



Pittwater Council

SUBJECT: N0401/03 62 and 85 Hillside Road, Newport, Community Title subdivision of two lots into eight lots plus one community lot (internal access), construction of an access corridor and demolition at 62 and 85 Hillside Road Newport

Meeting: Environment and Planning Committee **Date:** 6 March 2006

EXECUTIVE SUMMARY

PURPOSE OF REPORT

To inform the Committee of the outcome of further discussions with the applicant, and further investigation of the likely impacts following deferral from the Committee on 26th September 2005.

BACKGROUND

The Environment & Planning Committee held on Monday, 26th September 2005, considered an assessment report prepared for Council by a consultant planner, and the subsequent Development Unit report (Attachment 1). It was resolved by Council to defer the matter to allow discussions between the applicant and Council staff with a view to resolving issues.

Further discussions with the applicant have not resulted in any changes to the proposed development that would bring the development into compliance with Council's policies, and result in an acceptable level of impact upon the environment. An appeal against the deemed refusal of the application has been lodged by the applicant with the Land and Environment Court.

ISSUES

- Significant impact upon threatened species (in particular the Powerful Owl)
- Significant impact upon endangered ecological communities (Littoral Rainforest)
- A Species Impact Statement is required
- Loss of bushland, resulting in loss of canopy and understorey
- Non-compliance with the 1200m² lot size requirements
- Cumulative impact of development works, construction works, and bushfire mitigation requirements upon environmentally sensitive land

FINANCIAL IMPLICATIONS

NIL

POLICY IMPLICATIONS

The application is significantly non-compliant with the requirements of Pittwater 21 DCP as they relate to Habitat Category 1 land, Conservation of threatened species and endangered ecological communities, impact upon land adjoining bushland, minimum allotment sizes for subdivision of sensitive land (1200m²), and visual impact from loss of canopy.

SUMMARY OF RECOMMENDATION

1. That Development Application N0401/03 62 and 85 Hillside Road, Newport, Community Title subdivision of two lots into eight lots plus one community lot (internal access), construction of an access corridor and demolition at 62 and 85 Hillside Road Newport be refused for the reasons outlined in the attached draft Notice of Refusal.
2. That Council defend the appeal

While the proposed building footprints and construction areas associated with the subdivision would remove/modify 24% of the site, the Rural Fires Act requirements also cause significant disturbance to the rest of the site. The Inner protection Zone and Outer protection Zone cover 41% of the site. Thus the proposed development would result in substantial modification to 65% of the site.

The Environmental Protection Zone and Water Course Buffer will need to be isolated for disturbance, except hazard reduction activities, and will require on-going restoration and management. These areas cover approximately 35 % of the site.

2.4 Proposed Building locations

As suggested above the majority of the disturbance across the site is due to bushfire mitigation requirements. These areas are based on a vegetation assessment within 140m of the development. This requires a minimum outer asset protection zone of 20m to the east of the site. Within this area no building could be built given the current legislative requirements. Thus siting of the buildings is limiting in the eastern section of the site. The topography results in it being more difficult to site buildings to the north, hence the chosen locations of the building footprints.

The vegetation within 140m of the development is generally of category 2 vegetation (Planning for bushfire protection) which would require the relevant properties to have an Asset protection zone (APZ) of 40m, even though the vegetation the development will take place in is category 3. The NSW RFS appears to have come to a compromise to reduce these APZ's to 20m on the boundary with Attunga Reserve.

2.5 Impacts upon Ephemeral Creeklines

The site is in an upper catchment and contains numerous rivulet waterways. These vary in size with some being chiefly overland flow paths while others range from overland to deeply incised creek-beds. Many flow during light rain and have been observed by Natural Resources staff to continue to flow for several days after rain. The proposal only shows the location of the most obvious creekline and gives no planning or environmental consideration to the numerous additional water-ways. These waterways throughout the site are not part of the proposed Water Course Buffer and in some areas are within disturbance footprints and proposed bushfire asset protection zones.

Disturbance of watercourses does not comply with outcomes of planning controls and is not desirable. How the numerous water-ways will be managed is not resolved in the proposal. The impact of any diversion/treatment on the on-site and downstream habitats and waterways is also not considered.

In the current proposal scant regard has been given to the alteration to the hydraulic and hydrology, urban run-off and pollution, hazard reduction, increase in nutrient loads and weed control associated with the proposal and reducing the possible disturbance across the site and affecting the adjacent reserves in the lower catchment.

Regarding the major ephemeral creek on the site, the Department of Natural Resources, (formally the Department of Infrastructure Planning and Natural Resources) has in its correspondence dated 24 May 2005 indicated that the ephemeral creek is not actually a watercourse covered by the Rivers and Foreshores Improvement Act, 1948, and that the proposal is not integrated development for this reason, and that a Part 3A permit and riparian protection required under that Act is not applicable. Nevertheless, it is a significant component of the local environment which should be recognised and protected.