

Landscape Referral Response

Application Number:	REV2021/0005
Date:	12/05/2021
Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 13 DP 23390 , 11 Ferguson Street FORESTVILLE NSW 2087

Reasons for referral

This application seeks consent for the following:

- Construction / development works within 5 metres of a tree or
- New residential works with three or more dwellings. (RFB's, townhouses, seniors living, guesthouses, etc). or
- Mixed use developments containing three or more residential dwellings.
- New Dwellings or

Officer comments

This application is for the construction of a secondary dwelling at the rear of an existing residential property.

Councils Landscape Referral section has considered the application against the Warringah Local Environment Plan, and the following Warringah DCP 2011 controls:

- D1 Landscaped Open Space and Bushland Setting
- E1 Preservation of Trees or Bushland Vegetation

Original Comments - 31/03/2021

The Arboricultural Impact Assessment provided with the application has identified a total of nine trees within close proximity to the proposed site, eight of which are located within the site boundaries, and the remaining one tree is a street tree within the road reserve. This existing street tree has been identified as retained and shall be protected in accordance with the Arboricultural Impact Statement as well as Section 4 of the Australian Standard 4970-2009 Protection of Trees on Development Sites. The remaining eight trees within the site have been recommended for removal. Of these eight trees, three trees, Trees No. 4, 5 and 7, are exempt species, and therefore do not require Council's approval to be removed. Concern is raised regarding the remaining five trees proposed for removal as majority of these trees are native, with all of the trees significant and should be protected and retained where possible. It is worth noting that the Arboricultural Impact Assessment provided does not include a plan of Trees identified and their associated identification numbers, making it difficult to make a sound judgement on which trees are impacted where.

Tree No. 1 is located at the front of the property adjacent to the existing driveway. This tree has been assessed for removal as "the proposed driveway widening cuts through the trunk ", hence why it has been proposed for removal. It is worth noting that the proposed Architectural Plans do not indicate a driveway widening, instead indicates the existing driveway is to remain. This tree provides valuable screening and built form mitigation, a key component of control D1. For this reason, the removal of this tree would not be supported. If a driveway widening is required as part of the proposal, amended Architectural Plans shall be provided, however the design should explore alternative layouts to ensure

this tree is retained and protected.

Similarly, Tree No. 2 is located at the front of the property, and has been indicated for removal as "construction of main dwelling occurs within TPZ/SRZ". It is noted that no works are proposed within the main dwelling as this is an existing residential dwelling. The removal of this tree would therefore not be supported as no works are proposed in this area, and this tree also provides valuable built form softening and mitigation which seeks to satisfy control D1.

Tree No. 3 appears to be located adjacent to the western boundary, towards the rear of the existing residential dwelling. The Arboricultural Impact Assessment indicates that this tree has been structurally compromised as a result of earthworks and trenching that has taken place on the neighbouring property at 15 Ferguson Street. This tree has lost significant root volume due to these works and has been recommended for removal irrespective of the proposed works. For this reason, the removal of this tree would be supported, however replacement planting shall be required.

Tree No. 6 is also located along the western boundary, however is located towards the south-west corner of the site. Like Tree No. 3, the Arboricultural Impact Assessment has indicated this tree has been structurally compromised as a result of the earthworks, trenching and construction work that have taken place on the neighbouring property at 15 Ferguson Street. From photos provided, clear root severance has occurred within the neighbouring property, and therefore has been recommended for removal irrespective of the proposed works. The removal of this tree would therefore be supported; however, replacement planting shall be required.

The remaining tree proposed for removal is Tree No. 8, which is located along the rear boundary within the site. The Arboricultural Impact Assessment has noted the proposed works have an encroachment of 50% into the TPZ, as well as encroachments into the Structural Root Zone has been recommended for removal as a result. The removal of this tree would not be supported because insufficient evidence has been provided regarding design alternatives with particular emphasis on the secondary dwelling location. Concern is raised regarding the proposed rear setback which has been identified as 884mm at its smallest, and 951mm at its largest. This setback raises concerns in relation to privacy, as all screen vegetation has been proposed for removal, with no replacements evident. With this reduced setback, the ability to plant substantial screen vegetation or replacement trees is significantly reduced.

In its current form, the landscape component of the proposal would not be supported due to the significant impact on existing canopy trees, the minimal rear setback provided, as well as insufficient information regarding proposed compensatory planting. It would be recommended that an amended Architectural Plan be provided exploring the relocation of the proposed secondary dwelling, ensuring that existing significant canopy trees are protected. In addition, it would be recommended that a Landscape Plan be provided with the application in accordance with the Northern Beaches Development Application Lodgement Requirements.

That being said, following further investigation it is evident that work has already commenced for the secondary dwelling, despite no prior approval being granted. Currently, the foundations of the secondary dwelling have been poured, and all significant trees within the property have been removed. This has had severe impacts of the landscape amenity of the area and does not satisfy control E1. Key objectives of this control include "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide", as well as "to protect and enhance the urban forest of the Northern Beaches". It is noted that a Stop Works Order has been issued to prevent further work being completed.

As these trees have already been removed, a Landscape Plan shall be required, in accordance with the Northern Beaches Development Application Lodgement Requirements, in order to demonstrate that compensatory planting is proposed to take place, ensuring all canopy trees are replaced with locally

native alternatives both within the front and rear of the property. These trees shall be required to be replaced on a 1 for 1 basis, with trees capable of reaching a minimum height of 8m at maturity. This Landscape Plan is required to satisfy control D1. as key objectives of this control include "to provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building", as well as "to enhance privacy between buildings".

The landscape component of the proposal is therefore not supported. Should additional information and required documents be provided, further assessment can be made.

Updated Comments - 11/05/2021

Following previous comments, updated Architectural and Landscape Plans have been provided with the application. The amendments made on the provided documents demonstrate an increase in the rear setback to 1.5m, as well as additional tree planting to compensate trees previously removed.

The Landscape Plans highlight the presence of five additional canopy trees, supported by screen planting along the rear boundary. No issues are raised with the proposed tree planting, however it should be noted these trees are required to be located at least 3m from existing and proposed buildings.

Concern is raised with the use of *Juniperus chinensis* 'Spartan' as this is a very slow growing shrub, and would take a number of years to achieve the required screening and built form softening. For this reason, it is recommended that the species be substituted for an alternative species, such as *Acmena smithii* 'Minor', which is native species capable of achieve the desired screening at a much fast and efficient rate.

The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plans, inclusive of the above species change.

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Recommended Landscape Conditions:

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages, and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, and in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

As a minimum the tree protection fencing for street tree(s) fronting the development site shall consist of standard 2.4m panel length to four sides, unless otherwise directed by an Arborist with minimum AQF Level 5 in arboriculture.

All fencing shall be located to allow for unrestricted and safe pedestrian access upon the road verge.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to

Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, including the existing *Callistemon sp.* located at the front of the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for

removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

Condition of Trees

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition,
- ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

Landscape Completion

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following conditions:

- i) substitute the proposed *Juniperus chinensis* 'Spartan' for an alternative species. Suggested alternatives include: *Acmena smithii* 'Minor'.

Tree planting shall be located within a 9m² deep soil area wholly within the site, with a minimum pot size of 75L. Tree planting shall be located a minimum of 3 metres from existing and proposed buildings, and other trees.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

Native tree planting species shall be selected from Council's list, specifically the *Native Plant Species Guide - Frenchs Forest Ward*: www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide.

The selected screen planting is to comprise of native species capable of attaining a height of 3 metres at maturity.

Plants are to be installed at minimum 1 metre intervals and be of a minimum container size of 200mm

at planting in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

Landscape Maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.

Undesirable Trees

Leighton Green Cypress *Cupressocyparis leylandii* or any of its cultivars, or any other Undesirable Trees identified by Council, must not be planted on the site for the life of the development.

In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views and loss of plant diversity.