

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2019/1129
<b>Responsible Officer</b>	David Auster
<b>Land to be developed (Address):</b>	Lot 2 DP 531960 , 39 Cabbage Tree Road BAYVIEW NSW 2104

### 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

Council's Natural Environment - Biodiversity section raises no objections to the proposed development as presented, subject to conditions. Any additional works required within the road reserve within 5 metres of trees will require biodiversity re-referral.

This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and Pittwater DCP B4.6 Wildlife corridors as well as the provisions of the NSW *Biodiversity Conservation Act 2016* (BC Act 2016). The sites' vegetation is mapped as Swamp Sclerophyll Forest Endangered Ecological Community (SSF EEC) within Schedule 2 of the BC Act 2016.

The proposal is for the construction of an Indoor Recreation Facility. The site and adjoining land currently contain large native canopy and planted trees and an exotic / mown lawn understorey.

The submitted Arboricultural Impact Assessment (Urban Forestry Australia, October 2019) assesses 85 trees or tree groups within the site and adjoining land. Trees proposed to be removed include: 3 dead trees (T11, T13, T29), T17 (*C. glauca* tree group), T18 *C. glauca* (only High Retention Value Tree to be removed), and 9 planted *C. cunninghamiana*. Fifty-seven trees will be retained and protected; of these 41 will have nil or negligible impacts, and 6 trees will incur SRZ / TPZ encroachments. All encroachments have been assessed in accordance with AS4970-2009 and detailed specific tree protection measures have been recommended to ensure long-term retention and protection. The applicant provided proposal options during the Pre-lodgement Meeting and has submitted the proposal which will result in the least biodiversity impacts in terms of tree removal / impacts. All *Eucalyptus robusta* are proposed to be retained and protected which is supported by biodiversity. The proposed Landscape Plan provides for 19 replacement tree plantings, including 8 *Eucalyptus robusta*.

The submitted Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) assesses the impacts to biodiversity under state and local provisions. This report satisfies state provisions, including formal Test of Significance for relevant threatened entities and provides details

demonstrating compliance with local controls.

The submitted Biodiversity Management Plan (Narla Environmental, October 2019) provides mitigation measures to be implemented throughout construction to minimise impacts to biodiversity and ongoing management actions to ensure the sites' biodiversity values are improved during operation.

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**

#### **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 undertake direct supervision of 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.

#### **Engagement of Project Ecologist**

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with these conditions of consent and the approved Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) and Biodiversity Management Plan (Narla Environmental, October 2019).

The project ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method Accredited Assessor under the NSW Biodiversity Conservation Act 2016 (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to 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.

### **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

#### **Compliance with Ecologist's Recommendations – Pre-construction**

All pre-construction biodiversity-related measures specified in the approved Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) and Biodiversity Management Plan (Narla Environmental, October 2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are 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.

#### **Compliance with Arborist's Recommendations – Pre-construction**

All pre-construction tree protection measures specified in the submitted Arboricultural Impact Assessment (Urban Forestry Australia, October 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 in writing by the project arborist and provided to the Principal Certifying Authority 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.

### **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

#### **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction in accordance with the approved Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) and Biodiversity Management Plan (Narla Environmental, October 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.

#### **Compliance with Arborist's Recommendations – During Construction**

All tree protection measures to be implemented during construction, as specified in the submitted Arboricultural Impact Assessment (Urban Forestry Australia, October 2019) and these conditions of consent are to be implemented at the appropriate stage of development. Compliance with these measures is to be certified in writing by the project arborist, including photographic evidence, and submitted 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 controls.

### **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 in accordance with the approved Flora and Fauna (Biodiversity) Impact Assessment (Narla Environmental, October 2019) and Biodiversity Management Plan (Narla Environmental, October 2019) and these conditions of consent.

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.

#### **Compliance with Arborist's Recommendations – During and Post-construction**

All tree protection measures to be implemented following construction, as specified in the submitted

Arboricultural Impact Assessment (Urban Forestry Australia, October 2019) and these conditions of consent, are to be implemented. Written certification of compliance is to be prepared by the project arborist and submitted 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 controls.

## **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](http://www.pittwater.nsw.gov.au/environment/noxious_weeds)

**Reason:** Weed management.

### **Restrictions to external artificial night lighting**

Artificial night light is known to disrupt foraging nocturnal fauna, especially threatened species found within the locality.

The following external artificial night light restrictions are to be adhered to for the life of the development:

- All external artificial night lighting installed is to be directed away from surrounding vegetation and close to ground level to avoid light spillage into these habitat areas.
- Where possible, install motion sensors for external artificial lighting to reduce impacts to wildlife.

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

### **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.

### **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.