

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2023/0669
<b>Proposed Development:</b>	Demolition work and the construction of 28 dwellings, infrastructure, roadworks, tree removal, landscaping, community title subdivision and the dedication of the creekline corridor to Council.
<b>Date:</b>	01/09/2023
<b>Responsible Officer</b>	Alex Keller
<b>Land to be developed (Address):</b>	Lot 4 DP 553816 , 16 Macpherson Street WARRIEWOOD NSW 2102

### 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

#### Supplementary information

As detailed within the response letter from AEP dated 18 August 2023, amendments have been made to both the Ecological Assessment Report (AEP, 2023, Rev 04), and the Biodiversity Management Plan (AEP, 2023, Rev 03). These amendments have addressed the terrestrial biodiversity issues previously raised.

#### Original Assessment

The proposed subdivision and residential development has been assessed against the following biodiversity related planning controls

- Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act 1999)
- NSW Biodiversity Conservation Act 2016 (BC Act 2016) and associated Biodiversity Conservation Regulation 2017
- Pittwater Local Environment Plan clause 6.1 Warriewood Valley Release Area & 7.6 Biodiversity
- P21DCP - C6.2 Natural Environment and Landscaping Principles

Existing native trees within the development site as identified in the Arboricultural Impact Assessment are to be removed as they cannot be retained due to ground level adjustments and the proposed subdivision and arrangement of roads, buildings and infrastructure. The ecological impacts of the proposal, including the required tree removals, have been assessed by Anderson Environment

& Planning (2023). Their ecological assessment report also completed Assessments of Significance for several threatened flora and fauna species, concluding that a significant impact is unlikely. However, the report fails to conclude whether or not the entire area or a portion of the vegetation community mapped as PCT 1795 is part of the Endangered Ecological Community Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions. The assessment needs to be revised accordingly, and assessments of significance included.

The application includes a Biodiversity Management Plan (AEP May 23) that proposes the regeneration and restoration of the creekline and the inner 25m of the creekline corridor. To comply with the DCP control, the BMP is to be amended to include the following

- specific numbers of *Casuarina glauca* and *Eucalyptus robusta* identified in the planting list to achieve extensive stands of these two species as required by the DCP control
- weed cover targets are to be reduced from Year 1, and in all subsequent years, to ensure the survival of mass plantings that are proposed in the 2nd quarter of Year 1, and
- include a section identifying responsibility for the implementation of the BMP works (e.g. Developer, Community Association, Council etc) for the initial 5 year BMP period, and ongoing works.

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**

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

All impact mitigation measures specified in the approved Ecological Assessment Report are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

#### **No Clearing of Vegetation**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

#### **Fencing for Wildlife Passage**

Any new permanent fencing within the Community Land is to be made passable to native fauna

through the provision of access gaps or raised fencing to provide appropriate ground clearance. Any access gaps are to be a minimum of 150mm wide x 100mm high at ground level and distance between gaps is not to exceed more than 6 metres.

Plans are to be certified as complying with this condition and provided to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To preserve wildlife corridors.

### **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 the Ecological Assessment Report (AEP, 2023, Rev 04).

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 relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Principal Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

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

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

All impact mitigation measures specified in the approved Ecological Assessment Report are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

### **Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

### **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

### **Implementation of Biodiversity Management Plan**

All requirements in the Biodiversity Management Plan (AEP, 2023, Rev 03) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

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

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

All impact mitigation measures specified in the approved Ecological Assessment Report are to be implemented at the appropriate stage of development.

Written and photographic evidence of compliance is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

### **Protection of Habitat 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 Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

### **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

### **Priority Weed Removal and Management**

All Priority weeds (as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed using an appropriate control method.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

### **Implementation of Biodiversity Management Plan**

All requirements in the Biodiversity Management Plan (AEP, 2023, Rev 03) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and

submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.

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

### **Compliance with Ecologist's Recommendations – Ongoing**

All impact mitigation measures specified in the approved Ecological Assessment Report are to be implemented at the appropriate stage of development.

Successful establishment/initiation of ongoing biodiversity measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

### **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

### **Control of Domestic Dogs/Cats**

Domestic dogs and cats are to be kept from entering wildlife habitat areas at all times.

Dogs and cats are to be kept in an enclosed area and/or inside the dwelling, or on a leash such that they cannot enter areas of wildlife habitat, bushland or foreshore unrestrained, on the site or on surrounding properties or reserves.

Reason: To protect native wildlife and habitat.

## **CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE**

### **Implementation of Biodiversity Management Plan**

All requirements in the Biodiversity Management Plan (AEP, 2023, Rev 03) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Biodiversity/Vegetation Conservation and Management.