

Natural Environment Referral Response - Biodiversity

Application Number:	DA2022/0281
Date:	30/03/2022
Responsible Officer	Olivia Ramage
Land to be developed (Address):	Lot 102 DP 803977 , 167 Riverview Road AVALON BEACH NSW 2107 Lot LIC 469130 , 167 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

Revised Comments

As detailed within the original Referral response, the site is located within the Department of Planning, Industry and Environment's (DPIE) Biodiversity Values mapping. The map can be viewed at <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSEMap>

Any removal of native vegetation from within the mapped areas will trigger the Biodiversity Offset Scheme (BOS). The Biodiversity Offsets Scheme (BOS) was established by the NSW government under the Biodiversity Conservation Act 2016. Under the BOS, applications for development or clearing approvals must set out how impacts on biodiversity will be avoided and minimised. It is recommended that the proposal is revised to firstly avoid and minimise impacts to native vegetation, namely be the retention of additional trees. The residual impacts that cannot be avoided or minimised must then be offset, as detailed within the BDAR.

For the BOS native vegetation is defined under s60B of the Local Land Services Act 2013, and means any of the following types of plants native to New South Wales—

- (a) trees (including any sapling or shrub or any scrub),
- (b) understorey plants,
- (c) groundcover (being any type of herbaceous vegetation),

The exemptions relied upon by the Arborist, and referred to by the Council Landscape Referral team cannot be utilised under the NSW government BOS. As numerous trees marked for removal qualify as native vegetation (*Eucalyptus paniculata*, *Livistona australis*, *Corymbia maculata* & *Cupaniopsis anacardioides*) as well as possibly shrubs and groundcovers not detailed within the Arborist Report , the development in its current form must be accompanied by a Biodiversity Development Assessment

Report (BDAR) prepared by an Accredited Assessor.

A list of assessors can be found at

<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>

Original Comments

Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:

Biodiversity Conservation Act 2016 (BC Act)

Biodiversity Conservation Regulation 2017

State Environmental Planning Policy (Resilience and Hazards) 2021

- Coastal Environment Area

Pittwater Local Environmental Plan (PLEP)

- 7.6 Biodiversity Protection

Pittwater Development Control Plan (PDCP)

- B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

The site is located within the Department of Planning, Industry and Environment's (DPIE)

Biodiversity Values mapping:

<https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap>

Any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS).

As the development proposal requires the removal of native vegetation as defined under s60B of LLS Act 2013, the proposal must be accompanied by a Biodiversity Development Assessment Report (BDAR) prepared by an Accredited Assessor:

<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>

On receipt of the required BDAR, Council's Natural Environment Unit - Biodiversity can reassess the application.

The proposal is therefore unsupported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Recommended Natural Environment Conditions:

Nil.