

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2022/1715
<b>Proposed Development:</b>	Alterations and additions to a dwelling house including a swimming pool and construction of a boat shed
<b>Date:</b>	12/09/2023
<b>Responsible Officer</b>	Gareth David
<b>Land to be developed (Address):</b>	Lot 56 DP 7794 , 60 Hudson Parade 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

#### Amended Referral Comments

The amended development plans will avoid impact to trees previously proposed for removal, with these mainly located within the the foreshore setback. The revised plans will result in the removal of 17 trees, 6 of which are locally native. While some of these trees and native plants are characteristic species of Pittwater Spotted Gum Forest Endangered Ecological Community, the Flora and Fauna Assessment (Narla Environmental September 2023) has concluded that a significant impact to the endangered ecological community is unlikely. They have proposed a range of environmental management and mitigation measures that are to be implemented as part of the development to further reduce the impacts of the proposal on the local biodiversity values.

In addition, the Landscape Plan only identifies four species that are characteristic of the vegetation community, and the replacement of native canopy trees proposed for removal is also to be detailed. In order to comply with the relevant controls, the Plan is to be amended via way of condition to ensure a minimum of 80% of native plants proposed are characteristic of the Pittwater Spotted gum community, and also the replacement of native canopy trees.

#### Referral Comments February 2023

The application is proposing alterations and additions to the existing dwelling house and the construction of ancillary garage, boat storage and a new swimming pool. Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the

relevant environmental legislation and controls, including:

- Biodiversity Conservation Act 2016 (BC Act) and Biodiversity Conservation Regulation 2017
- State Environmental Planning Policy (Resilience and Hazards) 2021
  - 2.10 Development on land within the coastal environment area
- Pittwater Local Environmental Plan (PLEP)
  - 7.6 Biodiversity Protection
- Pittwater Development Control Plan (PDCP)
  - B4.7 Pittwater Spotted Gum Forest

Council's Biodiversity Unit do not support the proposal in its current form and concur with the matters raised by Council's Landscape Referral team. The key concerns raised by Biodiversity include:

1. The development fails to provide an ecological assessment.
2. The proposed development does not demonstrate adequate avoidance or minimisation of biodiversity impacts in accordance with relevant legislation
3. The proposed impacts to Pittwater Spotted Gum Forest within the site are considered non-compliant with Clause 7.6 of the Pittwater Local Environmental Plan 2014 and B4.7 of the Pittwater 21 Development Control Plan.

Further detail on points (1) - (3) is provided below.

(1) Any new DA submitted to Council under Part 4 of the NSW Environmental Planning and Assessment Act 1979 (EP&A Act), may require assessment under the provisions of the Biodiversity Conservation Act. The application should be accompanied by a Flora and Fauna Assessment (FFA) prepared by a suitably qualified ecologist. The assessment should assess the biodiversity values of the subject site, include a Threatened species 'Tests of Significance' for any applicable threatened entities, prepared in accordance with Section 7.3 of the BC Act, a discussion of measures undertaken to avoid and minimise impacts of the development (see below), and identification of mitigation and/or compensatory measures to reduce impacts following avoidance and minimisation of impacts. The applicant should refer to the Biodiversity Requirements for Development Applications Guideline available on the Council website.

(2) The NSW Biodiversity Conservation Act 2016 (BC Act) and Biodiversity Conservation Regulation 2017 (BC Regulation) requires that developments are first designed to avoid and minimise impacts to the natural environment, and then the residual impacts can then be assessed. The residual impact is the impact remaining after measures to avoid and minimise impacts to biodiversity have been applied. The development requires the removal of several trees that are characteristic of the Endangered Ecological Community Pittwater Spotted Gum Forest. This loss of vegetation is not supported and the footprint of the additions should be re-designed to minimise the loss to an acceptable degree. Additional justification of the tree removals proposed as part of a revised design is required. The applicant is encouraged to explore alternative design options that retain the significant biodiversity features within the site and utilise the existing vegetation, which is then complimented by suitable landscaping. No evidence of lower impact design options have been presented with the proposal, and therefore it is assumed that none have been considered.

(3) At present, the application seeks to remove the majority of larger canopy trees, which are components of the TEC Pittwater Wagstaff Spotted Gum Forest. The proposed landscaping will not adequately offset the long-term loss, and is therefore considered inconsistent with PLEP7.6 and PDCP

4.7, and the development should not result in significant onsite loss of canopy cover or a net loss in native canopy trees. While four *Corymbia maculata* (Spotted Gums) are shown on the Landscape Plans proposed by Arcadia, the common name and mature height information is inconsistent, and there is doubt around the tree replacements proposed. A high percentage of native plants proposed should be characteristic of the Pittwater Spotted gum community, in order to comply with the relevant controls.

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 pre-construction biodiversity-related measures specified in Table 10 of the Flora and Fauna Assessment Report (Narla Environmental September 2023) 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 and provided to the Certifier prior to issue of the Construction 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 Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

#### **Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- Deletion of the majority of plant species as they are not characteristic of the Pittwater Spotted Gum endangered ecological community, including any native cultivars.
- Replacement with species to ensure that at least 80% of any new planting incorporates native vegetation (as per species listed for the Pittwater Spotted Gum Endangered Ecological Community)
- Provision of four native replacement trees including one each of *Eucalyptus crebra* (Narrow leaved Ironbark), *Golchidion ferdinandi* (Cheese Tree), *Corymbia maculata* (Spotted Gum), and *Allocasuarina torulosa* (Forest Sheoak).

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the

Certifier prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

### **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 **XX** Report (reference).

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 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 biodiversity-related measures are to be implemented during construction in accordance with those specified in Table 10 of the Flora and Fauna Assessment Report (Narla Environmental September 2023).

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier.

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

### **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 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.

## **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 those specified in Table 10 of the Flora and Fauna Assessment Report (Narla Environmental September 2023).

Satisfactory establishment/initiation of post-construction measures is to be certified 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 – Certified by Ecologist**

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.

Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

### **Fencing for Wildlife Passage**

Any new permanent fencing (with the exception of swimming pool fencing) 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 spaced at a minimum of 6m intervals.

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

Reason: To preserve wildlife corridors.

### **Replacement of Canopy Trees**

At least four locally native canopy trees are to be planted on site to replace protected trees approved for removal. Species are to include one each of *Eucalyptus crebra* (Narrow leaved Ironbark), *Golchidion ferdinandi* (Cheese Tree), *Corymbia maculata* (Spotted Gum), and *Allocasuarina torulosa* (Forest Sheoak).

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

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

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2019 – 2023) 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 2019 – 2023) within the development footprint are to be removed.

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.

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

**Replacement of Canopy Trees**

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.