Natural Environment Referral Response - Biodiversity

Application Number:	DA2019/0883

Responsible Officer	Phil Lane
Land to be developed (Address):	Lot 1 DP 22361 , 2 A Ruskin Rowe 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

This biodiversity referral addresses potential impacts to native vegetation and terrestrial wildlife, in addition to the proposal's compliance with the following relevant provisions:
- NSW Biodiversity Conservation Act 2016
- Pittwater LEP Clause 7.6 (Biodiversity Protection)
- Pittwater DCP Clause B4.4 (Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor)

The proposed development includes the following works:
- Demolition of existing dwellings and structures;
- Construction of new dwelling and associated structures including detached bedrooms, gymnasium and home office;
- Construction of new garage and upgraded driveway;
- Bank stabilisation of existing creekline and new deck structures over creek.

The submitted Arborist Report (Selena Hannan Consulting Arborist, 17 July 2019) assesses 29 site trees and nine street trees, and identifies three protected native trees proposed to be removed to facilitate the development:
- Tree 12: Cabbage Tree Palm (Livistona australis)
- Tree 16: Murrogun (Cryptocarya microneura)
- Tree 25: Swamp Mahogany (Eucalyptus robusta)

Of these, only Trees 12 and 16 are identified as having a high Useful Life Expectancy (ULE). Furthermore, the submitted Landscape Plan (Selena Hannan Landscape Design, 17 July 2019) proposes 14 new canopy trees to be planted in compensation for removal of existing trees, including provision of two advanced (100L) Cabbage Tree Palm specimens. Subject to implementation of tree protection measures as identified in the Arborist Report and compliance with the submitted Landscape Plan, it is considered that the proposal meets the technical requirement of 'no overall loss of native canopy trees' as specified under Pittwater DCP Clause B4.4 (Flora and Fauna Habitat Enhancement

Category 2 and Wildlife Corridor).

Further potential biodiversity impacts associated with the proposal include loss of wildlife habitat (e.g. microbat habitat in Cabbage Tree Palms) and disturbance to native vegetation to be retained including riparian vegetation which is identified as Swamp Sclerophyll Forest in the submitted Flora and Fauna Report (Narla Environmental, July 2019) and Bushland Management Plan (Narla Environmental, August 2019). The submitted ecological reports specify a suite of mitigation measures to protect retained vegetation and wildlife habitats during and post-construction. It is considered that, subject to adherence to these mitigation measures and certification of compliance at all appropriate stages of development, the proposal can achieve consistency with relevant technical controls of Pittwater DCP Clause B4.4 (Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor).

Note: whilst the proposal generally complies with these requirements, the scale and site coverage of the new dwelling and associated structures seems substantial. Detailed consideration of compliance with neighbourhood character objectives and landscaped area and private open space controls may be warranted.

Referral Body Recommendation

Recommended for approval, subject to conditions

Recommended Natural Environment Conditions:

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Preparation of a Tree Removal Protocol
The Project Ecologist is to prepare a brief Tree Removal Protocol which includes the provision of (at a minimum); a pre-clearance survey, direct supervision of tree removal, protocol for rescue of fauna and relocation of log hollow sections onsite to provide fauna habitat. The pre-clearance survey must include stag-watch of hollows/cavities over at least one night immediately prior to tree removal, and where possible, camera probing to search for evidence of fauna activity. The Tree Removal Protocol must also include procedures for stop work and formal impact assessment in the event that threatened fauna species are found during the pre-clearance survey. The Tree Removal Protocol prepared by the Project Ecologist is to be submitted to the Principal Certifying Authority prior to issue of Construction Certificate.
Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016 and relevant Natural Environment LEP/DCP controls.

Fencing for Wildlife Passage – Ecologist Certification
Prior to the issue of the Construction Certificate, the project ecologist is to certify that the working plans show the new fencing (with the exception of swimming pool fencing) is designed to be passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level, spaced at a minimum of 6m intervals.
Reason: To preserve wildlife corridors in accordance with relevant Natural Environment LEP/DCP controls.

Compliance with Ecologist's Recommendations – Pre-construction
All pre-construction biodiversity-related measures specified in the approved Bushland Management Plan (Narla Environment, August 2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures is to be certified by the Project Ecologist prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

Engage a 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 these conditions of consent and the approved Bushland Management Plan (Narla Environmental, August 2019). 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 NSW Biodiversity Conservation Act 2016 (https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor)
Evidence of engagement of the Project Ecologist is to be provided to the Principal Certifying Authority prior to issue of Construction Certificate.
Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Implementation of Landscape Plan
Landscaping is to be implemented in accordance with the approved Landscape Plans (Selena Hannan Landscape Design, LP02-B, 17 July 2019) and these conditions of consent. The new landscaping is to be certified by a qualified landscape architect as being in accordance with the approved Landscape Plans and these conditions of consent prior to issue of the Occupation Certificate.
Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

Protection of Habitat Features
All natural landscape features, including rock outcrops, native vegetation, soil and watercourses, are to remain undisturbed during the construction works, 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 in accordance with relevant Natural Environment LEP/DCP controls.

Impacts to Protected Native Wildlife
Habitat for native wildlife including trees approved for removal must be inspected for native wildlife by the Project Ecologist prior to removal. If native wildlife is found within habitat to be removed, a registered 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. The Project Ecologist is to prepare a record of any incidents or a statement that no such incidents occurred and provide this to the Principal Certifying Authority prior to issue of the Occupation Certificate.
Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016.

Relocation of Logs and Coarse Woody Debris
All logs, branches and hollows are to be salvaged from trees prior to any vegetation clearing and reused as fauna habitat within areas of retained native vegetation on the site. Details demonstrating compliance are to be provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat in accordance with relevant Natural Environment LEP/DCP controls.

Compliance with Ecologist Recommendations - During Construction
All biodiversity-related measures to be implemented during construction are to be undertaken as per the approved Biodiversity Management Plan (Narla Environmental, August 2019) and these conditions of consent. Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.
Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.
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CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

Tree Removal Protocol to be Certified as Completed
The Project Ecologist is to provide written and photographic evidence of the implementation and completion of the approved Tree Removal Protocol to the Principal Certifying Authority prior to issue of Occupation Certificate.
Reason: To protect native wildlife in accordance with Sections 2.1 and 2.4 of the NSW Biodiversity Conservation Act 2016 and relevant Natural Environment LEP/DCP controls.

Certification of Landscape Plan
Landscaping is to be implemented in accordance with the approved Landscape Plans (Selena Hannan Landscape Design, LP02-B, 17 July 2019) and these conditions of consent. The new landscaping is to be certified by a qualified landscape architect as being complete and in accordance with approved Landscape Plans and these conditions of consent prior to issue of the Occupation Certificate.
Reason: To ensure landscaping is consistent with relevant Natural Environment LEP/DCP controls.

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

Compliance with Ecologist's Recommendations – Post Construction
All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the approved Biodiversity Management Plan (Narla Environmental, August 2019) and these conditions of consent. Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist prior to issue of any Occupation Certificate.
Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

Fencing for Wildlife Passage
Prior to the issue of any Occupation Certificate, the project ecologist is to provide certification to the Principal Certifying Authority that the installed fencing (with the exception of swimming pool fencing) is passable to native wildlife as specified in this consent.
Reason: To preserve wildlife corridors in accordance with relevant Natural Environment LEP/DCP controls.