

Natural Environment Referral Response - Biodiversity

Application Number:	DA2019/0231
Responsible Officer	Lashta Haidari
Land to be developed (Address):	<p>Lot 328 DP 16362 , 348 Whale Beach Road PALM BEACH NSW 2108</p> <p>Lot 329 DP 16362 , 350 Whale Beach Road PALM BEACH NSW 2108</p> <p>Lot 330 DP 16362 , 352 Whale Beach Road PALM BEACH NSW 2108</p> <p>Lot 327 DP 16362 , 346 Whale Beach Road PALM BEACH NSW 2108</p>

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 proposed development has been assessed against the following provisions:

- NSW Biodiversity Conservation Act 2016 (BC Act)
- Pittwater LEP Clause 7.6 (Biodiversity Protection)
- Pittwater DCP Clause B4.3 (Flora and Fauna Habitat Enhancement Category 2 Land)
- Pittwater DCP Clause B4.17 (Littoral Rainforest EEC)

As the proposal will impact native vegetation including canopy trees, an ecological assessment (Abel Ecology, February 2019) and an arboricultural assessment (Earthscape Horticultural Services, February 2019) have been submitted with the DA.

The arborist's report assesses 74 trees within the vicinity of works, including 28 trees which are exempt under SEPP (Vegetation), and states that the proposal will necessitate the removal of 22 trees of low-very low retention value, 8 trees of moderate retention value, and 2 trees of high retention value. Removal of trees of high retention value is inconsistent with the objectives of the applicable controls; accordingly, Council's Senior Landscape Architect has recommended conditions to enable retention of Trees 25 (Turpentine) and 31 (Large-fruited Red Mahogany).

Furthermore, the proposal will result in the loss of a significant proportion of canopy onsite, which is inconsistent with the controls. However, the proposed landscape plan includes detailed provisions for replacement planting and appropriate landscaping on site, including Littoral Rainforest and Sandstone

Crest/Coastal Heath Zones which respond appropriately to site conditions and natural vegetation on the site. Landscaping is to be undertaken in accordance with these plans, accounting for retention of Trees 25 and 31 as per recommended Landscape conditions.

The submitted ecological assessment ("Prescribed Ecological Actions Report") assesses potential impacts to six threatened entities groups through five-part tests prepared in accordance with Section 6.3 of the BC Act. However, the submitted report prescribes minimal 'ecological actions' to mitigate impacts to these entities. It is considered that the key risk to threatened fauna potential utilising the site will be associated with construction activities such as demolition of existing structures and clearing of vegetation and stockpiles. It is therefore conditioned that a Construction Environmental Management Plan is to be prepared to manage environmental protection measures during the construction phase.

It is considered that, subject to recommended conditions of consent, the proposal can comply with controls.

Referral Body Recommendation

Recommended for approval, subject to conditions

Recommended Natural Environment Conditions:

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all bushland biodiversity protection measures are carried out according to the conditions of consent. The Project Ecologist must have one of the following memberships/accreditation:

- Practising member of the NSW Ecological Consultants Association OR
- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016

Engagement of a Project Ecologist is to be certified by the Principal Certifying Authority Prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls(DACNECPCC1)

Preparation of Environmental Management Checklist

A Construction Environmental Management Checklist is to be prepared and is to incorporate all measures for the protection of native vegetation, wildlife and habitats during the construction phase. Measures specified in the checklist must include all requirements of conditions of this consent addressing construction-related impacts on biodiversity. The checklist is to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls. (DACNECPCC2)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Tree Hollow Inspection by Ecologist

DA2019/0231

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 and experienced tree climber or arborist with the use of an elevated work platform where necessary. Details prepared by the project ecologist in writing demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of tree removals.

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016 and relevant Natural Environment LEP/DCP controls.

Construction Environmental Management Checklist Inductions

All workers, including site inspectors and sub-contractors, are to be briefed on measures specified in the Construction Environmental Management Checklist through a site induction prior to workers commencing their works. Evidence of the site induction is to be documented and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls. (DACNEEDW1)

Inspection of Wildlife Habitat

Habitat for native wildlife including potential microbat roosting habitat must be inspected for native wildlife by the Project Ecologist prior to removal. If native wildlife is found within habitat required to be removed, the animal must be safely relocated to an appropriate location by the Project Ecologist or a registered wildlife rescue organisation. The Project Ecologist is to prepare a record of any incidents or a statement that no such incidents occurred and provide this to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To protect native wildlife in accordance with Section 2.1 of the NSW Biodiversity Conservation Act 2016.

Vegetation Clearing Protocols

The Project Ecologist is to prepare detailed vegetation clearing protocols and vegetation clearing works are to undertaken in accordance with these protocols. Details confirming compliance are to be certified by the Project Ecologist and submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect native vegetation in accordance with relevant Natural Environment LEP/DCP controls.(DACNEEDW2)

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

Weed Removal and Management

No weeds are to be imported on to the site.

All invasive and priority weeds on the site are to be removed and managed continuously, in accordance with the Biosecurity Act 2015.

Details demonstrating the removal and management of weeds are to be prepared by the project ecologist in writing and submitted to the Principal Certifying Authority prior to occupation certificate.

Reason: Weed management and biosecurity

Implementation of Construction Environmental Management Checklist

Construction is to be undertaken in accordance with the Constructional Environmental Management Checklist. The project ecologist is to certify compliance with the Construction Environmental Management Checklist and provide evidence to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect native vegetation, wildlife and habitats in accordance with relevant Natural Environment LEP/DCP controls.(DACNEFPOC1)

Installation of Nest Boxes

At least two nest boxes designed to suit microbats are to be appropriately installed in trees not affected by development. Nest box installation is to be certified by the Project Ecologist as being complete and adequate prior to issue of the Occupation Certificate.

Reason: Wildlife habitat replacement.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

No Planting Environmental Weeds

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

Works to cease if item found

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

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 mitigate potential impacts to native wildlife resulting from construction activity.