

## Natural Environment Referral Response - Biodiversity

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| <b>Application Number:</b>             | DA2023/1832   |
| <b>Proposed Development:</b>           | Construction of a dwelling house and detached studio  |
| <b>Date:</b>                           | 26/02/2024  |
| <b>Responsible Officer</b>             | Stephanie Gelder  |
| <b>Land to be developed (Address):</b> | Lot 5 DP 590990 , 5 Portions Lovett Bay LOVETT BAY NSW 2105<br>Lot LIC 301874 , 5 Portions Lovett Bay LOVETT BAY NSW 2105 |

### 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

#### Additional Comments (26/02/2024)

The addendum letter from the Bushfire Consultant (16/02/2024) is noted. The Consultant has confirmed that 'no further tree removal is proposed as part of the APZ requirements for the proposal'. NSW RFS have provided their General Terms of Acceptance noting an APZ north to a distance of 15m.

No impacts to vegetation within the BV map and as such, a BDAR is not required.

No objections in relation to biodiversity, subject to conditions.

#### Original Comments (3/01/2024)

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

- NSW Biodiversity Conservation Act 2016
- NSW Biodiversity Conservation Regulation 2017
- Pittwater LEP 2014 cl. 7.6 Biodiversity Protection
- Pittwater 21 DCP cl. B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community
- Bushfire Prone Land - Planning for Bushfire Protection 2019
- SEPP (Resilience and Hazards) 2021 cl. 2.10 Development within the coastal environment area

The Development Application seeks consent for Construction of a dwelling house and detached studio.

The majority of the site is identified on the NSW Department of Planning and Environment's Biodiversity Values Map (BV Map). Under the NSW Biodiversity Conservation Act 2016, any removal of native vegetation from within mapped areas will trigger the Biodiversity Offset Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR).

The Statement of Environmental Effects (Vaughn Milligan Development Consulting, December 2023) has stated that *"the proposal does not require the removal of any significant vegetation to accommodate the new works. An existing Jacaranda and Illawarra Flame Tree which are both exempt tree species will be retained in the method of construction within the vicinity of the trees will consider their retention as shading elements to the building. No further Arboricultural Impact Assessment has been provided as trees are exempt species and could be removed by the owner as required and also for bushfire planning purposes"*. Therefore, whilst the development footprint is located within the BV Map, no native vegetation is proposed for removal to facilitate the development and as such does not trigger the BOS.

The Bushfire Risk Assessment Report (Bush Fire Planning Services, September 2023) submitted with the application has recommended that *"At the commencement of building works and in perpetuity the property around the building footprint shall be managed as follows and as outlined within Planning for Bushfire Protection 2019 and the New South Wales Rural Fire Service document standards for Asset Protection Zones:*

- *North as an Inner Protection Area to at least the currently managed distance.*
- *East as an Inner Protection Area to the property boundary.*
- *South as an Inner Protection Area to the property boundary.*
- *West as an Inner Protection Area to the property boundary.*

*It should be noted that no additional expansion of the already managed vegetation will be required"*.

The Bushfire Consultant is to amend the report to include clarification on the maximum distance north and include a map identifying the APZ area. Should the APZ extend into areas of remnant vegetation a BDAR may be required.

Upon receiving the amended information, Council's Biodiversity referrals team will recommence assessment of 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 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 Principal Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation.

### **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 Principal Certifier prior to issue of the Construction Certificate.

Reason: To protect native vegetation and wildlife.

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

### **Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed 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**

### **Protection of Habitat Features**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Details demonstrating compliance are to be provided to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat.

### **Native Landscaping**

Any new landscaping is to incorporate a minimum 80% of any new planting incorporates native vegetation (as per species found on the site or listed in Pittwater Spotted Gum Endangered Ecological Community).

Details demonstrating compliance are to be provided to the Principal Certifier prior to issue of any Occupation Certificate.

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

### **No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

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

### **No Impacts to Native Vegetation Within Biodiversity Values Map**

Impacts to any native vegetation (including for APZ establishment/maintenance) within the area mapped as Biodiversity Values Map will require an application for development consent which must be accompanied by a Biodiversity Development Assessment Report prepared by an ecologist accredited in application of the NSW Biodiversity Assessment Method, unless otherwise approved under an existing development consent, Local Land Services Native Vegetation Panel permit, or Threatened Species License.

Reason: To ensure compliance with the Biodiversity Values Map threshold of the NSW Biodiversity Offsets Scheme

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

### **No Impacts to Native Vegetation Within Biodiversity Values Map**

Impacts to any native vegetation (including for APZ establishment/maintenance) within the area mapped as Biodiversity Values Map will require an application for development consent which must be accompanied by a Biodiversity Development Assessment Report prepared by an ecologist accredited in application of the NSW Biodiversity Assessment Method, unless otherwise approved under an existing development consent, Local Land Services Native Vegetation Panel permit, or Threatened Species License.

Reason: To ensure compliance with the Biodiversity Values Map threshold of the NSW Biodiversity Offsets Scheme