

Natural Environment Referral Response - Biodiversity

Application Number:	DA2018/2015
Responsible Officer	Catriona Shirley
Land to be developed (Address):	Lot 1 DP 19396 , 163 Riverview Road AVALON BEACH NSW 2107

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

Final assessment:

Revised plans were provided 25/03/2019 (Landscape Plan L-01 Rev I, prepared by Space Landscape Designs dated 30/04/2018, Architectural Plans Sheets A101 through to A114, Review 3 prepared by Blue Sky dated 21/03/2019). The plans show retention of T16 and the existing pedestrian pathway adjacent T16, and removal of T1, T7, T8 and T11. The planner stated the applicant proposes to replace T7 with a *Ceratopetalum Gummiferum*, however this is not identified on the revised Landscape Plan.

The retention of T16 and the existing pathway is considered to meet the requirement of *designed and sited to avoid and minimise impact to native vegetation (including significant canopy trees)*.

The revised Landscape Plan has not been amended to include replacement planting for the trees proposed for removal and 80% species from the Pittwater Spotted Gum EEC, as per Biodiversity's initial assessment. A condition will be imposed as follows:

A revised Landscape Plan is to be provided prior to CC that shows:

- A minimum of 4 replacement canopy trees (minimum mature height of 8.5m) of species from the Pittwater Spotted Gum EEC;
- Plantings (including understorey shrubs and grasses) that include a minimum 80% species from the Pittwater Spotted Gum EEC.

Initial assessment:

The proposal has been assessed against the Biodiversity Conservation Act 2016, Pittwater LEP 7.6, Pittwater DCP B4.4, B4.7, B4.16.

A 'test of significance' (5-part test) was not provided as required under Section 7.3 of the Biodiversity

Conservation Act 2016 to assess impacts on the Pittwater Spotted Gum EEC. However, Council has undertaken an internal assessment and has concluded a non-significant impact on the EEC as a result of the Development Application.

The pre-lodgement meeting advice included the following three requirements:

1. Discussion addressing how the proposal has been designed and sited to avoid and minimise impact to native vegetation (including significant canopy trees). This can be included in the Statement of Environmental Effects.

The application and SEE have not addressed the abovementioned requirement (as required under PLEP 7.6).

2. An Arboricultural Impact Statement which identifies the location, species, health and size of all trees within 5m of the proposed development

An Arborist Report was provided (prepared by Urban Forestry Australia, dated December 2018). The Arborist report assessed 18 trees (T5 is exempt, T10, T15, and T17, are on adjacent sites, and T18 is on Council's road reserve). Section 3.2.1 of the report states five (5) prescribed site trees are proposed to be removed as follows:

- T1 – Spotted Gum. Classified as Low Retention Value (RV) to be removed due to construction of a ramp.
- T7 – NSW Christmas Bush. Classified as Medium RV to be removed to accommodate construction of the swimming pool.
- T8 – Spotted Gum. Classified as Low RV to be removed due to construction of the swimming pool.
- T11 – Blueberry Ash. Classified as Low RV to be removed to accommodate landscaping.
- T16 – Smooth-barked Apple. Classified as Medium RV to be removed due to construction of pedestrian stairs.

Biodiversity supports the removal of the three trees classified as Low RV as assessed by the Arborist, subject to replacement planting of Pittwater Spotted Gum EEC canopy tree species.

Tree 7 and Tree 16 were classified as medium RV by the Arborist. The site is located in a wildlife corridor and T16 contains a hollow that could act as habitat for native fauna. As the applicant has not demonstrated the proposal has been designed and sited to avoid and minimise the impact to T7 and T16, the removal of these trees is not supported. A condition will be imposed as per below.

3. A Landscape Plan with details of compensatory plantings to replace locally native canopy trees and understorey species proposed for removal. New planting shall be selected from the Pittwater Spotted Gum Forest EEC.

A Landscape Plan (L-01, Rev H, prepared by Space Landscape Designs, dated 30/04/2018) was provided. The proposal includes two trees – *Cyathea Australis* and exempt *Plumeria Acutifolia*). These are insufficient to ensure no net loss in native canopy trees, and are not species from the Pittwater Spotted Gum EEC as required under DCP B4.7.

A condition will be imposed for a revised Landscape Plan to be provided prior to CC that shows:

- The retention of T7 and T16;
- A minimum of 4 replacement canopy trees (minimum mature height of 8.5m) of species from the Pittwater Spotted Gum EEC;

- Plantings that include a minimum 80% species from the Pittwater Spotted Gum EEC.

Referral Body Recommendation

Recommended for approval, subject to conditions

Recommended Natural Environment Conditions:

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

Revised Landscape Plan

A revised Landscape Plan is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate and is to include:

- Provision of a minimum of 4 replacement canopy trees (minimum mature height of 8.5m) of species from the Pittwater Spotted Gum EEC;
- Plantings (including understorey shrubs and grasses) that include a minimum of 80% species from the Pittwater Spotted Gum EEC.

The revised Landscape Plan is to be certified by a qualified landscape architect, Arborist or Ecologist prior to issue of the Construction Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls. (DACNECPCC2)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

New vegetation planting

Landscaping is to incorporate a minimum of 4 canopy trees (minimum mature height of 8.5m) and 80% locally native vegetation species (as per species listed in the Pittwater Spotted Gum Endangered Ecological Community)

Reason: To maintain native vegetation in accordance with relevant Natural Environment LEP/DCP controls. (DACNEEDW1)

Tree Protection - Arborist Supervision of Works

All works within 5 metres of the existing trees to be retained including pruning, demolition, excavation, civil works, fencing and the like must be carried out by hand under the supervision of an experienced and minimally AQF Level 5 qualified Arborist. Should roots larger than 50mm be encountered all excavation works are to cease immediately and a qualified Arborist is to advise on the impacts of the roots removal on the tree's survival and report to the Principal Certifying Authority prior to works recommencing. If tree roots are present a pier and beam method of footing construction is to be adopted so as to bridge/span any identified lateral roots.

Reason: To ensure protection and retention of the Urban Forest/Natural Environment.

Protection of Trees During Works - Certified by Project Arborist

All trees that are specifically nominated to be retained on the Site Plan (prepared by Blue Sky Building Designs, Rev 3 dated 21/03/2019) shall be retained and protected during any vegetation clearing, demolition, excavation and construction on the site. All tree protection measures are to be in accordance with Australian Standards AS 4970—2009 Protection of Trees on Development Sites’.

A certificate demonstrating compliance must be prepared by the project Arborist and submitted to the Principal Certifying Authority prior to commencement of any works on the site.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.(DACNEEDW2)

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

Landscaping

Landscaping is to be implemented in accordance with the revised Landscape Plan required under this consent, including:

- Provision of a minimum of 4 replacement canopy trees (minimum mature height of 8.5m) of species from the Pittwater Spotted Gum EEC;
- Planting (including understorey shrubs and grasses) that includes a minimum of 80% species from the Pittwater Spotted Gum EEC.

The new landscaping is to be certified as complete and in accordance with approved Landscape Plans and these conditions of consent by a qualified landscape architect, arborist or ecologist prior to issue of any Occupation Certificate.

Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1)

Protection of Trees To Be Retained

All existing trees and trees on adjoining lands (except exempt trees) which are not approved for removal are to be retained and protected during any vegetation clearing, demolition, excavation and construction on the site. All tree protection measures are to be in accordance with Australian Standards AS 4970—2009 ‘Protection of Trees on Development Sites’.

A certificate demonstrating compliance must be prepared by the project arborist and submitted to the Principal Certifying Authority prior to issuing any Occupation Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC2)

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

Retention of Natural Features

All natural landscape features, including natural rock outcrops, natural vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on

approved plans.

Reason: To ensure the retention of natural features.

Tree Retention

All existing trees as indicated on the Site Plan (prepared by Blue Sky Building Designs, Rev 3 dated 21/03/2019) shall be retained. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.

Reason: To ensure the retention of the Urban Forest/Natural Environment.

No Planting Environmental Weeds

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

Works to cease if item found

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

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 in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016.