

Natural Environment Referral Response - Biodiversity

Application Number:	DA2019/0885
Responsible Officer	Georgia Quinn
Land to be developed (Address):	Lot 166 DP 752046 , 13 Bungendore Street INGLESIDE NSW 2101

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

This application was assessed against Pittwater LEP Clause 7.6 Biodiversity and relevant Pittwater DCP natural environment controls. The property also contains native vegetation mapped within the SMCMA V3 mapping project (OEH 2016).

The property is 2.59 ha in size, and an irregular shape measuring approximately 140m by 175m. The property currently contains areas of clumped native canopy trees and native vegetation and some cleared land.

The proposal is for the construction of a secondary dwelling located close to the road and bushfire mitigation measures including an Asset Protection Zone (APZ) to Inner Protection Area (IPA) standards across the whole property.

The submitted Bushfire Assessment Report (Roger Fenwick, February 2019) states that, "*Vegetation on the large block of land adjoining the bulk of the site to the SW is all managed to IPA standards. All other vegetation is more than 100m distant.*", "*No vegetation removal associated with construction of the dwelling or APZs is proposed.*" and "*The grounds of the property shall in perpetuity be managed as an Inner Protection Area as outlined in S 4.1.3 and Appendix 5 of PBP and the RFS document 'Standards for asset protection zones'.*"

A comparison between the proposal plans and aerial photographs show at least 2 trees which would be impacted by the proposed works. The site also contains many more trees than shown on the site survey. In accordance with LEP Clause 7.6 Biodiversity, the proposal is required to demonstrate that the works have been designed to avoid and minimise impacts to biodiversity. There are opportunities to relocate the secondary dwelling where there are no trees impacted by the proposal.

Council's Natural Environment - Biodiversity section cannot complete this assessment until further information is provided.

Required Information to be submitted

An **Arborist Report** is required to be prepared and submitted to support the application in accordance with the following:

- must identify the location, species, health and size of all trees within 5m of the proposed development (including any trenches for utilities);
- Prepared by a suitably qualified arborist with minimum AQF Level 5;
- Prepared based on the actual plans and documentation submitted in support of the DA;
- Take into account all above- and below-ground works and structures that are ancillary to the development, including any changes in soil/ground level around the base of canopy trees;
- A tree protection and management plan with specific tree protection measures to enable safe retention of all trees proposed for retention, including mapping Tree Protection Zones, Structural Root Zones and any encroachments.

Bushfire APZ requirements and the Biodiversity Offset Scheme

The statements and recommendations within the bushfire report and interaction with the NSW *Biodiversity Conservation Act 2016* require clarification.

Firstly, the bushfire consultant is required to clarify the requirements of establishing and maintaining the proposed APZ to IPA standards, and whether any native vegetation or trees within the property would require modification / removal to comply with IPA standards. The references provided to PBP 2006 in the recommendations do not describe requirements of IPAs.

Secondly, any application which proposes native vegetation within a proposed APZ must determine if the proposal will exceed the threshold for entry into the Biodiversity Offset Scheme (BOS), and provide a Biodiversity Development Assessment Report (if BOS triggered) prepared by an Accredited Assessor. Native vegetation and clearing native vegetation have the same meanings as in Part 5A of the Local Land Services Act 2013. One entry trigger into the Biodiversity Offset Scheme is known as the 'area threshold'. The area threshold for this property is 0.5 ha. Council is of the understanding that there is currently no approved APZ within the property and as such the area of native vegetation proposed to be an APZ, i.e. entire property, is to be included in the area threshold. The area of native vegetation is to be calculated using the guidance provided by the NSW Government.

The NSW Government has provided the following advice for bush fire related clearing:

Bush fire Asset Protection Zones must be considered when determining whether a biodiversity development assessment report is required.

For the purposes of deciding whether a biodiversity development assessment report is required, the entire bushfire Asset Protection Zone (APZ) must be included in the development footprint when applying the biodiversity offsets scheme threshold.

Referral Body Recommendation

Recommended for refusal

Recommended Natural Environment Conditions:

Nil.