

JACKSONS NATURE WORKS

34 CALOOLA CRESCENT, BEVERLY HILLS 2209

9 150 4430
04 18) 414 502

The Secretary
30 Fairlight Pty Limited
Co. McKees Lawyers
PO Box 7909
Baulkham Hills NSW 2153

5th April 2022

Without Prejudice

Re: 30 Fairlight Pty Limited v Northern Beaches Council

1 Introduction

1.1 A court case is in the Land and Environment Court of New South Wales, Class 1, Case number 2021/356650 (The Case), seeking approval for the construction of a residential flat building with associated basement carpark (development works) at the property known as 30 Fairlight Street, Fairlight (the Site).

1.2 The owners have requested an expert assessment of the issues raised in the SOFC in relation to the trees and to examine if there are options to develop within the Tree Protection Zone (TPZ) of the trees by undertaking further investigations as noted in AS 4970 – 2009 Protection of trees on development sites Section 3.

1.3 This report addresses that request.

2 Author

2.1 This report has been prepared by Ross Jackson (RJ) – Arborist (AQF Level 5 & 8).

2.2 My curriculum vitae can be found in Annexure 3.

2.2 I have read Schedule 7 of the Uniform Civil Procedure Rules 2005 for expert witnesses and agree to be bound by it.

3 Documents and Matters Relied Upon

3.1 In preparing this Report, I have relied upon my inspection of the site and the following documents:

- Statement of Facts and Contentions, filed in the Land and Environment Court of New South Wales, Class 1, Case Number 2021/356650 (SOFC 2021).
- Arboricultural Impact Assessment by Treeism Arboricultural Services dated August 2021 (Treeism – 8.2021).
- Survey plan showing detail and levels by Usher & Company dated 21.3.2022.
- Architectural plans by DKO Architecture (NSW) Pty Ltd dated 29.3.2022, Rev B.
- Northern Beaches Council, B4.22 Preservation of Trees or Bushland Vegetation (TPO); &
- Australian Standard AS 4970 – 2009 Protection of trees on development sites.

4 Annexures

The following have been annexed to this Expert Report:

1. Survey plan showing detail and levels by Usher & Company dated 21.3.2022 with Root mapping location hand marked by JNW
2. Architectural plans by DKO Architecture (NSW) Pty Ltd dated 29.3.2022, Rev B.
3. CV of R Jackson.

5 Observations

The same tree numbers used in the Treeism – 8.2021 report will be used in this report for consistency.

JNW has verified the tree observations for Trees 27 and 37 and agrees with details in the Treeism – 8.2021 report.

6 Experts' Response to Contentions

Landscape

- 10 The proposed development should be refused as it has not been demonstrated that trees on the adjoining property can be retained, or that there is consent for the removal of those trees. The proposed landscape design is not appropriate to support new tree planting.

Particulars

- (a) The proposed basement alignment and excavation to the western boundary is in close proximity to two trees (T27 & T37) located within 32 Fairlight Street.
- (b) The Arboricultural Impact Assessment recommends that the retention of T27 is not achievable based on the impact of development and whilst not providing a recommendation for removal of T37, notes that a tree root investigation is required to determine whether the tree can be retained.
- (c) No evidence of consent or agreement for the removal of T27 and T37 has been provided and Council does not support the removal of any existing tree or vegetation within adjoining properties, nor does it provide recommendation for any removal upon land not the subject of a development application.
- (d) The proposed deep soil area required by Objective 3E-1 of the ADG is disrupted by retaining walls and does not allow for the intended landscape outcome to support tree planting.

Response by RJ:

RJ can advise the following:

A. RJ agrees the basement alignment along the western boundary was close to Trees 27 & 37 in the plans submitted with the development application.

RJ has been in consultation with the architects to alter the design of the basement adjacent to Tree 37 following site assessment and investigations:

- a. RJ found a concrete wall along the western boundary below Tree 37 – refer plate 4, then a sandstone block wall directly below Tree 37 – refer plate 5 and finally a timber retaining wall – refer plate 6.
- b. Also, it is noted there is a height differential between the ground level at Tree 37 and the side passage beside the existing residence: RL 47.32 & RL 46.14 = 1.18m drop – refer screen shot of site survey.

To ensure the long-term stability and viability of Tree 37, the basement walls have been altered to retain the soil in the SRZ area on site and some – refer Annexure 2.

RJ also determined no canopy pruning is required off Tree 37.

RJ has undertaken root mapping on site below Tree 37 on 5.4.2022 – refer plate 1 & the table below:



Plate 1: Trench 1 on site below Tree 37.

Root No.	Distance from start of trench (m).	Depth (mm) to top of root	Root Diameter (mm) or other
Concrete pavement	(1.2)	none	120mm concrete
Concrete around steele gate post	0.0 – 0.5	None	300 (+/-)
1	0.6	200	15
2	0.7	200	20
3	1.2	250	10
4	1.3 – 1.5	200	10
5	1.5	200	10
6	2.0	150	10
7	2.0	180	10
8	2.1 – 2.2	250	10
9	2.1 – 2.6	150	25
Bedrock	0.0 – 2.6	Av 300	bedrock



Plate 2: Concrete at post & roots 1 – 4.



Plate 3: Roots 5 – 9 & note concrete retaining wall beyond 2.7m

All of the roots from Tree 37 are non-woody roots¹.

It is noted there is sandstone bedrock below the roots at an average depth of 300mm and with the existing concrete pavement and concrete slab all these roots have been deflected away from the existing building.

¹ Draper, D. B. & Richards, P. A. (2009). **Dictionary for Managing Trees in Urban Environments**. CSIRO Publishing, Collingwood, Victoria.

It is RJ opinion Tree 37 can be retained due to the limited number of roots that have been deflected away from the development works. In addition the with modified design of the basement will ensure the retention of all roots growing into the site from Tree 37.

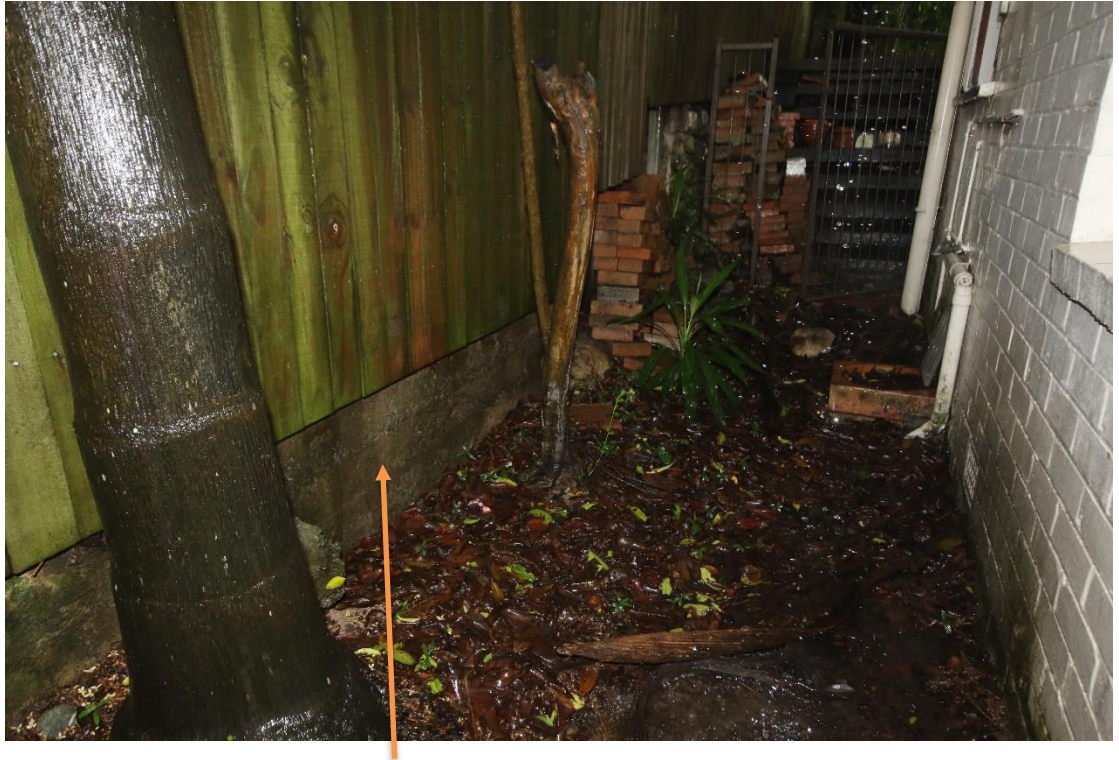


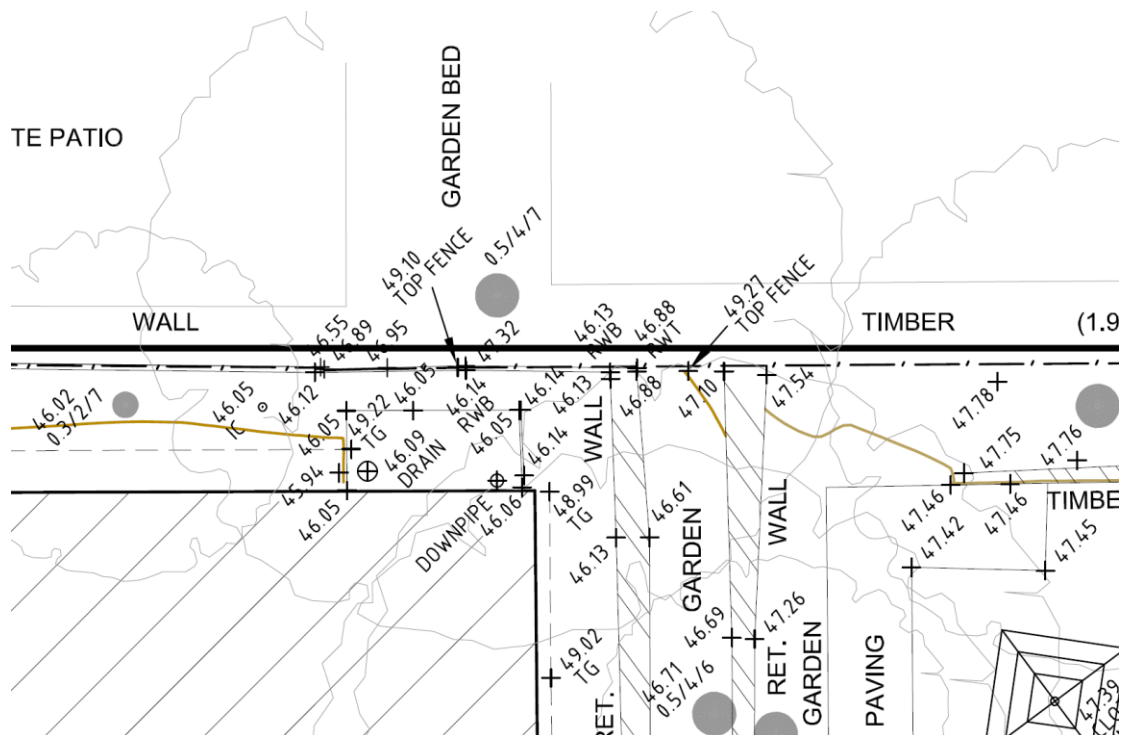
Plate 4: Concrete retaining wall below Tree 37.



Plate 5: Sandstone block wall below Tree 37.



Plate 6: Sandstone wall with timber log wall on site.



Screen shot of Survey plan showing RL below Tree 37 & on Site.

RJ has undertaken root mapping investigation near Tree 27 to understand what root material from this tree that maybe impacted by the development works – refer 2 below in response ‘B’.

B. Root mapping near Tree 27.

A trench was dug on 8.3.2022 on site in the location of the proposed basement near Tree 27 – refer Annexure B for tree and root mapping location.

The soil was dug by hand to expose the root material in a series of pot holes and by probing in between locate any roots – refer plate 7 & 8.



Plate 7: Trench 1.



Plate 8: Trench continuing along the western boundary.

Soil profile was sandy loam on bedrock found in each hole.

Root mapping results:

- a. Pothole 1 – no roots from Camphor laurel – refer plate 9. Soil depth 350mm.



Plate 9: Hole 1.

- b. Pothole 2 – no roots from Camphor laurel – refer plate 10. Soil depth 350mm.



Plate 10: Hole 2.

- c. Pothole 3 – no roots from Camphor laurel – refer plate 11. Soil depth 200mm.



Plate 11: Hole 3.

- d. Pothole 4 – <10mm roots from Camphor laurel – refer plate 12. Soil depth 200mm.



Plate 12: Hole 4.

e. Pothole 5 – <10mm roots from Camphor laurel – plate 13. Soil depth 350mm.



Plate 13: Hole 5

f. Trenching along western boundary for 2.0m – refer plate 14. Soil depth 400mm.



Plate 14: Trench along western boundary.

RJ can conclude that only small roots <10mm are located along the trench locations and the probing in between the potholes.

The lack of any woody roots² from Tree 27 when excavating for the basement will not affect the stability and longevity of this tree, thus ensuring its retention.

RJ also noted there is an existing retaining wall behind the swimming pool, then an exposed sandstone rock shelf and bedrock below the root mapping with a timber log garden edging at Tree 27 – refer 15,



Plate 15: Existing slate covered Besser block retaining wall.



Plate 16: sandstone bedrock & timber garden edging.

² Draper, D. B. & Richards, P. A. (2009). **Dictionary for Managing Trees in Urban Environments**. CSIRO Publishing, Collingwood, Victoria.

Therefore, there is an existing garden area where the new deep soil can be located at the rear of the Site by renewing the existing retaining walls and timber log wall without impacting Tree 27.

C. No consent is required from the owners of Tree 27 & 37 as the above investigations and design modifications will ensure the retention of both trees.

D. This contention is outside the expertise of RJ.

7. CONCLUSION AND RECOMMENDATIONS BY RJ

RJ is of the opinion the above investigations, observations, and assessment of Trees 27 & 37 will satisfy and overcome the issues noted in Council's SOFC.

A handwritten signature in black ink, appearing to read 'Ross Jackson', with a stylized flourish at the end.

Ross Jackson M.A.A. & M.A.I.H.
Consulting Arborist 1695
Graduate Certificate in Arboriculture AQF Level 8 (Honours)
Diploma Horticulture (Arboriculture) – AQF Level 5
Certificate III in Horticulture
Certificate in Horticulture (Landscape – Honours)

14



[illegible]

DKO Architecture (NSW) Pty Ltd 42 Davies Street Millie, NSW 2010 ABN 82 0959700690 NSW, Nominated Architects Kees de Keijzer 5767 David Randerson 8542	T +61 2 8346 4500 info@DKO.com.au www.DKO.com.au	© DKO Architecture (NSW) Pty Ltd drawing may be reproduced or otherwise dealt with without written permission of DKO Architecture.	
---	--	--	---

Rev.	Date	By	Ckd	Description
B	29/03/2022 WL			S34 Drawings

Project Name Project Address	30 Fairlight St, Fairlight 30 Fairlight St, Fairlight, NSW 2094	Project Number Drawing Name Scale Date	00012781 Basement Plan 1:150 (A3) June 2021
---------------------------------	---	---	--

Client	Adjani Pty Ltd	Drawing Number Revision	DA200 B
--------	----------------	----------------------------	------------

Curriculum Vitae – Ross Jackson

Personal Details:

Name: Ross Jackson Telephone: Mobile: 0418 414502
Address: 34 Caloola Crescent
Beverly Hills NSW 2209

Qualifications:

2015 Graduate Certificate in Arboriculture – AQF Level 8 (Honours)
2006 Diploma of Horticulture (Arboriculture Cert V- Credit)
Ryde College of TAFE, Ryde NSW

2000 Certificate III in Horticulture (Arboriculture)
Padstow College of TAFE, Padstow NSW

1985 Horticulture Certificate (Honours)
Padstow College of TAFE, Padstow NSW

Membership:

Member Arboriculture Australia Nos. 1695
Member Australian Institute of Horticulturists

Work Experience:

a. 1995 to present Consulting Arborist

- . Provision of horticultural / arboricultural advice including the preparation of reports, on-site consultations, tree hazard assessment, development and impact assessment and health and condition assessment of trees.
- . Land and Environment work as expert witness.

b. 1990 to date - Landscape Designer

- . Preparation of landscape designs including plant selection, location, and specifications for commercial and domestic applications.

c. 1989 to 31.12.2015 Landscape contractor

- . Landscape contracting covering: site preparation, paving works, drainage, brick/block work, lawns, gardens, irrigation, and various timber structures

Additional and Ongoing Education

Seminar / Training	Format	Date
Melbourne University – Burnley College	Degree in Arboriculture	2014 – 2015
Treenet	2-day Conference – Adelaide	September 2013
Arboriculture Australia	3 Day Conference & Workshop – The use of Wood Decay Fungi for Beneficial Purposes by Francis Schwarze and Trees and	July 2011

	Wind – Dynamic Research by Ken James	
Treenet	2-day Conference – Adelaide	September 2009
NAAA National Conference	National Conference – Brisbane	May 2008
International Society of Arboriculture Australia Conference	4-day National Conference – Parramatta	November 2004

Projects Undertaken

Client	Project
Meriton Group	Zetland & Pagewood projects 2017
Project Management & Construction, Lend Lease	Site Arborist for Stage One of Barangaroo South – from 2010 to date.
Ganellen Pty Ltd	Project Arborist for the new Woolworths Store at Double Bay – from January 2013
RPS Australia Asia Pacific	Westfield Warringah Mall – Brookvale Creek upgrade – Consulting arborist, September 2013 to 2015
Australand Property Group	“Ashlar Golf Club” – Stage 1 assessment of trees & design constraints of new housing development
Delfin Lend Lease	“Jordan Springs” new suburb assessment (2012)
1 st Choice Liquor (GJ Coles)	Carlingford Store – from 2011
Omada Property Group	Mitre 10 – Bankstown 2012
Hurstville City Council	“Olds Park” Development 2012
City of Sydney Council	Glebe Point Road project, Wentworth Road project.
Manoc Developments Pty Ltd	40 Wentworth Road, Vacluse
Spectre Group	Warringah Mall redevelopment
Roselands Shopping Centre	Shopping centre redevelopment

Employment History

Position	Company	Date
Consulting Arborist	Jacksons Nature Works	1995 to date
Landscape Designer	Jacksons Nature Works	1990 to 31.12.2015
Landscape Contractor/Proprietor	Jacksons Nature Works	1989 to 31.12.2015

Recent Court cases as an Expert Witness

a. Land & Environment Court of NSW:

Attended and represented many clients from 2008 to date in the Land & Environment Court as an Expert Witness.

b. Supreme Court of NSW:

1. Michos v Botany Bay City Council No. 4847 of 2009