

Natural Environment Referral Response - Biodiversity

Application Number:	DA2021/0315
Date:	03/06/2021
Responsible Officer	Adam Mitchell
Land to be developed (Address):	Lot 1 DP 749530 , 168 Whale Beach Road WHALE 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

Council's Biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related legislation and controls:

- Biodiversity Conservation Act 2016 (BC Act)
- Pittwater LEP cl. 7.6 Biodiversity Protection
- Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

The Development Application seeks consent for the construction of a new dwelling with swimming pool, associated landscaping and a driveway.

Advice on biodiversity reporting requirements and applicable controls was provided to the Applicant at a pre-lodgement meeting held on the 10th December 2020. It is noted that biodiversity reporting requirements have been reflected in the proposal, including the submission of a Flora and Fauna Assessment (ACS Environmental, November 2020) and Landscape Plan (Harrison's Landscaping, February 2021).

The Arboricultural Impact Assessment (Peake Arboriculture, March 2021) submitted with the application notes that six (6) prescribed trees are required to be removed in order to facilitate the proposed development, including:

- T4 *Eucalyptus botryoides*
- T5 *Eucalyptus botryoides*
- T7 *Banksia integrifolia*
- T8 *Eucalyptus botryoides*

- T9 *Eucalyptus botryoides*
- T10 *Eucalyptus botryoides*

At least six (6) native replacement trees are required to compensate for the loss of canopy within the site.

A 5-part test was completed within the Flora and Fauna Assessment for Pittwater Spotted Gum Forest Endangered Ecological Community (PSGF EEC) which concluded that the proposed development would not have a significant impact on the EEC. No threatened flora or fauna species were recorded within the Subject Site by the Ecologist. As the PSGF EEC will not be directly or indirectly impacted upon by the proposed development or APZ, the Ecologist confirmed that the Biodiversity Offset Scheme (BOS) is not triggered and a Biodiversity Development Assessment Report (BDAR) is not required. All PSGF EEC is to be retained and protected for the life of the development.

The Flora and Fauna Assessment recommended that bush regeneration occur within the PSGF EEC in order to enhance the biodiversity and floristic, structural and functional integrity of the vegetation. A Biodiversity Management Plan (BMP) is to be prepared by an Ecologist or qualified Bush Regeneration professional to guide the weed removal and native planting within the patch of PSGF EEC, as well as guide installation of nest boxes as recommended by the Ecologist to offset habitat loss from loss of hollow-bearing trees.

The Landscape Plan does not currently comply with P21DCP cl. B4.7 as the species selection does not appear to comprise at least 80% of species representative of PSGF EEC. A list of native species suitable for landscaping is located with the Flora and Fauna Assessment. Landscaping is to comply with APZ requirements discussed in the Bushfire Hazard Assessment (Building Code & Bushfire Hazard Solutions Pty Limited, February 2021) and RFS referral (June 2021). Environmental weeds and species listed on Council's exempt tree species list are not to be used in landscaping, including *Raphiolepis* 'Oriental Pearl' and *Olea* sp.

Subject to these conditions of consent, Council's Biodiversity referrals team raise no objections to the proposed development.

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 Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native vegetation.

Pre-clearance Survey

A pre-clearance survey is to be undertaken by the Project Ecologist prior to any tree removals.

Details demonstrating compliance are to be prepared by the Project Ecologist and submitted to the Certifying Authority prior to issue of Construction Certificate.

Reason: To protect native wildlife.

Installation of Nest Boxes

A minimum of four (4) nest boxes, including two (2) suitable for medium sized birds and two (2) bat boxes be installed at a height of about 5 - 10m on trunks of existing trees in suitable locations, in accordance with the recommendation from the Flora and Fauna Assessment (ACS Environmental, November 2020)

Nest boxes must be attached in accordance with industry best practice (e.g. expandable tree sensitive methods).

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To maintain wildlife habitat.

Amendment of Landscape Plans

The submitted Landscape Plan is to be amended in accordance with the following:

- Deletion of any environmental weed species or species listed on Council's exempt tree species list.
- Replacement with native species as listed in the Flora and Fauna Assessment (ACS Environmental, November 2020)
- Provision of at least 80% native species as listed in the Flora and Fauna Assessment (ACS Environmental, November 2020)

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

Delineation of Asset Protection Zones

Prior to the commencement of any vegetation clearance/modification, the boundaries of the bushfire Asset Protection Zone (APZ) are to be surveyed and clearly marked by way of temporary fencing, flagging tape or markers. Clearing of vegetation for APZ establishment must only occur within the marked APZ boundaries.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

Reason: To protect native vegetation and wildlife.

Engagement of Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures are carried out in accordance with the Flora and Fauna Report (ACS

Environmental, November 2020).

The Project Ecologist must have one of the following memberships / accreditation:

- Practising member of the NSW Ecological Consultants Association (<https://www.ecansw.org.au/find-a-consultant/>) OR
- Biodiversity Assessment Method Accredited Assessor under the relevant legislation (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

Biodiversity Management Plan

Prior to issue of any Construction Certificate, a Biodiversity Management Plan must be prepared to the satisfaction of Council's Manager Bushland and Biodiversity and submitted to the Certifying Authority.

The BMP must include the following management actions in accordance with the recommendations of the Flora and Fauna Assessment Report:

- To compensate for potential loss of sheltering and breeding habitat for small birds or microchiropterans, it is recommended that at least 2 nest boxes suitable for medium sized birds and two bat boxes be installed at a height of about 5 - 10m on trunks of existing trees in suitable locations control of priority and environmental weeds within the site
- Bush regeneration within the patch of PSGF EEC in order to remove weeds.
- Replacement with natural small tree, shrub and ground cover assemblages indicative of PSGF vegetation would act to decrease the potential fuel load of the vegetation while enhancing the natural attributes of this EEC. Assisted natural regeneration together with some augmented planting could rehabilitate these weed-covered areas that occur in the understories of the PSGF
- Implementation of all other biodiversity-related measures outlined in these conditions of consent

The BMP is to be provided to Council's Manager Bushland and Biodiversity for approval, and evidence of approval provided to the Certifying Authority prior to the Construction Certificate.

Reason: To protect native vegetation and wildlife

Impacts to Protected Native Wildlife

Habitat for native wildlife is to be inspected for native wildlife by the Project Ecologist prior to removal. If native wildlife is found within habitat to be removed, the wildlife is to be safely relocated by the Project Ecologist.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be prepared by the Project Ecologist and provided to the Principal Certifying Authority

Reason: To protect native wildlife.

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.

Tree Hollow Inspection by Ecologist

All tree hollows proposed for clearing are to be inspected by the Project Ecologist prior to removal. Inspection of tree hollows is to be facilitated by a qualified tree climber or arborist with the use of an elevated work platform where necessary.

The Project Ecologist is to provide written certification of compliance to the Principal Certifying Authority prior to commencement of tree removals.

Reason: To protect native wildlife.

Relocation of Logs and Coarse Woody Debris

All logs and branches are to be salvaged from trees prior to any vegetation clearing and reused as fauna habitat within areas of retained native vegetation on the site.

Reason: To protect wildlife habitat.

Implementation of Landscape Plan

Landscaping is to be implemented in accordance with the amended and approved Landscape Plan and these conditions of consent.

The new landscaping is to be certified by a qualified landscape architect as being in accordance with the approved Landscape Plans and these conditions of consent.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

Clearing for Asset Protection Zones

Clearing of vegetation during works for APZ establishment must only occur within the surveyed and marked APZ boundaries. No clearing is to be undertaken outside of the APZ boundaries.

Written certification of compliance is to be submitted to the Principal Certifying Authority.

Reason: To protect native vegetation and wildlife.

**CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE
OCCUPATION CERTIFICATE****Replacement of Canopy Trees**

At least 6 locally native canopy trees are to be planted on site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with species listed in the Flora and Fauna Assessment (ACS Environmental, November 2020).

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 on the NSW WeedWise website) 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.