

Natural Environment Referral Response - Biodiversity

Application Number:	DA2024/1079
Proposed Development:	Community title subdivision into five (5) lots and civil works
Date:	02/04/2025
Responsible Officer	Adam Richardson
Land to be developed (Address):	Lot 3 DP 1115877 , 53 B Warriewood Road WARRIEWOOD NSW 2102 Lot 3 DP 942319 , 53 Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 1115877 , 53 A Warriewood Road 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

Revised Comments

The updated Flora & Fauna Assessment (Kingfisher Version Final A dated 21 March 2025) and Vegetation Management Plan (Kingfisher Version 3 March 2025) are noted. The updated documents have addressed the previous concerns.

Based on the submitted plans, the remnant native trees and vegetation in the north-west and south-western areas will be retained. The extent of excavation in the riparian zone, as shown on the Civil Engineering plans is noted, and it is assumed that the excavation within the dripline of the retained trees is minimal and will therefore allow for their retention and ongoing survival.

The proposed development has avoided and minimised impacts and the mitigation measures proposed, including the implementation of the VMP, is unlikely to result in a significant impact to the local biodiversity values.

Original Comments

The following environmental planning instruments have been considered in preparing the response:

- NSW Biodiversity Conservation Act 2016 and Regulation 2017

- State Environmental Planning Policy (Resilience & Hazards) 2021 cl. 2.8 Development on land in proximity to coastal wetlands or littoral rainforest
- NSW Water Management Act 2000 s91 Activity Approvals
- Pittwater LEP 2014 cl. 7.6 Biodiversity, and
- Warriewood Valley Landscape Masterplan and Design Guidelines (2000)

The Flora and Fauna Assessment (Kingfisher 2024) does not provide a suitable assessment of the biodiversity values of the subject site or the potential impacts of the proposal. Inconsistent information is provided in relation to the survey effort, the latest vegetation mapping of the site, the agreement (or otherwise) of the type and extent of PCTs found on site based on site assessment conducted, there is no assessment against the requirements of the SEPP, LEP or DCP, and the report does not provide clear conclusions. The plans provided within the report are inconsistent with the application as submitted. The creekline corridor, consisting of the inner 25m public riparian zone and outer 25m private riparian corridor, need to be depicted and described, and the recommendations focus on the protection and rehabilitation of the biodiversity values of this area.

These inconsistencies carry through into the draft VMP provided. A revised VMP is to be prepared that applies to the inner 25m public riparian zone only, with a Landscape Plan to apply to the outer 25m private riparian corridor area. The subdivision design is to ensure that the outer 25m riparian corridor complies with the controls, and is to be retained in private ownership and is to perform the functions of part water quality control and a fauna/flora corridor. The private buffer strip is to be a multifunctional corridor, appear to be part of the public domain, and may contain water quality control ponds or the water quality treatment measures, and/or roads and other impervious areas traditionally sited in the public domain, for up to 25% of the outer Creekline Corridor area subject to merit assessment. The extent of excavation and proposed uses within the creekline corridor may not be supported.

The development may constitute a Controlled Activity Approval (CAA) under the Water Management Act 2000, and a Vegetation Management Plan conforming to the Department Guidelines is required.

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 Flora and Fauna Assessment (Kingfisher Version Final A dated 21 March 2025) and Vegetation Management Plan (Kingfisher Version 3 March 2025) 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 Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

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 revised Flora and Fauna Assessment (Kingfisher Version Final A dated 21 March 2025) and Vegetation Management Plan (Kingfisher Version 3 March 2025).

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 Biodiversity Impact Mitigation Measures - During Construction

All impact mitigation measures specified in the approved Flora and Fauna Assessment Report and Vegetation Management Plan 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 avoid and minimise impacts to biodiversity.

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.

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

Compliance with Biodiversity Impact Mitigation Measures - Post Construction

All impact mitigation measures specified in the approved Flora and Fauna Assessment Report and Vegetation Management Plan 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 avoid and minimise impacts to biodiversity.

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.

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.

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.

Compliance with Biodiversity Impact Mitigation Measures - Ongoing

All impact mitigation measures specified in the approved Flora and Fauna Assessment Report and Vegetation Management Plan 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 avoid and minimise impacts to biodiversity.

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.