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Subject: Draft WDCP - Private Property Tree Management ? PEX2013/0007

Attachments: Draft WDCP - Private Property Tree Management - PEX2013-0007.doc;

Submission attached.

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6th December 2013

To: Warringah Council
Civic Centre, 725 Pittwater Rd
Dee Why, NSW, 2099
Attention: Development Assessment and Compliance Services

Draft WDCP – Private Property Tree Management - PEX2013/0007

The proposed changes to the DCP include:

- Introducing a setback to trees of 3 metres, whereby trees within that setback to a building or structure will be exempt from requiring approval
- Adding nine new species to the list of trees that do not require approval to be removed
- Altering the definition of a “Tree” to increase the minimum height of a tree that requires approval to be removed, from 5 metres to 6 metres

Re 3M SETBACK:

Significant trees

The SEPP (Exempt and Complying Development) includes a clause that requires 'significant trees' to be considered in conjunction with complying development. The proposed amendment to the DCP would allow the removal of a tree within 3 metres of a building to be exempt regardless of whether the tree is significant. I do not support the 3m setback exemption, as I believe that it is appropriate to take into account the significance of a tree.

Buildings or structures: Decks

'Grey areas' in the definition or description of a building include decks, which could be considered part of the permanent structure or as an extension ancillary to the main structure. The 3m setback could be applied to a deck, which may have been built subsequent to an original approval e.g. as an exempt development. A tree that is located 3m from a deck is less likely to affect the foundations of a house, and would be located 6m from the main structure if the deck is 3 metres wide.

Previous DA approvals

A previous DA approval may include a setback of a house from a significant tree / vegetation that does not necessarily apply to a deck. The 3m requirement should apply to the house structure rather than the deck. The amendment could also result in the removal of a significant tree that has since been subject to encroachment from a structure.

Implementation

The implementation could be complicated if there is a perceived ambiguity in the definition of building to include decks. Council would not wish to pursue challenges on these matters, as they would not be cost justified. The amendment should be clear and exclude ancillary structures such as decks and sheds or the DCP requirement remain unchanged.

Existing WDCP requirements

The existing requirements of the WDCP already allow the removal of trees that are too close to structures, so the amendment to introduce a setback of 3m is not necessary. The amendment to allow the removal of trees within a 3m setback would weaken the protection for significant trees.

Re 9 NEW EXEMPT TREE SPECIES

In the report, the reasons provided for including the additional 9 species on the exempt list are general rather than specific. Species included in the list have benefits that suit particular sites or purposes. For example: Peppermint Gum has a long life span, Willow Gum is drought resistant, Sweet Pittosporum has a useful shade canopy.

It is difficult to comment fully on this aspect of the proposed amendment without a better understanding or explanation of the problems associated with individual tree species, including native species, to be added to the exemption list.

Re MINIMUM HEIGHT INCREASE FROM 5 TO 6 METRES

This amendment would allow the removal of trees between 5 and 6 metres in height that otherwise would be subject to an assessment. The consequence is that additional trees will be removed - even though the smaller height is likely to be a lower risk to property.

OTHER COMMENTS

Planting replacement trees

Council could include a requirement to replace trees e.g. to provide a minimum number of trees within the front garden setback, which is visible from the street.

List of suitable tree species

Some Councils provide residents with a list of suitable tree species to replace trees that are removed. It would be useful to have information to assist in matching tree species to available space, soil type, bird habitat, shade canopy etc. Listing the benefits of trees would also encourage residents to retain / replace trees.

Dangerous trees

The proposed amendment was initiated in response to the unfortunate circumstance of a dangerous tree falling on a house. However, the report indicates that the application to remove the tree was dealt with under WLEP2000 rather than the existing controls.

The urgency status of trees that are observed or perceived to be dangerous could be upgraded, if necessary, depending on the circumstances. An arborist's assessment is useful to ascertain the risk and to reassure residents who are concerned about safety. If the tree is dangerous or too close to structures the existing provisions allow for it to be removed.

Proposed Amendments

The report usefully includes proposals that were considered and rejected, together with reasons. The proposed amendments have a logical basis in reducing the number of applications and avoiding unnecessary processing time. However, as acknowledged, a negative impact is the loss of trees.

The existing requirements in WDCP are comprehensive and provide for the removal of trees where appropriate, as well as ensuring that significant trees will be considered. The proposed setback requirement and other amendments bypass consideration of special circumstances, such as the significance of the tree. In this regard, I do not support the amendments.

Yours sincerely