

Natural Environment Referral Response - Biodiversity

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| Application Number: | Mod2020/0431 |
| Date: | 12/11/2020 |
| Responsible Officer | Lashta Haidari |
| Land to be developed (Address): | Lot 100 DP 1114910 , 207 Forest Way BELROSE NSW 2085 Lot 7 DP 807906 , 199 Forest Way BELROSE NSW 2085 |

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

The proposal seeks to re-instate Building D, it's deletion from the scheme having previously been upheld as a condition of consent (Condition 2) to DA2018/1332 by the Sydney North Planning Panel in their correspondence dated 1 May 2019.

For the purposes of the referral response I have reviewed the following information:-

- Section 4.55(2) Modification Application - 207 and 199 Forest Way, Belrose (Ethos Urban 31 August 2020);
- Section 4.55 Plans Rev 05 (PTW Architects 2 April 2020);
- Glenaeon Renewal Development Precinct 199 Forest Way & Precinct 207 Forest Way, Belrose Response to Northern Beaches Council Prelodgement advice for PLM2019/0180 Building Code & Bushfire Hazard Solutions Pty Limited 29 June 2020);
- Ecological Statement by Keystone Ecological (4 August 2020);
- Pre - lodgement Meeting Package – Modification to DA2018/1332 207 and 199 Forest Way, Belrose (Ethos Urban 21 August 2019);
- Bushfire hazard information in the letter from Building Code & Bushfire Hazard Solutions Pty Limited dated 12 August 2019,
- Bush Fire Assessment Report - Glenaeon Renewal Development (Building Code & Bushfire Hazard Solutions Pty Limited 9 August 2018);
- Ecological Statement by Keystone Ecological (pre-lodgement no date); and
- Response to Reasons for Refusal DA2018/1332 199 and 207 Forest Way, Belrose (Ethos Urban April 2019).

Stormwater Impact

As commented as part of the pre-lodgement process, the stormwater management system proposed as

part of the modification application should be implemented. This will result in an improved environmental outcome beyond that already approved. Incorporation of the OSD as part of the Glenaeon Renewal development provides an opportunity to rehabilitate land and establish a new upper catchment riparian system in the location of the existing and approved stormwater ponds should also be incorporated, and extended upstream for an additional ~32 metres, in place of proposed Building D.

Ecological Statement

The overall balance of tree retentions/removals under the approved development in comparison to the modified application is similar, with the modified proposal retaining 3 more trees. The important habitats that are present within the eastern and south-eastern portions of the site are acknowledged by the applicant and the relevant sub-consultants. These native vegetation communities and fauna species habitats have been historically reduced to a minor portion of the overall site (<10%) from the retirement village development, and will be further impacted by the inclusion of Building D.

The original reasons for refusal of Building D provided as part of the 2018 development application are still applicable to the modification application, and these are summarised in relevant sections below.

Bushfire Impact

The approved APZ was not supported by Biodiversity, however was included in the NSW RFS GTAs dated 17 October 2018. It is still the opinion that Building D is located closer to bush fire hazard, which exists both on the site and on the adjoining properties to the east. This native vegetation, whether assessed as Forest, a Forest remnant, or an asset protection zone is still a bush fire hazard. Therefore the location of Building D does not comply with the objective of Planning for Bushfire Protection, nor is it in accordance with the NSW RFS pre-lodgement advice that the development should be located no closer to the bush fire hazard. This is confirmed in the BDAR which states that “The site is impacted by the potential for bushfire hazard from the connected vegetation along Snake Creek that has the potential to act as a ‘fire-run’.

Previous comments from Council’s Biodiversity team, in relation to the inclusion of Building D and the requirements of Planning for Bushfire Protection 2006 (now 2019) are still relevant.

In addition, the original Bush Fire Assessment Report (Building Code & Bushfire Hazard Solutions Pty Limited 9 August 2018) states “the radiant heat levels cannot strictly be complied with”, and this is considered to be a critical issue during fire suppression activities and during the evacuation of vulnerable people and staff in the event of an emergency.

The report states (page 11) that vegetation to the north is Maintained Grounds and significant environmental features are identified as proposed Building B. However the approved plans locate Building B to the north-west, and instead vegetation hazard is located to the north. The existing development already relies upon an APZ within an adjoining allotment to the south, and any further reliance on APZs to the east that would extend off site must be avoided.

While it is acknowledged that the approved development includes mitigation in the form of construction of the approved buildings to current bush fire construction standards, retro-fitting of existing structures, and hazard mitigation in the form of an APZ, this isn’t justification for putting additional vulnerable occupants at increased risk from bush fire especially as there is the “likelihood of increases in the severity and frequency of natural hazards which should be taken into account in land-use planning and building decisions” (Royal Commission into National Natural Disaster Arrangements – Report Commonwealth of Australia 2020).

On this basis, Building D should not be supported.

Assessment against WLEP 2000

The proposed development must be planned and designed in order to address and satisfy the following two clauses of the WLEP 2000.

Clause 56 Retaining distinctive environmental features on sites, states that;

Development is to be designed to retain and complement any distinctive environmental features of its site and on adjoining and nearby land. In particular, development is to be designed to incorporate or be sympathetic to environmental features such as rock outcrops, remnant bushland and watercourses/riparian zones.

Based on the scale of impacts proposed, the proposal is considered inconsistent with Clause 56 Retaining distinctive environmental features on sites of WLEP 2000. It is recommended that siting and design of any future application demonstrate that the distinctive environmental features of the site and adjoining land have been retained and that impacts have been avoided and minimised.

Clause 58 Protection of existing flora states that;

The Development is to be sited and designed to minimise the impact on remnant indigenous flora, including canopy trees and understorey vegetation, and on remnant native ground cover species.

As above, the development, including the bushfire Asset Protection Zone (APZ), vehicular access, increased stormwater runoff and ancillary structures will impact on areas that are currently represented by remnant indigenous flora, including canopy trees, understorey vegetation and native ground cover species.

Native vegetation on the site will be directly and indirectly impacted and various threatened flora and fauna species have potential habitat on the subject property. The threatened fauna species *Cercartetus nanus* Eastern Pygmy-possum has been recorded directly adjoining the site, and suitable habitat occurs on the site. The development and ongoing modification of the APZ will not minimise impacts to indigenous flora that is also habitat for several threatened species, including fruiting Banksia species, the loss of hollows, and modification to the structure and composition of the bushland within the APZ.

With regard to the APZs, it was always understood that Building D was not the trigger for the entire village to be managed as an Inner Protection Area. The creation of an APZ across the entire lot was never supported by Bushland & Biodiversity due to the impacts to native vegetation, flora and fauna species, their habitats, and the fauna wildlife corridor. The proposal was not in accordance with the WLEP 2000 controls, especially clause 58 Protection of existing flora.

Based on the information provided, the proposal is considered to be inconsistent with Clause 58 Protection of existing flora of WLEP 2000

Conclusion

Elements of the submitted modification may result in an improved environmental outcome, namely inclusion of an OSD tank and rehabilitation of the riparian zone/flow path, and this component of the application has some merit.

The modification application submitted does not avoid or minimise direct and indirect impacts to native vegetation and habitat, including habitat for species recorded on site that have a high biodiversity risk weighting as identified by the Biodiversity Assessment Methodology (BAM). This includes impacts of the building footprint, prescribed impacts (caves, crevices and cliffs), the need to re-locate the existing

stormwater management structures, and the creation and ongoing management of APZs.

Building D will be located closer to the hazard than the existing development, and its inclusion is not in accordance with the objectives of Planning for Bushfire Protection 2006 and the original advice of the NSW RFS, and should not be supported from a bush fire risk perspective.

Council's Natural Environment – Biodiversity section does not support the application as the proposal is inconsistent with Warringah Local Environment Plan 2000 Clauses 56 Retaining distinctive environmental features on sites, Clause 58 Protection of existing flora, as well as the requirements of Planning for Bushfire Protection 2006.

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.