

Natural Environment Referral Response - Biodiversity

Application Number:	DA2023/1819
Proposed Development:	Construction of a dwelling house, detached garage and a secondary dwelling (Proposed Lot 1)
Date:	24/01/2024
Responsible Officer	Stephanie Gelder
Land to be developed (Address):	Lot 2 DP 1237357 , 12 A John Street AVALON BEACH 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

The comments in this referral relate to the following applicable controls and provisions:

- Biodiversity Conservation Act 2016 (BC Act)
- Biodiversity Conservation Regulation 2017
- State Environmental Planning Policy (Coastal Management)
 - Coastal Wetlands & Proximity Area
 - Coastal Environment Area
- Pittwater Local Environmental Plan (PLEP) - Clause 7.6 Biodiversity Protection

Areas of the site are identified on the NSW Department of Climate Change, Energy, the Environment and Water's (DCCEEW) Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act 2016, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).

The proposal follows up on the approved subdivision in DA2021/0420. Therefore, evidence of the retirement of credits or payment into the Biodiversity Conservation Fund is to be submitted with the application. The evidence that can be supplied is the following:

- A copy of the confirmation email (from the BOS Credits team) to show that the correct type and number of credits have been retired, and from a relevant IBRA sub-region as per the offset rules,
- or If paid into the Biodiversity Conservation Fund, a copy of the section 6.33 statement.

It is noted that the original BDAR submitted with the subdivision DA2021/0420 (Ecological Consultants Australia TA Kingfisher Urban Ecology and Wetlands, December 2023) has been submitted with the application, however is based off of preliminary plans as shown on page 3 of the BDAR. A new BDAR will have to be submitted by the accredited assessor **ONLY** if there are additional impacts that were not included in the offset calculations under the approved subdivision (DA2021/0420). Should the applicant lodge a new BDAR, Council will have to be added to the case as a case party in the Biodiversity Offsets and Agreement Management System (BOAMS). **Otherwise**, a signed letter prepared by a **BAM accredited assessor**, confirming that no additional impacts to those proposed at the subdivision stage can be submitted.

Additionally, the submitted Riparian Plan and Coastal Impacts Assessment (Ecological Consultants Australia TA Kingfisher Urban Ecology and Wetlands, December 2023) has also included preliminary plans as shown on Figure 4.1 (page 11). Plans shown in the assessment report will have to be final to ensure that the impacts and their mitigation measures are consistent with each other.

The submitted arborist report (Naturally Trees, May 2023) has been found to be inconsistent with the approved subdivision plans as Tree 22 (*Syzygium paniculatum*) which was shown to be retained and transplanted in the approved subdivision plans is now being proposed for removal.

The submitted landscape plan (THW Architects, October 2019) is found to be inconsistent with the approved subdivision plans as it has not considered like for like tree replacements for the removal of Tree 22 and shows its removal. The landscape plan will have to be amended to include three (3) *Syzygium paniculatum* as conditioned in DA2021/0420 as per the recommendations found in the approved BDAR for DA2021/0420.

The Biodiversity referral will recommence once the following documents have been submitted with the application:

- Evidence of retirement of credits or payment into the fund as conditioned in DA2021/0420
- AND a letter from a BAM Accredited Assessor confirming the proposal does not trigger entry into the BOS and that no additional impacts to the proposed in the subdivision stage are taking place
- OR a new BDAR relating to the impacts of the proposal of Lot **12B John Street** only. If this is the case, Council will have to be added as a case party in BOAMS.
- Amended landscape plans including the three (3) *Syzygium paniculatum* to compensate for the removal of Tree 22 as per recommendations in the approved BDAR submitted with DA2021/0420.

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.