

Natural Environment Referral Response - Biodiversity

Application Number:	DA2020/1163
Date:	18/11/2020
Responsible Officer	Megan Surtees
Land to be developed (Address):	Lot 102 DP 13760 , 24 Wandeen Road 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

There is insufficient information to assess the proposal's compliance with relevant biodiversity controls. The following provisions apply to the site:

- NSW *Biodiversity Conservation Act 2016* (BC Act)
- Pittwater LEP Clause 7.6 (Biodiversity)
- Pittwater DCP Clause B4.7 (Pittwater Spotted Gum Forest Endangered Ecological Community)

The property is a vacant block with a vegetation community consistent with the Pittwater Spotted Gum Forest Endangered Ecological Community (EEC), as declared under the Biodiversity Conservation Act 2016 (BC Act).

NSW Biodiversity Conservation Act

In accordance with Section 7.3 of the Act, a 'test of significance' for impacts to the EEC has been prepared by a suitably qualified ecologist and submitted with the DA. The test of significance concludes that the proposal is unlikely to have a significant impact upon the broader local occurrence of the EEC and that further assessment under the NSW Biodiversity Assessment Method (BAM) is therefore not required. The Biodiversity referral body concur with this conclusion and consider that assessment requirements under the BC Act (including those for other relevant threatened species) have been satisfactorily addressed by the ecologist.

Pittwater 21 LEP/DCP Controls

This control aims to achieve development which does not have "an adverse impact on Pittwater Spotted Gum EEC" and results in "no significant onsite loss of canopy cover or net loss in native canopy trees". The proposed development will result in the removal of nine prescribed native trees - two assessed as being of high 'significance value' (Trees 14 and 17), five of moderate value (Trees 7, 9, 11, 15, 16), and two assessed as low significance value (Trees 6 and 18). Nine prescribed onsite trees are also

proposed for retention; these are Trees 1, 2, 3, 4, 12, 13, 19, 20 and 21. This level of tree removal may be considered acceptable for a new dwelling on a vacant and highly vegetated site, given that construction of a dwelling house is permissible under the zoning. It is also acknowledged that development potential on the subject site is constrained by site conditions including a number of significant trees and a steeply sloping frontage.

However, concern has been raised by Council's Landscape referral body that the extent of cut, fill and/or construction proposed within the Tree Protection Zones (TPZs) of five prescribed trees (which were identified for retention in the submitted plans) will result in long-term impacts which will prevent those trees from realising their safe useful life expectancy. Specifically, it is considered that potential long-term impacts to Trees 4, 19, 20, 21 and neighbouring Tree 4 (N4) have not been adequately addressed in the submitted plans, arboricultural assessment, or by the amended plans and detail provided post-lodgement as additional information.

It is therefore considered that there remains an unacceptable level of uncertainty as to the full extent of impacts to prescribed trees. It is noted that impacts to a further five significant native trees (in addition to the nine already proposed for removal) would be inconsistent with PLEP Clause 7.6 and PDCP B4.7 and therefore could not be supported by the Biodiversity referral body. As such, the proposal's compliance with biodiversity controls cannot be adequately assessed until it is clarified how the applicant will achieve safe long-term retention of Trees 4, 19, 20 and 21, given the extent of groundworks/construction required within the trees' TPZs.

The proposal is therefore unsupported.

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

Recommended Natural Environment Conditions:

Nil.