

Natural Environment Referral Response - Biodiversity

Application Number:	DA2019/1248
Responsible Officer	Tony Collier
Land to be developed (Address):	Lot 13 DP 28236 , 143 - 145 McCarrs Creek Road CHURCH POINT NSW 2105 Lot 12 DP 28236 , 143 - 145 McCarrs Creek Road CHURCH POINT NSW 2105

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

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

This application was assessed against the following provisions:

- Pittwater LEP Clause 7.6 (Biodiversity)
- Pittwater DCP B4.17 (Littoral Rainforest EEC)
- Pittwater DCP B4.2 (Flora and fauna conservation category 1 and wildlife corridor)
- Pittwater DCP B4.4 (Flora and fauna conservation category 2 and wildlife corridor)
- NSW *Biodiversity Conservation Act 2016*
- SEPP (Coastal Management) 2018 - Littoral Rainforest and Proximity Area

The site (No. 143 and 145) is currently vacant land containing native vegetation and rock outcrops / escarpments and is accessed by a shared driveway to the neighbouring property at No. 141 McCarrs Creek Road. The vegetation within the south-western parts of the site are mapped as Littoral Rainforest Endangered Ecological Community (EEC) and remaining vegetation is Coastal Enriched Sandstone Moist Forest. Areas of vegetation / soil disturbance were observed during the site inspection.

The proposal is for the construction of a driveway, and two 4-bedroom dwellings each with a garage and inclinor. The proposal will result in the removal of at least 37 trees within the footprint of the proposal and it is assumed additional trees / vegetation will be removed / modified as a result of establishment of the bushfire Asset Protection Zone (APZ).

The submitted No.143 Arboricultural Impact Assessment Report (Hugh the Arborist, 13/10/2019)

assesses 49 trees, 19 of which will be removed and a further 11 which will incur major Tree Protection Zone (TPZ) encroachment. The submitted No. 145 Arboricultural Impact Assessment Report (Hugh the Arborist, 17/10/2019) assesses 50 trees, 19 of which will be removed and a further 5 will incur major TPZ encroachment.

The submitted Bushfire Risk Assessment Report (Ronald Coffey, 23/09/2019) recommends:

- Asset Protection Zone (APZ) to the north, south and western boundaries and 10 metres west of the proposed dwellings, maintained to Inner Protection Zone standards, and
- Buildings to be built to BAL-FZ

The recommendations for Inner Protection Area (IPA) includes "*Vegetation that does not provide a continuous path to the building for the transfer of fire*" and "*Shrubs and trees that do not form a continuous canopy*".

Pittwater LEP / DCP

The proposal will result in non-compliance with B4.2, B4.4, B4.17, as the development will result in a net loss of canopy trees. This site is currently vacant land and is steeply sloping. The dwellings are generally sited within an appropriate location given the site constraints. However, further details of the impacts associated with the establishment of the APZ are required. This is discussed further below. A Biodiversity Management Plan is required to be submitted in accordance with the reporting requirements of these controls.

NSW Biodiversity Conservation Act 2016

A Biodiversity Development Assessment Report (BDAR) (GIS Environmental Consultants, 31/10/2019) was submitted as part of the property is mapped as having "Biodiversity Value" within the Biodiversity Values Map published by the NSW Department of Planning, Infrastructure and Environment (DPIE) under the Biodiversity Offsets Scheme (BOS). The proposal will remove native vegetation within the mapped layer, which triggers entry into the BOS. The BDAR was written by an Accredited Assessor and meets the minimum standards set out in the BAM (OEH 2017) and associated documents. In accordance with the BOS, the residual impacts of the development will be offset through the retiring of 5 ecosystem credits (including 2 Littoral Rainforest EEC credits) and 17 species credits for four threatened species.

The applicant must first avoid, then minimise, then offset the residual impacts of the proposal. The BDAR states, "*The location of utilities and stormwater connections and retaining wall are not shown on the maps or assessed*". Further clarification of the residual impacts is required to understand the extent of impacts.

Coastal Management SEPP 2018

The objectives of Littoral Rainforest and Proximity Area were not addressed within the BDAR or SEE.

Additional information

Clarification of final residual impacts

- The bushfire consultant, Arborist and Ecologist must discuss establishment of the Asset Protection Zone, in terms of individual trees to be retained/pruned (if required), with retention and protection preference given to Littoral Rainforest canopy species with high and medium significance and generally larger and taller specimens with good health, as well as ensuring a balance of retention between different species.
- All proposed connection of utilities, including stormwater, must be trenched outside of the Structural Root Zone (SRZ). No Stormwater Management Plan was submitted.
- The Arborist and Ecologist to discuss material and waste stockpiles location which will not

impact on Littoral Rainforest EEC trees and vegetation.

- There is an opportunity to further avoid impacts by realigning the inclinator on No. 143 to avoid trees, retention of hollow-bearing trees and relocating the dwellings further west to reduce APZ impacts to vegetation east of the sandstone escarpment.
1. The **BDAR** may need to be updated if the residual impacts assessed are increased.
 2. A **Biodiversity Management Plan**, as per Council guidelines and documenting measures to mitigate impacts to biodiversity before, during and after construction, including timing and responsibilities. Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the Biodiversity Development Assessment Report. Revegetation may be required in areas disturbed by construction. The Biodiversity Management Plan must identify all measures proposed in the Biodiversity Development Assessment Report to mitigate and manage impacts on biodiversity.
 3. The relevant objectives of the Coastal Management SEPP (2018) are to be addressed.

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.