

## Landscape Referral Response

<b>Application Number:</b>	DA2021/1046
<b>Date:</b>	24/08/2021
<b>Responsible Officer:</b>	Kye Miles
<b>Land to be developed (Address):</b>	Lot 351 DP 11162 , 25 Waterview Street SEAFORTH NSW 2092

### 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 new swimming pool, as well as new retaining walls, deck and pergola, all at the rear of an existing residential dwelling.

Councils 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 - 19/07/2021**

The Statement of Environmental Effects provided with the application notes that no significant trees are to be removed as a result of proposed works. It is noted that works are located within close proximity to a number of significant native trees, hence an Arboricultural Impact Assessment has been provided with the application.

The Arboricultural Impact Assessment has identified a total of three trees, all of which are located within the site boundaries. Tree No. 1 is a significant native canopy tree located centrally within the back yard, adjacent to the proposed swimming pool. The Arboricultural Impact Assessment has identified the proposed swimming pool as having a 14% encroachment into the Tree Protection Zone (TPZ) of Tree No. 1, as well as encroaching well into the Structural Root Zone (SRZ) too. Despite the Arboricultural Impact Assessment stating that there are minimal works in the remainder of the TPZ area and beyond, the impacts expected from the proposed works are deemed major according to AS4970-2009, and have the potential to significantly impact the health of Tree No. 1. Any impacts to both the short-term and long-term health of Tree No. 1 would not be supported. For this reason, it is recommended that a tree root investigation take place as per AS4970-2009, specifically *Clause 3.3.3 Major Encroachment*, in order to determine if any significant roots are impacted by the proposed works. This tree root investigation is to take place on the outer edge of the proposed pool, in line with the required excavation line. Should significant roots be located as a result of this investigation, it is recommended

that an alternative pool layout be sought, ensuring that the Tree No. 1 is not impacted and can be retained in a healthy condition. Tree No. 2 is also located within the rear of the site, with proposed works having a minor encroachment of 5.6% into the TPZ. No adverse impacts are expected as a result of proposed works. Tree No. 3 is located adjacent to the south-east boundary at the rear of the site and has been proposed for removal. Tree No. 3 is an exempt species and therefore may be removed without Councils approval. The retention of both Tree No. 1 and 2 is vital to satisfy control 3.3.2, as key objectives of this control include "to protect and enhance the urban forest of the Northern Beaches", "to effectively manage the risks that come with an established urban forest through the professional management of trees", as well as "to protect and enhance the scenic value and character that trees and/or bushland provide".

It should be noted that a Landscape Plan has been provided with the application that proposes the in-ground planting of trees and shrubs. No concern is raised with the proposed landscape works.

The landscape component of the application is therefore not currently supported due to the potential negative impacts of significant trees to be retained. It is recommended that a tree root investigation take place in accordance with AS4970-2009, specifically *Clause 3.3.3 Major Encroachment*, ensuring that no significant roots are impacted by the proposed works. Should significant roots be impacted, it is further recommended that an alternative layout be sought, minimising any impacts towards existing trees, specifically Tree No. 1.

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

#### **Updated Comments - 24/08/2021**

Following original concerns raised regarding the potential impacts of proposed works on significant native trees at the rear of the site, amended Landscape Plans have been provided.

These amended Landscape Plans indicate that the proposed swimming pool has been relocated further west, away from this significant tree and clear of its SRZ. For this reason, the expected impacts are to be significantly less than the original layout, and as a result, its new location is supported. That being said, tree protection measures, inclusive of the appointment of a Project Arborist, is required to ensure this tree is protected and retained throughout construction as any negative impacts towards both the short-term and long-term health of this tree would not be supported.

The amended Landscape Plan provided indicates a similar planting layout and approach to the original layout, however this has been updated to reflect the pool relocation. No concerns are raised with the proposed landscape works.

The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, a swell as the 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 9 - General Tree protection Instructions,
- ii) Appendix 4 - 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 (from a landscape architect or landscape designer) 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.