

Natural Environment Referral Response - Biodiversity

Application Number:	DA2022/0281
Date:	22/04/2022
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

Finalised Comments

The applicant has provided amended designs, supported by an updated Arborist Report (The Tree Guardian April 4 2022 Vers. 2), that allows for the retention of all trees except Tree 10 Silky Oak (*Grevillea robusta*). Council has assessed the application and believes that the tree in question is outside the area of Biodiversity Values mapping, and further the tree is not a characteristic species of the Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion endangered ecological community (PPSGF EEC). The loss and degradation of native plant and animal habitat by invasion of escaped garden plants is also listed as a key threatening process, and *Grevillea robusta* is highly likely to be a garden escape within the Sydney Basin, including within PSGF EEC.

The proposed development is designed, sited and will be managed to avoid any significant adverse environmental impact, and is proposed in the area of least impact on PSGF, and where there will be no significant net loss of PSGF vegetation.

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=BOSETMap>

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 supported.

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

Recommended Natural Environment Conditions:

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

Dead or Injured Wildlife

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered 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 one locally native canopy tree is to be planted on site to replace the tree approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with tree species characteristic of the Pittwater Wagstaffe Spotted Gum Forest Endangered ecological Community.

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 Certifying Authority 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 2019 – 2023) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority 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 2019 – 2023) within the development footprint are to be removed.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority weeds.