

Landscape Referral Response

Application Number:	DA2021/1182
Date:	06/09/2021
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 6 DP 17229 , 36 Myola Road NEWPORT NSW 2106

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 demolition of an existing residential dwelling, and the construction of a new residential dwelling including a double garage.

Councils Landscape Referral section has considered the application against the Pittwater Local Environmental Plan, and the following Pittwater 21 DCP controls:

- B4.22 Preservation of Trees and Bushland Vegetation
- C1.1 Landscaping
- D10.12 Landscaped Area - General

Original Comments - 27/07/2021

The Statement of Environmental Effects provided with the application notes that existing trees that are overgrown or in poor condition are to be removed. Upon review of the Architectural and Landscape Plans, it is clear that all existing trees within the site are proposed to be removed. It is noted that no Arboricultural Impact Assessment has been provided with the application.

Concern is raised regarding the proposed retaining walls located on the north, south and western boundary lines. These walls appear to be located well within both the Tree Protection Zone (TPZ), as well as Structural Root Zone (SRZ) of trees located in neighbouring properties, with construction works for these walls likely to negatively impact both the short-term and long-term health of these trees. This is particularly prevalent in the adjoining properties to the south and west, and possibly the property to the north as well. As these trees are located in neighbouring properties, they are prescribed trees and are required to be protected and retained accordingly. As no Arboricultural Impact Assessment has been provided, the true impacts of these walls on existing trees is not currently known. It is therefore recommended that an Arboricultural Impact Assessment be provided with the application in accordance with Councils Development Application Lodgement Requirements in order to assess the impacts of proposed works on existing trees in adjoining properties. In addition, this Arboricultural Impact Assessment is also required to identify species of trees removed and assess their associated health and landscape significance, as upon review of the Site Survey, there are a number of significant trees in the north-west corner of the site. Should these trees be identified as native species with high

landscape value, these trees should be retained as they are well clear of proposed building works.

Further concern is raised regarding the proximity of the proposed driveway crossover to an existing street tree adjacent to the eastern boundary of the site. The proposed crossover appears to be located within the TPZ, and possibly the SRZ of this tree that is required to be retained. It is recommended the Arboricultural Impact Assessment that is to be provided also assess the impacts of this proposed crossover on this existing street tree, and as negative impacts to its on-going health and vitality would likely not be supported. It should also be noted that any encroachment into the TPZ by 10% or more, or any encroachment into the SRZ at all, is deemed major, and therefore must be accompanied by a tree root investigation as per AS4970-2009, specifically *Clause 3.3.3 Major Encroachment*. The retention of this street tree, as well as other significant trees within the site and adjoining properties, is vital to satisfy control B4.22, 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 Landscape Plan provided with the application proposes the in-ground planting of trees and shrubs. No concerns are raised regarding species, however it is noted that only one canopy tree is proposed. Control C1.1 requires at least two canopy trees to be located in the front yard, with one canopy tree in the rear yard. The current proposal indicates only one canopy tree is proposed in the rear yard, with shrubs only located adjacent to the eastern boundary at the front of the site. It is recommended that an additional canopy tree be planted in the front yard in order to effectively soften the proposed built form. Considering the presence of an existing street tree and limited planting area, one tree in the front yard would suffice, however two canopy trees are required to be planted in the rear of the site. It is recommended that the Landscape Plan be updated to reflect this, however it is possible to include this requirement through conditions of consent. The completion of these landscape works, in addition with the required additional tree planting, is necessary to comply with controls C1.1 and D10.12, as key objectives of these controls seek to ensure "landscaping enhances habitat and amenity value", "landscaping reflected the scale and form of development", as well as landscaping softens and complements the built form.

The landscape component of the proposal is therefore not currently supported due to the unknown impacts of proposed works on existing street trees, and trees located in adjoining properties. It is therefore recommended that an Arboricultural Impact Assessment be provided with the application in accordance with Councils Development Application Lodgement Requirements in order to assess the true impacts of proposed works on these existing trees which are required to be retained. It should also be noted that any encroachment into the TPZ by 10% or more, or any encroachment into the SRZ at all, is deemed major, and therefore must be accompanied by a tree root investigation as per AS4970-2009, specifically *Clause 3.3.3 Major Encroachment*.

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

Updated Comments - 06/09/2021

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

This Arboricultural Impact Assessment has identified a total of twelve trees, six of which are within the site, one within the road reserve, and the remaining five located in adjoining properties. All six trees within the site, identified as Trees No. 3, 4, 5, 6, 7 and 11, are proposed to be removed as a result of proposed works. Trees No. 3, 4, 5, 7 and 11 have been identified as exempt trees, either due to their species or heights, and as a result may therefore be removed without Councils approval. Tree No. 6 has been identified as a native canopy tree of high landscape significance, good health, fair structure, as well as having a long useful life expectancy. Tree No. 6 is located within close proximity to proposed

retaining walls, with the proposed works having an expected encroachment of 40% into its TPZ. Ground levels are also going to be raised with fill, hence further impacting the health and vitality of this tree. For this reason, Tree No. 6 has been proposed to be removed. The Arboricultural Impact Assessment has noted that the removal of Tree No. 6 is appropriate should replacement tree planting occur. For this reason, the Arborists recommendations are supported.

Of the trees located outside of the site boundaries, Trees No. 9 and 10 are expected to have zero impacts as a result of proposed works. In contrast, proposed works are expected to encroach into the TPZ of Tree No. 1, the existing street tree at the front of the property, by a total of 6.56%. Proposed works are also to have an encroachment of 4.97% into the TPZ of Tree No. 2, 7.21% into the TPZ of Tree No. 8, and finally 8.51% into the TPZ of Tree No. 12. All of these encroachments are deemed to be minor according to AS4970-2009, and are able to be retained with minimal negative impacts towards the health and vitality of these trees. For this reason, no major concerns are raised regarding proposed works, subject to tree protection measures as outlined in the Arboricultural Impact Assessment.

The landscape component of the proposal is therefore supported subject to the protection of existing trees and vegetation, as well as the implementation of the required tree planting, totaling one tree in the front yard, and two in the rear.

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.

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) *Melaleuca quinquenervia*, located in the north-west corner of the site, Tree No. 6.

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 5 - Summary and Recommendations,
- ii) Section 6 - Tree Protection Plan,
- iii) Appendix D - 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, 1x locally native canopy tree must be planted in the rear yard to compensate the removal of significant trees, in addition to that already proposed, minimum 75L pot size. Suggested species include: *Angophora costata*, *Eucalyptus haemastoma* or *Melaleuca quinquenervia*.
- ii) at minimum, 1x locally native canopy tree is to be planted at the front of the site within the front yard, minimum 75L pot size. Suggested species include: *Angophora floribunda*, *Banksia integrifolia* or *Eucalyptus racemosa*.

Tree planting shall be located within a 9m² deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees, and a minimum 2m from site boundaries.

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 - Pittwater Ward*: 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.

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.