

Landscape Referral Response

Application Number:	DA2021/1341
Date:	15/03/2022
Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot 17 DP 6040 , 3 Brookvale Avenue BROOKVALE NSW 2100

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

further updated comments:

Further amended development proposal plans are submitted. The front setback has been amended to provide a common landscape area capable of supporting tree and shrub planting that when established will mitigate the bulk and scale and provide a suitable streetscape amenity.

The landscape scheme includes deep soil areas to the front and the rear setbacks, appropriate to support tree and other planting. Additionally, on structure planters of 1 metre depth are included and a landscape area >2m width comprises 35.3% of the site area. Furthermore 4.71% consists of landscape area with less than a 2 metre landscape width.

The landscape proposal as amended can be supported should the application be supported by the Assessing Planning Officer, and the following aspects of the landscape scheme satisfy the objectives of WLEP and the landscape controls of WDCP:

- retention of the existing large Jacaranda at the rear of the property to ensure the landscape amenity offered by the landscape buffer of the Jacaranda to the adjoining rear property at 46-48 Old Pittwater Road is maintained,
- protection of adjoining trees and vegetation within adjoining properties,
- tree planting to the common landscape area at the frontage to mitigate the built form, and it is noted that the selected deciduous species is appropriate as the frontage faces north and deciduous tree planting will permit solar access during the winter months and shade during the summer months,
- mass shrub planting to the common landscape area at the frontage to mitigate the built form,
- small tree and other screening planting along the side boundaries,
- replacement street tree planting.

The rear setback shall be the subject of conditions to include tree planting within the western courtyard, and additional conditions shall be imposed regarding plant selections to remove undesirable species nominated in the plant schedule, and container sizes shall be upgraded where appropriate.

The recommendations of the updated Arboricultural Impact Assessment is acceptable in regards to tree protection measures and removal of trees impacted by the development, except the existing Jacaranda shall be retained, and subject to the imposition of conditions.

The proposed development includes works within the public road reserve, including driveway, pedestrian ramp, street tree planting, and mass planting. These works are not approved under the development application and such encroachments within the road verge shall be part of the proposed road reserve works application under section 138 and 139 of the Roads Act, for approval or otherwise. Landscape Referral raise no objects for the proposed street tree planting and all other works shall be considered by the relevant Council Officers.

updated comments:

Amended development proposal plans and reports are submitted, including updated Landscape Plans and updated Arboricultural Impact Assessment. As a consequence of the basement and structures layout, the landscaped area into natural ground or upon 1 metre deep planters, available for landscape treatment is represented as 33% as calculated (>2m) and shown on the architectural ground floor plan, and noting a total landscape open space area of 38.47%.

Landscape Referral maintain concerns regarding the development proposal. A conclusive position is not provided on the status of the large Jacaranda at the rear of the development site. The updated Arboricultural Impact Assessment provides no commentary as the Jacaranda is an exempt species yet the updated Landscape Plan shows this Jacaranda as retained by notation. It is noted that the existing Jacaranda provides landscape amenity as well as a landscape buffer to the adjoining rear property at 46-48 Old Pittwater Road, and removal of the Jacaranda may expose occupants to the proposed development and the Landscape Plan does not propose any tree replacement to provide privacy and to replace the net canopy loss. The previous referral response required that updated plans and reports provide a coordinated and clear indication of the design intent to assess the landscape outcome of the development.

The architectural design is updated such that the entry driveway is now relocated and subsequently the impact to existing trees within the property at 1 Brookvale Avenue is reduced to a manageable level as assessed in the updated Arboricultural Impact Assessment, requiring on site intervention by a Project Arborist. No further concerns are raised with the recommendations of the updated Arboricultural Impact Assessment, subject to the imposition of conditions.

The proposed development includes works within the public road reserve, including driveway, pedestrian ramp and walling, stairs and walling, street tree planting, and mass planting. These works are not approved under the development application and such encroachments within the road verge shall be part of the proposed road reserve works application under section 138 and 139 of the Roads Act, for approval or otherwise. Landscape Referral raise no objects for the proposed street tree planting and all other works shall be considered by the relevant Council Officers.

Concern regarding the landscape outcome as a result of the inadequate provision of landscaped area remains. The landscape proposal is restricted by the building setbacks and basement footprint and the following inadequacy is present:

- front setback: the selected small deciduous tree planting is of a mature height (5 metres) that is insufficient to reduce the bulk and scale of the development and a larger species to achieve a mature height of at least 8.5 metres shall be recommended; the proposed lawn areas are small in area to be useful for outdoor recreation, and would likely end up as paved surfaces, and it is suggested that the lawn areas be replaced with mass planted garden to support adequate tree planting,
- rear setback: no replacement tree planting is proposed; the proposed lawn areas are small in area to be useful for outdoor recreation, and would likely end up as paved terrace extensions, and it is

suggested that the lawn areas be replaced with mass planted garden,

- side setback: the northern side boundary adjacent to the property at 5 Brookvale Avenue provides no landscape opportunity to approximately half of the boundary length, to assist with reducing the built form and to provide for residential privacy.

previous comments:

The application is for the demolition the existing site structures and the construction of multi dwelling housing containing 4 townhouses with basement level parking, and associated external works.

A Landscape Plan is provided with the application and a number of concerns are raised. The landscaped area requirement of 50% under DCP control D1 Landscaped Open Space is not satisfied due to the development footprint. It is reported in the Statement of Environmental Effects that 34.4% is provided with a landscape dimension of at least 2 metres, and that additional non-compliant landscaped areas result in a total of 40% Landscaped Open Space for the development proposal. The result of this non-compliance is that the landscape proposal does not provide a landscape outcome capable of mitigating the bulk and scale of the proposed development.

Control D1 requires that development provides for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees, and in this proposal the proposed small tree planting of Eleocarpus as the only tree planting, within limited side boundary landscape soil areas 2 metres and less in places (ie. 1330mm to basement), does not provide adequate canopy establishment nor typical mature height as indicated. Within such restricted landscape soil areas and proximity to the building, the Elaeocarpus are unlikely to achieve mature heights to soften the built form of the development, and are more likely to be managed as tall shrub/hedges.

A significant portion of the side setback is encroached by structures or is non-existent and this impacts on the ability to provide adequate planting opportunities to soften the built form as well as provide privacy to adjoining properties.

The front setback contains walls, paths, garbage store, clotheslines and lawns, and the area for garden planting is limited with inadequate tree canopy planting to soften the built form along the streetscape.

The rear setback contains garden bed planting, clothesline and lawns, and retains two existing trees. However the Landscape Plan provides notation that the existing Jacaranda identified as T12, noted as a significant tree and proposed for retention, is an exempt species that may be removed without Council consent. Likewise the existing Conifer identified as T13 is also noted for retention, yet as an exempt species may be removed. This stance is unsatisfactory in the assessment by Landscape Referral. Should the landscape design intention be to retain such trees within the rear, then the exempt provisions are not applicable and conditions of consent may be imposed. A clear indication of the design intent is required to assess the landscape outcome of the development.

A Arboricultural Impact Assessment is provided with the application and concern is raised on a number of issues. The Statement of Environmental Effects notes that owner's consent from No. 1 Brookvale Avenue " has been obtained from this adjoining property owner in relation to the replacement of a number of trees located within their property as detailed in the accompanying arborist report prepared by Growing My Way Tree Services". This information is not included in any of the development application documents and Council requires sighting of such owners consent. Regardless of any owners' consent document it is advised that Council may not agree to any vegetation removal on adjoining properties if prescribed trees (ie. protected under the DCP) are involved that do not warrant removal.

The following trees proposed for removal upon adjoining property include: tree 5 Callistemon viminalis -

9.5 metres high and in good condition; tree 8 *Syzygium jambos* - 7.5 metres high and in good condition; and tree 10 *Syzygium jambos* - 8.0 metres high and in good condition. In any available tree permit application for removal, such trees without arboricultural issues would not be approved by Council for removal, and in any development application for works upon No.1 property would only be approved for removal should no design alternative be available. Development works upon an adjoining property is not a valid reason to remove these prescribed trees (ie. protected under the DCP) in this instance.

Concern is raised that the development application documents do not include a tree root investigation for tree 3 *Angophora floribunda* located within adjoining No. 1 property as recommended in the Arboricultural Impact Assessment under section 7. Recommendations "The Author's recommendation is for the Tree #3 discussed manually excavated 'live root investigation' to proceed as soon as is practicable, probably post pre lodgement meeting to see if the NBC can generally support the as proposed development concept." to assess location of tree roots impacted by the proposed development works and also to provide definitive construction recommendations for the driveway and walling that will be located in close proximity.

Landscape Referral are unable to support the application without the issues raised above being attended to.

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 TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Tree Protection Plan

a) A Tree Protection Plan shall be submitted to the Certifying Authority for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures to protect the following trees:

- i) existing *Jacaranda* located at the rear of the property, identified on Ground Floor Plan A04C as 'existing *Jacaranda* tree to be retained', and on the Landscape Site Plan L-1 as T12,
- ii) existing trees within adjoining property number 1 Brookvale Ave.

b) The Tree Protection Plan shall be prepared by an Arborist with minimum AQF Level 5 in arboriculture, incorporating the following:

- i) layout of the development, including existing and proposed underground services,
- ii) location of all trees identified for retention, including extent of canopy,
- iii) access routes throughout the site for construction activity,
- iv) location of tree protection fencing / barriers for the *Jacaranda* tree,
- v) location of tree protection fencing / barriers for trees within adjoining property should the dividing property fence be deemed insufficient for protection,
- vi) root protection in the form of mulching or boards proposed within the tree protection zone, if deemed necessary,
- vi) trunk and branch protection within the tree protection zone, if deemed necessary,
- vii) location of stockpile areas and materials storage,
- viii) inspection hold points,
- ix) other general tree protection measures.

c) Tree protection methods are to be in accordance with AS4970-2009 Protection of Trees on Development Sites.

Reason: Tree protection.

On Slab Landscape Works

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided.

Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depths are required to support landscaping as proposed: 1metre soil depth.

Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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) tree number 2 - Photinia x fraseri 'Robusta', and tree number 11 - Callistemon viminalis,
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

Tree Removal Within the Road Reserve

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

- i) tree number 1 - Callistemon viminalis, subject to street tree replacement.

Removal of the approved tree/s in the road reserve shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services Section prior to removal.

Reason: Public liability.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Tree and Vegetation Protection

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

- i) all trees and vegetation within the site,
- 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) or vi) 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) 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, and should additional pruning be required an application to Council's Tree Services shall be submitted for approval or otherwise.

The Certifying Authority must ensure that:

- c) 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.

Condition of Trees

During the construction period the applicant is responsible for ensuring all existing trees required to be retained are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to, or by seeking arboricultural advice from an Arborist with minimum AQF Level 5 in arboriculture during the works. In this regard all protected trees shall not exhibit:

- i) a general decline in health and vigour,
- ii) damaged, crushed or dying roots due to poor pruning techniques,
- iii) more than 10% loss or dieback of roots, branches and foliage,
- iv) mechanical damage or bruising of bark and timber of roots, trunk and branches,
- v) yellowing of foliage or a thinning of the canopy untypical of its species,
- vi) an increase in the amount of deadwood not associated with normal growth,
- vii) an increase in kino or gum exudation,
- viii) inappropriate increases in epicormic growth that may indicate that the plants are in a stressed

condition,

ix) branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of trees.

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

Street Tree Planting

One (1) *Callistemon viminalis* as nominated on the Landscape Plan, shall be planted in accordance with the following:

- i) all street trees shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- ii) all street trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, including a four post and top and mid rail timber tree guard, and watered until established, and shall be located at least 2.0 metres from driveways, and shall generally be centralised within the road verge.

Reason: To maintain environmental amenity.

The street tree planting within the road reserve verge shall be part of the proposed road reserve works application under section 138 and 139 of the Roads Act.

Landscape Completion

Landscape works are to be implemented in accordance with the approved Landscape Plans L-1 and L-2 prepared by Wallman Partners, and inclusive of the following conditions:

- i) one (1) native tree capable of attaining at least 6 metres at maturity shall be planted within the western rear courtyard (unit 4) of the development, and shall be selected from the Northern Beaches Council's Native Plant Species Guide - Curl Curl Ward, or Council's Tree Guide, and the following suggestions are provided as a guide: Black Wattle - *Callicoma serratifolia*; Scribbly Gum - *Eucalyptus haemastoma*; Water Gum - *Tristaniopsis laurina*; Ivory Curl - *Buckinghamia celsissima*; Lillypilly - *Syzygium paniculatum*; or Riberry - *Syzygium leuhmannii*,
- ii) the proposed *Fraxinus pennsylvanica* 'Urbanite' within the front setback shall be pre ordered 100 litre or 200 litre stock ready for delivery,
- iii) all tree planting, unless other nominated, shall be a minimum planting size of 75 litres, and shall meet the requirements of Natspec - Specifying Trees,
- iv) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- v) mass planting shall be installed at minimum 1 metre intervals for shrubs of a minimum 200mm container size at planting or as otherwise scheduled if greater in size, and at 4 plants per metre square for groundcovers of a minimum 140mm container size at planting or as otherwise scheduled if greater in size, and shall be in a garden bed prepared with a suitable free draining soil mix and minimum 50mm depth of mulch,
- vi) the nominated *Rhapiolepis* species shall be substituted with a non self-seed spreading species of similar form and size.

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

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation 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.

For all new residential works with two or more dwellings and mixed use developments, a maintenance activity schedule for on-going maintenance of planters on slab shall be incorporated to monitor and replenish soil levels as a result of soil shrinkage over time.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.