

Landscape Referral Response

Application Number:	DA2021/1522
Date:	20/12/2021
Responsible Officer:	Adam Mitchell
Land to be developed (Address):	Lot C DP 381427 , 189 Riverview Road AVALON BEACH NSW 2107 Lot LIC 567410 , 189 Riverview Road AVALON BEACH NSW 2107

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 demolition of an existing residential dwelling, and the construction of a new residential dwelling, inclusive of a swimming pool, double garage and new landscape works.

Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP controls:

- B4.22 Preservation of Trees and Bushland Vegetation
- C1.1 Landscaping
- D1.14 Landscaped Area - Environmentally Sensitive Land
- D1.20 Scenic Protection Category One Areas

The Statement of Environmental Effects provided with the application notes that a number of trees are required to be removed in order to facilitate proposed works. This statement is largely supported by the Architectural Plans as it is evident a significant number of trees are proposed to be removed. It is further noted that an Ecology Report has been provided alongside the application, however an Arboricultural Impact Assessment has not.

Generally, there a number of concerns raised with the proposal, largely relating to the removal significant, high value, native canopy trees, as well as the impacts of proposed works on those trees proposed to be retained. The Ecology Report provided has noted that a total of seventeen native canopy trees are to be removed, sixteen of which are from the Pittwater Spotted Gum Forest, an Endangered Ecological Community (EEC). Nine trees are proposed to be retained, all of which are located below the Foreshore Building Line. Two additional trees also appear to be retained within the road reserve at the front of the site.

It is noted that a Pre-Lodgement Meeting was conducted for this site, with Biodiversity Advice recommending the redesign of the built form and site layout to ensure Trees No. 13 and 27 be retained.

Tree No. 13 and 27 are of particular high value, and efforts should be made to retain these. Landscape comments also recommended that an alternative building layout be sought, particularly in the eastern portion of the site, preventing the removal of a number of significant native trees. It is evident that limited re-design has occurred, as both of these two high value trees, as well as trees towards the eastern boundary, are proposed for removal. Considering the bulk and scale of the building, it is recommended again that the site layout be re-visited, exploring opportunities to retain these two trees and other high value vegetation. That being said, the need for this is to be determined following advice by both the Planning and Biodiversity Teams respectively.

Further concern is raised regarding the impacts of proposed works on trees to be retained, specifically on those trees located in adjoining properties as well as the road reserve. Trees in neighbouring properties are considered prescribed, irrespective of species and height, and must therefore be protected and retained throughout proposed works. Any negative impacts towards the short-term and long-term health of these trees would likely not be supported. The Tree Protection Zone Diagram demonstrated that the proposed dwelling is to have an encroachment of 8.97% into the Tree Protection Zone (TPZ) of Tree No. 15, a 13.89% TPZ encroachment for Tree No. 24, and a 15.41% TPZ encroachment for Tree No. 26. These encroachments into the TPZ of Trees No. 24 and 26 are in addition to existing TPZ encroachments as result of the existing dwelling, meaning Tree No. 24 has a total encroachment of 17.69%, with the total for Tree No. 26 equalling 19.89%. Trees No. 4 and 5 are both located within the road reserve adjacent to the eastern boundary and have expected TPZ encroachments of 23.41% and 22.23% respectively, with both Structural Root Zones (SRZ) impacted as well. In addition, Tree No. 23, located in the neighbouring property to the south is also likely to be impacted by proposed works, with the proposed dwelling encroaching a total of 29.24% into the TPZ, an increase of 15.53% when compared to the existing dwelling and site conditions. It is clear that proposed works are expected to have a significant impact of these trees, with the potential to negatively impact the health and vitality of these existing trees long term. As no Arboricultural Impact Assessment has been provided, the true impacts of these works are not fully known. For this reason, it is therefore recommended that an Arboricultural Impact Assessment be provided with the application in accordance with Councils Development Application Lodgement Requirements. This Arboricultural Impact Assessment is required to investigate the proposed works, including the required excavation, and determine the likely impacts these are to have on existing trees to be retained. The removal of any of these trees, in addition to the significant tree removal already proposed, would likely not be supported. It should be noted that any encroachment into the TPZ of existing trees by greater than 10%, or any encroachment into the SRZ, is deemed to be major, and therefore requires a tree root investigation in accordance with AS4970-2009, specifically *Clause 3.3.3 Major Encroachment*.

The retention of existing native canopy trees is vital to satisfying control B4.22 as key objectives of this control include "to effectively manage the risks that come with an established urban forest through professional management of trees", "to protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide". The retention of existing vegetation is also necessary to satisfy control D1.20, as key objectives of this control include "to achieve the desired future character of the locality", as well as "to maintain and enhance the natural environment of Pittwater as the predominant feature of the landscape with built form being a secondary component".

The landscape component of the proposal is therefore not currently supported due to the significant impacts of proposed works on existing trees and vegetation. It is recommended that an alternative building design and site layout be sought, exploring the retention of key native trees, including Trees No. 13 and 27, as well as other significant vegetation towards the eastern boundary. In addition, it is also recommended that an Arboricultural Impact Assessment be provided with the application in accordance with Councils Development Application Lodgement Requirements. This Arboricultural Impact Assessment is required to investigate the proposed works and determine the likely impacts

these are to have on existing trees to be retained. It should be noted that any encroachment into the TPZ of existing trees by greater than 10%, or any encroachment into the SRZ, is deemed to be major, and therefore requires a tree root investigation in accordance with AS4970-2009, specifically *Clause 3.3.3 Major Encroachment*.

Upon the receipt of the required information and documentation, further assessment can be made.

Updated Comments – 20/12/2021

Following original concerns raised regarding significant tree removal and the impacts of proposed works on trees to be retained, amended Architectural Plans and an Arboricultural Impact Assessment have been provided with the application.

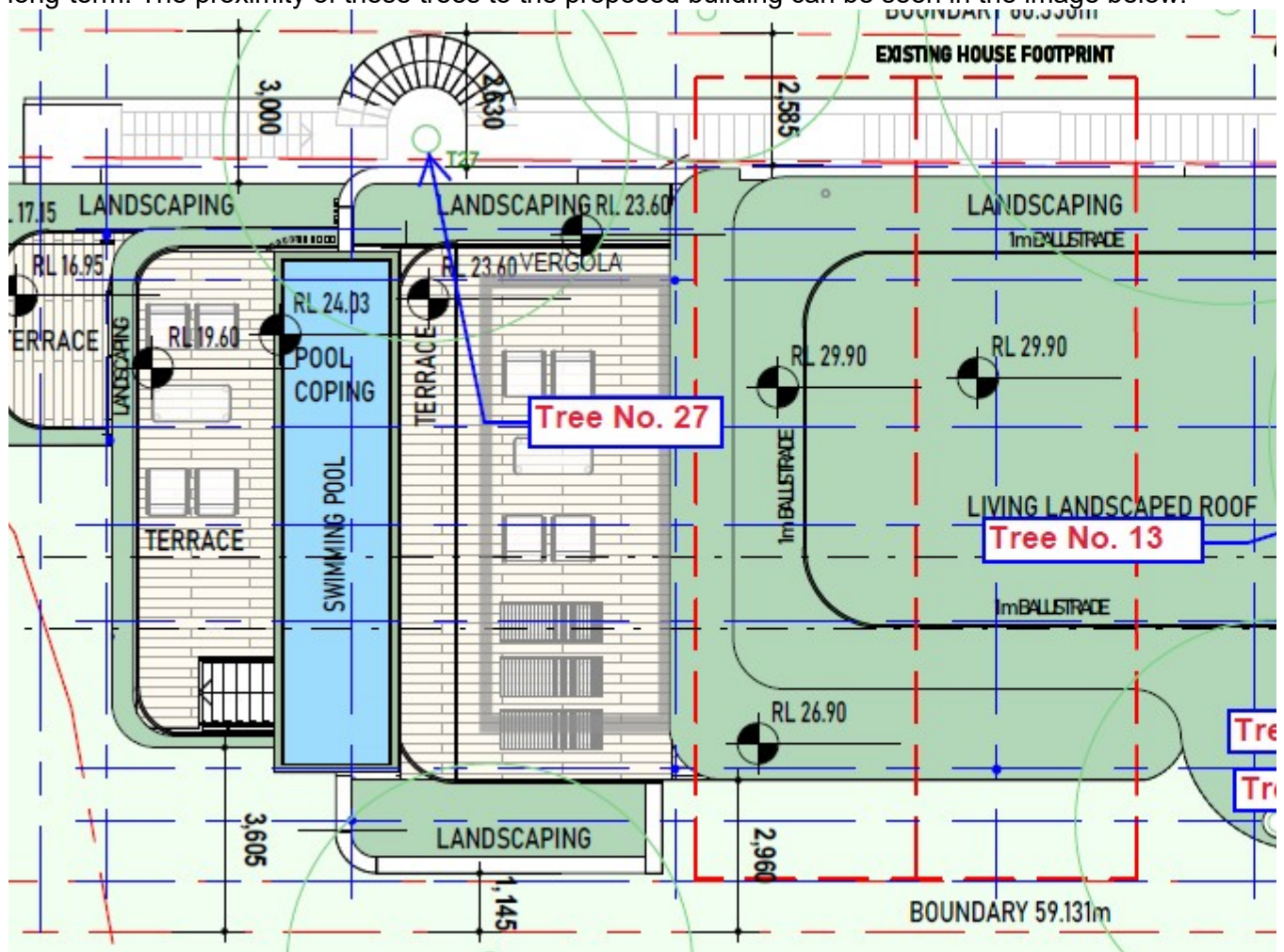
The Arboricultural Impact Assessment and subsequent tree report provided with the application has identified a total thirty-nine trees, six of which are located in the adjoining property to the north, four are located in the adjoining property to the south, two in the road reserve alongside the remaining twenty-seven located within the site boundaries. Of these thirty-nine trees identified, eleven trees, including Tree No. 1, 2, 3, 3b, 10, 11, 18, 20, 21, 28 and 37, have been proposed to be removed. Trees No. 1, 2 and 3 have been identified as exempt species, and therefore do not require Council's approval to be removed. For this reason, no major concern is raised with the removal of these three trees. Trees No. 3b, 10, 11 and 20 have all been identified as being in poor health with a low retention value largely as a result of being suppressed by more significant canopy trees, as well as the presence of borers and termites. Tree No. 18 contains a visible termite nest in the lower canopy, with a number of dead limbs present as well. For this reason, Tree No. 18 has also been identified as being in poor health with a low retention value. Tree No. 21 is also impacted by termites, with visible decay present. Tree No. 28 has been identified as having a poor canopy development, likely a result of previous construction works that saw hard surfaces and retaining walls constructed within its TPZ. Finally, Tree No. 38 has been identified as having visible decay and in a period of decline, hence removal of this tree has been proposed. Considering all the above information, the removal of these trees can be supported as it is clear these trees have less than optimal health and are likely to further decline in the future which could possibly pose a risk to both property and life. It is noted the Landscape Plan provided proposes three significant canopy trees as replacement, alongside a number of smaller trees and shrubs to return landscape amenity and canopy coverage to the site.

Concern is raised as a number of trees, including Tree No. 4, 5, 7 and 8, have not been assessed with regards to potential impacts as a result of proposed works. Trees No. 4 and 5 are existing street trees located within the road reserve at the front of the property. The demolition plan, Drawing No. 001-120, demonstrates that the existing stone driveway and stone retaining wall located at the front of the site within the TPZ and SRZ of these trees is to be removed. The removal of these structures is likely to negatively impact the health and potentially the structural integrity of these trees which is not likely to be supported. Trees No. 7 and 8 are located adjacent to the proposed garage, with a tree root investigation also taking place where the proposed pier footing is to be located. The Arboricultural Impact Assessment states no significant roots (greater than 20mm) are to be removed; however, this hole, identified as Hole 1, has uncovered a large tree root that does appear to be far greater than 20mm, and would require removal. The width of this root has not been identified in the Arboricultural Impact Assessment. No discussion has been made regarding the implication of this root being removed, hence concern is raised regarding the on-going health of these trees should proposed works proceed in this location.

As there have been no discussions of proposed works and the likely impacts on these four trees, it is currently unclear as to whether these can successfully be retained. For this reason, it is recommended that an amended Arboricultural Impact Assessment be provided with the application exploring the impacts of proposed works on these four trees. Should investigations determine these trees cannot be safely retained and preserved, it is recommended an alternative layout should be sought.

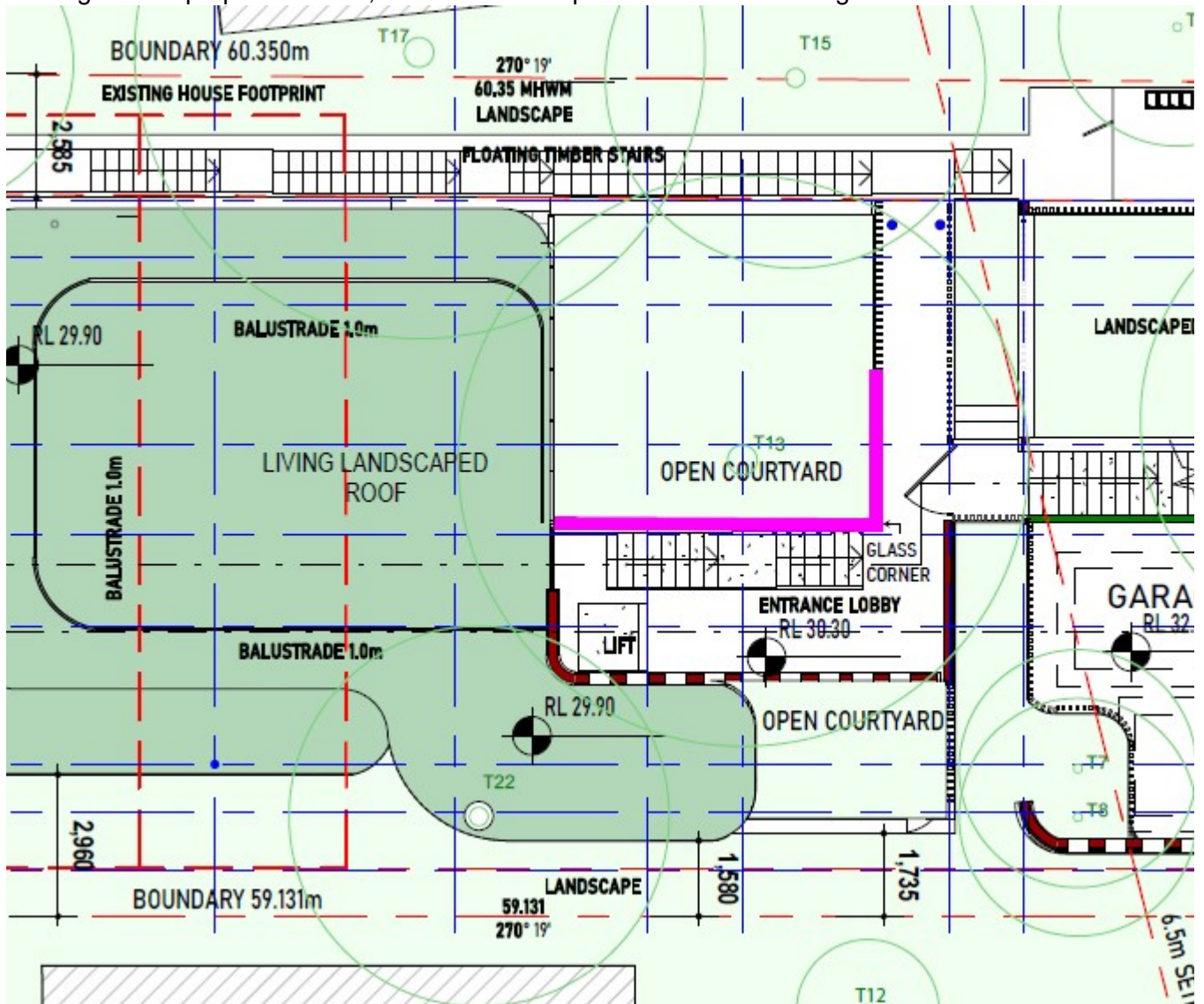
Following concerns raised regarding the impacts of proposed works on trees in adjoining properties, a number of tree root investigations have taken place. These investigations, excluding Hole 1, have not identified any significant roots, hence the impacts of proposed works appear to be manageable and are not anticipated to negatively impact trees in these adjoining properties. Subject to recommended tree protection measures, including the appointment of a Project Arborist to supervise works, the impacts on these trees are manageable and can be supported.

The two most significant trees located within the site, identified as Trees No. 13 and 27, have now been retained, with a number of tree root investigations taking place to determine the likely impacts of proposed works on existing root structures. Although this is seen as a positive, and it is clear work has been done to retain these trees, concern is still raised as these trees, in addition to Trees No. 7 and 8, fall within 2 metres of the proposed building. Should the plans be approved with the current layout, Trees No. 7, 8, 13 and 27 may all be removed without approval under the tree removal provisions outlined in control B4.22. The implications of this are significant as the total number of trees likely to be removed increases, including the two most value, biodiversity rich trees within the site. For this reason, it is recommended that further design alterations be made, ensuring that proposed works are at least 2 metres clear of proposed works to not only minimise impacts but also ensure they are retained in the long-term. The proximity of these trees to the proposed building can be seen in the image below:

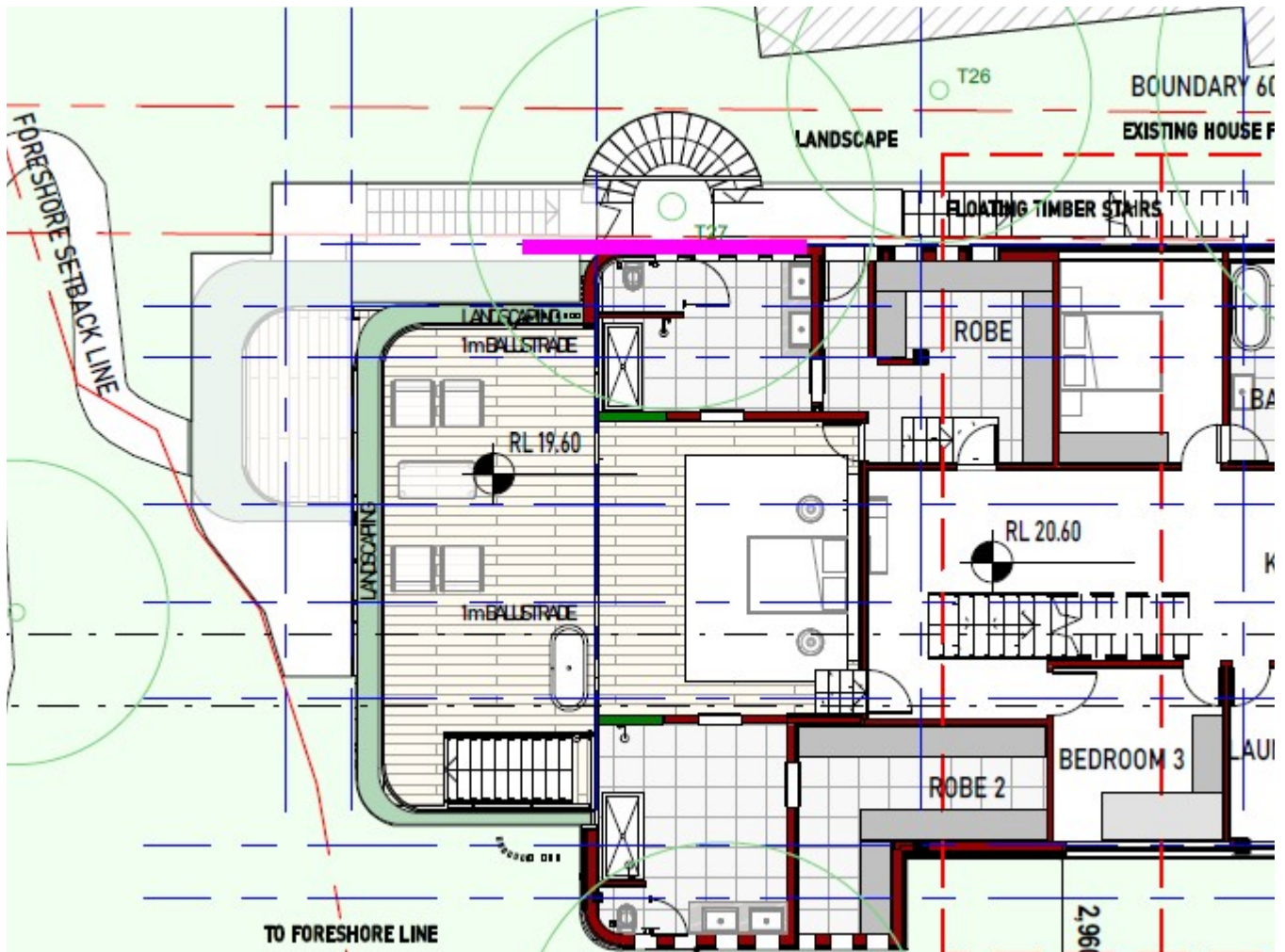


It is noted tree root investigations have taken place adjacent to Trees No. 13 and 27; however, concern is raised as these tree root investigations do not appear to have been completed on the edge of proposed works. Hence, these investigations do not provide an accurate depiction of the existing roots and what is likely to be impacted by the proposed works. In order to ensure proposed works do not impact significant roots of these two trees, it is recommended that additional tree root investigations

take place in the locations as depicted by the PINK line in the below images. Should design alterations be made to ensure greater clearance from these trees, the tree root investigations should take place on the edge of the proposed works, similar to that depicted in the below images:



Required tree root investigation location for Tree No. 13.



Required tree root investigation location for Tree No. 27.

In light of the above concerns, the landscape component is therefore not currently supported. It is recommended that an amended Arboricultural Impact Assessment be provided detailing the likely impacts of proposed works on Trees No. 4, 5, 7 and 8, with site specific tree protection measures recommended to ensure these trees are successfully retained and adequately protected. Should this investigation find proposed works are to have TPZ encroachments greater than 10% or any SRZ impact, further tree root investigations are required in accordance with AS4970-2009, specifically Clause 3.3.3 Major Encroachment. Additionally, it is recommended that an alternative design layout be sought ensuring that proposed buildings are located at least 2 metres from trees to be retained. This is particularly important for Trees No. 13 and 27. Following this, additional tree root investigations are required to take place in the locations depicted in the above images, or on the edge of proposed works. Should these investigations determine no significant roots are found and no detrimental impacts on these trees is likely, the landscape component of the proposal could be supported subject to conditions of consent.

Upon the receipt of the required information, further assessment can be made.

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:

Nil.