

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2024/0586
<b>Proposed Development:</b>	Demolition works and remediation of the site
<b>Date:</b>	08/07/2024
<b>Responsible Officer</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot 3 DP 1115877 , 53 B Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 1115877 , 53 A Warriewood Road WARRIEWOOD NSW 2102

### 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 following environmental planning instruments have been considered in preparing the response:

- NSW Biodiversity Conservation Act 2016 and Regulation 2017
- State Environmental Planning Policy (Resilience & Hazards) 2021 cl. 2.8 Development on land in proximity to coastal wetlands or littoral rainforest
- NSW Water Management Act 2000 s91 Activity Approvals
- Pittwater LEP 2014 cl. 7.6 Biodiversity, and
- Warriewood Valley Landscape Masterplan and Design Guidelines (2000)

Previous flora and fauna surveys for the site have also been reviewed, with one identifying degraded patches of the endangered ecological community Swamp Sclerophyll Forest on the site (Ecological January 2019). Subsequent to the 2019 Flora & Fauna Assessment, a small portion in the south east corner of the site is now mapped on the NSW Biodiversity Values Map. The creating of native vegetation within the Biodiversity Values map area is a trigger for entry into the NSW Biodiversity Offset Scheme.

The current application is not accompanied by an ecological assessment, or included the findings of previous assessments. However the SEE states that no significant vegetation will be removed as part of the demolition works. The application nominates eight specific areas for remediation works based on the contamination investigations, however as they are described as indicative only, the potential for

impacts to native trees and vegetation cannot be discounted for some of the locations. In particular is proposed area 7 which is located in close proximity to the mapped EEC and BV Map area. This remediation area is required based on the results from test pits marked as TP25 within the Remedil Action Plan (Geotechnique 2024).

The application has been nominated as integrated development, and the Department of Planning and Environment-Water has issued General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity Approval (CAA) under the Water Management Act 2000. The assessment conducted by the Water Operations section of the Department of Climate Change, Energy, the Environment and Water concluded that a Vegetation Management Plan was not necessary for the section of Narrabeen Creek adjacent to the development site during the site preparation works, however this may be a requirement of a future CAA for subdivision development of the site. The Warriewood Valley controls will also require a VMP to guide restoration of the riparian corridor as part of a future subdivision development application.

As the contamination assessment has not clearly defined the areas requiring remediation, a condition has been applied to ensure that the works in the area of TP 25 (Area 7) will not impact native vegetation that is part of the endangered ecological community and within the BV Map area. If it is revealed that the remediation works will impact native vegetation within this area, then the NSW Biodiversity Offset Scheme (BOS) may be triggered, and the owner/applicant is advised that works must cease, and a modification application submitted including a Biodiversity Development Assessment Report that has been prepared by an assessor accredited under the BOS.

Based on the information submitted, it is considered likely that the proposed development will not significantly impact on the ecological integrity of the adjacent coastal wetland, and the development is designed, sited and will be managed to minimise any potential impact.

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:**

#### **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 Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

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

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

Prior to the commencement of any works onsite, temporary mesh construction fencing is to be erected surrounding areas of retained native vegetation on the site as mapped on the site survey. In particular, the trees and native vegetation located in the south-west corner of the site that are mapped on the

NSW Biodiversity Values Map must be protected. The remediation works at Area 7, in proximity to this location, must not impact these trees and vegetation (see Indicative Areas to be Remediated, Drawing No: 20223/3-AA3 dated 22 May 2023, Geotechnique Pty Ltd).

Details demonstrating compliance must be prepared by the Project Manager and submitted to the Principal Certifier prior to any commencement.

Reason: To protect native vegetation and biodiversity values.

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

### **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.

### **Protection of Biodiversity Values**

If in the course to the remediation works it is identified that the trees and native vegetation located in the south-west portion of the site within the Biodiversity Values mapped area will be impacted, then works must cease, and an application for Modification must be submitted to Council. If the consent authority decides that the modification will increase the impact on biodiversity values, a Biodiversity Development Assessment Report (BDAR) is required. For the applicant to demonstrate that the Biodiversity Offset Scheme does not apply, a modification application must include supporting evidence to demonstrate that the modified development does not exceed the entry requirements for the scheme.

Details demonstrating compliance must be prepared by the Project Manager and submitted to the Principal Certifier prior to any commencement.

Reason: To protect native vegetation and biodiversity values.

## **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 approved works detailed on approved plans. This includes the trees and native vegetation located in proximity to Remediation Area 7, located within the Biodiversity Values mapped area, in the south-west corner of the site.

Details demonstrating compliance must be prepared by the Project Manager and submitted to the Principal Certifier prior to any commencement.

Reason: To protect native vegetation and biodiversity values.

### **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.