



## Landscape Referral Response

<b>Application Number:</b>	DA2019/1190
<b>Date:</b>	24/04/2020
<b>Responsible Officer:</b>	Daniel Milliken
<b>Land to be developed (Address):</b>	Lot 1 DP 651395 , 9999 Pittwater Road BROOKVALE NSW 2100 Lot 1 DP 784268 , 9999 Pittwater Road BROOKVALE NSW 2100 Lot B DP 966128 , 9999 Pittwater Road BROOKVALE NSW 2100 Lot 6 DP 785409 , 9999 Pittwater Road BROOKVALE NSW 2100

### 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

#### Additional information comment 24/04/2020

Updated plans and report submitted by the applicant are noted.

The plans indicate that the trees referred to in the original referral comments are still to be removed.

An updated Landscape Plan has been provided (though the original landscape plan is still included in the amended drawing set as well).

The Landscape Plan indicates replanting of small trees between the building and the footpath to the north to compensate for the removal of the local heritage listed *Lophostemon conferta* (Brush Box Trees) which will be required to be removed to accommodate the new building.

It is clear that the trees indicated for removal will need to be removed to accommodate the building as designed, along with significant impacts to other trees as detailed in the previous referral comments below. Retention of the trees is not an option in the design as presented.

The amended Heritage Impact Assessment notes that the trees have cultural significance, having been established around the park for at least eighty years.

Removal of the trees is still not supported from a cultural landscape perspective and, as previously commented, are significant enough to be a material constraint on development. Other options appear to be available either in alternate locations or even via removal of the existing mound to enable construction of facilities below the existing ground levels rather than over the mound as is proposed.

However, if the proposal is to be supported, replacement of the trees with the same species capable of maintaining the integrity of the heritage item, being a ring of trees around the park, should form part of the development and therefore be factored into the development budget. This is achievable via planting of *L. conferta* between the building and path to the north with the relocation or undergrounding of the power line that currently passes over this area.

However, if the proposal is to be approved as presented, conditions have been provided to ensure tree protection and proposed landscaping is undertaken.

#### Original comment

The plans indicate removal of a row of eleven significant *Lophostemon conferta* (Brush Box Trees) long the northern end of Brookvale Oval. The trees form part of a listed Item of Environmental Heritage in Warringah LEP 2011.

The only reason for removal of the trees is to construct the proposed building. Alternate designs should be sought that enables retention of the trees.

In view of the status afforded them by WLEP2011, the trees should be a significant design constraint on any development proposed..

Further impacts on three additional. listed *L.conferta* trees, Trees 47. 48 and 49 (as identified in the Arborist's Report) caused by the need to excavate for a new stormwater drainage diversion. construction of retaining walls and bioretention swale are of concern. Drawings SKC05 - Storm Water and Site Works Concept Plan and SKC15 - Bulk Earthwork Plan prepared by TTW also indicate significant works around the Tree Protection Zone of these trees on the eastern side of the building and Tree 35 on the western side of the building. The combined impacts on these trees is considered likely to adversely affect their retention.

Concern is also raised regarding tree 24 and 25 on the Alfred Road side of the existing toilet block which appear to be removed on the Drawing A\_0400 Site Plan prepared by Hassell and Drawing CS100 - Combined Services Site Plan prepared by LCI Consultants to accommodate proposed Authority water meter, Authority gas meter and fire hydrant booster assembly for the Centre of Excellence. Trees 74 and 75 *Cinnamomum camphora* (Camphor Laurel Trees) on the Pine Avenue side of the ground appear significantly affected by the new sewer line required for the Centre of Excellence as indicated on Drawing CS100 - Combined Services Site Plan prepared by LCI Consultants

The removal of and high potential for damage to the listed trees as significant Cultural Landscape items is not supported.

Further, the proposal to remove the trees does not appear permissible under Part 3 Clause 10 of the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 which states (emphasis added):

Part 3 Clause 10

10 Council may issue permit for clearing of vegetation

(3) *A permit under this Part cannot allow the clearing of vegetation—*

(a) that is or forms part of a heritage item or that is within a heritage conservation area, or

(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance,

unless the council is satisfied that the proposed activity—

(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place

of heritage significance or heritage conservation area, *and*  
*(d) would not adversely affect the heritage significance of the heritage item*, Aboriginal object,  
Aboriginal place of heritage significance or heritage conservation area.

The proposed replanting of some trees within the site and adjoining parkland is not considered suitable to compensate for the loss of the trees proposed and the locations indicated bear no resemblance to the existing formal avenue planting that would be removed. The proposed locations, particularly those in the narrow area between the ramp structure on the eastern side, are not likely to enable growth to maturity.

At this stage, the proposal is not supported with regard to Landscape issues.

Relevant Planning controls (emphasis added in italics):

### **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

#### Part 1 Clause 3

##### 3 Aims of Policy

The aims of this Policy are—

*(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*  
*(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

#### Part 3 Clause 10

10 Council may issue permit for clearing of vegetation

*(3) A permit under this Part cannot allow the clearing of vegetation—*

*(a) that is or forms part of a heritage item or that is within a heritage conservation area, or*  
*(b) that is or forms part of an Aboriginal object or that is within an Aboriginal place of heritage significance.*

*unless the council is satisfied that the proposed activity—*

*(c) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area, and*  
*(d) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.*

(4) A permit may be granted under this Part subject to any conditions specified in the permit

### **WLEP 2011**

#### **Zone RE1 Public Recreation**

##### 1 Objectives of zone

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- *To protect, manage and restore public land that is of ecological, scientific, cultural or aesthetic value.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

## 5.10 Heritage conservation

### (1) Objectives

The objectives of this clause are as follows:

(a) to conserve the environmental heritage of Warringah,

(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,

(c) to conserve archaeological sites,

(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

### WDCP

E1 Preservation of Trees or Bushland Vegetation

Objectives

•To protect and enhance the urban forest of the Northern Beaches.

•To effectively manage the risks that come with an established urban forest through professional management of trees.

•To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction.

•To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities.

•To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term.

•To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.

The proposal is therefore unsupported.

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

### Recommended Landscape Conditions:

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### Heritage Listed Trees

The heritage listed trees not indicated for removal on the approved plans are to be protected from damage during construction. Details of the method of protection of the trees must be submitted by the Project Arborist to Council and the Certifying Authority prior to the issue of the Construction Certificate. Annotated photographs of the trees, with particular emphasis on the lower part of the trees, must be submitted to by the Project Arborist to Council and the Certifying Authority prior to the commencement of any building work.

Reason: To ensure appropriate tree protection measures are adopted to preserve significant community assets.

### **Tree Protection Plan**

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) A Tree Protection Plan prepared by a AQF Level 5 Arborist (or equivalent) showing the following:

- Layout of the approved development
- Location of trees identified for retention
- Extent of canopy spread
- Location of tree protection fencing / barriers (fencing in accordance with AS2470 – 2009)
- General tree protection measures

(b) The Tree Protection Plan is to be submitted to the Principal Certifying Authority for approval prior to issue of a Construction Certificate.

(c) Tree protection measures identified on the plan are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **Tree Trunk, Branch and Root Protection**

A) Existing trees and vegetation shall be retained as follows:

- i) all trees and vegetation within the site, nominated on the plans and as recommended in the Arboricultural Impact Assessment & Tree Protection Plan shall be protected during all construction stages, excluding exempt trees under the relevant planning instruments or legislation,

ii) all other trees and vegetation located on adjoining properties,

iii) all road reserve trees and vegetation.

B) Tree protection shall be undertaken as follows:

i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and according to the approved Arboricultural Impact Assessment and Tree Protection Plan

ii) any tree roots exposed during excavation with a diameter greater than 25mm within the TPZ must be assessed by the Project Arborist. Details including photographic evidence of works undertaken shall be submitted by the Project Arborist to the Certifying Authority,

iii) to minimise the impact on trees and vegetation to be retained and protected, 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,

iv) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,

v) all structures are to bridge tree roots greater than 25mm diameter unless directed by the Project Arborist on site,

vi) should either or both iv) and v) occur during site establishment and construction works, the Project Arborist shall provide recommendations for tree protection measures provided. Details including

photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites.

### **Project Arborist**

- i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the approved Tree Protection Plan and AS4970-2009 Protection of trees on development sites.
- iii) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site.

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **Trees Condition**

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) 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 certification**

a) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved landscape plan and inclusive of any conditions of consent.

b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works

have been established and maintained in accordance with the approved landscape plan.

Reason: To ensure that the landscape treatments are installed to provide landscape amenity.

**Condition of retained vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by the Project Arborist shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained as a result of the proposed development, including the following information:

- a) Compliance to Arborist recommendations for tree protection and excavation works.
- b) Extent of damage sustained by vegetation as a result of the construction works.
- c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: To ensure compliance with the requirement to retain and protect significant planting on development sites.