

## Landscape Referral Response

<b>Application Number:</b>	DA2021/1136
<b>Date:</b>	16/08/2021
<b>Responsible Officer:</b>	Kye Miles
<b>Land to be developed (Address):</b>	Lot 13 DP 758421 , 24 Milham Crescent FORESTVILLE NSW 2087

### 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 include the demolition and filling of an existing swimming pool, as well as reconfiguration of some internal rooms and stairs. Additions are inclusive of a rear extension that is to accommodate a new master bedroom and balcony, as well as a new swimming pool and associated landscape works.

Councils Landscape Referral section has considered the application against the Warringah Local Environmental Plan, and the following Warringah DCP 2011 controls:

- D1 Landscaped Open Space and Bushland Setting
- E1 Preservation of Trees or Bushland Vegetation

### Original Comments - 20/07/2021

The Statement of Environmental Effects provided with the application does not reference the removal of any significant vegetation, however upon review of the Architectural Plan, it is clear tree removal is required in order to facilitate proposed works. It should also be noted that no Arboricultural Impact Assessment has been provided with the application.

The Architectural Plans provided indicate the removal of approximately eleven trees as result of proposed works. It was noted that of these eleven trees, nine have been identified as exempt species, and can therefore be removed without Council's approval. Upon review of the NSW Rural Fire Service online resources, it is also clear that the site falls within a 10/50 clearing zone, meaning it can clear trees within 10m of the existing dwelling, and as a result, an additional tree identified as a 7m tall Lilly Pilly may be removed without Council's approval. This leaves one prescribed tree for removal, and due to the tree being located within the proposed pool and associated structures building footprint, the removal of this tree would be necessary. In order to compensate the removal of this tree, an additional replacement tree would be required elsewhere within the site.

Concern is not necessarily raised regarding the existing trees proposed for removal, however, it is raised regarding the impacts of proposed works on those trees marked for retention. In order to

facilitate proposed works, a large number of significant walls are proposed along both the northern and eastern boundaries. These walls appear to be located well within the Tree Protection Zone (TPZ), and possibly within the Structural Root Zone (SRZ) of existing trees to be retained within the site, as well as those located in the adjoining property to the north. As no Arboricultural Impact Assessment has been provided with the application, the full impacts of these proposed works are not fully understood. It is therefore recommended that an Arboricultural Impact Assessment be provided with the application as per Council's Development Application Lodgement Requirements, assessing the proposed works and the expected impacts on these trees. It should be noted that if expected encroachments into the TPZ are greater than 10%, or any encroachment into the SRZ, a tree root investigation is required as per AS4970-2009, specifically *Clause 3.3.3 - Major Encroachment*. No detrimental impacts to both the short-term and long-term health of these trees to be retained would be supported. The retention of these trees is vital to satisfy control E1, 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 professional management of trees", as well as "to protect and enhance the scenic value and character that trees and/or bushland vegetation provide".

The completion of landscape works, including the required compensatory tree planting, is necessary in order to satisfy control D1, as key objectives of this control include "to provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building", as well as "to enhance privacy between buildings". The required compensatory tree planting can be included through conditions of consent rather than through re-submitting an amended Landscape Plan.

The landscape component of the proposal is therefore not currently supported due to the unknown impacts of proposed works on existing trees, particularly those along the northern boundary in the neighbouring property, as well as those along the eastern boundary. It is therefore recommended that an Arboricultural Impact Assessment be provided with the application in accordance with Council's Development Application Lodgement Requirements. It should be noted that if expected encroachments into the TPZ are greater than 10%, or any encroachment into the SRZ, a tree root investigation is required as per AS4970-2009, specifically *Clause 3.3.3 - Major Encroachment*.

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

#### **Updated Comments - 16/08/2021**

Following original concerns raised regarding the impacts of proposed works on existing trees, an Arboricultural Impact Assessment has been provided.

The Arboricultural Impact Assessment has identified a total of twenty three trees located both within the site, neighbouring properties as well as the road reserve. Of these twenty three trees, eight trees have been proposed for removal. These eight trees are Trees No. 10, 15, 17, 19, 20, 21, 22 and 23. Of these eight trees proposed for removal, six have been identified as exempt species and may therefore be removed without Council's prior approval. These trees include Trees No. 10, 17, 20, 21, 22, and 23. The two remaining trees, Trees No. 15 and 19, are both located within close proximity to proposed works, and due to the expected encroachments as a result of proposed works, they are required to be removed. The removal of Trees No. 15 and 19 is supported on the basis that these are replaced elsewhere within the property to compensate their removal and subsequent amenity loss. As per the original comments provided, concern was not raised with tree removal within the site, rather the impact of proposed works on trees to be retained, specifically those located in the neighbouring property to the north.

The trees located in the adjoining property that are likely to be impacted by proposed works include Trees No. 11, 12, 13 and 14. The proposed retaining walls in this location are expected to have a 24% encroachment into the TPZ of both Trees No. 11 and 12, with Tree No. 13 having an expected

encroachment of 12%, and Tree No. 14 with an expected encroachment of 10%. The Arboricultural Impact Assessment notes that although these encroachments are deemed to be major according to AS4970-2009, the presence of existing structures should be accounted for when assessing the impacts of TPZ encroachments. Upon review of the Site Survey, it is evident that an existing retaining wall runs in an approximate east-west direction near these existing trees. This wall is however proposed to be removed, and replaced with a wall running in a north-east to south-west direction, parallel with the boundary. This wall removal, in conjunction with the construction of a new retaining wall in a different place is expected to create some level of disturbance to the existing ground levels in this zone which could have the potential to impact the structural stability of these trees, whilst also impacting both their short-term and long-term. It is noted that Trees No. 11, 12, 13 and 14 have a simple fibrous root system, and as a result, can often be quite tolerable to construction impacts and disturbance. For this reason, the Arboricultural Impact Assessment has noted these trees can be retained with no significant impacts as a result of proposed works. Tree protection measures, including the appointment of a Project Arborist, as per the Arboricultural Impact Assessment must be adhered to in order to ensure existing trees are protected and retained.

The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the completion of landscape works as proposed on the Landscape Plan, inclusive of the required compensatory tree planting.

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 work 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.

### **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) *Callistemon viminalis*, located adjacent to the north-west boundary within the footprint of proposed works, Tree No. 15,
- ii) *Schefflera arboricola*, located adjacent to the north-east boundary within close proximity to proposed works, Tree No. 19.

Note:

- i) Exempt Species as listed in the Development Control Plan or the Arboricultural Impact Assessment do not require Council consent for removal.
- ii) Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

Reason: To enable authorised building works.

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

### **Protection of Existing Street Trees**

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

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Tree protection.

### **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 10 - Recommendations,
- ii) Section 11 - Tree Protection Requirements,
- iii) Section 12 - Construction Hold Points for Tree Protection,
- iv) Appendix 1 - 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 Landscape Plan, inclusive of the following conditions:

i) at minimum, 2x locally native trees are required to be planted at the rear of the site in order to compensate the removal of existing trees. Suggested species include: *Angophora costata*, *Banksia serrata*, or *Tristaniopsis laurina*.

Tree planting shall be located within a 9m<sup>2</sup> deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees.

Tree planting shall be located to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree location may impact upon significant views.

Native tree planting species shall be selected from Council's list, specifically the *Native Plant Species Guide - Frenchs Forest Ward*: [www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide](http://www.northernbeaches.nsw.gov.au/environment/native-plants/native-plant-species-guide).

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.