

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2023/1763
<b>Proposed Development:</b>	Construction of a warehouse and distribution centre with associated office, including tree removal
<b>Date:</b>	14/05/2024
<b>Responsible Officer</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot 502 DP 875858 , 4 Minna Close BELROSE NSW 2085

### 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

#### Original Comments (8th February 2024)

Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable provisions:

- NSW Biodiversity Conservation Act 2016
- NSW Biodiversity Conservation Regulation 2017
- Warringah DCP cl. E2 Prescribed Vegetation
- Warringah DCP cl. E3 Threatened Species, Populations, Ecological Communities listed under State or Commonwealth Legislation or High Conservation Habitat
- Warringah DCP cl. E4 Wildlife Corridors
- Warringah DCP cl. E5 Native Vegetation
- Warringah DCP cl. E6 Retaining Unique Environmental Features
- Bushfire Prone Land - Planning for Bushfire Protection 2019

#### Biodiversity Offset Scheme (BOS)

The entire site is identified on the NSW 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 Offset Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). As the proposed development is located within the BV Map and the proposal requires the removal of native vegetation, the BOS is triggered. A BDAR (Land Eco Consulting, 16/11/23) has been prepared by an accredited assessor and submitted with the Development Application.

### **Impacts to Biodiversity**

The BDAR confirms the presence of Duffy's Forest which is listed as an Endangered Ecological Community (EEC) under the NSW Biodiversity Conservation (BC) Act 2016. In accordance with the BDAR, the proposed impacts to biodiversity include the removal of a total of 0.35 ha of Duffy's Forest EEC including 150 trees of which at least 15 are hollow-bearing. Residual impacts of the development result in the following offset requirements under the Biodiversity Offsets Scheme as outlined within the submitted BDAR:

- Retirement of 17 Ecosystem Credits for PCT 3593 - Sydney Coastal Sandstone Bloodwood Shrub Forest, which forms part of Duffy's Forest Endangered Ecological Community.

### **Asset Protection Zone (APZ)**

As the lot is located within Bushfire Prone Land, a Bushfire Risk Assessment Report (Bushfire Consultancy Australia, 18/4/2023) was submitted with the application. The Bushfire Consultant has not stipulated or mapped an APZ associated with the proposed development. APZs must be contained within the boundary of the lot and are required to be considered in area clearing thresholds within the BDAR for calculation of offsets associated with vegetation clearing. The Rural Fire Service (RFS; 10/01/2024) provided General Terms of Acceptance which states "*From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property, with the exception of the existing vegetation located on site, and contained, within 30m of the rear north western site boundary, must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019*".

### **Avoid and Minimise**

It is noted that a Pre-Lodgement Meeting (PLM) was held on the 2nd June 2022 between Council and the Applicant. Council's attending Biodiversity Officer requested the submission of a Biodiversity Management Plan (BMP) accompanying the Development Application. As such, a BMP is required to be prepared and submitted by a suitably qualified Ecologist (refer to Councils Guidelines) prior to commencement. This will be conditioned accordingly.

Architectural plans submitted with the application indicate a substantial reduction in impacts to Duffy's Forest in comparison to the plans submitted as part of the PLM in June 2022. This indicates efficient use of the principals of avoid and minimise in accordance with the BOS. Analysis of design alternatives are outlined in the BDAR. The Arboricultural Impact Assessment submitted with the PLM noted 223 trees proposed for removal in comparison with the 150 trees proposed for removal under the current design, resulting in the retention of an additional 73 trees, a reduction in the removal of trees by approximately 32%.

### **Mitigation Measures**

All recommended mitigation measures as outlined in the BDAR are to be adhered to including:

- Assigning a Project Ecologist to undertake a pre-clearing survey;
- Preparation and implementation of a Biodiversity Management Plan (to be submitted to Council prior to commencement);
- Tree Protection;
- Salvage and Relocation of Hollows and Woody Debris;
- Erosion and Sedimentation;
- Storage and Stockpiling; and,
- Management of Light, Noise and Dust from Construction

In addition, permanent fencing is to be installed between the development and the southern boundary

of the BMP Area to ensure ongoing protection and retention and will be conditioned accordingly.

#### **Additional Comments (14th May 2024)**

It is noted that the proposal has been amended to increase the front setback from 2m to 4m. An amended BDAR (30/04/24) has been submitted and reviewed by Council's Biodiversity Referrals team.

In accordance with the BDAR, the amended proposed impacts to biodiversity include the removal of a total of 0.37 ha of Duffy's Forest EEC including 155 trees of which at least 15 are hollow-bearing. Residual impacts of the development result in the following offset requirements under the Biodiversity Offsets Scheme as outlined within the submitted BDAR:

- Retirement of 17 Ecosystem Credits for PCT 3593 - Sydney Coastal Sandstone Bloodwood Shrub Forest, which forms part of Duffy's Forest Endangered Ecological Community.

Credit obligation has not increased and as such, no amendment to conditions.

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**

#### **Preparation of Biodiversity Management Plan**

A Biodiversity Management Plan (BMP) is to be prepared by the Project Ecologist in accordance with the Biodiversity Requirements for Development Applications available on Council's website.

The BMP is to be provided via email to Council's Biodiversity Planning Team via email at [biodiversity.planning@northernbeaches.nsw.gov.au](mailto:biodiversity.planning@northernbeaches.nsw.gov.au) and to the Principal Certifier prior to the issue of the commencement of works.

Reason: To protect native vegetation, wildlife and habitats.

#### **Compliance with Ecologist's Recommendations – Pre-construction**

All impact mitigation measures specified in the approved Biodiversity Development Assessment Report (Land Eco Consulting, November 2023) 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 Principal Certifier prior to issue of

Construction Certificate.

Reason: To protect native vegetation.

**Installation of Nest Boxes**

A minimum of 15 nest boxes suitable for a range of fauna species are to be installed in retained trees / throughout the trees within areas of retained native vegetation / on the site.

In accordance with the Biodiversity Development Assessment Report (Land Eco Consulting, November 2023), if possible, the hollows to be removed are to be carefully salvaged within the bushland to be retained within the Subject Property. However, if hollow salvage is not possible, each hollow should be replaced with a nest box.

Nest boxes must be attached in accordance with industry best practice (e.g. expandable tree sensitive methods).

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To maintain wildlife habitat.

**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 Biodiversity Conservation Fund (BCF) Charge System.

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 Principal Certifier prior to release of construction certification.

Evidence will be in the form of:

- 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.

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

Impacted Plant Community Type	TEC	Number of ecosystem credits	Contains
3593 - Sydney Coastal Sandstone Bloodwood Shrub Forest	Duffys Forest Ecological Community in the Sydney Basin Bioregion	17	YES

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

### **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 Biodiversity Development Assessment Report (Land Eco Consulting, November 2023).

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 Principal Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **Temporary Protection Fencing – Exclusion Zones**

Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the boundary between the vegetation proposed for retention within the proposed BMP area and the eastern boundary of the construction area as shown on Plan Number DA110A is to be surveyed and marked clearly on the ground.

A temporary 2.0 metre steel mesh fence is to be erected on the surveyed boundary between the natural bushland zone and the construction area for the duration of construction work.

After construction has been completed the temporary fence is to be removed and replaced by the permanent fence.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of works.

Reason: To ensure that the vegetation in the restricted development area is protected during and after construction.

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **Compliance with Ecologist's Recommendations – During Construction**

All impact mitigation measures specified in the approved Biodiversity Development Assessment Report (Land Eco Consulting, November 2023) 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.

### **Pre-clearance Survey - Certified by Project Ecologist**

Any habitat for native wildlife (including tree hollows) approved for removal is to be inspected for native wildlife by the Project Ecologist prior to its removal. If native wildlife is found within habitat to be removed, the animal is to be safely relocated by the Project Ecologist to a suitable location.

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 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**

### **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 Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

### **Temporary Protection Fencing – Exclusion Zones**

Removal of the temporary mesh construction fencing is to be certified by the Project Ecologist and submitted to the Principal Certifier prior to issue of an Occupation Certificate.

Reason: To protect native vegetation.

### **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.

### **Permanent Bushland Protection Fencing**

The extent of the endangered vegetation area must be fenced after the removal of the temporary fencing and prior to occupation. The fence shall conform to the specification for bush protection fencing consisting of 1150mm high galvanised hinge joint fencing (8/115/30) (Stocktite or similar) fixed to fence with 3x strands 3.15mm galvanised fencing wire. Posts are to be capped, 50mm round galvanised pipe at 3m centres. End posts are to be stayed with galvanised pipe stay every 15m. Inline stays are to be fixed to 50mm post. Posts are to be concreted into the ground.

Reason: To ensure protection of the endangered ecological community within the site.

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

### **Compliance with Ecologist's Recommendations – Ongoing**

All impact mitigation measures specified in the approved Biodiversity Development Assessment Report (Land Eco Consulting, November 2023) 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 confirm compliance with wildlife and habitat protection/replacement measures.

### **Annual Reporting - Biodiversity Management Plan**

At the end of each calendar year, the annual report prepared by the Bushland Management Contractor in accordance with the Biodiversity Management Plan, is to be sent to Council's Biodiversity Planning Team via email at [biodiversity.planning@northernbeaches.nsw.gov.au](mailto:biodiversity.planning@northernbeaches.nsw.gov.au)

Reason: To ensure compliance with the Biodiversity Management Plan