

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2021/2600
<b>Date:</b>	05/09/2022
<b>Responsible Officer</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot 1 DP 349085 , 49 Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 972209 , 43 Warriewood Road WARRIEWOOD NSW 2102 Lot 2 DP 349085 , 45 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

As the site is identified as coastal wetlands under Clause 2.7 of the State Environmental Planning Policy (Resilience and Hazards) 2021, the proposal is classified as designated development, requiring preparation of an Environmental Impact Statement (EIS). The Planning Secretary's Environmental Assessment Requirements (SEAR), dated 13 May 2020, required an assessment against the key issue of biodiversity as well as relevant environmental planning instruments. This includes:-

#### State Environmental Planning Policy (Resilience and Hazards) 2021

- clause 2.7 Development on certain land within coastal wetlands and littoral rainforests area
- clause 2.8 Development on land in proximity to coastal wetlands or littoral rainforest

#### State Environmental Planning Policy (Biodiversity and Conservation) 2021

- clause 4.9 Development assessment process—no approved koala plan of management for land
- clause 6.8 Land adjoining land zoned or reserved for public open space

#### Pittwater LEP 2014

- clause 7.6 Biodiversity.

A finalised Biodiversity Development Assessment Report (BDAR Cumberland Ecology 12 July 2021) has been prepared by an assessor accredited in accordance with the Small Area Streamlined Assessment Module of the Biodiversity Assessment Method 2020 (BAM). This document has addressed the key issue of biodiversity, in particular impacts to vegetation, threatened entities and the need for biodiversity offsets and the mapped wetland. A Biodiversity Management Plan, also prepared by Cumberland Ecology, addresses the maintenance of the vegetated riparian buffer and wetland area. The EIS (Creative Planning Solutions) addresses the State Environmental Planning Policy (Biodiversity and Conservation) 2021 and Pittwater LEP clauses, and no further comment is provided in relation to the matters

The BDAR determined that PCT1795: Coastal flats Swamp Mahogany Forest in moderate condition occurs on the majority of the southern portion of the site, and both the moderate and low condition areas correspond with the EEC Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions. Two Vegetation Zones were created for the PCT 1795 Mod (0.02ha) and Low (0.03) areas that will be cleared, with VI scores of 54.9 and 10.7 respectively. Other parts of the site are mapped as exotic vegetation and PCT 1795 Revegetation.

No ecosystem credit species were removed from the Biodiversity Assessment Method calculator, however due to habitat constraints (lack of breeding habitat) all other candidate fauna species credit species predicted in the BAMC were excluded from further assessment. Additional survey for the Barking Owl was conducted due to previous survey results (Lesryk Environmental 2020) which included a record of a calling Barking Owl (*Ninox connivens*). Because of this previous record, the species was added to the list of candidate Species Credit Species within the BAMC. However following the additional survey work Cumberland have concluded that no breeding habitat for the Barking Owl is present within the subject land or wider study area, and therefore no species polygon or calculation of species credits for the Barking Owl is required.

Prescribed Impacts have been assessed in relation to the wetland on the site and adjoining lands, as well as the 20 metre wetland buffer as required under the BAM. The wetland buffer on the subject site is largely cleared and has been previously disturbed, and impacts to the vegetation have already occurred. The development will occur within the wetland buffer, including excavation for the basement car park, the potential impacts to groundwater flows have been assessed (see below).

Avoidance and minimisation measures focus on locating the development within lower quality areas of the site, retaining the majority of the EEC, and minimising impacts via a range of mitigation measures (BDAR Table 11), including implementation of a Biodiversity Management Plan for the retained wetland area. This will include the Inner and Outer creekline zones, although these zones are not mapped on the figures in the BMP.

The Planning Secretary's Environmental Assessment Requirements (SEARs) for the project require the assessment of the development on groundwater dependent ecosystems, as well as the hydrology of the wetland in relation to the ecological and hydrological function of the wetland, including drainage through the wetland. Particularly changes to the depth of standing water and any effects on survival of the wetland plants is to be assessed. The BDAR has included commentary in relation to clearing, water quality, ground water and has concluded that the proposed development will not significantly impact on the biophysical, hydrological and ecological integrity of the coastal wetland or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland. However issues are raised by other Council referral bodies indicating that the potential impacts on floodplain and stormwater management, and impact to flooding in the catchment, have not been sufficiently addressed. Based on this fact the potential impacts to the hydrology of the mapped wetland and associated groundwater dependent ecosystems may require additional assessment following any design amendments.

The proposed development documentation references construction of a sewerage connection to the DN400 sewer carrier located within the mapped wetland area. This would impact upon the mapped wetland area if it was included, however an alternate connection to the newly constructed sewer adjoining Lorikeet Grove must be utilised instead.

The development is not considered to have any impact on SAI entities. Residual impacts are related to the clearing of PCT 1795 in Moderate condition, and the offset obligation has been calculated as one credit. The submitted BDAR has addressed the majority of the Biodiversity matters identified within the SEARS (1457), as well as the previous comments from Council.

The provision of the Bushland Management Plan is noted, and Council will condition some amendments to this Plan once the stormwater/flood/riparian designs are resolved and potential impacts to the wetland and groundwater dependent ecosystems clarified. Amendment to the BDAR may also be required if changes to the stormwater designs impact on additional land mapped as wetland and PCT 1795.

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.