

Natural Environment Referral Response - Biodiversity

Application Number:	DA2019/0916
Responsible Officer	Rebecca England
Land to be developed (Address):	Lot 28 DP 8075 , 32 Bower Street 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

Council's Natural Environment - Biodiversity Section raises no objections to the proposed development, subject to conditions.

This application was assessed against MLEP Clause 6.5 Terrestrial Biodiversity, MDCP Section 5.4.2, 3.3.1.a)iv) and Schedule 1 Map D, as well as the NSW *Biodiversity Conservation Act 2016* (BC Act). The subject site is known habitat for the endangered population of Long-nosed Bandicoots at North Head, as listed under Schedule 1 of the BC Act.

The proposal is for the demolition of existing structures and the construction of a new dwelling including new swimming pools, landscaping and removal of trees.

The submitted **Arborist Report** (Botanics Tree Wise People, January 2019) assesses 39 trees, 27 within the property and 12 located on adjoining land. Thirteen trees are proposed to be removed, however only 2 of these are prescribed - T7 *Melaleuca quinquenervia* and T10 *Glochidion ferdinandii*.

The submitted **Terrestrial Biodiversity Report** (GIS Environmental Consultants, March 2019) assesses the impacts of the proposal on the endangered population of Long-nosed Bandicoot in accordance with local and state requirements. The site currently contains 1071m² of good quality bandicoot foraging habitat and good access to this habitat via habitat on adjoining land (mostly within the Council-managed Bower Street reserve to the east). The proposal will result in a permanent net loss of 352m² of foraging habitat. Access to the remaining 718m² of foraging habitat on the site will not be changed by the proposal. The Test of Significance (ToS) for Long-nosed Bandicoots concludes that "it is not likely that the proposal will have a significant impact on the Endangered Long-nosed Bandicoot population at North Head. Entry into the Biodiversity Offset Scheme (BOS) and further assessment in the form of a Biodiversity Development Assessment Report (BDAR) is not considered necessary for this population". The report also provides Tests of Significance for the Grey-headed Flying-fox due to removal of 2 food trees (T17 and T32), and for threatened microbats due to removal of potential roosting habitat in the existing building. Both tests conclude that there are no likely significant impacts

as a result of the proposal. The report assesses the proposal against MLEP Clause 6.5 and concludes that the proposal is consistent with the objectives of this clause.

The proposal plans and accompanying ecological assessment indicate that the proposed development will result in a lower net loss of soft open space and bandicoot habitat than the previously approved DA. The proposal is acceptable subject to conditions including implementation of Section 6 *Ameliorative Conditions* and Section 7 *Management Recommendations* detailed within the Terrestrial Biodiversity Report (GIS Environmental Consultants March 2019).

The **Landscape Plans** (Secret Gardens 28/03/2019) include a plant schedule with at least 16 native trees to be planted to replace tree proposed for removal. Tuckeroo (*Cupaniopsis anacardioides*) is considered to be a invasive native and is to be replaced with another suitable non-invasive species as per recommended Landscape conditions. The species list specified in Manly DCP Section 3.3.1.a)iv) (Landscaping Design - Bandicoot Habitat) has been included within bandicoot habitat areas.

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.

Engage a Project Ecologist

A Project Ecologist is to be employed for the duration of the approved works to ensure all biodiversity protection measures (including all bandicoot habitat conditions) are carried out in accordance with these conditions of consent and the approved Terrestrial Biodiversity Report (GIS Environmental Consultants March 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.

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, or alternatively, a raised design which provides access underneath the length of the fence (150mm high). Gaps are to be at least 150mm high and 300mm wide, and at minimum intervals of 2 metres. 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

Compliance with Ecologist's Recommendations – Pre-construction

All pre-construction biodiversity-related measures specified in the approved Terrestrial Biodiversity Report (GIS Environmental Consultants March 2019) and these conditions of consent are to be implemented at the appropriate stage of the development. Compliance with pre-construction measures is to be certified by the Project Ecologist prior to issue of the Construction Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

Site Induction Required – Bandicoot Habitat

All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant threatened species 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, certified by the Project Ecologist and provided to the Principal Certifying Authority.

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

Fauna Protection Fencing – Bandicoot Habitat

Temporary chain wire fencing is to be installed around all work areas (including demolition, storage and construction areas) prior to the commencement of works. The fencing is to be designed to minimise the possibility of ground-dwelling native fauna (including relevant threatened species) accessing the work areas. Fencing is to be maintained for the duration of works.

Reason: To prevent impacts to ground-dwelling native fauna, including relevant threatened species.

Ecologist to Induct Site Manager – Bandicoot Habitat

Prior to commencement of construction works, the project ecologist is to meet with the site manager to:

- a) advise of conditions to be implemented for protection of relevant threatened species;
- b) ensure that all workers are appropriately briefed on required protective measures; and
- c) inspect protective measures to confirm their adequacy and advise the proponent and site manager of the inspection results and their implications.

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

Compliance with Ecologist's Recommendations – During Construction

All biodiversity-related measures are to be implemented during construction in accordance with the approved Terrestrial Biodiversity Report (GIS Environmental Consultants March 2019) and these conditions of consent.

The Project Ecologist must undertake direct supervision of the following at a minimum:

- tree and vegetation removal
- demolition of the existing structures which have been identified as being potential microbat roosting habitat
- Site inductions

Compliance with these measures is to be certified by the Project Ecologist in writing, including photographic evidence, to the Principal Certifying Authority prior to issue of the Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in

accordance with relevant Natural Environment LEP/DCP controls.

Daily Inspections Required – Bandicoot Habitat

An inspection register log-book must be kept on site recording daily inspections of all holes, machinery and construction material stockpiles, checking for Long-nosed Bandicoots. Inspections are to be undertaken each work day before the commencement of works and works may only proceed once any bandicoot has safely vacated any holes, machinery or stockpiles. The log-book is to be made available to 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 Grassed Foraging Areas – Bandicoot Habitat

There is to be no off-loading or storage of construction materials or debris on the grassed lawn or grassed road verge adjacent to the property. The integrity of the grass must be preserved at all times.

Reason: To prevent direct physical injury to Long-nosed Bandicoots and allow for foraging activity. This area is likely to be used by bandicoots for foraging.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

Compliance with Ecologist's Recommendations – Post Construction

All biodiversity-related measures are to be implemented at the appropriate stage of development in accordance with the approved Terrestrial Biodiversity Report (GIS Environmental Consultants March 2019) and these conditions of consent.

The Project Ecologist must certify that all new fencing and artificial lighting are installed in accordance with these conditions of consent and the approved Terrestrial Biodiversity Report (GIS Environmental Consultants March 2019).

Satisfactory establishment/initiation of post-construction measures is to be certified by the Project Ecologist prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures in accordance with relevant Natural Environment LEP/DCP controls.

Protection of Habitat Features – Certified by Ecologist

All natural landscape features, including rock outcrops, native vegetation, soil and watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans. Written details demonstrating compliance are to be certified by the Project Ecologist and provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.

Reason: To protect wildlife habitat in accordance with relevant Natural Environment LEP/DCP controls.

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

Control of Weeds

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website http://www.pittwater.nsw.gov.au/environment/noxious_weeds

Reason: Weed management.

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.

Works to cease if item found

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

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

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 Exclusion

For the life of the development, cats are to be kept in an enclosed cat run and/or inside the dwelling such that they are prevented from entering wildlife habitat areas at all times. Dogs are to be kept in an enclosed area such that they cannot enter areas of bushland, unrestrained, on surrounding properties. Dogs and cats are to be kept inside between dusk and dawn.

Reason: Wildlife protection.