

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	Mod2019/0255
<b>Responsible Officer</b>	David Auster
<b>Land to be developed (Address):</b>	Lot 13 DP 1189590 , 25 Spring Cove Avenue 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

#### Biodiversity Referral Comments - 10 December 2019

This updated referral is based on the following additional information:

- Terrestrial Biodiversity Report and Assessment of Significance (Total Earth Care, December 2019)

The submitted ecological assessment satisfactorily addresses the legislative and planning requirements. It is considered that, subject to recommendations of the ecologist assessment and conditions of consent, the proposed modification will result in no further impact to the endangered population of Long-nosed Bandicoots.

#### Biodiversity Referral Comments - 28 October 2019

There is insufficient information to assess the modification's compliance with relevant biodiversity provisions.

The following provisions apply to the site:

- NSW *Biodiversity Conservation Act 2016* (BC Act)
- Manly DCP Clause 5.4.2 (Threatened Species and Critical Habitat Lands)
- Manly LEP Clause 6.5 (Terrestrial Biodiversity)

The proposed modification is within the declared habitat area for the endangered population of Long-nosed Bandicoots, as listed under the NSW Biodiversity Conservation Act 2016 (BC Act). In accordance with Section 7.3 of the BC Act and NSW Threatened Species Test of Significance Guidelines (OEH 2018), a 'five-part test' is required where development may impact upon a threatened entity. Given that the proposed modification will result in modification of the approved bandicoot habitat (lawn and landscaping) and soft open space, an ecological assessment (including five-part test) is required in order to assess the modification's impact to threatened entities.

Required information:

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- An ecological impact assessment, prepared by a suitably qualified ecologist, addressing the following:  
i) Five-part test for the endangered population of Long-nosed Bandicoots, and any other relevant threatened entities, in accordance with Section 7.3 of the NSW BC Act; ii) consideration of the proposal's compliance with Manly LEP Clause 6.5 (Terrestrial Biodiversity).

### **Referral Body Recommendation**

Recommended for approval, subject to conditions

### **Recommended Natural Environment Conditions:**

## **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

### **Pool Exclusion Fencing – Bandicoot Habitat**

Long-nosed Bandicoots are to be excluded from swimming pools and spas while maintaining access to any surrounding soft landscaping. Pool fencing must have no gaps large enough to allow bandicoots access.

Plans are to be amended and provided to the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** To prevent Long-nosed Bandicoots from drowning in swimming pools and spas.

### **Height of Walls/Steps – Bandicoot Habitat**

The height of any new retaining walls or steps of new external stairways must not exceed 200mm (or lower in accordance with BCA standards). Where this cannot be achieved, a slope is to be provided in association with the retaining walls and/or stairs to permit Long-nosed Bandicoot access.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

### **No Bright Lighting – Bandicoot Habitat**

No bright lighting or motion detectors are to be installed to illuminate the lawn or garden areas. A modest amount of low lighting may be used for safety purposes only.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of a Construction Certificate.

**Reason:** Bright lighting disturbs Long-nosed Bandicoots and disrupts normal Bandicoot foraging, sheltering and nesting activity.

### **Access to Undercroft Areas – Bandicoot Habitat**

Where concealing material is required for any undercroft areas (e.g. under the house, stairs or balcony), gaps are to be established to allow Long-nosed Bandicoot access. Gaps are to be at least 150mm high and 300mm wide.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

### **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 these conditions of consent and the approved ecological report (Total Earth Care, December 2019).

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 NSW Biodiversity Conservation Act 2016 (<https://customer.lmbc.nsw.gov.au/assessment/AccreditedAssessor>)

Evidence of engagement of the Project Ecologist is to be provided to the Principal Certifying Authority Prior to issue of Construction Certificate.

**Reason:** To protect native vegetation and wildlife in accordance with relevant Natural Environment LEP/DCP controls.

### **Bandicoot Construction Protocol**

The Bandicoot Construction Protocol as outlined in Appendix C of the Species Impact Statement (Ecosense, 2005) for Spring Cove Estate (DA482/2004) is to be implemented prior to and during excavation, earthworks, vegetation clearing and construction. The Project Ecologist is to provide written evidence of compliance to the Principal Certifying Authority prior to issue of the Occupation Certificate.

**Reason:** To protect wildlife during construction in accordance with relevant biodiversity controls and legislation.

### **Access Spaces – Bandicoot Habitat**

Any new gates or fences are to be designed to include gaps appropriate to maintain bandicoot access through and within the site. Gaps are to be at least 150mm high and 300m wide. This condition does not apply to pool fencing.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to issue of the Construction Certificate.

**Reason:** To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

### **Site Induction Required – Penguin and Bandicoot Habitat**

All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant threatened species and endangered ecological communities through a site induction prior to commencement of works. The site induction is to include information about their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection. A confirmation of induction is to be signed by every worker and the site manager.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority prior to issue of the Occupation Certificate.

**Reason:** To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### **Pre-clearance Survey Required – Bandicoot Habitat**

A pre-clearance survey for Long-nosed Bandicoot activity and presence is required prior to the removal of any vegetation, material or debris stockpiles. Clearing may only proceed if the survey concludes that no Long-nosed Bandicoots are present within the area to be cleared. All clearing must initially be carried out with hand tools to identify whether any bandicoots are sheltering within the area to be cleared (e.g. at the base of vegetation or under deep litter). Machinery may only be used once it has been confirmed that no bandicoots are sheltering within the area to be cleared. Clearing must be carried out at dusk and completed within one day so that bandicoots do not reoccupy partially cleared areas overnight. A record of each inspection is to be made in the daily inspection register log-book. The log-book is to be made available to the Principal Certifying Authority.

**Reason:** To avoid injury or death of Long-nosed Bandicoots which may be utilising stockpiles of vegetation, materials or debris.

### **Report Dead or Injured Bandicoots – Bandicoot Habitat**

Any injured or dead Long-nosed Bandicoots found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

**Reason:** To prevent impacts to Long-nosed Bandicoots in accordance with the Biodiversity Conservation Act 2016.

### **Protect AOBV – Penguin Habitat**

The Area of Outstanding Biodiversity Value (formerly Little Penguin Critical Habitat), including rocky cliff and intertidal areas below the formed backyard, are to be fully protected for the duration of the works. There shall be no machinery use, storage of construction materials/waste, dumping, or clearing of vegetation, soil, rock or rubble within these areas.

**Reason:** To prevent impacts to Little Penguins and the adjoining Area of Outstanding Biodiversity Value.

## **ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

### **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

**Reason:** Weed management.

### **Maintain Fauna Access and Landscaping Provisions – Manly LEP Clause 6.5**

All fauna access/movement and landscaping provisions specified in these conditions of consent are to be implemented and maintained for the life of the development.

**Reason:** To maintain fauna access to existing and proposed habitat within and surrounding the site.

### **Dead or Injured Wildlife – Manly LEP Clause 6.5**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

**Reason:** To mitigate potential impacts to native wildlife resulting from construction activity.

**Domestic Animals Prohibited**

No cats or dogs are permitted on Spring Cove Estate including the subject site, in accordance with global condition of consent 103 for Spring Cove Estate (DA482/2004).

**Reason:** To achieve compliance with existing conditions of consent for bandicoot protection, as per Species Impact Statement (Ecosense, 2005) for Spring Cove Estate.