



## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2021/0317
<b>Date:</b>	10/08/2021
<b>Responsible Officer</b>	Gareth David
<b>Land to be developed (Address):</b>	Lot 2 DP 833902 , 141 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

#### Updated Biodiversity Comments (19th July 2021)

The applicant has provided the following additional reports/plans to support the application:

- Biodiversity Development Assessment Report (BDAR) (Narla Environmental, July 2021)
- Vegetation Management Plan (VMP) (Narla Environmental, July 2021)
- Landscape Plan (Aspect Design, June 2021)
- Arboricultural Impact Assessment (Abacus Tree Services, July 2021)

The BDAR confirms the presence of Pittwater and Wagstaffe Spotted Gum Forest, which is listed as an Endangered Ecological Community (EEC) under the NSW Biodiversity Conservation (BC) Act 2016. In accordance with the BDAR, the proposed impacts to biodiversity include the removal of a total of 0.03ha of PWSGF EEC, including the removal of 15 native trees as identified by the Arboricultural Report.

It is acknowledged that the applicant has amended the design of the dwelling such that it is now able to retain seven (7) native trees previously proposed for removal, including one (1) *Corymbia maculata*, the largest on site.

Assessment of the BDAR has confirmed that the BDAR satisfies the minimum requirements set out by the Biodiversity Offsets Scheme (BC Act and associated regulation as well as the BAM (DPIE 2020) and BAM Operational Manual – Stage 1 (DPIE 2020)).

The assessed residual impacts of the development result in the following offset requirements under the Biodiversity Offset Scheme:

- Retirement of one (1) ecosystem credit for Pittwater and Wagstaffe Spotted Gum Forest EEC (PCT 1214)

- Retirement of one (1) species credit for *Genoplesium baueri*
- Retirement of one (1) species credit for *Hygrocybe aurantipes*

The retirement of offsets will be conditioned as part of the consent.

Council's Biodiversity referrals team support the application, subject to conditions.

### **Original Biodiversity Comments (20th April 2021)**

Council's biodiversity referrals team have assessed the Development Application for compliance against the following applicable biodiversity related provisions:

- NSW Biodiversity Conservation Act 2016
- Coastal Management SEPP 2018 cl. 13 Development on land within the coastal environment area
- 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 dwelling on a vacant block. The Arborist Report (Abacus Tree Services 2021) submitted with the Application identified that 24 trees will require removal, most of which are considered to be Prescribed trees.

The property is located within the Biodiversity Values Map designated by the NSW State Government (Department of Planning, Industry and Environment), making it subject to the provisions of the NSW Biodiversity Conservation Act 2016. The removal of native vegetation from within an area mapped on the Biodiversity Values Map triggers the Biodiversity Offset Scheme (BOS) and the subsequent requirement for a Biodiversity Development Assessment Report (BDAR) to be prepared by an accredited assessor and submitted with the application.

The BDAR should take into account any direct and prescribed impacts to Pittwater Spotted Gum Forest EEC, which is listed as a Serious and Irreversible Impact (SAII) entity under the BOS. Any impacts which are considered to be serious and irreversible to Pittwater Spotted Gum Forest EEC as a result of the development will not be supported by Council.

Furthermore, the site is located within the Coastal Environment Area designated under the Coastal Management SEPP (2018), and is therefore required to meet the objectives of cl.13, which includes avoiding adverse impact to marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms. This is to be discussed and assessed within the BDAR.

The BDAR must identify how impacts have been avoided/minimised and address compliance with LEP/DCP controls, including objectives for no net loss of native canopy trees. The applicant is encouraged to consider measures to improve compliance with DCP B4.7 by reducing the footprint to retain additional Spotted Gums, reducing the impact of the entry way or potentially redesigning so that entry is from the rear of the already approved carport.

The BDAR is to be accompanied by a Vegetation Management Plan (VMP) to guide weed removal and replanting of Pittwater Spotted Gum Forest Endangered Ecological Community within the site. The VMP is to be prepared by a suitably qualified person experienced in restoration ecology.

At this stage, Council's biodiversity referrals team are unable to provide a referral for this Development Application. Upon receipt of requested documentation, assessment will recommence.

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

### Compliance with Ecologist's Recommendations – Pre-construction

All pre-construction biodiversity-related measures specified in the BDAR and VMP (Narla Environmental, July 2021) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures are to be certified by the Project Ecologist and provided to the Certifying Authority prior to issue of the Construction Certificate.

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

### 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.

### Like for like credit retirement conditions - Ecosystem credit retirement conditions

Prior to issue of the relevant Construction Certificate the class and number of ecosystem credits in Table 1 must be retired to offset the impacts of the development.

The requirement to retire credits outlined in Table 1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 1 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and to the Certifying Authority prior to release of construction certification.

Table 1 Ecosystem credits required to be retired – like for like

Impacted Plant Community Type	TEC	Number of ecosystem credits	Containing HBT	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
PCT 1214: Spotted Gum - Grey Ironbark open forest in the Pittwater and Wagstaffe area, Sydney Basin Bioregion	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	1	N	Pittwater	1214, 1589

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

### Variation rule credit retirement conditions - Ecosystem credit retirement conditions

Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 2 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 2 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 2 Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	Containing HBT
PCT 1214 Pittwater Spotted Gum forest	1	No

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

#### Like for like credit retirement conditions - Species credit retirement conditions

Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 3 must be retired to offset the impacts of development.

The requirement to retire credits outlined in Table 3 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table 3 requirements must be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 3 Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA sub-region
Genoplesium baueri (Bauer's Midge Orchid)	1	Any in NSW
Hygrocybe aurantipes	1	Any in NSW

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

#### Variation rule credit retirement conditions - Species credit retirement conditions

Prior to issue of the relevant Construction Certificate the class and number of species credits in Table 4 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 4 requirements is to be provided to the Manager Bushland and Biodiversity of Northern Beaches Council and the Certifying Authority prior to release of construction certification.

Table 4 Species credits required to be retired – variation rules

Impacted species credit species	Number of species credits	IBRA sub-region
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Impacted species credit species	Number of species credits	IBRA sub-region	Approved variation species credit species that can be used to offset the impacts from development
Genoplesium baueri (Bauer's Midge Orchid)	1	Any in NSW	Endangered Flora
Hygrocybe aurantipes	1	Any in NSW	Vulnerable Fungi

Reason: To offset the residual biodiversity impacts of the development in accordance with the NSW Biodiversity Offset Scheme.

### **Compliance with approved BDAR impact mitigation table to minimise impacts – Prior to Construction**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Certifying Authority and Council prior to issue of Construction Certificate.

Reason: To - compliance with the approved BDAR.

### **Implementation of the Vegetation Management Plan**

All requirements in the Vegetation Management Plan (Narla Environmental, July 2021) are to be implemented prior, during and post construction.

Details demonstrating pre-construction compliance are to be certified by the project ecologist and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

### **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 BDAR and VMP (Narla Environmental, July 2021).

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**

### **Compliance with Ecologist's Recommendations – During Construction**

All biodiversity-related measures are to be implemented during construction in accordance with the BDAR and VMP (Narla Environmental, July 2021)

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifying Authority.

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

### **Impacts to Protected Native Wildlife**

Habitat for native wildlife is to be inspected for native wildlife by the Project Ecologist during a pre-clearing inspection 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.

### **Compliance with approved BDAR impact mitigation table to minimise impacts – During Construction**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented during construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to keep details of compliance, including written and photographic evidence.

Reason: To ensure compliance with the approved BDAR.

### **Notification of determination to which the Biodiversity Offset Scheme applies**

The applicant or Project Ecologist, on behalf of the applicant, must download and complete the "Biodiversity Offsets Scheme – Notification of Determination" form.

The completed form and attachments, including a copy of the determination and any conditions of approval, must be emailed to the LMBC Service Centre <bam.support@environment.nsw.gov.au>. The LMBC Service Centre arranges for determination outcomes to be recorded in the Biodiversity Offset and Agreement Management System (BOAMS).

Council's Manager Bushland and Biodiversity and the Principal Certifying Authority must be copied into the notification email to confirm compliance.

Reason: To ensure the NSW Department of Planning, Industry and Environment are notified of determinations where the Biodiversity Offsets Scheme applies and Council are notified for compliance.

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

### **Compliance with Ecologist's Recommendations – Post Construction**

All biodiversity-related measures are to be implemented at the appropriate stage of development in

accordance with the BDAR and VMP (Narla Environmental, July 2021).

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist and provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

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

### **Certification of Landscape Plan**

Landscaping is to be implemented in accordance with the approved Landscape Plans (Aspect Designs, June 2021) and these conditions of consent.

Details demonstrating compliance are to be prepared by the landscape architect and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

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

### **Replacement of Canopy Trees**

At least 3 locally native canopy trees (*Corymbia maculata*) are to be planted on site as per the Landscape Plan (Aspect Designs, June 2021) to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with species selected from the Pittwater Spotted Gum Forest EEC.

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 2021 – 2026) 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 2021 – 2026) and those outlined in the VMP (Narla Environmental, July 2021) are to be removed from the property.

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.

### **Compliance with approved BDAR impact mitigation table to minimise impacts – Occupation Construction**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented immediately after construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to the Principal Certifying Authority and Councils Bushland Manager prior to issue of Occupation Certificate.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.

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

### **Compliance with Ecologist's Recommendations – Ongoing**

All ongoing biodiversity-related measures are to be implemented in accordance with the BDAR and VMP (Narla Environmental, July 2021) and these conditions of consent.

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

### **Replacement of Canopy Trees**

Tree replacement plantings required under this consent 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.

Reason: To replace locally native trees.

### **Compliance with approved BDAR impact mitigation table to minimise impacts – Post Construction/Ongoing**

The approved BDAR includes a Table 14 of mitigation measures, which must to be implemented before, during and after construction to avoid and minimise the impacts of the proposal, including action, outcome, timing and responsibility.

All biodiversity-related measures are to be implemented prior to construction, as specified in the approved BDAR and these conditions of consent.

The Project Ecologist is required to provide details of compliance, including written and photographic evidence, and provide to Councils Manger of Bushland as per the mitigation table.

Reason: To ensure measures required to avoid and minimise residual biodiversity impacts are undertaken in accordance with the approved BDAR.