

Natural Environment Referral Response - Biodiversity

Application Number:	DA2020/1163
Date:	27/11/2020
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

Updated Biodiversity Response (27 November 2020)

These updated referral comments are based on the following additional information:

- Site Plan, Drawing No. 1.2, Revision D (Rise Projects, 20/11/2020)
- Cut/Fill Plan, Drawing No. 1.6, Revision D (Rise Projects, 20/11/2020)
- Driveway Plan, Drawing No. 6.2, Revision D (Rise Projects, 20/11/2020)

The amended plans indicate modifications to the driveway including partial canterlevering within the Tree Protection Zones (TPZs) of Trees 19, 20, 21. This amendment, in addition to conditions of consent recommended by Council's Landscape referral body, will serve to minimise impacts to these significant trees and enable their safe retention. Conditioned amendments will also assist in negating impacts to Tree 4 and the large Spotted Gum (identified as N12) within the adjoining property. As such, it is considered that the proposal (as amended by conditions recommended by the Landscape referral body) can be undertaken whilst retaining a substantial portion of significant native trees on site and neighbouring properties. The proposal is therefore considered to be consistent with relevant biodiversity controls.

Original Biodiversity Response (18 November 2020)

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 PDGP 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, 9, 20 and 21, given the extent of groundworks/construction required within the trees' TPZs.

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

Preparation of a Tree Removal Protocol

The Project Ecologist is to prepare a Tree Removal Protocol which includes the provision of (at a

minimum): a pre-clearance survey, direct supervision of tree removal, protocol for rescue of fauna and relocation of log hollow sections onsite to provide fauna habitat. The Tree Removal Protocol must also include procedures for stop work and formal impact assessment in the event that fauna species are found during the pre-clearance survey. The Tree Removal Protocol is to be submitted to the Principal Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native wildlife.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Implementation of Tree Removal Protocol

Tree removal is to be undertaken in accordance with the Tree Removal Protocol prepared by the Project Ecologist. Compliance with the Tree Removal Protocol is to be certified in writing by the Project Ecologist and this written certification provided to the Certifying Authority prior to issue of Occupation Certificate.

Reason: To protect native wildlife during the construction phase.

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

Salvaging of Hollows

Any hollows in trees to be removed are to be salvaged prior to any vegetation clearing and reused as fauna habitat within areas of retained native vegetation on the site. Compliance with this condition is to be certified in writing by the Project Ecologist and evidence provided to the Certifying Authority prior to issue of any Occupation Certificate.

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

Protection of Natural 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 in accordance with relevant Natural Environment LEP/DCP controls.

Nest Box Installation

A minimum of one nest box suitable for microbats is to be installed within areas of retained native vegetation on the site. Nest boxes must be attached in accordance with industry best practice (e.g. expandable tree sensitive methods). Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To maintain wildlife habitat in accordance with relevant Natural Environment LEP/DCP controls