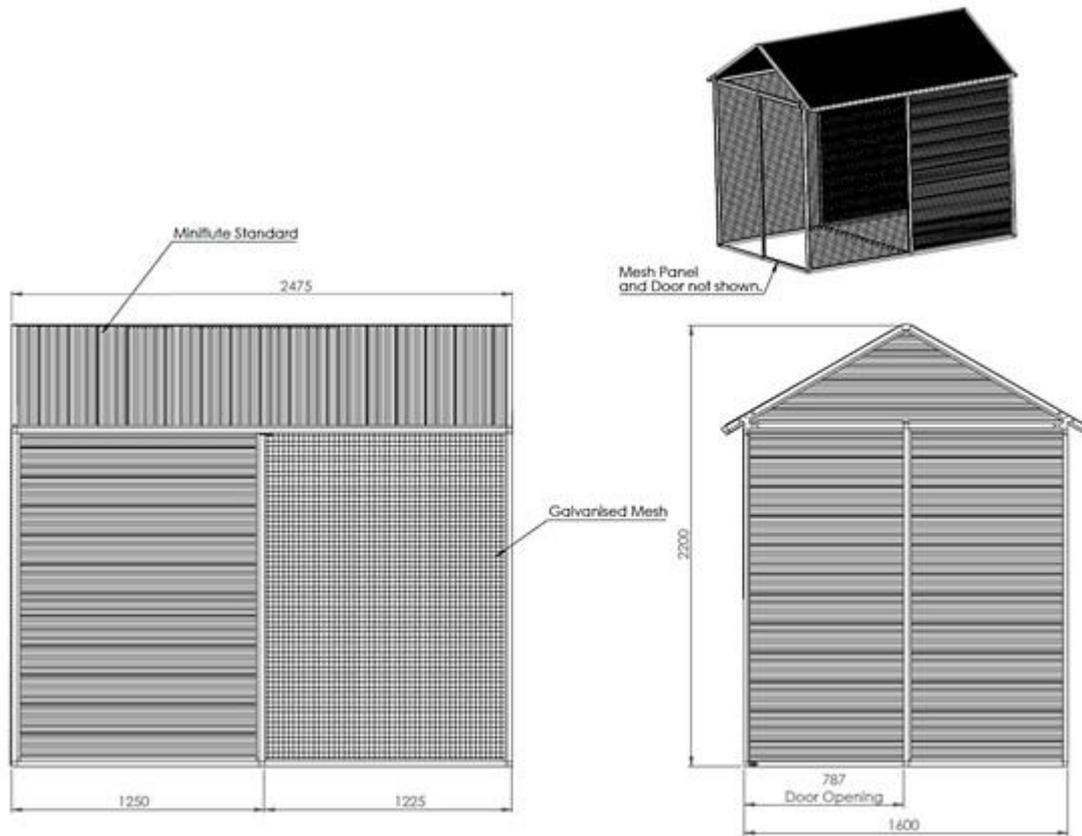


Figure 8: Elevations and axonometric drawings.

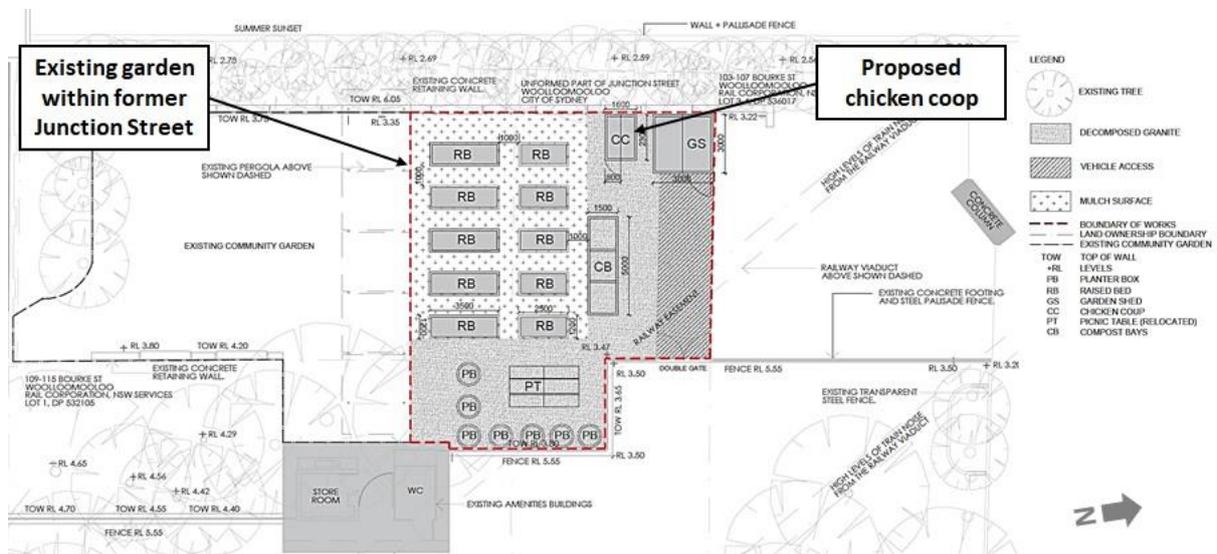


Figure 9: Site plan.

### Economic/Social/Environmental Impacts

- The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

- (a) Environmental Planning Instruments and DCPs.

**State Environmental Planning Policy No 55—Remediation of Land**

15. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to human health, particularly in circumstances where a more sensitive land use is proposed.
16. The applicant submits that Council's records do not indicate any previous uses that would cause contamination of the site. The City's Environmental Health Specialist has reviewed the proposal and raises no objection in terms of the site being unsuitable for the proposed development.

**State Environmental Planning Policy (Vegetation in Non-Rural Areas)**

17. The aim of the SEPP is to protect the biodiversity values and amenity of non-rural areas of the State through the preservation of trees and other vegetation.
18. Council's Tree Management Specialist has reviewed the proposal and has recommended conditions to address the protection of trees adjacent to the location of the proposed chicken coop and which is in accordance with the objectives of the SEPP.
19. Refer to the assessment against provision 3.5.3 of the Sydney DCP 2012 (the DCP) in the compliance tables below.

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)**

20. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
21. The Sydney Harbour Catchment Planning Principles have been considered in this assessment. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, it is not located in the Foreshores Waterways Area or adjacent to a waterway. Therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.
22. The development is consistent with the relevant controls contained within the deemed SEPP.

**Sydney LEP 2012**

23. The site is located within the B4 Mixed Use Zone. The proposed construction and use of a chicken coop is ancillary to the use of the site as a community garden and which is permitted with consent in the zone.
24. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

## Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	n/a	There is no maximum height shown for the subject site on the Height of Buildings Map.
5.10 Heritage conservation	Yes	The site is not a heritage item and is not in the vicinity of a heritage item, but is located within the Woolloomooloo Conservation Area (C71).  Council's Heritage Specialist has reviewed the proposal and raises no objection.
6.21 Design excellence	Yes	The proposed development satisfies the requirements of this provision in so far as they are relevant to the construction of a prefabricated chicken coop.
7.14 Acid Sulphate Soils	Yes	The site is identified as containing Class 2 Acid Sulphate Soil.  No works are proposed below the natural ground surface. The proposal is unlikely to have any effects upon the water table.  The proposal is consistent with the objectives of this provision.
7.15 Flood planning	Yes	The subject site is not identified as being flood prone.

**Sydney DCP 2012**

25. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

**2. Locality Statements – Woolloomooloo**

The subject site is located in the locality of Woolloomooloo. The proposal is considered to be in keeping with the unique character of the area and adopted design principles.

<b>3. General Provisions</b>	<b>Compliance</b>	<b>Comment</b>
3.5.3 Urban Ecology - Tree Management	Able to comply	<p>The proposed development is in close proximity to several significant trees located at the western edge of the community garden.</p> <p>The proposal has been reviewed by Council's Tree Management Officer and is supported subject to the conditions discussed further in the Issues section in this report below.</p>
3.9 Heritage	Yes	Refer to comments against provision 5.10 in the LEP compliance table above.
3.14 Waste	Able to comply	A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

<b>4. Development Types</b>	<b>Compliance</b>	<b>Comment</b>
<b>4.2 Residential flat, commercial and mixed use developments</b>		
4.2.3 Amenity	Yes	<p>Subject to the recommended conditions the proposed development will not have any adverse impacts upon the amenity of adjacent residences.</p> <p>Refer to the Chicken Coop Management heading in the Issues section of this report below.</p>
4.2.6 Waste and Recycling Management	Yes	<p>The proposed development will assist in the recycling of organic waste within the community garden.</p> <p>Refer to the Chicken Coop Management heading in the Issues section of this report below.</p>

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	<p>Subject to the recommended conditions the proposed development will not detract from the amenity of nearby residences.</p> <p>Refer to the Chicken Coop Management heading in the Issues section of this report below.</p>

## Issues

### Location of Development

26. As detailed in the History section of this report, Junction Street was effectively closed to traffic in the late 1990's to accommodate the construction of the Eastern Distributor. Since its closure it has been altered through various phases of public works to its current condition as a community garden and public open space.
27. Although the portion of land on which the chicken coop is located is still legally public road as this portion of Junction Street has not been formally closed it has been confirmed that there is no legal impediment to the granting of consent for the proposed development.

### Chicken Coop Management

28. The submitted DA documentation includes a Chicken Project Management Plan that specifies design features of the coop as well as procedures for feeding and caring for chickens, cleaning, managing waste, establishing a maximum number of chickens to be housed and banning roosters. A condition is recommended for the coop to be managed in accordance with the management plan.
29. Council's Environmental Health Specialist has reviewed the proposal and raises no objection subject to the recommended condition which specifies some additional coop management requirements.

### Tree Management

30. As shown in **Figure 10** below, several trees are located in close proximity to the location of the proposed chicken coop and may be affected by the proposed construction of a chicken coop.
31. The trees are semi-mature to mature specimens of *Casuarina cunninghamiana* (River She Oak) which stand along the western edge of the community garden, immediately adjacent to the Eastern Distributor. Given the location of these trees it is important that their stability is not compromised by the proposed works.

32. As mentioned in the Proposal section of this report above, following consultation between Council's Tree Management Officer and the applicant it was decided that the concrete slab on which the chicken coop is to be constructed is to be laid above the existing soil surface, as opposed to being dug into the soil.
33. The amended proposal is unlikely to compromise the stability of these trees, so long as tree-sensitive construction methods are utilised as prescribed by the recommended conditions.



**Figure 10:** Approximate location of proposed chicken coop within the community garden and adjacent trees.

### **Other Impacts of the Development**

34. The proposed development is capable of complying with the BCA.
35. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

### **Suitability of the site for the Development**

36. The proposal is of a nature in keeping with the overall function of the site.

### **Internal Referrals**

37. The assessment process has been informed by advice from Council's Environmental Health Specialist, Heritage Specialist, Tree Management Specialist and Legal Officer.

38. Where appropriate, conditions recommended by these referrals have been included for imposition on any consent given.

## **External Referrals**

### **Notification, Advertising and Delegation**

39. In accordance with Schedule 1 the Sydney DCP 2012, the subject application was notified and advertised for a period of 21 days between 13 May 2019 and 4 June 2019. As a result of this notification a total of 287 properties were notified. Two submissions in support of the proposal were received.
40. The submissions support the proposal on the basis that the community garden is an important and unique feature of the neighbourhood and the addition of a chicken coop will further extend the benefits and enjoyment of the community garden.

### **Public Interest**

41. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

### **S7.11 Contribution**

42. The development is not subject to a S7.11 development contribution as it is for work undertaken by or on behalf of Council which is a type of development listed in Table 2 of the City of Sydney Development Contributions Plan 2015 and is excluded from the need to pay a contribution. A contribution is therefore not payable.

### **Relevant Legislation**

43. The Environmental Planning and Assessment Act 1979.

### **Conclusion**

44. The subject DA proposes installation of a chicken coop within the Bourke Street Community Garden.
45. The application is referred to the Local Planning Panel as Council is the applicant and land owner of the subject site.
46. The proposed development complies with the relevant provisions of the Sydney LEP 2012, the Sydney DCP 2012 and relevant SEPPs.
47. The proposal, including the Chicken Project Management Plan has been reviewed by Council's Environmental Health, Heritage and Tree Management Specialists and Legal. Each of the referrals from these experts support the proposal, subject to recommended conditions.

48. The subject DA is recommended for approval, subject to conditions.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Ben Chamie, Senior Planner