

Natural Environment Referral Response - Biodiversity

Application Number:	DA2022/1399
Date:	19/10/2022
Responsible Officer	Brittany Harrison
Land to be developed (Address):	Lot 1 DP 1104192 , 62 Chisholm Avenue AVALON BEACH NSW 2107 Lot 2 DP 1104192 , 60 Chisholm Avenue 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

The proposal has been assessed against the following applicable biodiversity-related provisions:

- Biodiversity Conservation Act 2016
- Pittwater LEP cl. 7.6 Biodiversity Protection
- Pittwater 21 DCP cl. B4.4 Flora and Fauna Habitat Enhancement Category 2 and Wildlife Corridor
- SEPP (Resilience and Hazards) - Littoral Rainforest Proximity Area

The subject site is identified on the NSW Biodiversity Values Map and as such, impact to any native vegetation within the BV Map area will trigger entry into the NSW Biodiversity Offsets Scheme (BOS) and the requirement for a Biodiversity Development Assessment Report (BDAR). Accordingly, a BDAR (Ecological Consultants Australia, updated April 2022) has been submitted with the new DA.

The proposal seeks to impact a total of 0.05ha of vegetation which is identified as Pittwater Spotted Gum Forest Endangered Ecological Community (EEC); this includes the proposed removal of six prescribed (i.e. protected under PDCCP cl. B4.22) native trees. Mitigation measures are proposed in the submitted BDAR to minimise impacts to the EEC, threatened species and wildlife habitat, while the proposed residual impacts will result in an offset credit obligation of 1 ecosystem credit and 3 species credits.

As the new carport is identified as a Class 10a (non-habitable structure) and is located more than 6m from any dwelling, the submitted bushfire assessment states that "it is therefore our opinion the

proposed carport satisfies the requirements of PBP 2019 and AS3959 by means of the above and no additional provisions are applicable to the proposal".

Minor amendments to the Landscape Plan are required to remove cultivated varieties of *Corymbia maculata*. No further issues are raised, subject to recommended impact mitigation measures.

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 measures specified in Section 10 of the submitted Biodiversity Development Assessment Report 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 and provided to the Principal Certifier prior to issue of the Construction Certificate.

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

Preparation of a Tree Removal Protocol

The Project Ecologist is to prepare a Tree Removal Protocol which includes the provision of (at a minimum):

- a pre-clearance survey
- direct supervision of tree removal
- protocol for rescue of fauna and relocation of log hollow sections onsite to provide fauna habitat

The Tree Removal Protocol must also include procedures for stop work and formal impact assessment in the event that threatened fauna species are found during the pre-clearance survey.

The Tree Removal Protocol is to be submitted to the Certifier prior to issue of Construction Certificate.

Reason: To protect native wildlife.

Installation of Nest Boxes

A minimum of two nest boxes suitable for microbat species are to be installed in retained trees on the site. Nest boxes must be attached in accordance with industry best practice (e.g. expandable tree sensitive methods).

Written certification of compliance is to be prepared by the Project Ecologist and submitted to the Principal Certifier prior to issue of the Construction Certificate.

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 Certifier must be copied into the notification email to confirm compliance.

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

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 Certifier 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
1214 – Pittwater Spotted Gum Forest	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion	1	YES	Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Pittwater and Wagstaffe Spotted Gum Forest in the Sydney Basin Bioregion This includes PCTs: 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 1 must be retired to offset the impacts of development.

Evidence of the retirement of credits in satisfaction of Table 1 requirements is to be provided to the

Manager Bushland and Biodiversity of Northern Beaches Council and the Certifier prior to release of construction certification.

Table 1 Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	Containing HBT	IBRA sub-region	Approved variation plant community type(s) that be used to offset the impacts from development
1214 – Pittwater Spotted Gum Forest	1	YES	Pittwater, Cumberland, Sydney Cataract, Wyong and Yengo. or From a location within 100km of the impact site	Any PCT from Wet Sclerophyll Forests (Grassy subformation), Tier 3 or higher containing HBT (including artificial)

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 1 must be retired to offset the impacts of 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 the Certifier prior to release of construction certification.

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

Impacted species credit species	Number of species credits	IBRA sub-region
<i>Chalinolobus dwyeri</i> – Large-eared Pied Bat	1	Any in NSW
<i>Diuris bracteata</i> – Diurus bracteata	1	Any in NSW
<i>Hygrocybe aurantipes</i> - Hygrocybe aurantipes	1	Any in NSW

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

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<i>Chalinolobus dwyeri</i> – Large-eared Pied Bat	1	Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Vulnerable Fauna
<i>Diuris bracteata</i> – Diurus bracteata	1	Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Endangered Flora
<i>Hygrocybe aurantipes</i> - Hygrocybe aurantipes	1	Pittwater, Cumberland, Sydney, Cataract, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Vulnerable Fungi

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

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 Section 10 of the submitted Biodiversity Development Assessment Report.

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 Certifier prior to issue of Construction Certificate.

Reason: To protect native vegetation and wildlife.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Compliance with Ecologist's Recommendations – During Construction

All 'during construction and demolition' measures specified in Section 10 of the submitted Biodiversity Development Assessment Report and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with 'during construction and demolition' measures is to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

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

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

Compliance with Ecologist's Recommendations – Post Construction

All post-construction measures specified in Section 10 of the submitted Biodiversity Development Assessment Report, the Biodiversity Management Plan (prepared prior to Construction Certificate) and these conditions of consent are to be initiated or completed prior to any Occupation Certificate. Compliance with this condition is to be certified by the Project Ecologist and provided to the Principal Certifier prior to issue of any Occupation Certificate.

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

Tree Removal Protocol to be Certified as Completed

The Project Ecologist is to provide written and photographic evidence of implementation and completion of the Tree Removal Protocol to the Principal Certifier prior to issue of Occupation Certificate.

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 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.