

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2024/0303
<b>Proposed Development:</b>	Demolition of existing structures, removal of trees and subdivision of one lot into three lots.
<b>Date:</b>	23/08/2024
<b>Responsible Officer</b>	Anne-Marie Young
<b>Land to be developed (Address):</b>	Lot 5 DP 222134 , 337 Lower Plateau Road BILGOLA PLATEAU 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

#### Supported subject to conditions

AMENDED COMMENTS 23/08/2024

Amended plans have been submitted with the application. The amended plans show that additional trees originally proposed for removal are to be retained - 65 trees are now proposed for removal as opposed to the original 93 trees proposed for removal. Of those proposed for removal the following are considered prescribed: 50, 96, 97, 99, 101, 101A, 103A, 108, 139, 257, 260 and 261. The remaining trees proposed for removal are considered exempt and Council's consent would not be required for their removal.

The recommendations issued in the submitted Flora and Fauna assessment remain unchanged. Conditions are recommended to ensure that the recommendations set out in the report are complied with, including the development and implementation of a VMP across the site.

Conditions will be recommended to include tree replacements to compensate for the removal of prescribed trees and management of weeds on site in order to comply with the objectives and requirements of PLEP 7.6 and PDCP B4.4.

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

AMENDED COMMENTS

The finalised Flora and Fauna assessment (Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands, September 2023 - April 2024) has been submitted with the application and concluded that the proposed subdivision and vegetation clearing would not trigger entry into the Biodiversity Offsets Scheme. The proposed development would result in the clearing of 0.07 Ha of highly degraded vegetation that could belong to the either Escarpment Moist Forest and PCT 3592 Sydney Coastal Enriched Sandstone Forest. 5 part tests (tests of significance) have been conducted for potentially impacted bat species that would use the area for foraging purposes and concluded that no significant impacts would take place.

The proposal has been submitted with an Arboricultural Impact Assessment (Urban Forestry Australia, December 2022) that has recommended the removal of 93 trees resulting from the assessment of a total of 287 trees. Out of the 93 trees proposed for removal, 26 are prescribed trees and the remaining 67 are exempt trees under PDCP Clause B4.22 Preservation of Trees and Bushland Vegetation. However, trees 96, 97 and 113 are the only locally native prescribed trees being removed.

Conditions will be recommended to include tree replacements to compensate for tree removals and management of weeds on site.

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

#### ORIGINAL COMMENTS

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

- NSW Biodiversity Conservation Act 2016
- NSW Biodiversity Conservation Regulation 2017
- Pittwater LEP 2014 - Part 7.6 Biodiversity Protection
- Pittwater 21 DCP - Clause B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor

The proposal has been submitted with an Arboricultural Impact Assessment (Urban Forestry Australia, December 2022) that has recommended the removal of 93 trees resulting from the assessment of a total of 287 trees. Out of the 93 trees proposed for removal, 26 are prescribed trees and the remaining 67 are exempt trees under PDCP Clause B4.22 Preservation of Trees and Bushland Vegetation.

A Flora and Fauna assessment (Ecological Consultants Australia Pty Ltd TA Kingfisher Urban Ecology and Wetlands, September 2023) has been submitted with the application and concluded that the proposed subdivision and vegetation clearing would not trigger entry into the Biodiversity Offsets Scheme. However, the FFA will have to be resubmitted to include the total area cleared as the submitted report is still in draft form (page 17 of the report). The report has not identified any threatened ecological communities and threatened species but has identified high risk weeds that need to be managed on the site. No five part tests or Tests of Significance have been submitted with the FFA in its draft form and will also have to be submitted with the finalised report.

The proposal in its current form is found to be inconsistent with applicable controls PLEP 7.6 and PDCP B4.4 as no tree replacement plantings are being proposed and the removal of a significant amount of vegetation would be required, constituting a significant onsite loss of canopy cover and a net loss in native canopy trees. Given that the proposed footprints have been considered in the provided plans, a landscape plan including tree replacements for the proposed removals of prescribed trees should be included with the application for compliance with applicable controls.

The Biodiversity referral will recommence upon reception of the finalised Flora and Fauna Report as

well as a Landscape Plan that includes tree replacements for prescribed trees proposed for removal.

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**

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

**Compliance with Ecologist's Recommendations – During 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.

**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**

**Compliance with Ecologist's Recommendations – Post 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.

Written and photographic evidence of compliance is to be prepared by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

**Replacement of Canopy Trees**

At least 12 (twelve) 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****Compliance with Ecologist's Recommendations – Ongoing**

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.

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.