

## Natural Environment Referral Response - Biodiversity

<b>Application Number:</b>	DA2022/1530
<b>Proposed Development:</b>	Demolition works and construction of housing for seniors or people with a disability
<b>Date:</b>	04/04/2023
<b>Responsible Officer</b>	Adam Croft
<b>Land to be developed (Address):</b>	Lot 9 DP 737255 , 171 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 approval for demolition works and construction of housing for seniors or people with a disability.

The proposal has been assessed against the following provisions:

- Biodiversity Conservation Act 2016 (BC Act)
- Biodiversity Conservation Regulation 2017
- Warringah Local Environmental Plan 2000 (WLEP)
  - cl. 56 Retaining Distinctive Environmental Features on Site
  - cl. 58 Protection of Existing Flora
  - cl. 59 Koala Habitat Protection (and Schedule 11)
  - Schedule 5 – State Policies
  - Schedule 6 – Preservation of Bushland
- Warringah Development Control Plan 2000 (WDCP)

### Offsite APZ/VMP

Council's Biodiversity Referral team do not support the proposed offsite VMP for the purpose of achieving an offsite APZ. The APZ should be contained wholly within the site boundary and not overlap adjoining private or public land.

It is noted that Section 9, recommendation d) of the Bushfire Report, states that *“In accordance with a site Vegetation Management Plan, an asset protection zone is to be maintained permanently on the east aspect: i. To IPA condition (15% tree canopy cover) for a distance of 100 m from the external wall of the proposed building to the east boundary. ii. Trees will need to be removed to achieve this requirement”*. The corresponding map, Figure 18 of the Bushfire Report, appears to have incorrectly mapped the 100m APZ as it does not begin from the edge of the development. As such, it is more likely that the 100m APZ would extend beyond the eastern property boundary into the crown road reserve. This is not considered a feasible option. Furthermore, there are no submissions from neighbouring properties giving consent for the proposed VMP.

It is also noted that Council’s Biodiversity Referral team were contacted by the applicant in July 2021 prior to the lodgement of the DA, enquiring about proposing a VMP in the crown road reserve to the east of the lot. The applicant was provided the same response as provided in the Pre-lodgement meeting noting that “Council will not support the APZ extending beyond the property boundary”.

### **Compliance with Legislation and Council Provisions**

It is noted that whilst the BDAR contains Section 6 Avoid and Minimise, it is considered that the overall proposal does not effectively demonstrated the use of the avoid and minimise framework of the Biodiversity Assessment Method (2020). Additional APZs located offsite, are not an effective way of avoiding or minimising, rather they increase the impact across three additional lots outside of the development.

Furthermore, the proposal has not demonstrated compliance with WLEP 2000 cl. 56 and 58.

Council’s Biodiversity Referrals team will recommence assessment of the application once the design is amended to remove offsite VMP and APZs.

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.