

Natural Environment Referral Response - Biodiversity

Application Number:	DA2023/1127
Proposed Development:	Demolition works and construction of a dwelling house, horse arena, stables and paddocks
Date:	25/09/2023
Responsible Officer	Phil Lane
Land to be developed (Address):	Lot 6 DP 749791 , 113 Orchard Street WARRIEWOOD NSW 2102

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 information is required in order to determine compliance with relevant biodiversity provisions, including entry thresholds for the NSW Biodiversity Offsets Scheme.

The Development Application seeks consent for demolition works and construction of a dwelling house, horse arena, stables and paddocks.

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. B4.18 Heathland/Woodland Vegetation
- Planning for Bushfire Protection 2019

A Flora and Fauna Assessment (FFA) (Kingfisher Urban Ecology and Wetlands March 2023) was submitted with the application which identifies that the proposal does not trigger the Biodiversity Offset Scheme (BOS) as native vegetation clearing within the site does not exceed the applicable clearing threshold (0.5ha). As per advice from the Department of Planning and Environment (DPE) on the 19th September 2023, future 10/50 clearing code entitlements must be included in the proposed development footprint assessment when determining the application of the BOS. As such, relevant maps and area calculations within the FFA are to be amended to include all potential impacts to native

vegetation including development footprint, future 10/50 clearing entitlement associated with the new dwelling, APZs and associated services and infrastructure. It should also be noted that the current 10/50 clearing entitlement associated with the existing dwelling will be extinguished upon demolition of the building. Any vegetation clearing within the existing 10/50 clearing entitlement should be considered if it falls within the development footprint of the new proposed development.

As requested by Council's Biodiversity Officer in the Pre-Lodgement Meeting held between the applicant and Council on 1 March 2022, the FFA must assess compliance against the objectives of applicable LEP and DCP controls. This has not been addressed within the report and as such must be amended to demonstrate whether the proposal is compliant with the relevant controls, in particular:

- The development is designed, sited and will be managed to avoid any significant adverse environmental impact (PLEP cl. 7.6)
- Development shall retain and enhance habitat and wildlife corridors for threatened species, endangered populations, endangered ecological communities and other locally native species (DCP cl. B4.18)
- Development shall not reduce or degrade habitat for locally native species, threatened species, endangered populations or endangered ecological communities (DCP cl. B4.18)

Additionally, the FFA is to be amended to include tree removal as per the most recent Arborist Report (07 April 2023) for consistency across the application.

The Bushfire Consultant and Arborist are to confirm if tree removal is required in addition to the 35 trees proposed for removal in order for the APZ to meet the minimum requirements of Planning for Bushfire Protection. Additional tree removal may not be supported.

In accordance with relevant reporting requirements set out in PDCP cl. B4.18, the applicant is also required to engage a suitably qualified Ecologist to prepare a Biodiversity Management Plan (BMP) to assist in the protection and management of important native vegetation and fauna habitat within the site. The BMP is to be prepared sympathetic to the current vegetation on site and must not include onerous planting, rather the necessary planting required to replace native prescribed trees removed as a result of the development. It is noted that Council's Biodiversity Officer conducted a site visit and confirmed the understory to be sparse, however largely native with few weed infestations, mostly occurring close to the boundaries of the property. During the site inspection, a hollow was being occupied by a native glider within Tree 113. This tree is to be retained and protected. Bunting is to be used to fence off the tree during development to ensure that the tree is not disturbed. The BMP should outline installation of appropriate fauna nest boxes within the site.

Upon receipt of additional information, Council's Biodiversity Referrals team will recommence assessment of the application against applicable controls.

The proposal is therefore unsupported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Recommended Natural Environment Conditions:

Nil.