

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2022/1975
<b>Proposed Development:</b>	Construction of a dwelling house
<b>Date:</b>	28/02/2023
<b>Responsible Officer</b>	Thomas Prosser
<b>Land to be developed (Address):</b>	Lot 34 DP 20097 , 231 - 233 McCarrs Creek Road CHURCH POINT NSW 2105 Lot 35 DP 20097 , 231 - 233 McCarrs Creek Road CHURCH POINT 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

The proposal seeks approval for the construction of a dwelling house.

The comments on this referral relate to the following provisions:

- SEPP (Resilience and Hazards) - Chapter 2 Development within the coastal environment
- NSW Biodiversity Conservation Act 2016 (BC Act)
- Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection
- Pittwater 21 DCP - Clause B4.2 Flora and Fauna Conservation Category 1 and Wildlife Corridor

The proposal has been submitted with an Arboricultural Impact Assessment report (AIA), a Bushfire report and a Flora and Fauna Assessment report (FFA).

- The AIA report states that a total of 10 trees are to be removed to allow for the development under its current design (Trees 1, 8, 9, 10, 13, 14, 15, 20, 21 and 22), with the retention of only one native tree (Tree 16). The report also states that trees 12 and 19 should be considered for removal due to poor condition and risk that they can pose. As per the Landscape Referral response, trees 4, 8, 9, 10 and 14, which are outside of the property boundary have been proposed for removal and no owners consent has been submitted with the application.
- The Bushfire report has recommended that the entirety of the site be managed as an Asset Protection Zone and has applied/granted a Bushfire risk level of BAL FZ to the site. Conditions shall apply to ensure that clearing is undertaken in the appropriate areas and in order to reduce impacts to native vegetation and biodiversity. It is noted that the 10/50 Clearing Exemption does

not apply to the property and as such, any future proposals to remove these retained trees will require approval or a relevant exemption under Part 2 of SEPP (Biodiversity and Conservation) 2021 or Part 4 of the NSW Environmental Planning and Assessment Act 1979.

- The FFA report has determined that the Biodiversity Offset Scheme (BOS) is not triggered by the proposal and a Biodiversity Development Assessment Report (BDAR) is not required and the reasoning is outlined within the FFA report. The FFA report concluded that the site currently has a high biodiversity value (high species richness) with a low presence of weeds due to indirect disturbance from the vicinity to roads. Vegetation present on the site was identified by the ecologist as Turpentine-Roughbarked Apple-forest Oak Moist Shrubby tall open forest of the Central Coast (Central Coast Escarpment Moist Forest PCT 1565). Lastly, the presence of native protected fauna has been noted. A 5-Part test was undertaken for Southern Brown Bandicoot (*Isodon obesulus obesulus*) after which the ecologist concluded that the proposed development is not likely to have a significant effect to any threatened species, population or ecological community.
- The proposed landscaping within the submitted Landscape Plan is found to be compliant with controls set out in PDCP B4.2. However, due to recent Hazard Reductions burn taking place in the area, the retention of native vegetation on the property as per p.28 of the Master Plans is unlikely due to the extent of works proposed. Amendments to the landscaping plan will be requested as well as like for like replacements for the loss of canopy trees, which have not been provided. The selection and distribution of species will have to comply with the recommendations of the Bushfire report.
- It is noted that the development is proposed to take place over two lots which are being consolidated and only one tree has been proposed for retention, failing to demonstrate how appropriate measures to avoid and minimise impacts on biodiversity have been taken. Neighbouring single lot developments have successfully retained more trees through alternative designs in order to retain vegetation. The proposal to remove all existing trees on site appears excessive for construction of a new residential development and has not been adequately justified. Whilst it is acknowledged that Planning for Bushfire Protection 2019 requires the establishment of new Asset Protection Zones (APZ), this still allows for canopy coverage of up to 15% within the Inner Protection Area and does not necessitate the removal of all trees on site.

Therefore at this stage, the Biodiversity Referrals Section is not satisfied that the proposal complies with cl 2.10 of the Resilience and Hazards SEPP (Coastal Environment Area) or cl 7.6 of the Pittwater LEP (Biodiversity Protection), as it is not demonstrated that it has been designed to avoid or minimise adverse environmental impact. The applicant is encouraged to consider a redesign of the proposal to allow for the retention of trees and greater retention of native understory vegetation and natural landscape features.

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.