

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2018/1991
<b>Responsible Officer</b>	Nick England
<b>Land to be developed (Address):</b>	<p>Lot 9 DP 629464 , 104 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot 8 DP 629464 , 102 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot 15 DP 858130 , 100 Cabarita Road AVALON BEACH NSW 2107</p> <p>Lot 14 DP 858130 , 96 Cabarita Road AVALON BEACH NSW 2107</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

#### Revised Referral Comments

As the dwelling footprints formed part of the subdivision DA, the avoidance, mitigation and offsetting of residual environmental impacts was addressed as part of the subdivision assessment. Each lot will share responsibilities for the protection and enhancement of the Pittwater Spotted Gum Endangered Ecological Community located on site as part of a community title scheme requiring the implementation and ongoing management of the Conservation Management Areas. The Biodiversity Management Plan submitted with the subdivision also includes management of construction impacts to reduce impacts to the EEC, fauna habitat and native vegetation in general. The provision of site landscaping is also to be in accordance with the Landscape Plans submitted.

#### Original Referral Comments

The site is mapped as 'Biodiversity' under clause 7.6 of Pittwater LEP 2014 and as 'Coastal Environment Area' under clause 13 of the State Environmental Planning Policy (Coastal Management) 2018. The application has also been assessed against clauses B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor and B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community of P21 DCP.

The site contains vegetation characteristic of the Pittwater Spotted Gum Forest Endangered Ecological Community (PSGF EEC), Swamp Oak Floodplain Forest EEC, and habitat for several threatened species.

The residential dwelling is located on a lot within a proposed 10 lot community title subdivision (yet to be approved). Biodiversity comments in relation to the proposed subdivision acknowledged that the principle of including avoid and minimise measures across the site is supported in general, however the subdivision development does not include any permanent protection measures such as inclusion of the EEC vegetation within the community association property. The review identified that the full extent of construction and operational impacts likely is understated, and therefore the conclusions of the BDAR and the extent of residual impacts offset is not supported, and a suitable mechanism to permanently protect the EEC and threatened species habitat is required.

Based on the uncertainties outlined above and the applicable controls it is concluded that

- the development has not been designed, sited and will not be managed to avoid any significant adverse environmental impact,
- the development may have an adverse impact on Pittwater Spotted Gum Endangered Ecological Community.
- the development may negatively impact on threatened species, endangered populations or endangered ecological communities.
- the development does not retain and enhance habitat for threatened species, endangered populations, endangered ecological communities and other locally native species.

### 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, BDAR (GIS Environmental) and the Biodiversity Management Plan Parts 1 and 2 (GIS Environmental April 2019).

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

- Practising member of the NSW Ecological Consultants Association

<https://www.ecansw.org.au/findaconsultant/>)

OR

- Biodiversity Assessment Method assessor accreditation under the NSW Biodiversity Conservation Act 2016 (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Employment 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.

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

All pre-construction biodiversity-related measures specified in the approved Biodiversity Development Assessment Report (GIS Environmental December 2018), Biodiversity Management Plan (GIS

Environmental April 2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures is to be certified by the project ecologist prior to issue of the Construction Certificate.

**Reason:** To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls (DACNECPCC2)

#### **Implementation of Biodiversity Management Plan**

All requirements in the Biodiversity Management Plan (GIS Environmental 5 April 2019) 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:** Biodiversity/Vegetation Conservation and Management.

### **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

#### **Bushland Protection Fencing and Signage**

Prior to the commencement of any onsite building works or commencement of vegetation clearance/modification, the boundary between the Conservation Management Areas and the construction area as shown on Biodiversity Management Plan (BMP) Part 1a (GIS Environmental 5/4/19) - is to be surveyed and marked clearly on the ground.

A temporary 2.0 metre steel mesh fence (or similar), incorporating BMP signage, is to be erected on the surveyed boundary between the Conservation Management Areas and the construction area for the duration of construction work.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of works.

**Reason:** To ensure that the vegetation in the restricted development area is protected during and after construction.

#### **Protection Fencing**

Protection fencing measures (including sedimentation fences) are to be installed in accordance with all approved plans including those specified in the Arborist Report and/or or Bushland Management Plan. Protection measures are to be maintained for the duration of the works. Protection fencing that is no longer required is to be removed once all works are completed.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to commencement of works.

**Reason:** Environmental Protection

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

#### **Tree Hollow Inspection by Ecologist**

During any vegetation clearance for Asset Protection Zones and construction works the Project Ecologist is to be physically present to re-locate any displaced fauna that may be disturbed during this activity.

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.

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

All biodiversity-related measures are to be implemented during construction, as specified in the approved ecological report (BDAR GIS Environmental December 2018), Biodiversity Management Plan (GIS Environmental April 2019) and these conditions of consent.

Compliance with these measures is to be certified by the project ecologist in writing to the Principal Certifying Authority prior to issue of the Occupation Certificate.

**Reason:** To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls (DACNEEDW1)

### **Fencing for Wildlife Passage**

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.

**Reason:** Management of wildlife corridors

### **Vegetation Clearing Protocols**

Clearing of native vegetation is to be undertaken in accordance with the protocols and recommendations specified in the approved Biodiversity Management Plan. 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

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

All biodiversity-related measures are to be implemented at the appropriate stage of development, as specified in the approved ecological report, Biodiversity Management Plan Ongoing Maintenance Manual (GIS Environmental April 2019) and these conditions of consent.

Satisfactory establishment/initiation of post-construction measures is to be certified by the project ecologist prior to issue of any Occupation Certificate

**Reason:** To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls. (DACNEFPOC1)

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

### **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds)

**Reason:** Weed management.

### **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.

### **Domestic Animals Exclusion**

For the life of the development, cats are to be kept in a cat run and/or inside the dwelling such that they are prevented from entering wildlife habitat areas at all times. Dogs are to be kept in an enclosed area such that they cannot enter areas of bushland, unrestrained, on surrounding properties.

**Reason:** Wildlife protection

### **Fencing for Wildlife Passage**

Any new fencing (with the exception of swimming pool fencing) is to be made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.

**Reason:** Management of wildlife corridors