

Natural Environment Referral Response - Biodiversity

Application Number:	DA2020/1027
Date:	25/11/2020
Responsible Officer	Jordan Davies
Land to be developed (Address):	Lot 1 DP 1129384 , 0 Stuart Street MANLY NSW 2095

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

There is insufficient information to assess the proposal at this time.

The following provisions apply to the subject site:

- NSW *Biodiversity Conservation Act 2016* (BC Act)
- Manly LEP Clause 6.5 (Terrestrial Biodiversity)
- Manly DCP Clause 5.3.2.1 (Threatened Species and Critical Habitat Lands)
- Manly DCP Clause Manly DCP Clause 3.3.1.iv) (Landscaping in Bandicoot Habitat)

The subject site is within the declared habitat areas for the endangered populations of Little Penguins at Manly and Long-nosed Bandicoots at North Head. The development footprint is also located less than 200m from known nesting, loafing and foraging habitat for penguins. As such, any development is required to be supported by a 'test of significance' in accordance with Section 7.3 of the BC Act. An ecological impact assessment (GIS Environmental Consultants, 22 May 2020) has been prepared by a suitably qualified ecologist and includes tests of significance for the two endangered populations. An analysis of potential impacts to the endangered populations and other wildlife is provided below:

Removal of Habitat

The submitted ecological assessment states that "the proposal will remove 32m² of vegetation that is foraging habitat for Long-nosed Bandicoots and low value habitat for other native species including the Little Penguin". The report concludes that, given the extent of available habitat within the broader area and the fact that works are generally within the existing footprint, the proposal is unlikely to result in a significant loss of important habitat for either endangered population. The Biodiversity referral body concur with this conclusion.

Noise and Disturbance - Construction Phase

The proposal will result in increased noise and human activity during the construction stage which is likely to temporarily disturb native wildlife and deter their use of the subject site. The ecological report includes some recommendations to mitigate potential construction-related impacts, and it is considered that these could be adequately managed via the ecologist's recommendations and additional conditions of consent to minimise the likelihood of harm to individual animals.

Noise and Disturbance - Ongoing

The proposal includes provision of outdoor seating for an additional 10 patrons to give an overall capacity of 32 patrons. This would presumably result in up to 32 people dining at the subject site during the existing approved operating hours, which are as follows:

- Sunday: 7am to 7pm
- Monday to Tuesday: 7am to 5pm
- Wednesday to Saturday: 7am to 10pm

The ecological report states that "the increase in human use will likely deter penguins", but does not include an assessment of the magnitude or importance of potential impacts associated with intensification of use; nor does it provide mitigation measures to manage these impacts. Given that the existing operating hours allow for evening trading five days a week - which coincides with the time in which breeding penguins return to nests after foraging at sea during the day - it is considered that an increase in capacity during these times is likely to result in greater disturbance to breeding penguins. This impact is potentially compounded by an increase in the number of dogs within the reserve in the evenings should patrons be permitted to bring pets to the restaurant, as research has demonstrated that the scent of predators alone (even if leashed) can deter native wildlife from their habitat. As it is considered that ongoing noise and disturb has the potential to reduce the long-term use and viability of nearby penguin nesting habitat, further assessment and proposed mitigation measures to address this impact are required.

Furthermore, the proposed works include installation of condenser units for the cold storage that will be located externally on a slab adjacent to the northern side of the building. Council's Environmental Health referral body have raised the following concerns relating to noise associated with the new units: "...as the condenser units would be required to run 24/7, without any adequate acoustic treatment there could be potential noise concerns for the residents. This could particularly be an issue during the night when background noise is typically lower". It is considered that this additional noise could also serve to disturb/deter penguins, bandicoots and other nocturnally active wildlife which currently utilise Little Manly Reserve, the beach and the rocky foreshore at night. This potential impact has not been addressed in the ecological report.

Traffic

Road mortality is identified as a key threat to the endangered population of Long-nosed Bandicoots at North Head. As discussed above, the proposed seating increase may serve to attract a greater number of patrons during evening hours which may increase rates of road mortality for nocturnally-active bandicoots. This potential impact should be addressed in the ecological report.

Conclusion

The proposed development may result in a number of impacts to the endangered Little Penguin and Long-nosed Bandicoots which have not been addressed in the submitted ecological report. Additional information is therefore required before the Biodiversity referral body can be satisfied that the proposal will not result in a significant impact to the endangered populations.

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.