

Natural Environment Referral Response - Biodiversity

Application Number:	DA2023/1640
Proposed Development:	Construction of a secondary dwelling
Date:	20/02/2024
Responsible Officer	Dean Pattalis
Land to be developed (Address):	Lot 2 DP 222279 , 37 Bakers Road CHURCH POINT NSW 2105

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

AMENDED COMMENTS

A BDAR Prepared by Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands (February 2024) has been submitted with the application. The BDAR confirms the presence of Pittwater and Wagstaffe Spotted Gum Forest (PSGF), which is listed as an Endangered Ecological Community (EEC) under the NSW Biodiversity Conservation Act 2016 (Bc Act). In accordance with the BDAR, the proposed impacts to biodiversity included the removal of a total of 0.03 Ha of PSGF EEC, the removal of habitat for both *Chalinolobus dwyeri* and *Vespadelus troughtoni*. The proposed impacts to biodiversity result from the removal of a prescribed tree identified as Tree 11 (*Syncarpia glomulifera*). The assessed residual impacts result in the following offset requirements under the Biodiversity Offsets Scheme:

- Retirement of one Ecosystem Credit for Pittwater and Wagstaffe Spotted Gum Forest EEC (PCT 3234)
- Retirement of one Species Credit for *Chalinolobus dwyeri*
- Retirement of one Species Credit for *Vespadelus troughtoni*

The retirement of credits will be conditioned as part of the consent.

Additionally, the BDAR has recommended a range of measures to reduce and manage impacts to biodiversity which will be conditioned. These include the removal of weeds as well as the replacement of the removed tree with a like for like replacement with a 2:1 ratio.

The development is designed, sited and will be managed to avoid any significant adverse environmental impact.

ORIGINAL COMMENTS

The proposal seeks approval for the construction of a secondary dwelling.

The comments in this proposal relate to the following applicable controls and provisions:

- NSW Biodiversity Conservation Act 2016
- NSW Biodiversity Conservation Regulation 2017
- Pittwater LEP - Clause 7.6 Biodiversity Protection
- Pittwater DCP - Clause B4.18 Heathland/Woodland Vegetation

Portions of the site are identified on the Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).

The proposal has been submitted with an Arboricultural Report that has assessed the condition of a total of 22 trees and recommended the removal of a single prescribed tree (tree 11 (*Syncarpia glomulifera*) which is found on land identified in the BV Map. Therefore, a BDAR has been prepared and submitted with the application. The BDAR has appropriately justified how the avoidance and minimisation of impacts has resulted in a reduced residual impact and a total of 1 ecosystem credit and 1 species credit will be required to be retired should the Development Application be approved.

It is noted that the BDAR did not contain finalised credit reports. In accordance with the BAM, the BDAR is required to be signed by the accredited assessor and all finalised credit reports are to be included in the BDAR. Once the amendments to the BDAR have been completed, the accredited assessor will need to add Council to the case (as a case party) in the Biodiversity Offsets and Agreement Management System (BOAMS) for the Biodiversity Referral to continue. The review can only be completed once all files required with a BDAR have been submitted, Council has been added as a case party into BOAMS and the report has been signed by an accredited assessor and finalised.

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 Report/Biodiversity Development Assessment Report 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.

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 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	Containing HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
3234	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	1	NO	Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo	3234, 3437

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

Like for like credit retirement conditions - Species 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.

The requirement to retire credits outlined in Table 2 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 2 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and 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 2 Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA sub-region
Chalinolobus dwyeri	1	Pittwater
Vespadelus troungtoni	1	Pittwater

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

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

Replacement of Canopy Trees

At least 2 locally native canopy trees are to be planted on the site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the Native Planting Guide available on Council's website.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

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.

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.