

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2021/0200
<b>Date:</b>	06/04/2021
<b>Responsible Officer</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot 103 DP 1256016 , 1110 Barrenjoey Road PALM BEACH NSW 2108

### Reasons for referral

This application seeks consent development on land, or within 40m of land, containing:

- All Development Applications on
- Actual or potential threatened species, populations, ecological communities, or their habitats;
- Wildlife corridors;
- Vegetation query stipulating that a Flora and Fauna Assessment is required;
- Vegetation query - X type located in both A & C Wards;

And as such, Council's Natural Environment Unit officers are required to consider the likely potential environmental impacts.

### Officer comments

Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:

#### **Biodiversity Conservation Act 2016 (BC Act) State Environmental Planning Policy (Coastal Management)**

- Coastal Environment Area

#### **Pittwater Local Environmental Plan (PLEP)**

- 7.6 Biodiversity Protection

#### **Pittwater Development Control Plan (PDCP)**

- B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor
- B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

It is noted that the site has since been included within the Department of Planning, Industry and Environment (DPIE) Biodiversity Values (BV) mapping. As the DA was submitted prior to 90-days after publication, the BV mapping does not apply to this DA. For any future DA within DPIE's BV mapping that requires the removal of native vegetation, the Biodiversity Offsets Scheme (BOS) will apply.

The application seeks to remove seven (7) non-exempt trees, including four Spotted Gum (*Corymbia maculata*) and three Cheese Tree (*Glochidion ferdinandi*). Additional exempt trees are also required for

removal, however these do not require Council consent.

Documents requested by Natural Environment Unit - Biodiversity during pre-lodgement discussions are noted:

- Flora and Fauna Assessment
- Arboricultural Impact Assessment
- Landscape Plan

The Flora and Fauna Assessment and 5-Part Test of Significance (GIS Consultants 2021) concludes that the proposal will not have a significant impact on Pittwater Spotted Gum Forest - Endangered Ecological Community. Given the local occurrence will not be significantly diminished, and all trees can be replaced elsewhere within the property, Council's Biodiversity referral body agree with this conclusion.

#### Concerns raised by Natural Environment Unit - Biodiversity

The submitted Landscape Plan (Pangkarra 2021) is non-compliant with B4.4 and B4.7 of the PDCP, and as discussed in the Pre-lodgement Meeting Minutes. Specifically:

- Clause B4.7 of the Pittwater DCP, any Landscape Plan submitted must demonstrate that at least 80% of any new plantings incorporates native vegetation (as per species found on the site or listed in the Pittwater Spotted Gum Endangered Ecological Community). Found here: <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/1996-1999/pittwater-spotted-gum-forest-endangered-ecological-community-listing#:~:text=The%20Scientific%20Committee%2C%20established%20by,Schedule%201%20of%20the%20Act>
- The Landscape Plan would also need to demonstrate no significant onsite loss of canopy cover or a net loss of canopy trees in accordance with Clause B4.4 and Clause B4.7 of the DCP.

Subject to amendment of the Landscape Plan, and other conditions provided the Natural Environment Unit - Biodiversity referral body find the application to be consistent against relevant environmental controls.

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

#### **Recommended Natural Environment Conditions:**

### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

#### **Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction tree-related measures specified in the Arboricultural Impact Assessment Report (rainTree consulting 2021) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project

Ecologist and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To protect trees proposed for retention.

### **Amendment of Landscape Plans**

The submitted Landscape Plan (Pangkarra 2021) is to be amended in accordance with the following:

- Provision of at least 80% of any new plantings incorporates native vegetation (as per species found on the site or listed in the Pittwater Spotted Gum Endangered Ecological Community). Found here: <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/1996-1999/pittwater-spotted-gum-forest-endangered-ecological-community-listing#:~:text=The%20Scientific%20Committee%2C%20established%20by,Schedule%201%20of%20the%20Act>
- Provision of at least four (4) Spotted Gum (*Corymbia maculata*) additional to native species currently proposed. This is required such that the Local Occurrence and floristic integrity of the vegetation remains unchanged. Locations selected for planting are to be reasonably spread so as to allow trees to reach mature size.

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction in accordance with the Flora and Fauna Assessment (GIS Consultants 2021).

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

### **Dead or Injured Wildlife**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

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

### **Protection of Habitat Features – Certified by Ecologist**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

### **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the amended Landscape Plans and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

### **Replacement of Canopy Trees**

At least four (4) Spotted Gum (*Corymbia maculata*) are to be planted on site to replace protected trees approved for removal.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

### **No Weeds Imported On To The Site**

No Priority or environmental weeds are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

## **ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

### **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.