

Landscape Referral Response

Application Number:	DA2021/0380
Date:	01/06/2021
Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 3 DP 12817 , 45 Ernest Street BALGOWLAH HEIGHTS NSW 2093

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 alterations and additions to an existing residential dwelling. Alterations and additions are inclusive of a new ground floor study, as well as a new swimming pool located within the front setback.

Council's Landscape Referral section has considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls:

- 3.3.1 Landscaping Design
- 3.3.2 Preservation of Trees or Bushland Vegetation
- 4.1.5 Open Space and Landscaping

Original Comments - 27/04/2021

The Statement of Environmental Effects provided with the application notes that one tree is to be removed as a result of the proposed works. This tree proposed for removal is located within the front setback adjacent to the existing driveway. This tree has been identified as a significant tree, reaching a height of 8m. The removal of this tree would not be supported as it currently provides valuable built form softening and mitigation, as well as landscape amenity that improves the overall streetscape. The retention of this tree, alongside other trees located within the site is necessary to comply with control 3.3.2, as key objectives include "to protect and enhance the urban forest of the Northern Beaches", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide". It is noted no Arboricultural Impact Assessment has been provided with the application.

As the proposed seeks to construct a swimming pool within the front setback of the property, which is against control 4.1.9, specifically 4.1.9.2 a) stating "swimming pools and spas must not be located within the front setback", there is insufficient justification for this tree removal. It is therefore recommended that this existing significant tree be retained, and the proposed swimming pool be relocated to the rear of the property. If the swimming pool is relocated to the rear of the property, it is also recommended that an Arboricultural Impact Assessment be provided in accordance with Council's DA Lodgement Requirements ensuring that trees located on neighbouring property to the east are not

negatively impacted by the proposed works. No negative impacts on the ongoing health and vitality of neighbouring trees would be supported.

The landscape component of the proposal is therefore not supported as the location of the proposed pool does not justify the removal of the significant tree located within the front setback of the site. It is therefore recommended that the swimming pool be relocated to the rear of the property, and an Arboricultural Impact Assessment be provided ensuring that no detrimental impacts to trees on neighbouring properties is expected. Should amended Architectural Plans and an Arboricultural Impact Assessment be provided, further assessment can be made.

Updated Comments - 01/06/2021

Following original concerns regarding the removal of the existing significant tree located at the front of the site, an amended Arboricultural Impact Assessment and Architectural Plans have been provided with the application. These amended documents indicate a redesigned swimming pool footprint that seeks to minimise the impacts on this tree, and ultimately retain it moving forward.

It is noted that although the swimming pool is located in the front yard, the Planning Department are in support of the application subject to the retention and protection of this existing tree.

The proposed swimming pool is located to the west of this tree to be retained, within an area that is largely exposed bedrock. This exposed bedrock extends within close proximity to the existing tree, and for this reason the trees roots are expected to be largely restricted within the proposed swimming pool location. Any excavation beyond the swimming pool footprint should be minimised where possible to ensure disturbance and impacts on this tree are reduced. All works within the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of this tree are to be supervised by a Project Arborist to ensure all significant roots are avoided, and no detrimental damage to this tree is attained as a result of approved works. It is also necessary to ensure existing hedges, shown as retained on plan, are protected throughout the proposed works as these provide valuable built form softening and mitigation, as well as privacy which is particularly important for the proposed swimming pool. The retention of this tree and vegetation is necessary to satisfy controls 3.3.2 and 4.1.5, as key objectives of these controls include "to effectively manage the risks that come with an established urban forest through professional management of trees", "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide", as well as "to maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area".

For this reason, the landscape component of the proposal is supported subject to the protection of existing trees and vegetation, and completion of landscape works as proposed on the amended Landscape Plan.

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 Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with 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.

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.

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

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, including:

- i) all demolition, excavation and construction works within the TPZ's and SRZ's of trees to be retained.

All tree protection measures specified must:

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

The Project Arborist shall provide certification to the Certifying Authority 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 Rock and Sites of Significance

All rock outcrops outside of the area of approved works are to be preserved and protected at all times during demolition excavation and construction works.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted.

Reason: Preservation of significant environmental features.

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, 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.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, as listed in the following sections:

- i) Section 5 - Summary and Recommendations,
- ii) Section 6 - Tree Protection Plan.

The Certifying Authority must ensure that:

- d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.
- e) 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.

**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 amended Landscape Plan.

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.

Condition of Retained Vegetation - Project Arborist

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 on all existing trees required to be retained, including the following information:

- a) compliance to any Arborist recommendations for tree protection generally and during 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: Tree protection.

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.