

Natural Environment Referral Response - Biodiversity

Application Number:	DA2021/0367
Date:	23/04/2021
Responsible Officer	Jordan Davies
Land to be developed (Address):	Lot 5 DP 28164 , 26 Riverview Road 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

Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:

Biodiversity Conservation Act 2016 (BC Act) Biodiversity Conservation Regulation 2017

- Biodiversity Values Mapping

Pittwater Local Environmental Plan (PLEP)

- 7.6 Biodiversity Protection

Pittwater Development Control Plan (PDCP)

- B4.7 Pittwater Spotted Gum Forest - Endangered Ecological Community

Natural Environment - Biodiversity note that the development seeks to remove three (3) native trees within the front of the property. Council's Biodiversity Officer attended to inspect the trees from the road reserve.

These trees are located within the Department of Planning, Industry and Environment's (DPIE) *Biodiversity Values Mapping*, available here: <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap>. Any native vegetation removal within these mapped areas requires the DA to be accompanied by a *Biodiversity Development Assessment Report (BDAR)* to be prepared by an

Accredited Assessor: <https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>.

Any BDAR prepared for the site is required to include an assessment against the *Serious and Irreversible Impact* (SAIL) guidelines for Pittwater Spotted Gum Forest, as well as to demonstrate how the principles of *Avoid and Minimise* have been demonstrated in accordance with the *Biodiversity Assessment Methodology 2020* (BAM 2020).

On review of the current proposal, submitted documents and previous application (DA2020/0770), the application does not demonstrate compliance with B4.7 of the PDCP, or 7.6 of the PLEP.

Pittwater DCP Clause B4.7 (Pittwater Spotted Gum Forest Endangered Ecological Community):

- Development shall result in no significant onsite loss of canopy cover or a net loss in native canopy trees.
- Development shall not have an adverse impact on Pittwater Spotted Gum EEC.
- Development shall restore and/or regenerate Pittwater Spotted Gum EEC and provide links between remnants.
- Development shall retain and enhance habitat and wildlife corridors for locally native species, threatened species and endangered populations.
- Development shall ensure that at least 80% of any new planting incorporates locally native vegetation and/or species of the PSGF EEC.

Pittwater LEP Clause 7.6 (Biodiversity Protection):

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that -

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised - the development will be managed to mitigate that impact.

The DA must be accompanied by a BDAR before it can be assessed, otherwise is required to redesign in order to retain these 3 trees. On receipt of amended plans or a BDAR, NEC - Biodiversity can reassess the application. The applicant should not that the removal of these large, high-value trees is currently non-compliant with the BAM 2020, and Council's DCP & LEP.

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.