

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2022/1915
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including a swimming pool
<b>Date:</b>	11/07/2023
<b>Responsible Officer</b>	Dean Pattalis
<b>Land to be developed (Address):</b>	Lot 89 DP 13760 , 29 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

#### Biodiversity Referral (11 July 2023)

This referral is based on further additional information including:

- Arborist's statement addressing Landscape and Biodiversity referral comments (Growing My Way Tree Consultants, 26 June 2023)
- Revised Flora and Fauna Report (Kingfisher Urban Ecology and Wetlands, June 2023)
- Email to Council's Planner (VMDC Planning, 26 June 2023)

This information addresses two concerns raised by the Biodiversity and Landscape referral bodies, namely:

1. Impacts to Spotted Gums in the rear yard (Trees 3, 4, 5, and 7) as a result of cut and fill associated with pool construction
2. Proposed removal of Spotted Gums in the front yard (Trees 1 and 2) to accommodate a 7.5m wide carport/turning area with deck above.

As per Landscape referral comments, it is considered that construction of the pool, terrace and new retaining walls will result in impacts to Spotted Gums within the rear yard in the long-term. These trees are within the NSW Biodiversity Values Map (BV Map) and as such, Council is required to consider all impacts to native trees within this area to determine whether the proposal triggers entry into the Biodiversity Offsets Scheme (BOS). All proposals within the BV Map are routinely assessed for impacts to native trees and can only be supported without a BDAR if Council is satisfied that a proposal will not

trigger entry into the BOS. Given the extent of proposed cut and fill for works within the rear yard, Council is not satisfied that this proposal will not impact upon trees within the BV Map.

In addition, the additional information does not demonstrate why the width of the proposed turning bay cannot be reduced to minimise impacts to Spotted Gums (Trees 1 and 2). The applicant's traffic engineer has provided information about why a turntable is not considered feasible, but does not address the option of reducing the width of the 7.5m-wide carport with a deck above. The arborist's statement dated 26 June 2023 states: "based on suggested potential reduction of turning-bay from 7.50m width to 3.50m width adverse impacts to Tree #1 & Tree #2 are not eliminated". While this option may not entirely eliminate impacts to Trees 1 and 2, it is not considered that complete removal is justified when alternative design options such as reducing the width of the carport/deck have not been considered. In accordance with PLEP Clause 7.6 (Biodiversity Protection), it is not considered that the proposal has been designed and sited to avoid and minimise adverse environmental impacts.

### **Biodiversity Referral (1 June 2023)**

The amended plans, driveway assessment and updated arborist report are noted.

As per Landscape referral body comments, despite reorientation of the pool there remain concerns regarding impacts to native prescribed trees (Trees 5, 6 and 7) associated with extensive ground level changes for construction of the pool. These trees are within the NSW Biodiversity Values Map, and as such, any impacts to them will trigger entry into the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). Council cannot approve a development which triggers entry into the BOS without a BDAR

In addition, whilst it is acknowledged that there are safety issues associated with reversing out of the driveway onto the steep and narrow road, it is not considered that the proposed 7.5m wide two-car carport is necessary to address these considerations. It appears that Trees 1 and 2, which are significant Spotted Gums in good health and which are part of the Threatened Ecological Community, are proposed for removal to accommodate a two-car carport and balcony above. It is considered that the bulk of the proposed balcony/carport could be reduced such that Trees 1 and 2 could be retained, whilst also providing for adequate turning space to enable forward egress from the driveway (e.g. through alternative driveway design options).

As per PLEP s7.6 (Biodiversity Protection), proposals must be designed and sited to avoid adverse environmental impact. In addition, PDCP sB4.7 (Pittwater Spotted Gum Forest) requires development to result in no net loss of native canopy trees and to protect the Threatened Ecological Community. At this stage, the Biodiversity referrals body is not satisfied that these objectives have been achieved.

### **Biodiversity Referral (6 January 2023)**

The proposal seeks approval for alterations and additions to a dwelling house including a swimming pool.

The comments on this proposal relate to the following provisions:

- NSW Biodiversity Conservation Act 2016
- Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection
- Pittwater DCP 21 - Clause B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS) and the requirement for a

## Biodiversity Development Assessment Report (BDAR).

The submitted arborist report identifies four trees to be removed - Trees 1, 2, 4 and 5 which are all mature Spotted Gums (*Corymbia maculata*). Trees 1 and 2 are found at the front of the property and have not been mapped within the BV Map, however, Trees 4 and 5 are both located within the BV Map area. As confirmed in the submitted Flora and Fauna Report, the proposal therefore triggers entry into the BOS by way of impact to native vegetation identified on the BV Map. This is a requirement of the NSW Biodiversity Conservation Act 2016 and is not subject to the discretion of Council.

The following options are available to the applicant:

- Provide a BDAR prepared by an ecologist who is an Accredited Assessor under the NSW Biodiversity Assessment Method (BAM).
- Redesign the proposal to avoid any impact to native vegetation within the Biodiversity Values Map.

In addition, it is considered that the proposal to remove four mature Spotted Gums within an Endangered Ecological Community is inconsistent with the objectives of applicable local biodiversity controls. As per comments provided by the Landscape referrals body, and as required under PLEP Clause 7.6 (Terrestrial Biodiversity), the Biodiversity referrals body is not satisfied that the proposal has been designed and sited to avoid adverse environmental impact.

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.