

Natural Environment Referral Response - Biodiversity

Application Number:	DA2024/0044
Proposed Development:	Demolition works and construction of Seniors Housing with basement parking
Date:	08/07/2024
Responsible Officer	Thomas Prosser
Land to be developed (Address):	Lot 11 DP 12435 , 27 Kevin Avenue AVALON BEACH NSW 2107 Lot 10 DP 12435 , 25 Kevin Avenue 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

AMENDED COMMENTS

Portions of the site are identified on the Department of Climate Change, Energy, the Environment and Water (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).

A letter from an Ecologist has been submitted confirming that no vegetation within the BV Map will be removed and that the area clearing threshold is not met. Therefore, the proposal will not trigger entry into the BOS.

An amended Arborist report has been provided and is supportive of retention of trees 12, 52 and 53, pruning of dead limbs is to be undertaken under supervision of a qualified arborist.

In addition, the submitted landscape plan includes a range of vegetation that is consistent with applicable biodiversity controls and includes replacement planting. However, amendments will be conditioned to ensure that like for like replacement for trees 9, 54-59 is included.

The development is designed, sited and will be managed to avoid any significant adverse environmental impact.

ORIGINAL COMMENTS

The proposal has been assessed against the following applicable controls and provisions:

- NSW Biodiversity Conservation Act 2016
- NSW Biodiversity Conservation Regulation 2017
- Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection
- Pittwater 21 DCP - B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land
- Pittwater 21 DCP - B4.6 Wildlife Corridors

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The proposal has been submitted with an arborist report that has assessed the condition of a total of 63 trees and recommended the removal of a total of 11 (9, 12, 51-59) trees which are all prescribed. Trees 51, 52 and 53 are proposed for removal and appear to be mapped within the BV Map.

A letter from an ecologist has been submitted as evidence to confirm that entry into the BOS is not triggered by the proposal and states "The proposal does not require the clearing of native vegetation and other biodiversity impacts prescribed by clause 6.1 of the Biodiversity Regulation 2017 on land identified on the BV Map and therefore, does not trigger entry into the BOS."

Upon review of the submitted information inconsistencies between the Ecologist's letter and the submitted plans showing the removal of native vegetation have been identified and require clarification. A site inspection conducted on 14/02/2024 confirmed that no native groundcovers and midstorey are present as established in the submitted Ecologist's letter. However, trees 51, 52 and 53 appear to be found within the BV Map area and their removal would trigger entry into the BOS and the requirement of a BDAR.

These impacts have to be reviewed and corroborated by the ecologist. If the review determines that these trees are indeed mapped within the BV Map a BDAR will have to be prepared by an accredited assessor and submitted with the application once it has been finalised. The Biodiversity referral will recommence upon reception of comments of the reviewed impacts to the BV Map area.

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

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.

Amendment of Landscape Plans

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

- Like for like replacements for trees 9 (*Corymbia gummifera* - Red bloodwood) and 54 through to 59 (*Syncarpia glomulifera* - Turpentine) will need to be included to ensure that tall canopy is available through the site.

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Pre-clearance Survey

Any habitat for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife prior to its removal. If native wildlife is found within habitat to be removed, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be provided to the Principal Certifier prior to any Occupation Certificate.

Reason: To protect native wildlife.

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.

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

Native Landscaping

Any new landscaping is to incorporate a minimum 60% locally native vegetation species as a proportion of the total number of plants. Locally native species are to be consistent with the relevant section of the Native Planting Guide available on Council's website.

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

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

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.