

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2021/1135
<b>Date:</b>	08/11/2021
<b>Responsible Officer</b>	Gareth David
<b>Land to be developed (Address):</b>	Lot 3 DP 1196894 , 6 Guwara Road DUFFYS FOREST NSW 2084

### 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

The application seeks approval for the construction of alterations and additions to an existing dwelling, including the addition of balcony and shade structure pergola. The application also includes the construction of new swimming pool, deck, wellness pavilion, garage, tennis court, driveways and gates and associated landscape works.

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) Warringah Development Control Plan (WDCP)**

- Clause E2 Prescribed Vegetation
- Clause E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat
- Clause E4 Wildlife Corridors
- Clause E5 Native Vegetation
- Clause E6 Retaining unique environmental features

### **Updated Recommendation - 8/11/2021**

Following a design amendment, the application seeks approval for the removal for:

- 2 x *Banksia serrata* (T. 1, 3)

The proposal also requires the removal of the following exempt trees (dead or <6m height) that do not require Council approval:

- 6 x *Banksia serrata* (T. 8, 9, 11)
- 1 x *Angophora costata* (T. 10)
- 3 x Dead Tree (T. 14, 17)
- 1 x *Allocasuarina littoralis* (T. 39)

Prescribed trees (T1 & 3) are proposed for removal to facilitate the construction of a new pedestrian path. Given the available options to retain these trees by using sensitive construction methods or moving the proposed pathway west into existing cleared land, their removal is not supported. The proposal must relocate the pathway west outside the TPZ of Tree 1 and 3 if they cannot be retained in the current location.

The proposed APZs are consistent with the enforced instrument, and therefore do not require additional assessment by Council's NEU-Biodiversity referral team.

Subject to retention of Tree 1 & Tree 3, the Natural Environment Unit-Biodiversity referral team find the application to be consistent against relevant environmental controls.

#### **Original Recommendation - 3/08/2021**

It is noted that there is an approved and existing section 88B instrument placed over the property as part of the subdivision application which created the site. This instrument enforces an Inner Protection and an additional Outer Protection Area. The proposed APZs are consistent with the enforced instrument, and therefore do not require additional assessment by Council's NEU-Biodiversity referral team.

For the purposes of development, the application seeks approval for the removal for:

- 1 x *Banksia serrata* (T. 30)
- 4 x *Eucalyptus haemastoma* (T. 18, 22, 31, 38)
- 3 x *Eucalyptus sieberi* (T. 23, 25, 29)

The proposal also requires the removal of the following exempt trees (dead or <6m height) that do not require Council approval:

- 6 x *Banksia serrata* (T. 8, 9, 11, 19, 26, 27)
- 1 x *Angophora costata* (T. 10)
- 3 x Dead Tree (T. 14, 17, 24)
- 1 x *Eucalyptus sieberi* (T. 28)
- 1 x *Allocasuarina littoralis* (T. 39)

No Flora and Fauna Assessment has been submitted with the application, however ecological impact assessments submitted with the original subdivision are noted.

The eight trees proposed for removal, have been described as being located within an ecotone of the Duffys Forest Endangered Ecological Community (Ecotone Ecological Consultants 2005). All trees proposed for removal are characteristic and/or diagnostic of this EEC, and are therefore considered to be high value. In addition, the location of the property (adjoining National Park), and the location of the

development area (adjoining the s88b Conservation Area) is considered to be high biodiversity constraint by Council's NEU-Biodiversity referral team.

The submitted Landscape Plan (Myles Baldwin Design 2021) does not demonstrate compliance with the objectives of WDCP E2, *to retain and enhance native vegetation communities and the ecological functions of wildlife corridors*, nor is it clear how "The proposed replacement planting will significantly increase the amount of native vegetation on the site" as stated in the SEE (Ingham Planning 2021). Specifically, the proposed species selection is not appropriate for the site, and should be comprised of species that are listed in the Final Determination for Duffys Forest Ecological Community or that are otherwise native to the site. The Landscape Plan must also demonstrate no net loss of prescribed trees within the site, and should also include provision of 4 *Eucalyptus haemastoma* and 3 *Eucalyptus sieberi*. Amendment to the proposed species is required to achieve compliance against the relevant environmental control.

Subject to conditions the Bushland and Biodiversity referral team 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**

#### **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

Tree 1 and Tree 3 (*Banksia serrata*) are to be retained.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native vegetation.

#### **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- Replacement of proposed non-locally native species, with species native to the site, or listed within the Final Determination for Duffys Forest Ecological Community:

<https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/2000-2003/duffys-forest-sydney-basin-bioregion-endangered-ecological-community-listing>

Locations of replacement trees must not be within 10m of the existing dwelling.

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**

### **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**

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

Details demonstrating compliance are to be 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.

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

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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.

**Replacement of Canopy Trees**

Tree replacement plantings required under this consent 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.

Reason: To replace locally native trees.

**Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife in accordance.