

Natural Environment Referral Response - Biodiversity

Application Number:	DA2019/0152
Responsible Officer	Georgia Quinn
Land to be developed (Address):	Lot 2 DP 221631 , 78 Hudson Parade CLAREVILLE 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

Updated comments 05/07/2019

The applicant has provided the following information to support the DA:

- Amended Architectural drawings Issue – Rev A For DA, Marker Architecture & Design, dated 03.07.19
- Further Arboricultural Investigations - 78 Hudson Pde, Clareville, DA2019/0152, by Standfast Tree Services, dated 12.06.19

The applicants' Arborist undertook additional investigation and assessment, including root mapping for T15, T16 and T21, and the applicants' Architect has proposed design changes adjacent T26, T27, T29 and T34 to lessen impacts to these trees. The Arborist report concludes, "*Root mapping has shown that the three trees [T15, T16, T21] closest to the excavation would lose a small number of large roots and the implementation of the design recommendations would protect the other trees [T26, T27, T29 and T34] from impacts.*".

Following confirmation of final seawall design, the applicants Arborist is to assess proposed works within the SRZ and TPZ of T35 and T36, two *Corymbia maculata* to be retained and protected on the foreshore. Demolition and proposed retaining walls, as well as changes to ground levels are proposed within the SRZ and TPZ of these trees.

Conditions imposed by Landscape must be updated to include reference to the updated Arborist report (Standfast Tree Services, 12/06/2019).

Council's Natural Environment - Biodiversity section supports the application, subject to conditions.

Original comments 15/05/2019

Council's Natural Environment - Biodiversity section cannot support the application in its current form due to non-compliance with DCP controls and insufficient information.

Detailed comments

This application was assessed under Pittwater LEP Clause 7.6 Biodiversity, and Pittwater DCP Clause B4.7 Pittwater Spotted Gum Endangered Ecological Community.

This proposal is required to consider specific B4.7 controls:

- *Development shall restore and/or regenerate Pittwater Spotted Gum Endangered Ecological Community and provide links between remnants.*
- *Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.*
- *Development shall retain and enhance habitat and wildlife corridors for locally native species, threatened species and endangered populations.*
- *Development shall ensure that at least 80% of any new planting incorporates native vegetation*

The proposal is for demolition of the existing structures (driveway, garage, house and retaining walls) and the construction of a new three-storey dwelling incorporating five bedrooms, rumpus room, snug, terraces, balconies, storage, outdoor store, shower, drying area, courtyard, including new suspended driveway, garage, turning circle, 10m pool, landscaping across the whole of the site and refurbishment of the boatshed.

Non-compliance with DCP controls

The Flora and Fauna Assessment (GIS Environmental Consultants, Feb 2019) states that the site contains "600m² of a degraded form of Pittwater and Wagstaffe Spotted Gum Forest consisting of 23 remnant canopy trees with a mostly exotic and weedy understorey." and the proposal will "remove an area of approximately 250m² of weedy native vegetation" and "result in a 170m² reduction in the extent of the EEC onsite due to the loss of canopy cover" and "remove 8 canopy trees". The formal Assessment of Significance for Pittwater Spotted Gum EEC concludes, "*The proposal is not likely to have a significant impact on the local occurrence of Pittwater and Wagstaffe Spotted Gum Forest and a Biodiversity Development Assessment Report (BDAR) is not recommended for this proposal.*". The proposal will also remove one large hollow-bearing tree. This biodiversity assessment relies on the findings of the Arborist report (discussed below) and replacement canopy tree and understorey plantings.

The Landscape Planting Schedule (Landart 22/01/19) lists 2 replacement *Corymbia maculata* Spotted Gums, 3 Cheese Trees and 5 Coastal Banksias (10 replacement canopy trees), although the Ecologist states that "*Native tree canopy replacement planting is proposed at a ratio of 3:1 (3 canopy trees planted for each one that is lost)*". The Landscaping Plan must demonstrate consistency with the Ecologist assessment and compliance with DCP controls. *Corymbia maculata* Spotted Gums to be removed must be replaced at a minimum ratio of 1:1.

Further Arborist investigation required

The Arboricultural Impact Assessment report (Standfast Tree Services 09/02/2019) assesses 36 trees in the vicinity of the proposal. Four of these trees are within the neighbouring properties, 2 of these trees will incur major encroachments within their Tree Protection Zone (TPZ), T15 and T16, both *Corymbia maculata* Spotted Gums. Thirty-two trees occur within the property, 9 of these are exempt and 23 are large locally native canopy trees. Of the 23 large locally native canopy trees onsite, 8 are proposed for removal (35%) and a further 7 will incur major encroachment within the TPZ and in some cases impacts also extend into the Structural Root Zone (SRZ). In total at least 65% of native

trees will be impacted by the proposal.

Council's internal Arborist has reviewed the submitted Arboricultural Impact Assessment report (Standfast Tree Services 09/02/2019) and undertaken a site visit. The following trees proposed to be retained (T14, T15, T16, T21, T26, T27, T29, T34) require further investigation and consideration to ensure all impacts are assessed, and potential proposal redesign to ensure safe retention. There are also two additional *Corymbia maculata* Spotted Gums along the foreshore which have not been assessed. Council's Arborist is of the opinion that these trees are unlikely to remain viable and healthy in the long-term as a result of the proposed impacts, particularly demolition impacts, changes in soil levels, retaining walls and landscaping within the TPZ and SRZ of these trees.

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

Compliance with Arborist's Recommendations – Pre-construction

All pre-construction tree protection measures specified in the approved Arboricultural Impact Assessment report (Standfast Tree Services 09/02/2019) as amended by Arborist report (Standfast Tree Services, 12/06/2019) and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with pre-construction measures is to be certified by the project arborist prior to issue of the Construction Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNECPCC1)

Compliance with Ecologist's Recommendations – Pre-construction

All pre-construction biodiversity-related measures specified in the approved ecological report Flora & Fauna Assessment (GIS Environmental Consultants, 05/02/2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures is to be certified by the project ecologist prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

Engage a Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland biodiversity protection measures are carried out according to the conditions of consent and the Flora & Fauna Assessment (GIS Environmental Consultants, 05/02/2019).

The Project Ecologist must have one of the following memberships/accreditation,

- Practising member of the NSW Ecological Consultants Association OR

- Biodiversity Assessment Method assessor accreditation under the NSW *Biodiversity Conservation Act 2016*

Employment of a project ecologist is to be certified by the Principal Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.

Engage a Project Arborist

A Project Arborist with a minimum of AQF Level 5 is to be appointed for the duration of the works. The Project Arborist is to implement pre-construction tree protection measures and direct supervision all works within 5m of significant trees.

Evidence demonstrating Project Arborist engagement is to be provided to the Principal Certifying Authority prior to the issue of Construction Certificate.

Reason: Tree protection in accordance with relevant Natural Environment LEP/DCP controls (DACNECPCC2)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

Trees to be retained must be clearly marked prior to commencement

Trees to be retained must be clearly marked by wrapping the trunks in high-vis flagging tape prior to commencement of any works.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNEDPC1)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Arborist supervision during demolition and tree protection measures

The Project Arborist (minimum AQF 5) is required to directly supervise any works (including demolition) within the tree protection zone (TPZ) of existing trees to be retained.

Tree protection measures are as listed within Arboricultural Impact Assessment report (Standfast Tree Services 09/02/2019) and as amended by Arborist report (Standfast Tree Services, 12/06/2019).

Details of compliance is to be certified by the project arborist, including written and photographic evidence, and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with tree protection/replacement measures in accordance with relevant Natural Environment LEP/DCP. (DACNEEDW1)

Compliance with Ecologist's Recommendations – During Construction

All biodiversity-related measures are to be implemented during construction, as specified in the approved ecological report Flora & Fauna Assessment (GIS Environmental Consultants, 05/02/2019) and these conditions of consent.

Compliance with these measures is to be certified by the project ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNEEDW2)

Tree Removal Direct Supervision by Project Ecologist and Install Nesting Boxes

A minimum of 2 suitably sized nest boxes are to be installed in the retained trees throughout the retained vegetation in the rear of the property. This is best completed during approved tree removal works as tree-climbing Arborists will be on-site.

Habitat for native wildlife including trees with hollows or flaky bark must be inspected for native wildlife prior to removal or supervised during removal by the project ecologist. If native wildlife is found within habitat required to be removed, the project ecologist must be contacted for advice. Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response. If no such incidents occur during works, a statement to that effect is to be prepared. The project ecologist is to prepare a record of any incidents or a statement that no such incidents occurred and provide this to the Principal Certifying Authority prior to issue of the Occupation Certificate.

A certificate demonstrating compliance must be prepared by the project ecologist and submitted to the Certifying Authority prior to issue of the Occupation Certificate.

Reason: To maintain wildlife habitat in accordance with relevant Natural Environment LEP/DCP controls and to protect native wildlife in accordance with Section 2.1 of the NSW *Biodiversity Conservation Act 2016*.

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

Compliance with Ecologist's Recommendations – Post Construction

All biodiversity-related measures are to be implemented at the appropriate stage of development, as specified in the approved ecological report Flora & Fauna Assessment (GIS Environmental Consultants, 05/02/2019) and these conditions of consent.

Completion of recommendations during construction (Section 6.3) and satisfactory establishment/initiation of post-construction measures is to be certified by the project ecologist prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1)

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

Control of Weeds

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

Protection of Habitat Features

All natural landscape features, including rock outcrops, native vegetation, and soil, are to remain

undisturbed and protected for the life of the development, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat in accordance with relevant Natural Environment LEP/DCP controls (DACNEGOG1)

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 mitigate potential impacts to native wildlife resulting from construction activity.