

Landscape Referral Response

Application Number:	Mod2024/0705
Date:	11/04/2025
Proposed Development:	Modification of Development Consent REV2021/0034 granted for Review of Determination of Application DA2020/0442 for demolition works and construction of a Mixed Use Development comprising Shop Top Housing and retail premises, with associated carparking, landscaping and strata subdivision
Responsible Officer:	Anaiis Sarkissian
Land to be developed (Address):	Lot B DP 316404 , 231 Whale Beach Road WHALE 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

The application is for modification to development consent REV2021/0034.

Further Information 10/04/25:

Upon a detailed review of the original Arboricultural Impact Assessment (AIA) by Urban Forestry Australia (dated July 2021) it is noted this report remains relevant to the protection of the neighbouring trees (which were supported for retention) and as such will need to remain included in the approved plans and supporting documentation. The impact to the southern neighbouring trees were assessed by the Arborist at the boundary line therefore no further impact is foreseen compared with approved REV2021/0034. The recommendations *"The boundary wall should be designed to avoid any conflict between tree roots and the location of the wall in the event roots greater than 30mm diameter are encountered during the PA's supervision. The PA is to assist with any redesign, ensuring the efficacy of the overland flow path is not compromised"* and *"The PA or other AQF5 arborist is to directly supervise excavation for a minimum 6m radius of the tree and ensure initial excavation to a depth of 700mm is undertaken using hand tools..."* outlined by Urban Forestry Australia (July 2021) shall be adhered to.

It is noted a new AIA report has been provided in the modification application confirming retention of the neighbouring trees. All recommendations, in both Arboricultural Impact Assessments, shall be adopted by the Project Arborist to ensure protection of neighbouring trees. The Project Arborist condition shall be updated to include both reports to ensure tree protection measures are adopted for

all trees and there is no confusion as to which report remains relevant.

Note to planner:

- Conditions amended - 36 Project Arborist, 44 Protection of Existing Street Trees, 45 - Tree and Vegetation Protection, and 63 Landscape Completion,
- Conditions deleted - 62 Required Planting.

Additional Comment 09/04/25:

Landscape referral has been made aware of section 5 drawing CW1.02 by Barrenjoey Consulting Engineers revision 2 dated 22/02/24 which shows a significant design change for the overland flow path along the southern boundary approved under REV2021/0034. As shown in section 5, the new overland flow path design will require excavation along the southern boundary and the Arborist will need to provide comment on this with regard to the impact to neighbouring trees, which must be retained and protected. The Arboricultural Impact Assessment outlines the plans used for assessment under section 1.1.5 and the new overland flow path design has not been reviewed by the Arborist.

Additional Comment 31/03/25:

Condition 36 Project Arborist is amended to ensure the protection of neighbouring vegetation.

Original Comment:

The updated Arboricultural Impact Assessment states "There are no trees on site and none of the documented trees will be directly affected by either the currently approved or currently proposed Section 4.55 application to modify this" and as such no concerns are raised with the proposed modifications in regard to trees. Condition 36 Project Arborist shall be amended as part of this modification application.

The landscape outcomes approved under REV2021/0034 generally remain as approved noting some reconfiguration of landscaped areas. Condition 62 Required Planting shall be deleted as part of this modification application and condition 63 Landscape Completion shall be amended as part of this modification application. All other conditions remain.

All public domain works shall be approved under the relevant pathway and in accordance with the imposed conditions.

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 THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

Project Arborist

a) A Project Arborist, with minimum AQF Level 5 in arboriculture, shall be engaged to provide tree protection measures in accordance with the Arboricultural Impact Assessment dated July 2021 prepared by Urban Forestry Australia (and any relevant protection measures outlined in the Arboricultural Impact Assessment dated July 2024 prepared by George Palmer, Botanics P/L) and Australian Standard 4970-2009 Protection of Trees on Development Sites. The Project Arborist is to specify and oversee all tree protection measures such as tree protection fencing, trunk and branch protection and ground protection.

b) The Project Arborist is to supervise all demolition, excavation and construction works near all trees to be retained including construction methods near the existing trees to protect tree roots, trunks, branches and canopy. Where required, manual excavation is to occur ensuring no tree root at or >25mm (Ø) is damaged by works unless approved by the Project Arborist. The Project Arborist shall supervise the construction of the overland flow path along the southern boundary, including any associated retaining walls, within the tree protection zones of any neighbouring trees and in accordance with the recommendations outlined in the Arboricultural Impact Assessment dated July 2021 prepared by Urban Forestry Australia (particularly sections 5.2.4 and 5.3).

c) Existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by the Project Arborist.

d) All tree protection measures specified must:

- i) be in place before work commences on the site, and
- ii) be maintained in good condition during the construction period, and
- ii) remain in place for the duration of the construction works.

e) The Project Arborist shall provide certification to the Certifier that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Protection of Existing Street Trees

a) all existing street trees in the vicinity of the works shall be retained during all construction stages, and the street tree(s) fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of AS 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 and in accordance with Australian Standard 4687-2007 Temporary Fencing and Hoardings, 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.

b) all street trees within the road verge 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. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees.

Reason: Street tree protection.

Tree and Vegetation Protection

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

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project 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/Project 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/Project 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/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project 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/Project Arborist to the Principal Certifier,
- 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 AS 4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS 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 AS 4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) the Principal Certifier must ensure that:

- i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as compliant to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

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

Landscape Completion

- a) landscape works are to be implemented in accordance with the approved Landscape Plans (drawings CC-L03A, CC-L04A, CC-L05A, CC-L06A by Trish Dobson dated 23/10/24), and inclusive of the following conditions:
 - i) landscape works are to be contained within the legal property boundaries,

- ii) planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
 - iii) all tree planting shall be planted into a prepared planting hole, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and located either within garden bed or within a prepared bed within lawn,
 - iv) mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
 - v) all proposed tree planting shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight to living rooms, private open space and where the proposed location of trees may otherwise be positioned to minimise any significant loss of views from neighbouring and nearby dwellings and from public spaces.
- b) prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.