

Natural Environment Referral Response - Biodiversity

Application Number:	DA2021/2651
Date:	23/03/2022
Responsible Officer	Gareth David
Land to be developed (Address):	Lot 70 DP 24563 , 92 Riverview Road 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 proposed development has been assessed against the following applicable legislation and planning provisions:

- NSW Biodiversity Conservation Act 2016
- Pittwater LEP Clause 7.6 Biodiversity Protection
- Pittwater DCP Clause B4.7 Pittwater Spotted Gum Forest Endangered Ecological Community

The application seeks consent for partial demolition of the existing fire-damaged dwelling, additions and alterations to existing structures to facilitate construction of a new dwelling, new swimming pool and parking, and use of an existing outbuilding for an office/studio.

Vegetation on the site has been identified as Pittwater Spotted Gum Forest Endangered Ecological Community (EEC) and the entirety of the property is located within the NSW Biodiversity Values Map (BV Map). As such, the proposed development triggers entry into the Biodiversity Offsets Scheme (BOS) and the subsequent requirement for a Biodiversity Development Assessment Report (BDAR).

A BDAR (Ecological Consultants Australia, December 2021) confirms vegetation on the site as Pittwater Spotted Gum Forest (PSGF) EEC of varying condition, and determines that the proposal will result in impacts to 0.03 ha of PSGF EEC. Proposed impacts as identified in the submitted arborist report (Hugh the Arborist, 13 December 2021) include removal of two prescribed* native trees, one of which (Tree 17) is diagnostic of Pittwater Spotted Gum Forest.

Residual impacts of the proposal are to be offset under the BOS by way of retirement of one (1) ecosystem credit for Pittwater and Wagstaffe Spotted Gum Forest EEC (PCTs 1214 or 1589).

In addition, Council's Landscape referrals body have recommended consent conditions requiring replacement tree plantings and new understory landscaping comprising a minimum 80% species from the Pittwater Spotted Gum EEC. This will further assist in mitigating impacts to biodiversity and addressing compliance with local biodiversity controls.

* Prescribed trees are those protected under Pittwater DCP Clause B4.22 Preservation of Trees and Bushland Vegetation.

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 Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native vegetation.

Notification of determination to which the Biodiversity Offset Scheme applies

The applicant or Project Ecologist, on behalf of the applicant, must download and complete the "Biodiversity Offsets Scheme – Notification of Determination" form.

The completed form and attachments, including a copy of the determination and any conditions of approval, must be emailed to the LMBC Service Centre bam.support@environment.nsw.gov.au. The LMBC Service Centre arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

Council's Manager Bushland and Biodiversity and the Certifying Authority must be copied into the notification email to confirm compliance.

Reason: To ensure the NSW Department of Planning, Industry and Environment are notified of determinations where the Biodiversity Offsets Scheme applies and Council are notified for compliance.

Like for like credit retirement conditions - Ecosystem credit retirement conditions

Prior to issue of the relevant Construction Certificate the class and number of ecosystem credits in Table 1 must be retired to offset the impacts of the development.

The requirement to retire credits outlined in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and to the Certifying Authority prior to release of construction certification.

Table 1. Ecosystem credits required to be retired – like for like

Impacted Plant Community Type	TEC	Number of ecosystem credits	Containing HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
PCT 1214 - Pittwater Spotted Gum Forest	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	1	N	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion. This includes PCTs: 1214, 1589

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

Variation rule credit retirement conditions - Ecosystem credit retirement conditions

Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 2 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 2 Ecosystem credits required to be retired – variation rules

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Impacted plant community type	Number of ecosystem credits	Containing HBT	IBRA sub-region	Approved variation plant community type(s) that be used to offset the impacts from development
PCT 1214 - Pittwater Spotted Gum Forest	1	N	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Any PCT from Wet Sclerophyll Forests (Grass sub-formation), Tier 3 status or higher

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

Compliance with approved BDAR impact mitigation recommendations – Prior to Construction

Section 10 of the approved BDAR provides mitigation measures which must be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Certifying Authority and Council prior to issue of Construction Certificate.

Reason: To achieve compliance with the approved BDAR.

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 submitted BDAR (Ecological Consultants Australia, December 2021).

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 Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

Compliance with approved BDAR impact mitigation recommendations – During Construction

Section 10 of the approved BDAR includes mitigation measures which must be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented during construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to keep details of compliance, including written and photographic evidence.

Reason: To ensure compliance with the approved BDAR.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Wildlife protection

Habitat for native wildlife including is to be inspected for native wildlife by the Project Ecologist prior to removal. If native wildlife is found within habitat to be removed, the wildlife is to be safely relocated by the Project Ecologist.

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 prepared by the Project Ecologist and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To protect native wildlife.

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

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 Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

Fauna and Tree Hollow Relocation

The Project Ecologist is to certify in writing that:

- a) any fauna that was displaced or disturbed during tree clearing and/or construction works was safely and appropriately relocated; and
- b) any tree hollows were salvaged from trees by the project arborist and placed within areas of retained native vegetation on the site.

Written certification of compliance is to be prepared by the Project Ecologist and provided to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect native wildlife.

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 Certifying Authority prior to issue of any Occupation Certificate.

Reason: To preserve wildlife corridors.

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 Certifying Authority 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 Certifying Authority prior to issue of any Occupation Certificate.

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

Compliance with approved BDAR impact mitigation recommendations – Occupation Construction

Section 10 of the approved BDAR includes mitigation measures which must be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented immediately after construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Principal Certifying Authority and Councils Bushland Manager prior to issue of Occupation Certificate.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

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 approved BDAR impact mitigation recommendations – Post Construction/Ongoing

Section 10 of the approved BDAR includes of mitigation measures which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to Councils Manger of Bushland as per the mitigation table.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.